

**CALIFORNIA COASTAL COMMISSION**

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Filed: February 23, 2004  
49th Day: April 12, 2004  
Staff: AGD-SF  
Staff Report: February 26, 2004  
Hearing Date: March 19, 2004  
Commission Action:

**APPEAL STAFF REPORT  
SUBSTANTIAL ISSUE DETERMINATION**

**APPEAL NO.:** A-2-SMC-04-002

**APPLICANT:** Michael and Ana Polacek

**LOCAL GOVERNMENT:** San Mateo County

**LOCAL DECISION:** Approval with Conditions

**PROJECT LOCATION:** Bean Hollow Road, in the unincorporated Pescadero area of San Mateo County, APN 86-191-120

**PROJECT DESCRIPTION:** Construction of a 5,866 sq. ft. single family dwelling with a 569 sq. ft. integral garage, 329 sq. ft. workshop and craft studio, pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel

**APPELLANTS:** Commissioners Mike Reilly and John Woolley

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A

**STAFF RECOMMENDATION:** Substantial Issue Exists

Appendix A: Substantive File Documents

Figures

- 1 Regional Location Map
- 2 Project Site Location and Assessors Parcel Map
- 3 Site Plan
- 4 Partial Site Map
- 5 Site Section at Driveway
- 6 First Floor Plan
- 7 Second Floor Plan
- 8 North and East Exterior Elevation
- 9 South and West Exterior Elevation
- 10 Cross Sections A-A of Site Plan
- 11 Soil Survey Map

Exhibits

- 1 San Mateo County's Conditions of Approval
- 2 Appeal filed by Mike Reilly and John Woolley
- 3 Agricultural Land Management Plan

Correspondence

Letter from Chanda Meek, California Coastal Commission, to Gabrielle Hudson, San Mateo County Planning Department, May 15, 2002.

**SUMMARY OF STAFF RECOMMENDATION**

**SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

San Mateo County ("the County") approved with conditions a coastal development permit for construction of a new 5,866 sq. ft. single family dwelling with a 569 sq. ft. integral garage, 329 sq. ft. workshop and craft studio, pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel. The appellants contend that the approved project is not consistent with the resources policies of the County's certified Local Coastal Program ("LCP") regarding agriculture, new development and visual resources.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the residence, as approved by the County, is allowable on prime agricultural land and land suitable for agriculture and if so, whether it would be sited and designed to protect coastal views and agricultural resources in the manner required by the policies of the certified LCP. Commission staff recommends that the Commission find that the project, as approved by the County, raises a substantial issue with regard to conformance of the approved development with the agricultural, new development and visual resources policies of the County's LCP.

## **STAFF NOTES**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the de novo portion of the appeal hearing on the merits of the project will be held in the future.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

### **Staff Recommendation On Substantial Issue**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

### **MOTION**

*I move that the Commission determine that Appeal No. A-2-SMC-04-002 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.*

## **STAFF RECOMMENDATION**

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

## **RESOLUTION TO FIND SUBSTANTIAL ISSUE**

The Commission hereby finds that Appeal No. A-2-SMC-04-002 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## **FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **Local Government Action**

The applicants submitted an application for development at the subject property on April 15, 2002. On May 15, 2002, the Coastal Commission staff sent a letter to the San Mateo County Planning Department, expressing concern regarding issues raised by the proposed project, including the conversion of prime agricultural lands, and potential impacts to sensitive habitat, water quality, and visual resources.

The project was reviewed by the County's Agricultural Advisory Committee on September 9, 2002. The Committee recommended approval of the project and requested that a deed restriction be placed on the property to address mitigation of land use conflicts.

An Initial Study and Negative Declaration were published for public review on November 12, 2002. The project was considered at the Planning Commission and the item was continued in order to allow for the applicants to revise the design and location of the proposed house and to submit an agricultural land management plan. The applicants subsequently submitted a revised site plan and an agricultural land management plan. The revised site plan changed the total grading from 2,300 cubic yards to 1,400 cubic yards, moved the location of the house 50 feet closer to Bean Hollow Road, and rotated the house 10 degrees clockwise.

The revised application for a Planned Agricultural Development Permit and a coastal development permit was considered by the County Agricultural Advisory Committee on December 8, 2003 and was approved by the committee on January 12, 2004.

On January 14, 2004, the County approved coastal development permit PLN 2002-00199 for construction of a new 5,866 sq. ft. single family dwelling with a 569 sq. ft. integral garage, 329 sq. ft. workshop and craft studio, pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel. The approved development also included a domestic orchard garden and patios.

The County's approval was contingent upon 40 conditions, as shown in Exhibit 1. Condition 14 requires the submittal and implementation of a final landscape plan which shows how views from the Bean Hollow road and Highway 1 will be softened by the planting of native trees and shrubs. Condition 15 requires the applicant to submit exterior color samples for approval by the Planning Division, and that the colors and materials blend in with the natural surroundings. Condition 23 requires recordation of a deed restriction acknowledging adjacent agricultural uses. Other conditions of approval include: (1) submittal and implementation of an erosion and sediment control plan, (2) submittal and implementation of a post-construction stormwater control/drainage plan, (3) seeding disturbed areas with native vegetation, (4) obtaining a General Construction Activity Stormwater Permit from the State Water Resources Board and submittal of a Stormwater Pollution Prevention Plan approved by the State Water Resources Board, (5)

installation of fencing to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS) from the construction area, (6) monitoring by a trained biologist for the presence of CRLF and SFGS, (7) education of all construction workers on the potential presence of CRLF and SFGS, (8) covering holes at night to prevent CRLF or SFGS from taking cover in holes on the construction site, and (9) protection of a dwarf eucalyptus grove that may be a wetland under the LCP. The local appeal period ended on February 3, 2004 without a local appeal being filed.

### **Filing of Appeal**

The Commission received the Notice of Final Action for the County's approval of the subject development on February 5, 2004. In accordance with the Commission's regulations, the 10-working-day appeal period ran from February 6 through February 23, 2004 (14 CCR Section 13110). The appellants (Commissioners Mike Reilly and John Woolley) timely submitted their appeal (Exhibit 2) to the Commission office on February 23, 2004, within 10 working days of receipt by the Commission of the Notice of Final Local Action. The local record was requested on February 18, 2004 and received on February 26, 2004.

### **Appellants' Contentions**

On February 23, 2004, Commissioners Mike Reilly and John Woolley appealed the County of San Mateo's decision to approve the project. The appellants contend that the project is not consistent with policies of the County's LCP regarding agriculture, visual resources and land use and location of new development. The appellants' contentions are summarized below, and the full text of the contentions is also included as Exhibit 2.

The appellants assert that the subject development is inconsistent with San Mateo County Land Use Plan (LUP) agricultural Policies 5.8 and 5.10 since the development converts prime agricultural land to residential use without meeting the conditions required by Policies 5.8 and 5.10. The appellants also assert that the proposed project is inconsistent with Policy 5.15(b) of the LUP, which requires the clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses.

The appellants assert that the project is inconsistent with San Mateo County LUP policies 1.8 and 1.18, which address locating and planning new development. LUP Policy 1.8 allows new development in rural areas only if it is demonstrated that it will not have significant adverse impacts on coastal resources and will not diminish the ability to keep all prime agricultural lands in agricultural production. The appellants assert that the proposed project will diminish the ability to keep all prime agricultural lands in agricultural production, since it will convert a portion of the subject property to residential development. The appellants also express concern that the County did not require that the applicants perform agricultural production on the remainder of the property. The appellants also assert that, since the proposed development is not located in an existing urban area or rural service center, it is inconsistent with Policy 1.18, which directs new development to existing urban areas and rural service centers.

The appellants assert that the development, as approved by the County, is inconsistent with the LUP visual resource Policies 8.5, 8.17 and 8.18. The project site is located adjacent to the

Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, a State Scenic Road and will be partially visible from Bean Hollow Road. The appellants' concerns regarding the visual impacts of the project are based on the large size of the residence (approx. 6,000 sq. ft.), the design and location of the residence, and the amount of grading, which the appellants assert are in conflict with the visual resource policies, which require that:

- new development be located on a portion of a parcel where the development is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints and best preserves the visual and open space qualities of the parcel overall;
- development blend with and be subordinate to the environment and the character of the surrounding area and be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area; and
- development be located and designed to conform with, rather than change landforms and to minimize the alteration of landforms.

### **Appeal Process**

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal of a County approval that is not located between the sea and the first public road paralleling the sea are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program.

The single-family house approved by the County of San Mateo is appealable to the California Coastal Commission because it is not the principally permitted use within the Planned Agricultural District (PAD), in which the project is sited. The property affected by the approved development is zoned Planned Agricultural District or PAD. The County's zoning ordinance fails to designate one principally permitted use for the PAD zoning district for purposes of determining whether development approved by the County can be appealed to the Commission. Moreover, none of the enumerated principally permitted uses for the PAD district include a single-family residence. Instead, because the land is zoned PAD and the applicant proposes a

residential structure, a special PAD use permit is required for approval of the residential structure.

### **Project Location and Site Description**

The project approved by the County is located inland of Highway 1, on a 17.98-acre parcel on the west side of Bean Hollow Road (APN 086-191-120) in the unincorporated Pescadero Area of San Mateo County (Figures 1 and 2). The property is located approximately 0.5 mile from the coast, inland of Bean Hollow State Beach. The project site is located adjacent to the Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, a State Scenic Road and will be partially visible from Bean Hollow Road.

The property is bordered by Bean Hollow Road on the east, agricultural land on the north and west, and agricultural and residential development to the south. The County planning staff conducted a site visit and concluded that all adjacent parcels appeared to be within agricultural production (December 8, 2003 report to Agricultural Advisory Committee).

The subject property is a gradually sloped terrace with slopes ranging between 5 and 7%. Elevation at the site ranges from approximately 165 feet above sea level in the western portion of the property to approximately 230 feet above sea level in the eastern portion of the property. The approved development would be located on the central portion of the eastern side of the property, at elevations of approximately 190 to 210 feet above sea level (Figure 3).

According to a report by Thomas Reid Associates (April 2003), the property has been farmed in the past for straw flowers, leeks, and Brussels sprouts, and has been fallow since 2000. The Agricultural Land Management Plan prepared by the applicants states that the property has been farmed in row and grain crops since 1900 or earlier and that historical crops have included artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers and ornamental eucalyptus (Exhibit 3).

On November 2, 2000, the County granted the applicants (Mike and Anna Polacek) a Certificate of Compliance and Coastal Development Permit for the legalization of the subject parcel. According to the County's staff report for these permits (PLN 2000-00346), the parcel was a portion of a 22.96-acre parcel described in a deed that was one of 41 lots of the Peninsula Farms Subdivision recorded on January 8, 1923 at the County Recorder's Office. This report also states that, in 1959, a 5.02-acre portion of the original parcel was conveyed by recorded deed to another person, and was legalized in 1959 when the County issued a building permit to construct a house upon it. This report concludes that since the conveyance of the subject 17.98-acre parcel occurred without filing an approved subdivision map and after the County's Subdivision Ordinance was adopted in August 1946, the parcel was illegally subdivided.

The conditions of approval for the coastal development permit for the legalization of the subject parcel and the Certificate of Compliance approved by the County in 2000 explicitly informed the applicants (Mike and Anna Polacek) of the following:

*Any development on this parcel in the future would be subject to compliance with the regulations of the County General Plan, Zoning Regulations and the County Local Coastal Program. Local Coastal Program policies include, but are not limited to, the protection of prime agricultural soil, the protection of existing and potential agriculture, the protection of ridgelines, such that structures do not break the ridgeline, and the protection of sensitive habitat.*

Therefore, at the time of the County's approval of the Certificate of Compliance and coastal development permit, the applicants had been notified of the requirements that any development on the parcel would need to comply with the LCP Policies.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The PAD zoning of the lands within the coastal zone allows one density credit or one residential unit on the property. However, a single-family residence is not allowable as a principally permitted structure within the PAD, but may be allowed only with the issuance of a Planned Agricultural Permit. The County determined that the project was in compliance with the substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations). The substantive criteria address protection of agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The County's staff reports for the proposed residential project describe the property as being vacant and only developed with an agricultural well. However, the site plan approved by the County (Figure 3) shows a barn in the northwest corner of the property as being mostly located on the subject parcel. Based on a review of aerial photographs<sup>1</sup> dated September 2002, there is a cluster of approximately four structures (including at least one barn) located in the vicinity of the northwest corner of the property. These photographs show the area to the north, east and west of the site as being almost entirely in agricultural production.

The California Coastal Records Project photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property. Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

Most, if not all, of the soils at the site are prime soils. The soils at the site are designated as Class III soils by the U.S. Department of Agriculture and are mapped as primarily Elkhorn sandy loam (thick surface, sloping, eroded) with smaller areas of Watsonville sandy loam (sloping, eroded) along the drainage areas on the western side of the property (Exhibit 11)<sup>2</sup>. The description of Elkhorn sandy loam soils states "most of the soil is used for growing Brussels

<sup>1</sup>California Coastal Records Project. CaliforniaCoastline.org. Images 6269-6284, taken on September 20, 2002. As shown on website on February 23-25, 2004.

<sup>2</sup>US Department of Agriculture. 1961. Soil Survey, San Mateo Area, California. Soil Conservation Service, Series 1954, No. 13, Issued May 1961.



sprouts; some areas are used for flax and grain grown in rotation. When used intensively for truck crops, fair to high yields may be expected.” The description of Watsonville sandy loam (sloping, eroded) states “The soil has a wide variety of uses, including dry farming to flax, grain, and grain hay, and some use for Brussels sprouts and other truck crops.”

Policy 5.1 of the LUP defines prime agricultural lands as:

- a. *All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brusselss sprouts.*
- b. *All land which qualifies for rating 80-100 in the Storie Index Rating.*
- c. *Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.*
- d. *Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre.*
- e. *Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.*

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

The soils at the subject property qualify as prime agricultural lands since they are Class III soils that have been used to grow Brussels sprouts and which the U.S. Department of Agriculture describes as being suitable for growing Brussels sprouts. In a September 10, 2003 report to the Planning Commission, the County Planning Staff concluded, “Almost the entire project parcel is covered with prime soil.” The Agricultural Land Management Plan prepared by the applicants states that the most productive soils are located in the southern and western portions of the property (Exhibit 3).

A Biotic Assessment report dated April 2003, prepared for the applicants by Thomas Reid Associates, describes the vegetation on the property as being dominated by approximately 14 acres of fallow agricultural fields. This report also describes an approximately four-acre eucalyptus/scrub area that is likely a wetland in the northeast portion of the property (Field 1 on Figure 3). The vegetation in this eucalyptus/scrub area is described as being dominated by silver mountain eucalyptus (which had previously been harvested from this area), but the report states that this area also includes coastal scrub and seasonal marsh vegetation such as Pacific bog rush and Pacific cinquefoil. This report states, “water seeps through this area and into drainage

ditches that eventually flow into ponds on an adjacent property to the west." This report states that portions of this approximately four-acre eucalyptus/scrub area could meet the definition of a LCP and/or USACOE jurisdictional wetland. However, a wetland delineation of LCP wetlands was not performed.

This report also states that the headwaters of a "very small intermittent drainage" extend onto the western portion of the property for approximately 172 feet. This drainage reportedly drains westward onto an adjacent property where it flows into two ponds. The assessment by Thomas Reid Associates concludes that there is no riparian vegetation within the intermittent drainage and agricultural drainage ditches and that these areas therefore do not fit the LCP definition of a riparian corridor.

The biological assessment identifies dispersal habitat for the California red-legged frog, a federally listed threatened species and the San Francisco garter snake, a state- and federally-listed endangered species as likely being present in the seasonally wet areas on the property, including the intermittent drainage on the western portion of the property and the agricultural drainages within the eucalyptus/scrub area.

### **Project Description**

The project approved by the County consists of construction of a new two-story, 5,866 sq. ft. single family dwelling with a 569 sq. ft. integral garage, 329 sq. ft. workshop and craft studio, pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel (Figures 3-10). The approved development included a domestic orchard garden and patios.

### **Substantial Issue Analysis**

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

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

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no

significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

#### **Allegations that Raise Substantial Issue**

**The Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with policies of the San Mateo County certified LCP regarding agriculture, new development and visual resources.**

#### **Agricultural Resources/Locating New Development**

##### ***Appellants' Contentions***

The appellants assert that the subject development is inconsistent with San Mateo County LUP agricultural policies 5.8, 5.10 and 5.15(b) and with policies 1.8 and 1.18 which address locating and planning new development. These policies are presented below. In the summary of the reasons for the appeal, the appellants made the following assertions regarding consistency of the approved project with the agricultural policies of the LCP:

*The project is inconsistent with Policies 5.8 and 5.10 of the San Mateo County Local Coastal Program ("LCP"), which prohibit conversion of prime agricultural land and land suitable for agriculture to a conditionally permitted use unless various criteria can be demonstrated. The subject property is designated as prime agricultural land and the proposed project will*

*result in the conversion of prime agricultural land to residential use without meeting the conditions required by policies 5.8 and 5.10 of the LCP.*

*LCP policy 5.8 prohibits the conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated that no alternative site exists for the use and the productivity of any adjacent agricultural land will not be diminished. Although the applicants prepared an Agricultural Land Management Plan for this project, the County did not require implementation of this plan as a condition of approval for the residential development.*

*In order to authorize the conversion of land suitable for agriculture to a conditionally permitted use, the LCP requires demonstration that "continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act" (LCP Policy 5.10(a)(2)). This infeasibility of continued or renewed agricultural use of the soil has not been demonstrated. In fact, surrounding parcels are currently in agricultural use and the site was, until recently, under agricultural production.*

*The proposed project is also inconsistent with Policy 5.15(b) of the LCP, Mitigation of Land Use Conflicts, which requires the clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses. The design and location of the development approved by the County does not conform to this requirement, since there are alternative locations, which would be more protective of agricultural uses, closer to Bean Hollow Road and to existing development to the south of the property.*

The appellants also made the following assertions regarding the inconsistency of the project with LUP policies 1.8 and 1.18, which address locating and planning new development:

*The project is inconsistent with San Mateo County LCP policies 1.8 and 1.18, which address locating and planning new development. LCP Policy 1.8 allows new development in rural areas only if it is demonstrated that it will not have significant adverse impacts on coastal resources and will not diminish the ability to keep all prime agricultural lands in agricultural production. The proposed project will diminish the ability to keep all prime agricultural lands in agricultural production, since it will convert a portion of the subject property to residential development. In addition, although the applicants have stated an intention to lease portions of the property for agricultural use and prepared an Agricultural Land Management Plan for this project, implementation of this plan was not required as a condition of approval for the residential development.*

*Since the proposed development is not located in an existing urban area or rural service center, it is inconsistent with Policy 1.18, which directs new development to existing urban areas and rural service centers in order to (1) discourage urban sprawl, (2) maximize the efficiency of public facilities, services, and utilities, (3) minimize energy consumption, (4) encourage the orderly formation and development of local governmental agencies, (5) protect and enhance the natural environment, and (6) revitalize existing developed areas.*

### ***Applicable Policies***

LUP Policy 5.8(a), Conversion of Prime Agricultural Land Designated as Agriculture, states:

*Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated:*

- (1) That no alternative site exists for the use,*
- (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses,*
- (3) The productivity of any adjacent agricultural land will not be diminished, and*
- (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*

LUP Policy 5.10(a), Conversion of Land Suitable for Agriculture Designated as Agriculture, states:

*Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:*

- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
- (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;*
- (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;*
- (4) The productivity of any adjacent agricultural lands is not diminished;*
- (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*

LUP Policy 5.15(b), Mitigation of Land Use Conflicts, states:

*Require the clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses.*

LUP Policy 1.8, Land Uses and Development Densities in Rural Areas, states:

- a. *Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.*
- b. *Permit in rural areas land uses designated on the Local Coastal Program Land Use Plan Maps, and conditional uses up to the densities specified in Tables 1.2 and 1.3.*
- c. *(1) Require Density Credits for Non-Agricultural Uses*

*Require density credits for all new or expanded non-agricultural land uses in rural areas, including all residential uses, except affordable housing (to the extent provided in Local Coastal Program Policy 3.23) and farm labor housing, as defined in Local Coastal Program Policy 3.28, mining in accordance with General Plan Policies 3.11 and 3.12, and solid waste facilities under the policies in General Plan Chapter 13. The existence and number of density credits on a parcel shall be determined by applying Table 1.3.*

*Expanded or additional non-agricultural uses shall only be permitted on a parcel when there are enough density credits available to that parcel to meet the density credit requirements of this policy for both (a) existing uses, and (b) any expanded or additional uses, and only where such development meets all other applicable policies of the Local Coastal Program.*

LUP Policy 1.18, Location of New Development, states:

- a. *Direct new development to existing urban areas and rural service centers in order to: (1) discourage urban sprawl, (2) maximize the efficiency of public facilities, services, and utilities, (3) minimize energy consumption, (4) encourage the orderly formation and development of local governmental agencies, (5) protect and enhance the natural environment, and (6) revitalize existing developed areas.*
- b. *Concentrate new development in urban areas and rural service centers by requiring the "infilling" of existing residential subdivisions and commercial areas.*

### **Discussion**

The Commission finds that the appeal raises a substantial issue regarding conformity of the project approved by the County with LUP Policies 5.8, 5.10, 5.15(b), 1.8 and 1.18, which address agriculture and new development, based on the following:

- (1) The significance of the prime soils and prime agricultural lands being converted to residential use;
- (2) The degree of factual and legal support for the County's decision;
- (3) The size of the residential development approved by the County;
- (4) The precedence of the County's decision for future interpretation of the LCP; and
- (5) The regional significance of the issue of conversion of prime agricultural lands for residential development and the size of residences being approved in rural areas of San Mateo County, in conflict with the community character of the region.

These factors in support of the determination that the appeal raises substantial issues of conformity of the approved project with the agriculture and new development policies of the LUP are described in more detail in the following paragraphs.

The property is prime agricultural land, as defined by Policy 5.1 of the LUP, since most, if not all of the property consists of prime soils. The property is designated as "Agriculture" on the LUP Map, in conformance with Policy 5.2 of the LUP, which requires the designation of any parcel

that contains prime agricultural lands as "Agriculture" on the Land Use Plan Map. LUP Policies 5.3 and 5.4, which define and require the designation as "Agriculture" of lands suitable for agriculture, also support the designation of the property as "Agriculture" on the LUP Map.

The significance of prime soils and prime agricultural land is supported by numerous protections set forth in the LCP to limit impacts to these lands. For example, Policies 5.8 and 5.10 prohibit the conversion of prime agricultural land or lands suitable for agriculture to conditionally permitted uses, including single-family residences, unless it can be demonstrated that several criteria are met. These criteria include the determination that continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act and that the productivity of any adjacent agricultural lands is not diminished.

The County does not provide discussion of consistency of the project with LUP Policy 5.10(a) (*Conversion of Land Suitable for Agriculture Designated as Agriculture*). One of the requirements of Policy 5.10(a) is the demonstration that continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act. The County did not perform or discuss an analysis of the feasibility of agricultural use of the soils. The Commission concurs with the appellants' contentions that it has not been demonstrated that the project conforms to Policy 5.10 and that this lack of factual or legal support of the County's decision is a substantial issue that needs to be addressed in a *de novo* review of this appeal before it can be determined whether a single-family residence can be approved which would convert this agricultural land to a non-agricultural use.

In addition to the substantial issues surrounding approval of any residential structure on the subject prime agricultural lands, as well as on lands suitable for agriculture, the Commission also finds that there is insufficient support for the County's findings that the project is consistent with LUP Policies 5.8(a)(3) and 5.10(a)(4), which requires demonstration that the productivity of any adjacent agricultural land will not be diminished as one of the criteria that must be met for the conversion of land designated as "Agriculture" (either prime agricultural land or land suitable for agriculture). In the September 10, 2003 County staff report (page 8), the County's analysis of conformity of the project with Policy 5.8(a)(3) includes the following statement:

*As part of the PAD application, the applicant stated that their intention is to lease the remaining part of the site for agricultural purposes following the completion of the project.*

The County relies upon the applicants' stated intention to lease the remaining portion of the site for agricultural purposes, instead of requiring agricultural production on the other prime agricultural lands on the parcel as a condition in the County's approval of the project. Accordingly, even if the house on prime agricultural lands is permissible, without establishing a legally enforceable requirement that the remainder of the parcel be used for agricultural production, the County's analysis of conformity of the project with LUP Policy 5.8(a)(3) is based on insufficient factual and legal support.

The Commission finds that there is insufficient support for the County's finding that the project is consistent with LUP Policies 1.8 and 1.18, which address planning and locating new development. In particular, the County does not adequately support its finding that the project is

consistent with Policy 1.8(a), which allows new development in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

The Commission finds that there is a substantial issue based on the size of the development approved by the County and the extent of prime soils and prime agricultural lands which will be converted to residential use as a result of this project. The large size (approximately 6,000 sq. ft.) and overall footprint of the area disturbed and removed from agricultural production could be significantly reduced. However, the County did not sufficiently consider alternatives to reduce the size and extent of impacts from the project.

The precedence of the County's decision for future interpretation of the agriculture and new development policies of the LCP and the regional significance of the issue of conversion of agricultural lands for large residential developments support a finding of substantial issue.

### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the appellants' contentions regarding agriculture and planning and locating new development raise a substantial issue of conformity of the approved project with the agricultural and new development policies of the certified LCP.

### **Visual Resources**

#### ***Appellants' Contentions***

The appellants assert that the subject development is inconsistent with San Mateo County LUP visual resource policies 8.5, 8.17 and 8.18. These policies are presented below. In the summary of the reasons for the appeal, the appellants made the following assertions regarding consistency of the project with the visual resource policies of the LCP:

*The project, as approved by the County, is inconsistent with LCP Policies 8.5, 8.17 and 8.18, which address protection of visual resources. The project site is located adjacent to the Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, a State Scenic Road and will be partially visible from Bean Hollow Road. The approved development includes a large single-family residence that is close to 6,000 sq. ft. in size and is located in the middle of the portion of the property adjacent to Bean Hollow Road, instead of clustering the development in the southern portion of the site, closer to the existing development on the adjacent property. This project is in conflict with the requirements of Policy 8.18, that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.*



*The approved project also includes 1,400 cubic yards of grading, including the construction of an earthen berm to the east of the house designed to soften the visual impact of the house. This amount of grading is inconsistent with the requirements of Policy 8.17 that development be located and designed to conform with, rather than change landforms and to minimize the alteration of landforms.*

### **Applicable Policies**

LUP Policy 8.5, Location of Development, states:

- a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.*

*Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.*

*This provision does not apply to enlargement of existing structures, provided that the size of the structure after enlargement does not exceed 150% of the pre-existing floor area, or 2,000 sq. ft., whichever is greater.*

*This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.*

- b. Require, including by clustering if necessary, that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. If the entire property being subdivided is visible from State and County Scenic Roads or other public viewpoints, then require that new parcels have building sites that minimize visibility from those roads and other public viewpoints.*

LUP Policy 8.17, Alteration of Landforms; Roads and Grading, states:

- a. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development.*

- b. *To the degree possible, ensure restoration of pre-existing topographic contours after any alteration by development, except to the extent necessary to comply with the requirements of Policy 8.18.*
- c. *Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.*

*This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation, or convert agricultural soils. In such cases, build new access roads to minimize alteration of existing landforms and natural characteristics.*

LUP Policy 8.18, Development Design, states:

- a. *Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.*

*The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.*

*Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.*

- b. *Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site.*
- c. *Require that all non-agricultural development minimize noise, light, dust, odors and other interference with persons and property off the development site.*

### ***Discussion***

The Commission finds that the project approved by the County raises a substantial issue regarding conformity with LUP Policies 8.5, 8.15 and 8.18, which address visual and scenic resources, based on the following:

- (1) The significance of the visual and scenic resources that could be negatively impacted by the project, since the project site is located adjacent to the Cabrillo Highway State Scenic corridor and is visible from Highway 1 and Bean Hollow Road;
- (2) The size, design and location of the residential development approved by the County;
- (3) The degree of factual and legal support for the County's decision;
- (4) The precedence of the County's decision for future interpretation of the LCP; and
- (5) The regional significance of the issue of approving large single-family residences in rural areas of San Mateo County, in conflict with the community character of the region.

These factors in support of the determination that the appeal raises substantial issues of conformity of the approved project with the visual and scenic resource policies of the LUP are described in more detail in the following paragraphs.

The subject property is located in the unincorporated Pescadero area of San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf surrounded by forested lands. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer.

The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, a State Scenic Road and will be partially visible from Bean Hollow Road. The property is located approximately 0.5 mile from the coast, inland of Bean Hollow State Beach. The Initial Report prepared by the County for this project states that "This area is very scenic. There is limited development in the surrounding area and there are views to the west towards the Pacific Ocean." Refer to the Section 2.5 of this report for more detailed descriptions of the project site and surrounding vicinity. The Commission finds, that the significance of the visual and scenic resources affected by the County's decision on the project is great.

Based on a review of aerial photographs dated September 2002 (California Coastal Records Project), and on the description of the site provided by the County in its staff reports on the project, the area surrounding the subject property is predominately in agricultural production. A review of these aerial photographs shows that the area to the north of the property, between Highway 1 and Bean Hollow Road, is all agricultural fields, with the exception of a cluster of approximately four barns and other structures located in the vicinity of the northwest corner of the property. To the south of the subject property, these aerial photographs depict a residence surrounded by evergreen trees and, further to the south, greenhouses and other structures, including residences. The aerial photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property. Further to the south is an area

with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

The proposed development includes a new, two-story, 5,866 sq. ft. single-family residence, a 569 sq. ft. integral garage, 329 sq. ft. workshop and craft studio, pool, landscaping and 1,400 cubic yards of grading. The Commission agrees with the appellants' assertion that the scale and extent of this development raises a substantial issue with regard to the conformance of the approved project with LUP Policy 8.18, which requires that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.

The Commission finds that there is insufficient factual support for the County's findings that the project is consistent with LUP Policies 8.5(a), 8.17 and 8.18. In particular, the photographs showing a simulation of the view of the development from public viewpoints appear to be skewed to show views along the public roads in which the development is minimally visible. For example, the photographs appear to be taken from the shoulder of the road that is furthest away from the development, instead of from typical viewpoints the public will have while traveling on the roads (*i.e.*, the centers of lanes of traffic). The application for development is also lacking a comparison of the scale of the proposed development with that of adjacent buildings and landforms.

The Commission also finds that there is insufficient legal support for the County's findings that the project is consistent with the visual resource policies of the LUP, since the County did not sufficiently consider alternatives to reduce the size, grading and extent of visual impacts from the project.

The precedence of the County's decision for future interpretation of the visual resource policies of the LCP and the regional significance of the issue of the construction of large single-family residences in rural areas support a finding of substantial issue.

### ***Conclusion***

For all of the above-stated reasons, the Commission finds that the appellants' contentions regarding visual resources raise a substantial issue of conformity of the approved project with the visual resource policies of the certified LCP.

### **Substantial Issue Conclusion**

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with the agriculture, new development and visual resource policies of the San Mateo County certified LCP.

### **Information Needed for De Novo Review**

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the de novo hearing to a subsequent date. The de novo portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

Since the project the Commission will be considering de novo has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. The information needed to perform the de novo review includes, but is not limited to, the items described in the following list. Since the Commission staff received the County's file on this permit on the day this report was completed (February 26, 2004), upon further review of the County's file, the Commission staff will likely identify additional information or documents that will be required in order to perform the de novo review of the development that is the subject of this appeal.

#### **1.1 Impact of Approved Development on Sensitive Habitat Areas**

In order for the Commission to approve a coastal development permit through any de novo review of the project, analysis of the impacts of the approved development to environmentally sensitive habitat areas, including, but not limited to, any potential impact to wetland habitat or habitat of the San Francisco garter snake or the California red-legged frog must be evaluated through a more detailed site-specific biological resources assessment and a wetland delineation of the entire parcel conducted in accordance with the LCP definition of wetlands. An accurate delineation of the wetlands and potential habitat of the San Francisco garter snake and California red-legged frog is needed in order to analyze potential alternative site locations for the development that is the subject of this appeal. Without the above information, the Commission cannot reach a final determination concerning the approved development's consistency with the sensitive habitat and wetland delineation policies of the LCP.

#### **1.2 Economic Feasibility Analysis**

An analysis of the feasibility of continued or renewed agricultural use of the soils at the site is required. Feasible is defined in Section 30108 of the Coastal Act, which states:

*"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.*

Section 30241.5 of the Coastal Act provides further guidance on an economic feasibility evaluation for agricultural lands, and states that, at a minimum, the following elements should be considered:

*(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*

*(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*

In this case, the relevant date is when an application for a coastal development permit was filed with the County and the relevant area is the 17.78-acre parcel that is the subject of the approved coastal development permit application.

### 1.3 Visual Analysis

In order to analyze the consistency of the approved project with the visual resource policies of the LCP, the Commission requires further documentation of the visual impacts of the project, including, but not limited to the erection of story poles for Commission staff to review.

### 1.4 Soil Survey

Based on the soils survey performed by the U.S. Department of Agriculture, all of the property is mapped as either Elkhorn sandy loam (thick surface, sloping, eroded) or Watsonville sandy loam (sloping, eroded), which are designated by the U.S. Department of Agriculture as Class III soils and qualify as prime soils under the LCP. However, at the scale that the soils survey is prepared, there can be inclusions of different types of soils. Therefore, the Commission needs a more detailed survey of the soils at the subject site to determine if there are any inclusions of different types of soils at the site.

### 1.5 Takings Analysis

It is possible that the above-requested information provided by the applicant may support a determination that the project cannot be approved consistent with all applicable limitations of the certified LCP. However, since the Coastal Commission must analyze whether its action in denying a permit application would constitute a taking, in order to comply with Section 30010 of the Coastal Act and the California and United States Constitutions, the Commission requires information about the nature of the applicants' property interest. When an application involves property in which development could potentially be completely prohibited (for example, because the property contains prime agricultural land or land suitable for agriculture, contains environmentally sensitive habitat areas, etc.), the applicant shall submit the following information for all parcels that are geographically contiguous and held by the applicant in common ownership at the time of their coastal development permit application:

1. Date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.

3. The fair market value of the property at the time the applicant acquired it. Describe the basis upon which the fair market value is derived, including any appraisals done at the time.
4. Changes to general plan, zoning or similar land use designations applicable to the subject property since the time of purchase of the property. If so, identify the particular designation(s) and applicable change(s).
5. At the time the applicant purchased the property, or at any subsequent time, has the property been subject to any development restriction(s) (for example, restrictive covenants, open space easements, etc.), other than the land use designations referred to in question (4) above?
6. Any changes in the size or use of the property since the time the applicant purchased it. If so identify the nature of the change, the circumstance and the relevant date(s).
7. If the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicate the relevant date(s), sales price(s), rent assessed, and nature of the portion of interest sold or leased.
8. Is the applicant aware of any title report, litigation guarantee or similar document prepared in connection with all or a portion of the property? If so, provide a copy of each such document, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.).
9. Has the applicant solicited or received any offers to buy all or a portion of the property since the time of purchase? If so, provide the approximate date of the offer and the offered price.
10. Identify, on an annualized basis for the last five calendar years, the applicant's costs associated with ownership of the property. These costs should include, but not necessarily be limited to, the following:
  - a. property taxes
  - b. property assessments
  - c. debt services, including mortgage and interest costs; and
  - d. operation and management costs.
11. Apart from any rent received from leasing all or a portion of the property (see question #7, above), does the applicant's current or past use of the property generate any income? If the answer is yes, list on an annualized basis for the past five calendar years the amount of generated income and a description of the use(s) that generates or has generated such income.

## **Appendix A**

### **Substantive File Documents**

- California Coastal Commission. February 6, 2004. Notification of Appeal Period for Application No. 2-SMC-02-046 (Local Permit No. PLN2002-01999).
- California Coastal Records Project. CaliforniaCoastline.org. Images 6269-6284, taken on September 20, 2002. As shown on website on February 23-25, 2004.
- Committee for Green Foothills, Lennie Roberts. December 2, 2002 letter to Gabrielle Rowan, San Mateo County Planning Division.
- San Mateo County. 1994. Zoning Regulations.
- San Mateo County. 1998. Local Coastal Program Policies.
- San Mateo County. November 2, 2000. Planning and Building Division Staff Report to the Zoning Officer on Item #2/Costella/Moceo/Polacek, Consideration of a Conditional Certificate of Compliance and a Coastal Development Permit to Legalize a 17.98-acre parcel.
- San Mateo County. September 10, 2003. Planning and Building Division Staff Report to the Planning Commission on Item #9/Polacek. Includes Attachments such as Initial Study and Negative Declaration, Biologist Report by Thomas Reid Associates, Prime Soils Map, Photo Simulations.
- San Mateo County Planning and Building Division. December 8, 2003. Report to the Agricultural Advisory Committee from Gabrielle Rowan, Project Planner. County File No. PLN2002-0199 (Polacek), including Attachment C, Agricultural Land Management Plan for Parcel & 086-191-120.
- San Mateo County Planning and Building Division. January 16, 2004. Notice of Approval by the Planning Commission of County File No. PLN2002-0199 (Polacek).
- San Mateo County Planning and Building Division. February 3, 2004. Notice of Final Local Decision for County File No. PLN2002-0199 (Polacek).
- US Department of Agriculture. 1961. Soil Survey, San Mateo Area, California. Soil Conservation Service, Series 1954, No. 13, Issued May 1961.



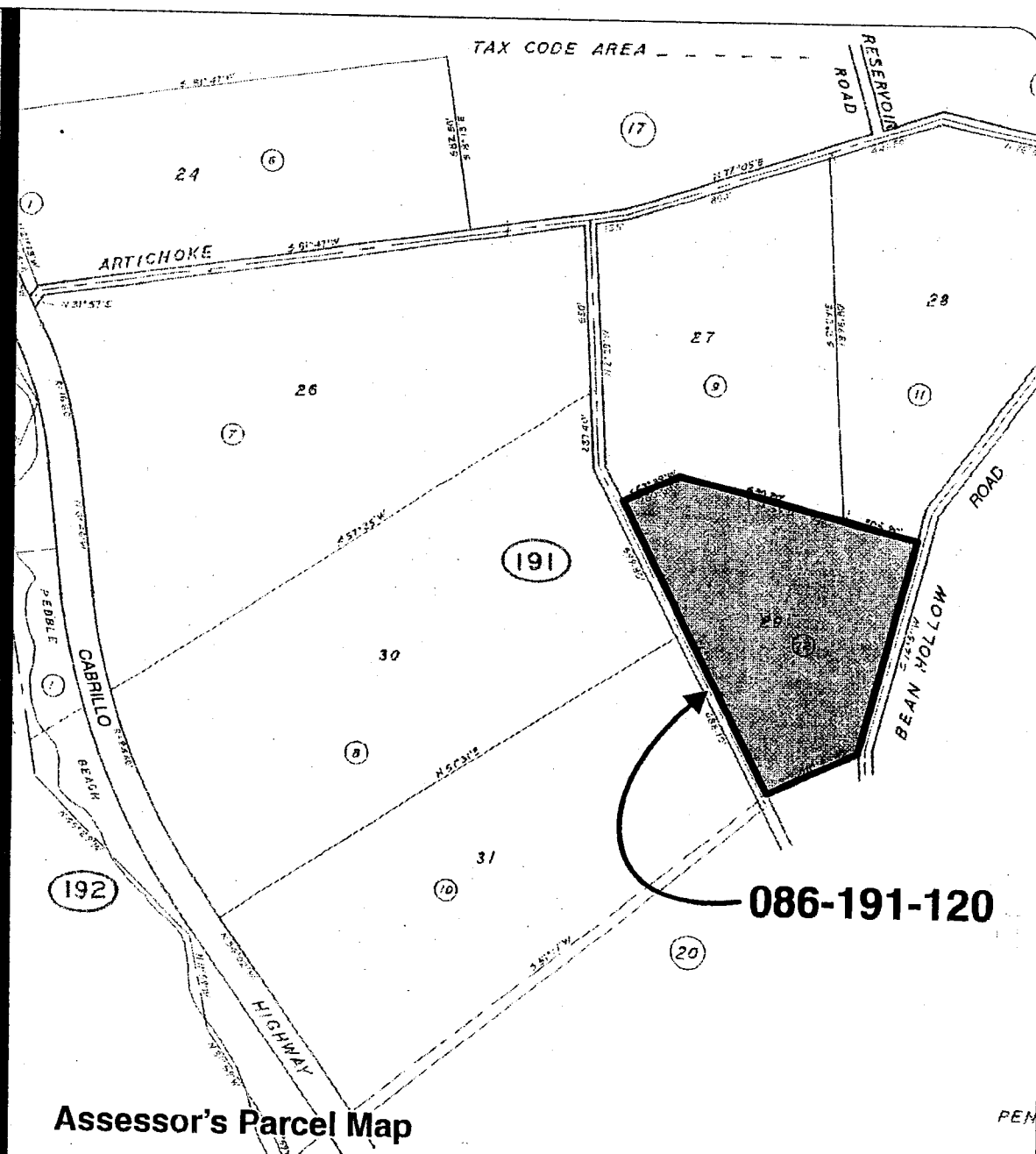
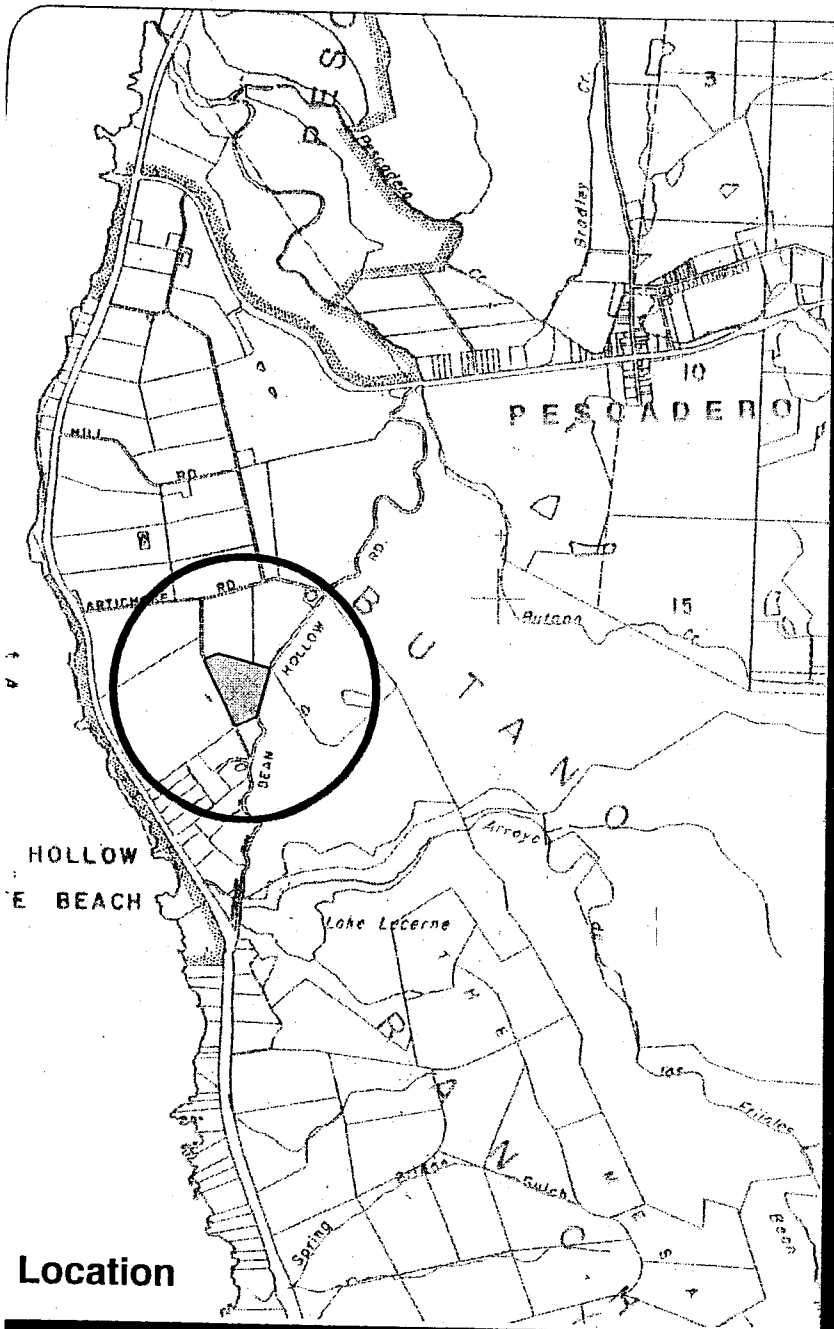
Figure 1. Location of Polacek property in Pescadero, California on USGS 7.5 minute series map, Pigeon Point Quadrangle.

FIGURE 1

A-2-SMC-04-002 (POLACEK)

PIGEON POINT C  
CALIFORNIA-SAN  
7.5 MINUTE SERIES





## San Mateo County Planning Commission Meeting

Applicant: Polacek

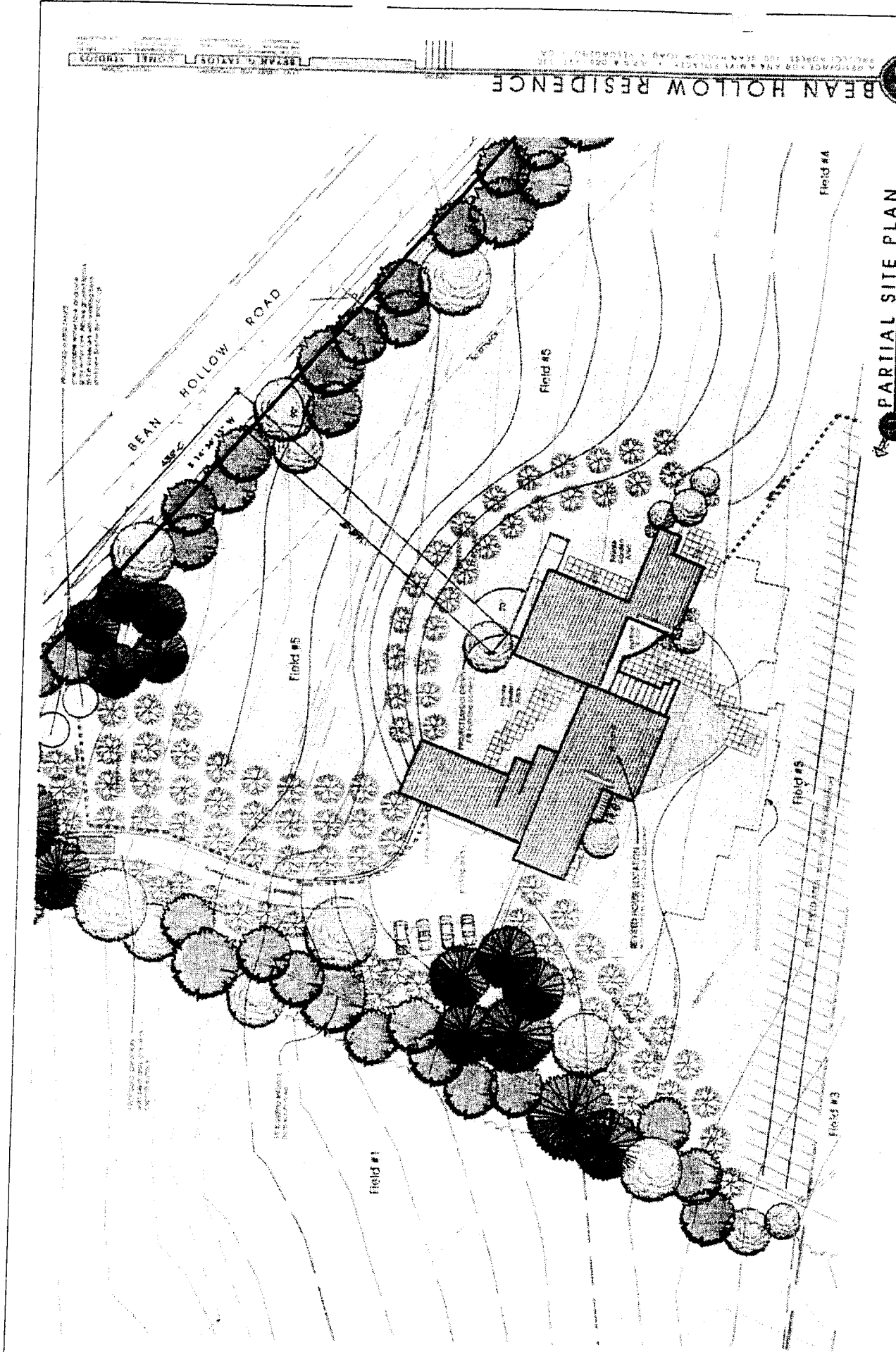
File Numbers: PLN 2002-00199

FIGURE 2

A-2-SMC-04-002 (POLACEK)







A3

PARTIAL SITE PLAN

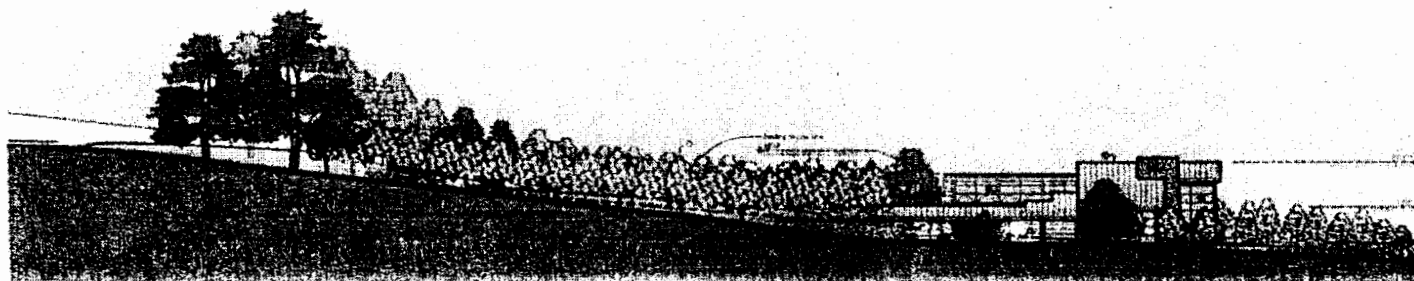
FIGURE 4

**San Mateo County Planning Commission Meeting**

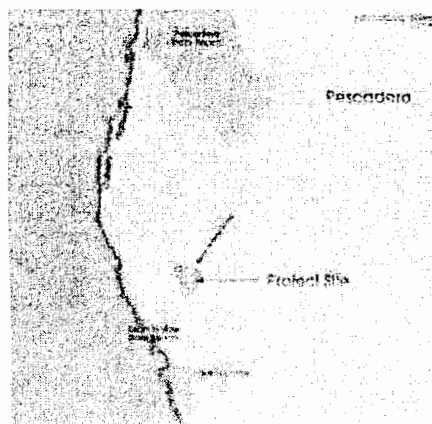
Applicant: Polacek

File Numbers: PLN2002-00199

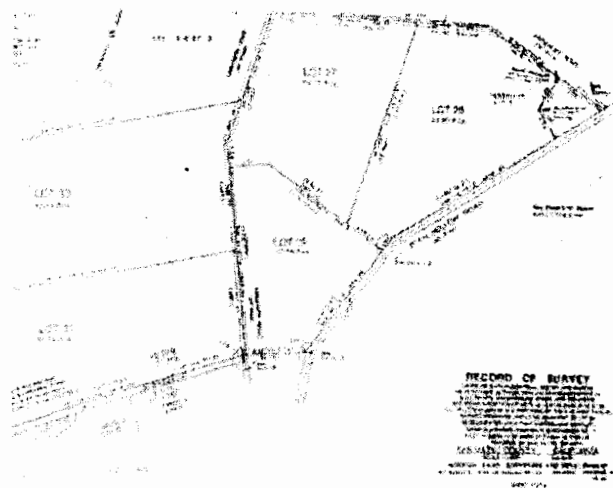
A-2-SMC-04-002 (POLACEK)



12 SITE SECTION @ DRIVEWAY  
1/4" = 1' MAX



13 LOCATION MAP



12 SURVEY FROM BOOK OF MAPS

<ul style="list-style-type: none"> <li>Owner: And Mrs. M. H. Polacek</li> <li>Address: 1410 S. 100</li> <li>Zone: 1410 C/UD</li> <li>Lot Area: 1.00 acre (approx. 100,000 sq. ft.)</li> <li>Lot Coverage: 100%</li> <li>Proposed: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Building: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Setback: 100% of the lot area (approx. 100,000 sq. ft.)</li> </ul>	
<ul style="list-style-type: none"> <li>Building Footprint: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Rooming: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Living: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Children's: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Major: 100% of the lot area (approx. 100,000 sq. ft.)</li> <li>Recreation: 100% of the lot area (approx. 100,000 sq. ft.)</li> </ul>	100%
<ul style="list-style-type: none"> <li>Area of proposed non-hatched area: 100%</li> <li>Area of proposed hatched area: 100%</li> <li>Area of proposed area: 100%</li> </ul>	100%

14 PROJECT INFORMATION

BEAN HOLLOW RESIDENCE

A1

## San Mateo County Planning Commission Meeting

Applicant: **Polacek**

File Numbers: **PLN2002-00199**

FIGURE 5

A-2-SMC-04-002 (POLACEK)

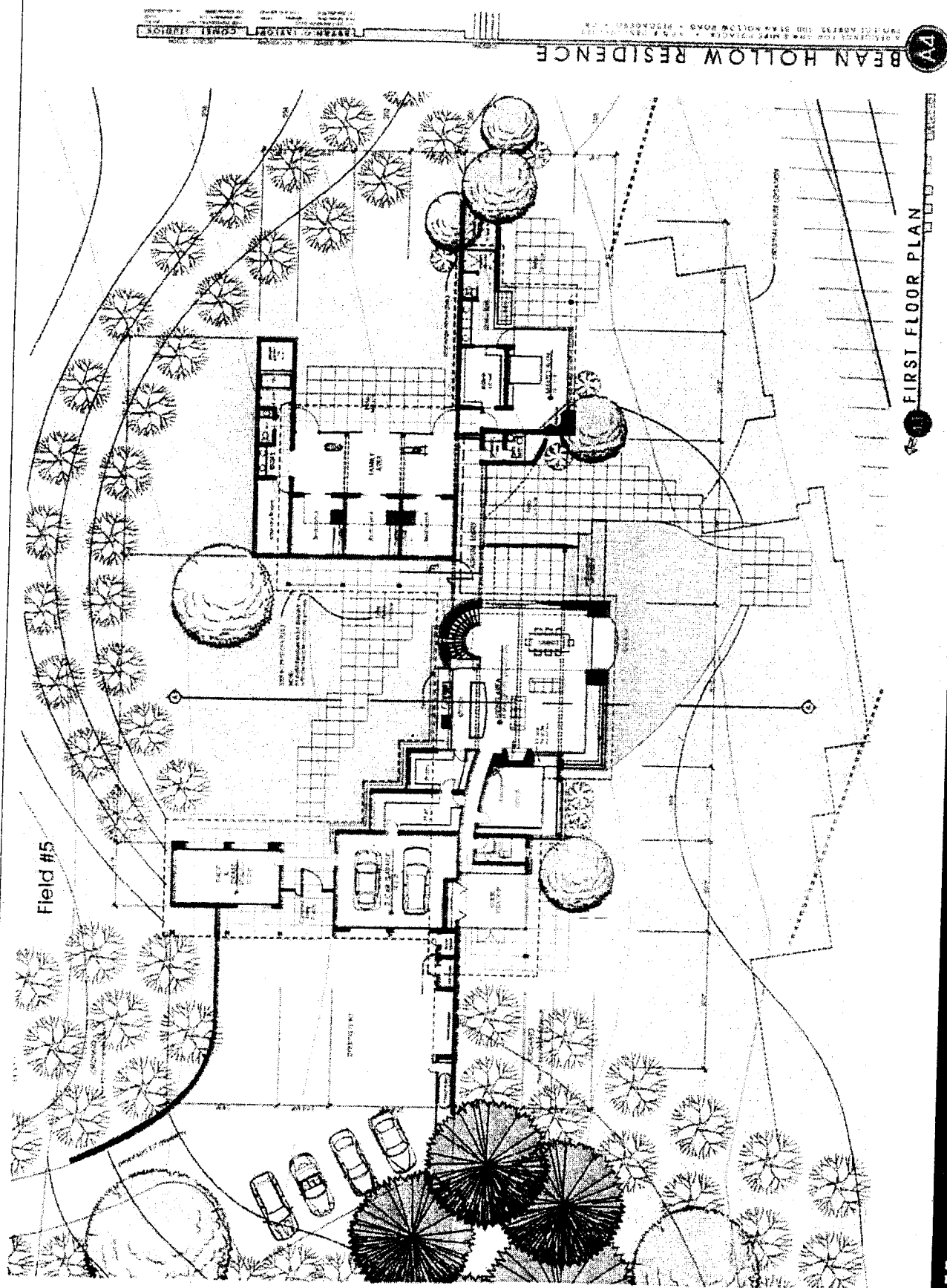


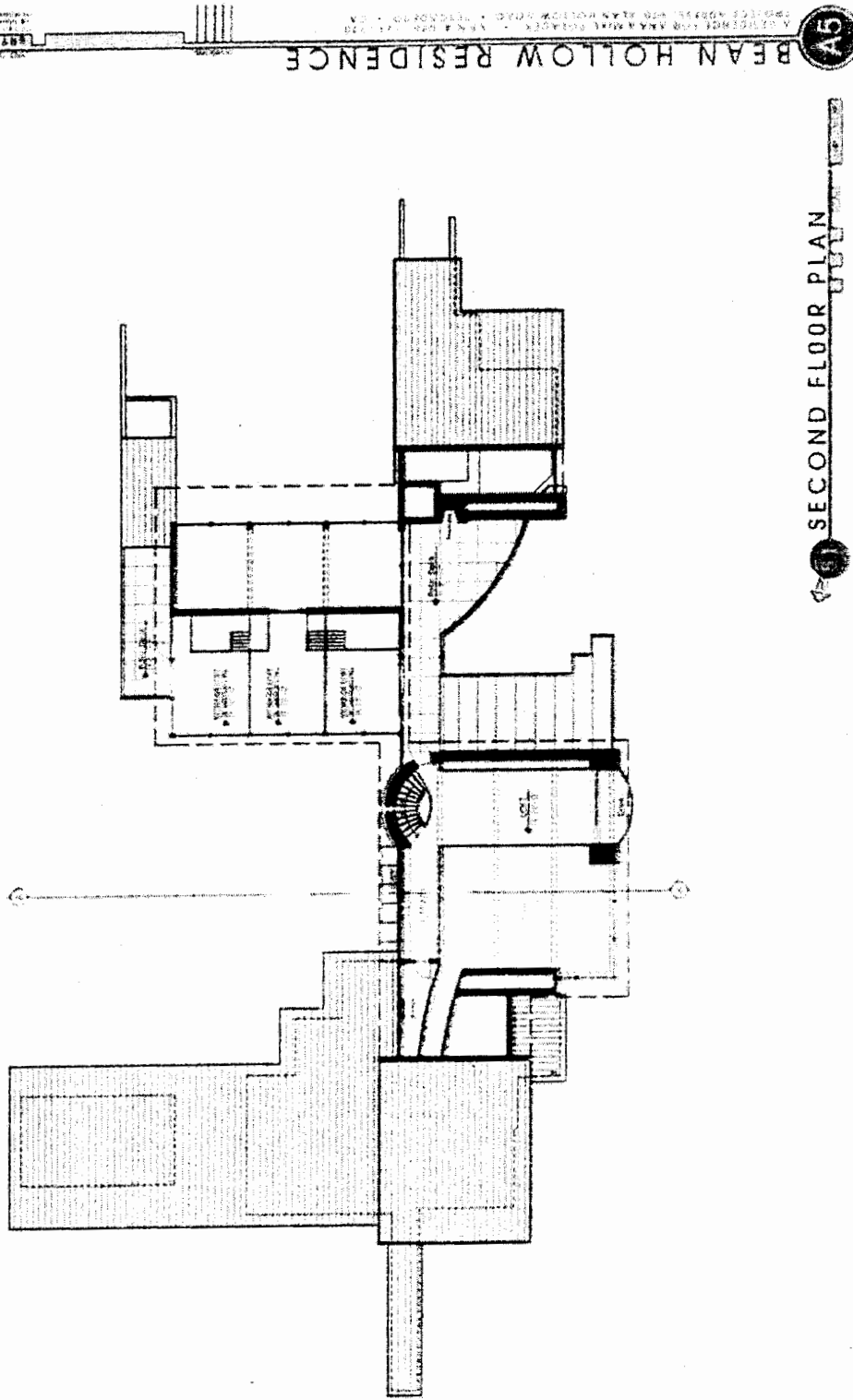
FIGURE 6

# San Mateo County Planning Commission Meeting

Applicant: Polacek

File Numbers: PLN2002-00199

A-2-SMC-04-002 (POLACEK)



# San Mateo County Planning Commission Meeting

Applicant: Polacek

File Numbers: PLN2002-00199

FIGURE 7

A-2-SMC-04-002 (POLACEK)

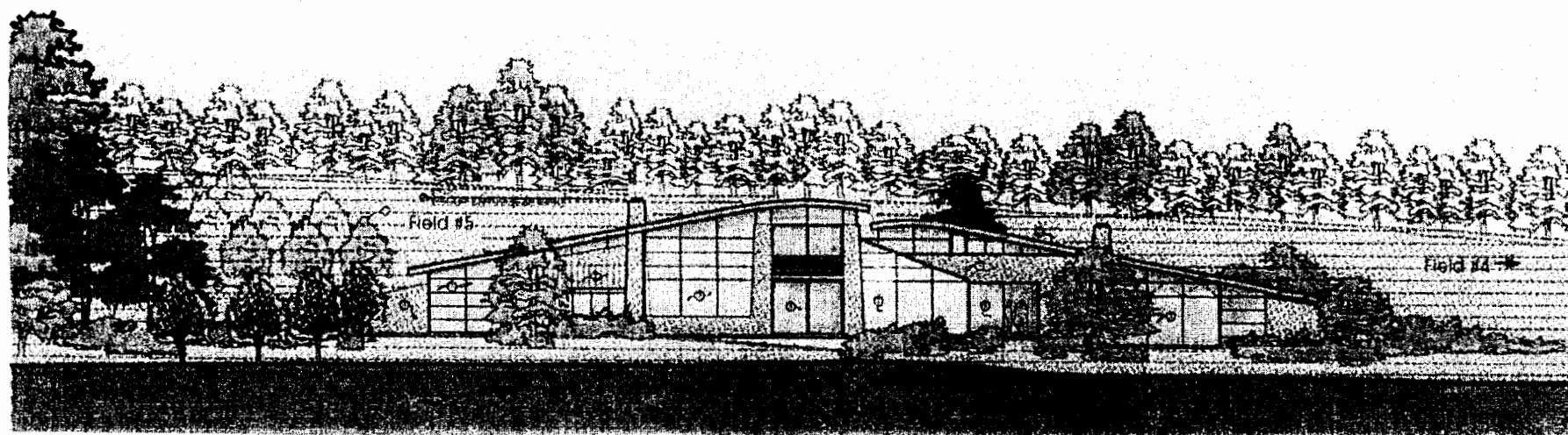








72 SOUTH EXTERIOR ELEVATION



71 WEST EXTERIOR ELEVATION

BEAN HOLLOW RESIDENCE

A7

## San Mateo County Planning Commission Meeting

Applicant: **Polacek**

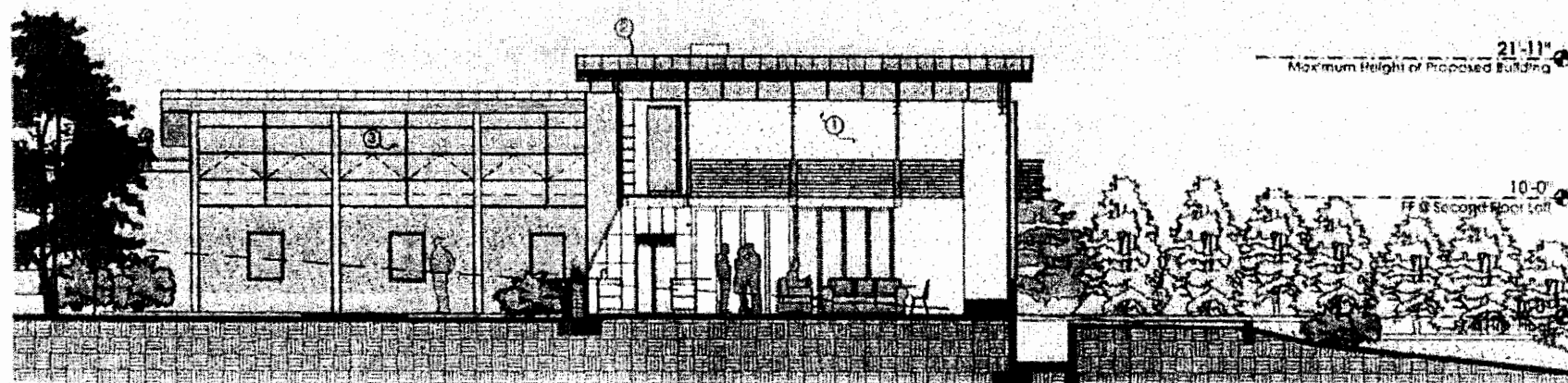
File Numbers: **PLN2002-00199**

FIGURE 9

A-2-SMC-04-002 (POLACEK)



82 SITE SECTION A-A



81 BUILDING SECTION A-A

BEAN HOLLOW RESIDENCE

A8

## San Mateo County Planning Commission Meeting

Applicant: **Polacek**

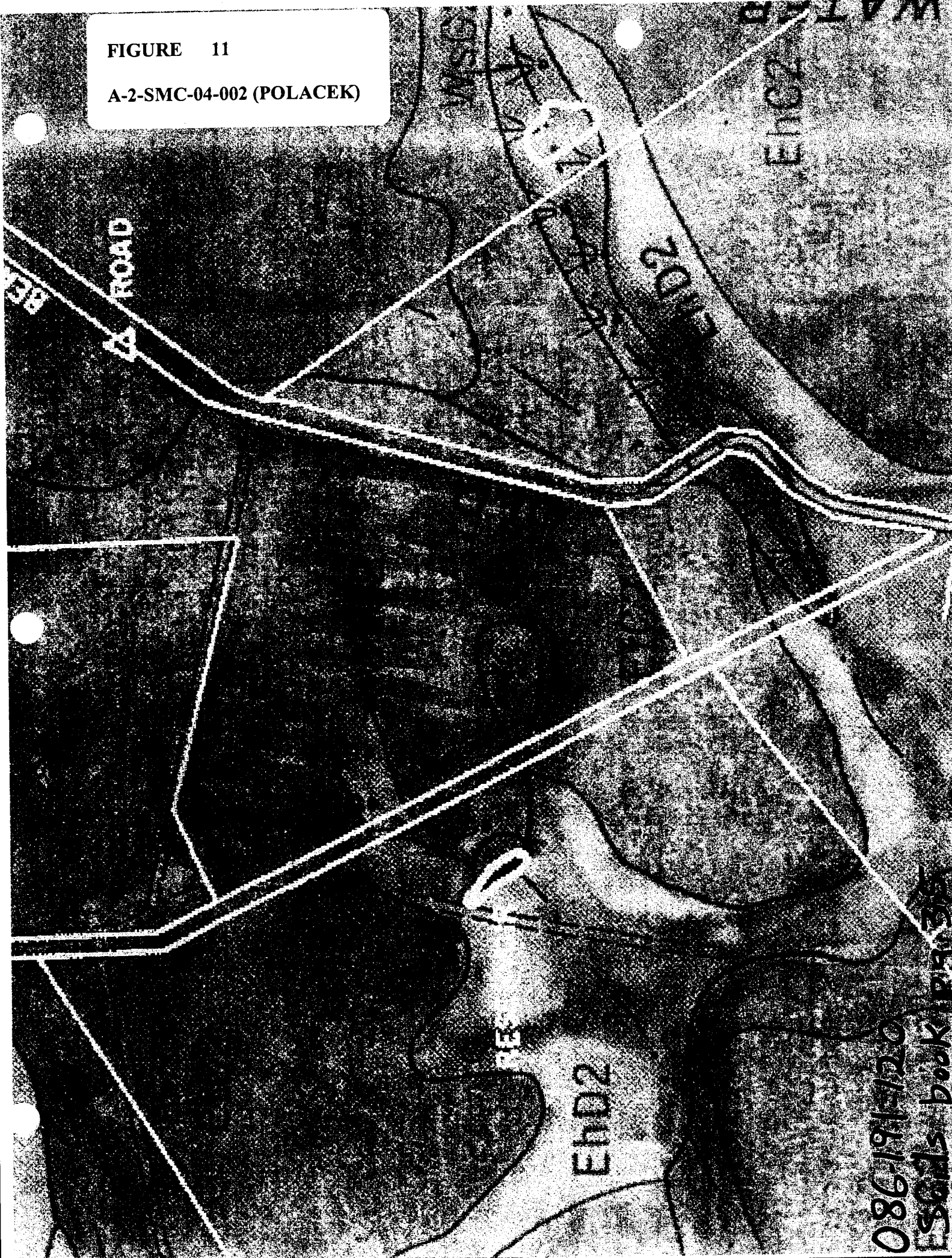
File Numbers: **PLN2002-00199**

FIGURE 10

A-2-SMC-04-002 (POLACEK)

FIGURE 11

A-2-SMC-04-002 (POLACEK)





# PROJECT FILE

Please reply to:

Gabrielle Rowan  
(650) 363-1829

January 16, 2004

## ENVIRONMENTAL SERVICES AGENCY

Mike and Ana Polacek  
P.O. Box 2393  
El Granada, CA 94018

*2-SMC-02-046*

EXHIBIT NO.	1
APPLICATION NO.	
A-2-SMC-04-002 POLACEK	
(Page 1 of 13 pages)	

Dear Mr. and Mrs. Polacek:

**Subject:** File Number PLN2002-00199  
**Location:** Bean Hollow Road, Pescadero  
**APN:** 086-191-120

Agricultural  
Commissioner/ Sealer of  
Weights & Measures

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

Parks & Recreation

Planning & Building

On January 14, 2004, the San Mateo County Planning Commission considered your request for a Coastal Development Permit and Planned Agricultural Development Permit, pursuant to Sections 6328, and 6353 of the San Mateo County Zoning Regulations and a Negative Declaration pursuant to the California Environmental Quality Act, to construct a 5,866 sq. ft. single family dwelling with a 569 sq. ft. integral garage and a 329 sq. ft. workshop and craft studio including the conversion of an existing agricultural well to a domestic well, a new septic system and 1,400 cubic yards of grading for construction of the house, driveway, swimming pool and landscaping on a 17.98 acre undeveloped parcel in the unincorporated Pescadero area of San Mateo County.

### Commissioners:

Based on information provided by staff and evidence presented at the hearing the Planning Commission approve the Coastal Development and Planned Agricultural Permit make the findings and adopt conditions of approval with revisions to condition #18 as attached:

David Bomberger

William Wong

Any interested party aggrieved by the determination of the Planning Commission has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at 7:00 p.m. on February 3, 2004.

Bill Kennedy

Ralph Nobles

Jon Silver

This permit approval is appealable to the California Coastal Commission. Any aggrieved person who has exhausted local appeals may appeal this decision to the California Coastal Commission within 10 working days following the

### PLANNING COMMISSION

455 County Center, 2<sup>nd</sup> Floor • Redwood City, CA 94063 • Phone (650) 363-4161 • FAX (650) 363-4849

Mike and Ana Polacek  
January 16, 2004  
Page 2

Coastal Commission's receipt of the County's final decision. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods run consecutively, not concurrently, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

If you have questions regarding this matter, please contact the Project Planner listed above.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kan Dee Rud', written in a cursive style.

Kan Dee Rud  
Planning Commission Secretary  
Pcd0114o\_9kr.doc

cc: Department of Public Works  
Building Inspection  
Environmental Health  
CDF  
Assessor  
California Coastal Commission  
Justin Dooley  
Jim Rourke  
John Halley  
Lennie Roberts, Committee for Green Foothills



County of San Mateo  
Environmental Services Agency  
Planning and Building Division

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN PLN2002-00199

Hearing Date: January 14, 2004

Prepared By: Gabrielle Rowan

Adopted By: Planning Commission

FINDINGS

Regarding the Negative Declaration, Found:

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

Regarding the Planned Agricultural Permit, Found:

5. That the proposed project, as described in the application and accompanying materials, complies with all applicable criteria for issuance of a Planned Agricultural District Permit contained in Section 6355 of the Zoning Regulations.

Regarding the Coastal Development Permit, Found:

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

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on January 14, 2004. Minor revisions or modifications to the project may be approved by the Planning Administrator if they are consistent with the intent of and in substantial conformance with this approval.
2. These permits shall be valid for one year from the date of approval within which time an application for a building permit shall be submitted and issued. Any extension of these permits shall require submittal of a request for permit extension and payment of applicable fees no less than 30 days prior to expiration.
3. The applicant shall apply for and be issued a building permit prior to the start of construction, including any grading or clearing activity. The County Geologist shall review and approve all project-related construction plans and reports prior to the issuance of a building permit.
4. All proposed development shall be designed and constructed in accordance with the latest earthquake resistance standards of the Uniform Building Code (UBC) released by the International Conference of Building Officials (ICBO) and as adopted by San Mateo County.

5. At the building permit stage, the applicant shall submit a geotechnical report in accordance with the standards of the San Mateo County Geotechnical Section.
6. The applicant shall submit an erosion and sediment control plan. The plan shall stipulate all such measures to be implemented at the project site in the event of a storm during construction. The plan shall be included as part of the project's building permit application and construction plans. The submitted and approved plan shall be activated during the period of grading and construction activity. Any revisions to the plan shall be prepared and signed by the project engineer. It shall be the responsibility of the applicant to regularly inspect the erosion control measures and determine that they are functioning as designed and that proper maintenance is being performed. Deficiencies shall be immediately corrected.

During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:

- a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
- b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
- c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
- d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
- e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
- f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.

The plan shall be based on the specific erosion and sediment transport control needs of the area in which grading and construction are to occur. The possible methods are not necessarily limited to the following items:



- a. Confine grading and activities related to grading (construction, preparation and use of equipment and material storage/staging areas, preparation of access roads) to the dry season, whenever possible.
- b. If grading or activities related to grading need to be scheduled for the wet season, ensure that structural erosion and sediment transport control measures are ready for implementation prior to the onset of the first major storm of the season.
- c. Locate staging areas outside major drainage ways.
- d. Keep the lengths and gradients of constructed slopes (cut or fill) as low as possible.
- e. Prevent runoff from flowing over unprotected slopes.
- f. Keep disturbed areas (areas of grading and related activities) to the minimum necessary for demolition or construction.
- g. Keep runoff away from disturbed areas during grading and related activities.
- h. Stabilize disturbed areas as quickly as possible, either by vegetative or mechanical methods.
- i. Direct runoff over vegetated areas prior to discharge into public storm drainage systems, whenever possible.
- j. Trap sediment before it leaves the site with such techniques as check dams, sediment ponds, or siltation fences.
- k. Make the contractor responsible for the removal and disposal of all sedimentation on-site or off-site that is generated by grading and related activities of the project.
- l. Use landscaping and grading methods that lower the potential for downstream sedimentation. Modified drainage patterns, longer flow paths, encouraging infiltration into the ground, and slower stormwater conveyance velocities are examples of effective methods.
- m. Control landscaping activities carefully with regard to the application of fertilizers, herbicides, pesticides or other hazardous substances. Provide proper instruction to all landscaping personnel on the construction team.

7. The applicant shall, pursuant to Section 5023 of the San Mateo County Code, submit a post-construction stormwater control/drainage plan, as prepared by their civil engineer or erosion control consultant at the building permit stage. The plan shall be included as part of the project's building permit application and construction plans. The County Building Inspection Section and Department of Public Works shall ensure that the approved plan is implemented prior to the project's final building inspection approval. The required drainage plan shall show the necessary mechanisms to contain all water runoff generated by on-site impervious surfaces and shall include facilities to minimize the amount and pollutants of stormwater runoff through on-site percolation and filtering facilities to control stormwater runoff from the project site once the project is completed. In addition, the plan shall indicate that:
  - a. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers, herbicides and pesticides, which can contribute to runoff pollution.
  - b. Where subsurface conditions allow, all building roof downspout systems shall be designed to drain into a designated, effective infiltration or structure (refer to BMPs Handbook for infiltration system designs and requirements).
8. The applicant shall seed all disturbed areas (beyond the improved portions of the project site) with a native grassland mix applied in conjunction with mulch and tackifier, as directed and overseen by the applicant's landscape architect, as soon as grading activities are completed in order to minimize the potential establishment and expansion of exotic plant species into newly-graded areas. Such actions shall be indicated on the final building plans. Planning staff shall confirm that such revegetation/reseeding has been adequately applied prior to the Building Inspection Section's final inspection of the project's respective building permit.
9. The applicant shall submit a dust control plan to the Planning Division for review and approval prior to the issuance of a building permit associated with any of the proposed projects. The plan shall include the following control measures:
  - a. Water all active construction areas at least twice daily.
  - b. Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

- c. Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- d. Apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking and staging areas at construction sites. Also, hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- e. Sweep daily (preferably with water sweepers) all paved access roads, parking and staging areas at construction sites.
- f. Sweep adjacent public streets daily (preferably with water sweepers) if visible soil material is carried onto them.
- g. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- h. Limit traffic speeds on unpaved roads within the project parcel to 15 mph.
- i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- j. Replant vegetation in disturbed areas as quickly as possible.

The approved plan shall be implemented for the duration of any grading, demolition and construction activities that generate dust and other airborne particles

- 10. Since the total land area disturbed by the project equals or exceeds one acre, the applicant shall submit to the Planning Counter one copy of a Notice of Intent (NOI) to obtain a General Construction Activity Stormwater Permit from the State Water Resources Board and submit to the Building Counter one copy of a Stormwater Pollution Prevention Plan approved by the State Water Resources Board before the issuance of the building permit.
- 11. Noise levels produced by construction activities shall not exceed the 80-dBA level at any one moment and shall otherwise be subject to the limits imposed by the San Mateo County Ordinance Code, Chapter 4.88.
- 12. In addition to Condition No. 7, the applicant's drainage plan shall show that water runoff from the roof of the house be directed to on-site pervious surfaces to promote filtration and that the driveway and any grade-level patios shall be comprised of a pervious surface

material (e.g., graveled, paver-blocks, pervious/porous concrete). Alternatively, the driveway could also be comprised of non-pervious surface materials provided that all driveway surface runoff is handled by containment and filtration mechanisms as described in Condition No. 7. These elements shall be shown on the site plan and included as part of the project's final building permit application and construction plans. The construction plans shall reference the California Stormwater Best Management Handbooks for the control of surface water runoff and the prevention of polluted water runoff that may affect groundwater resources to the satisfaction of the Planning Director. The County Building Inspection Section and Planning Division shall ensure that these elements are implemented prior to the respective project's final inspection and occupancy approval.

13. The applicant shall install the on-site sewage disposal system with the required permits and meet all requirements of the Environmental Health Division.
14. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan to the Planning Division for review and approval. This landscape plan shall show the location, types and sizes of all landscaping elements and shall show how views from the west and east, from Bean Hollow Road and Highway 1, will be softened by the introduction of trees and shrubs. The approved landscaping plan shall be installed prior to a final on the building permit. The landscaping plan shall utilize native species and will minimize the use of non-native and invasive species as specified by the California Department of Food and Agriculture. No species included in the 1999 California Exotic Pest Plant List should be used for landscaping purposes. The landscaping plan shall also reflect measures included in the agricultural land management plan in order to provide appropriate shelter belt type windbreaks for the proposed construction and the potential agricultural operations on the site.
15. The applicant shall submit exterior color samples (no larger than approximately 4 square inches) for walls and trim to the Planning Counter for review and approval by the Planning Division prior to painting the structures. The applicant shall include the file/case number with all color samples. Color verification by a building inspector shall occur in the field after the applicant has painted the structure an approved color but before the applicant schedules a final inspection. The proposed colors and materials to be used for external surfaces should consist of natural materials and earth-tone colors to ensure that the development blends in well to the surroundings.
16. As recommended in the report submitted by MRC Consulting, dated June 2002, the applicant shall ensure that if during construction or grading, any evidence of archaeological traces (human remains, artifacts, concentration of shale, bone, rock, ash) is uncovered, then

all construction and grading within a 30-foot radius shall be halted, the Planning Division shall be notified, and the applicant shall hire a qualified archaeologist to assess the situation and recommend appropriate measures. Upon review of the archaeologist's report, the Planning Administrator, in consultation with the applicant and the archaeologist, will determine steps to be taken before construction or grading may continue.

17. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, prior to the start of construction, exclusionary fencing around the entire construction area of the project shall be installed to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS) from the construction area. This fencing shall remain throughout the construction phase and shall be regularly inspected and maintained.
18. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, during the construction phase of the project, a trained biologist or a trained on-site monitor should check the site daily for the presence of the CRLF and SFGS, and if any are found, construction should be halted until they disperse naturally. The biologist in charge and the on-site monitor should be aware of all terms and conditions set by the U.S. Fish and Wildlife Service and California Department of Fish and Game on the project. The biologist in charge should train the on-site monitor in how to identify CRLF and SFGS. The biologist in charge should visit the site once a week during construction and check in with the trained on-site monitor. During the grading and construction phase of the project, the trained biologist shall report weekly to County Planning Staff.
19. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, all construction workers shall be informed of the potential presence of CRLF and SFGS to prevent harm to dispersing frogs or snakes during the construction phase of this project.
20. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, during the construction, all holes shall be covered at night to prevent CRLF or SFGS from taking cover in holes on the construction site.
21. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, the dwarf eucalyptus grove shall be excluded from future farming operations and protected from invasive species (e.g., pampas grass, silver mountain gum eucalyptus) due to the important wildlife habitat value of this area.
22. All new power and telephone utility lines from the street or nearest existing utility pole to all structures on the property shall be placed underground starting at the closest existing power pole.

23. Prior to the issuance of a building permit, the applicant shall record a deed restriction on the property which states that the proposed development is adjacent to property utilized for agricultural purposes. Residents may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal necessary farm operations.

#### Building Inspection Section

24. Prior to pouring any concrete for the foundation, written verification must be provided from a licensed surveyor that setbacks have been maintained as per the approved plans.
25. An automatic fire sprinkler system shall be installed. This permit must be issued prior to or in conjunction with the building permit.
26. A site drainage plan must be submitted which will demonstrate how roof drainage and site runoff will be directed to an approved location. Disposal of this drainage must incorporate a bio-filter design that will help reduce contaminants prior to discharge that enters drainages or water courses.
27. At the time of application for a building permit, a driveway plan and profile will be required.
28. At the time of application for a building permit, a revised plot plan will be required that will show the location of proposed propane tanks, and required fire standpipes.

#### Department of Public Works

29. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed residence per Ordinance #3277.
30. The applicant shall submit, for review by the Department of Public Works and the appropriate Fire District, a plan and profile of both the existing and the proposed access from the nearest "publicly" maintained roadway (Bean Hollow Road) over the "private lane" to the driveway to the proposed building site.

31. Should the "private lane" not meet or exceed the County's minimum standards for a "safe and adequate access," including provisions for handling both the existing and proposed drainage, the applicant shall have designed and shall upgrade the current access to meet these minimum standards.
32. Should the access shown go through neighboring properties, the applicant shall provide documentation that "ingress/egress" easements exist providing for this access.
33. The provision of San Mateo County Grading Ordinance shall govern all grading on and adjacent to this site. Unless exempted by the Grading Ordinance, the applicant may be required to apply for a grading permit upon completion of the County's review of the plans and should access construction be necessary.
34. The applicant shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line/edge of easement) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage along with showing a "turnaround" meeting Fire District requirements.
35. No construction work within the County right-of-way shall begin until Public Works requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

Environmental Health Division

36. Prior to the issuance of a building permit, the applicant shall submit the health review fee of \$89.00.
37. Prior to the issuance of a building permit, the applicant shall obtain a certification for the well as a domestic water source.
38. Prior to the issuance of a building permit, the applicant shall submit an application for the on-site sewage disposal permit along with two copies of the site plan showing the design of the septic system.

Mike and Ana Polacek

January 16, 2004

Page 13

39. Prior to the final inspection of the building permit, the applicant shall obtain a permit to operate the well as a domestic source.
40. Prior to the final inspection of the building permit, the applicant shall install the on-site sewage disposal system with the required permits and meet all requirements of the Environmental Health Division.

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## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260  
[www.coastal.ca.gov](http://www.coastal.ca.gov)



## COMMISSION NOTIFICATION OF APPEAL

DATE: February 23, 2004  
TO: Gabrielle Rowan, Project Planner  
County of San Mateo, Building & Planning  
455 County Center  
Redwood City, CA 94063  
FROM: Abe Doherty, Coastal Program Analyst *AD*  
RE: **Commission Appeal No. A-2-SMC-04-002**

EXHIBIT NO.	2
APPLICATION NO.	
A-2-SMC-04-002	
POLACEK	
(Page 1 of 9 pages)	

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: **PLN2002-00199**  
Applicant(s): **Mr. & Mrs. Michael & Anna Poiacek**  
Description: **For new 5,866 sq.ft. single family dwelling, 569 sq.ft. garage, 329 sq.ft. workshop and craft studio, pool, new septic system, landscaping, 1,400 cubic yards of grading and conversion of existing agricultural well to domestic well on 17.98-acre undeveloped parcel.**  
Location: **Bean Hollow Road, Pescadero (San Mateo County) (APN(s) 086-191-120)**  
Local Decision: **Approved w/ Conditions**  
Appellant(s): **Commissioner John Woolley; Commissioner Mike Reilly**  
Date Appeal Filed: **2/23/2004**

The Commission appeal number assigned to this appeal is A-2-SMC-04-002. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Mateo's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Abe Doherty at the North Central Coast District office.

## CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

Commissioner Mike Reilly

575 Administration Drive, Room 100

Santa Rosa, CA 95403-2887

( 707 ) 565-2241

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Mateo County

2. Brief description of development being appealed:

5,866 sq.ft. single family residence with garage, workshop and craft studio,  
conversion of an agricultural well to a domestic well, septic system,  
1,400 cu.yds. grading, landscaping

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Bean Hollow Road, unincorporated Pescadero area of San Mateo County  
(APN 086-191-120)

4. Description of decision being appealed:

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

b. Approval with special condition: X

c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SMC-04-002

DATE FILED: February 23, 2004

DISTRICT: North Central Coast

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

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

a. ☐ Planning Director/Zoning  
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of  
Supervisors

d. ☐ Other

6. Date of local government's decision: January 14, 2004

7. Local government's file number (if any): PLN2002-00199

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Mike and Ana Polacek

P.O. Box 2393

El Granada, CA 94018

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

(1) Lennie Roberts

Committee for Green Foothills

339 La Cuesta, Portola Valley, CA 94028

(2)

(3)

(4)

**SECTION IV. Reasons Supporting This Appeal**

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

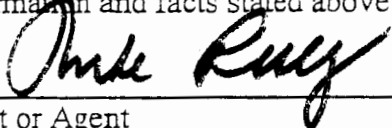
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(See attached page)

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

SECTION V. Certification

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

Signed:   
Appellant or Agent

Date: February 23, 2004

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5260  
FAX (415) 904-5400



**Summary of Reasons for Appeal of Application No. 2-SMC-02-046**  
**San Mateo County Permit File No. PLN 2002-00199**  
**Polacek, Bean Hollow Road, Pescadero**

Inconsistencies with LCP Agricultural Policies

The project is inconsistent with Policies 5.8 and 5.10 of the San Mateo County Local Coastal Program ("LCP"), which prohibit conversion of prime agricultural land and land suitable for agriculture to a conditionally permitted use unless various criteria can be demonstrated. The subject property is designated as prime agricultural land and the proposed project will result in the conversion of prime agricultural land to residential use without meeting the conditions required by policies 5.8 and 5.10 of the LCP.

LCP policy 5.8 prohibits the conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated that no alternative site exists for the use and the productivity of any adjacent agricultural land will not be diminished. Although the applicants prepared an Agricultural Land Management Plan for this project, the County did not require implementation of this plan as a condition of approval for the residential development.

In order to authorize the conversion of land suitable for agriculture to a conditionally permitted use, the LCP requires demonstration that "continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act" (LCP Policy 5.10(a)(2)). This infeasibility of continued or renewed agricultural use of the soil has not been demonstrated. In fact, surrounding parcels are currently in agricultural use and the site was, until recently, under agricultural production.

The proposed project is also inconsistent with Policy 5.15(b) of the LCP, *Mitigation of Land Use Conflicts*, which requires the clustering of all non-agricultural development in locations most protective of existing or potential agricultural uses. The design and location of the development approved by the County does not conform to this requirement, since there are alternative locations, which would be more protective of agricultural uses, closer to Bean Hollow Road and to existing development to the south of the property.

Inconsistencies with Land Use and Location of New Development Policies

The project is inconsistent with San Mateo County LCP policies 1.8 and 1.18, which address locating and planning new development. LCP Policy 1.8 allows new development in rural areas only if it is demonstrated that it will not have significant adverse impacts on coastal resources and will not diminish the ability to keep all prime agricultural lands in agricultural production. The proposed project will diminish the ability to keep all prime agricultural lands in agricultural production, since it will convert a portion of the subject property to residential development. In addition, although the applicants have stated an intention to lease portions of the property for agricultural use and prepared an Agricultural Land Management Plan for this project,

implementation of this plan was not required as a condition of approval for the residential development.

Since the proposed development is not located in an existing urban area or rural service center, it is inconsistent with Policy 1.18, which directs new development to existing urban areas and rural service centers in order to (1) discourage urban sprawl, (2) maximize the efficiency of public facilities, services, and utilities, (3) minimize energy consumption, (4) encourage the orderly formation and development of local governmental agencies, (5) protect and enhance the natural environment, and (6) revitalize existing developed areas.

#### Inconsistencies with LCP Visual Resources Policies

The project, as approved by the County, is inconsistent with LCP Policies 8.5, 8.17 and 8.18, which address protection of visual resources. The project site is located adjacent to the Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, a State Scenic Road and will be partially visible from Bean Hollow Road. The approved development includes a large single-family residence that is close to 6,000 sq. ft. in size and is located in the middle of the portion of the property adjacent to Bean Hollow Road, instead of clustering the development in the southern portion of the site, closer to the existing development on the adjacent property. This project is in conflict with the requirements of Policy 8.18, that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.

The approved project also includes 1,400 cubic yards of grading, including the construction of an earthen berm to the east of the house designed to soften the visual impact of the house. This amount of grading is inconsistent with the requirements of Policy 8.17 that development be located and designed to conform with, rather than change landforms and to minimize the alteration of landforms.

## CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

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

Commissioner John Woolley

825 - 5th Street

Eureka, CA 95501-1153

( 707 ) 476-2393

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Mateo County

2. Brief description of development being appealed:

5,866 sq.ft. single family residence with garage, workshop and craft studio,  
conversion of an agricultural well to a domestic well, septic system,  
1,400 cu.yds. grading, landscaping.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Bean Hollow Road, unincorporated Pescadero area of San Mateo County  
(APN 086-191-120)

4. Description of decision being appealed:

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

b. Approval with special condition:   X  

c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SMC-04-002

DATE FILED: February 23, 2004

DISTRICT: North Central Coast

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

- a. \_\_\_\_\_ Planning Director/Zoning Administrator      c.   x   Planning Commission
- b. \_\_\_\_\_ City Council/Board of Supervisors      d. \_\_\_\_\_ Other

6. Date of local government's decision: January 14, 2004

7. Local government's file number (if any): PLN2002-00199

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Mike and Ana Polacek  
P.O. Box 2393  
El Granada, CA 94018

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

(1) Lennie Roberts  
Committee for Green Foothills  
339 La Cuesta, Portolal Valley, CA 94028

(2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION IV. Reasons Supporting This Appeal**

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



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

(See attached page)

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

SECTION V. Certification

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

Signed:   
Appellant or Agent

Date: February 23, 2004

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## Agricultural Land Management Plan for Parcel # 086-191-120

### Background: History, Crops, Soils, Water,

#### History

The Polacek property was part of the Campinotti Ranch and has been farmed in row and grain crops since 1900 or earlier. The land was subdivided in the 1920's. The land was most recently owned and farmed by P. Marchi and Sons.

#### Crops

Historical crops have been artichokes, fava beans, brussel sprouts, leeks, hay, straw flowers, and ornamental eucalyptus. The ornamental eucalyptus was planted on the least productive row crop land. A wide variety of experimental crops has been suggested by local farmers, the Agricultural Extension and product suppliers. Historically, wind has been a significant constraint on coastal crops on this farm through both damage to crops and increased evaporation of irrigation water. See maps A and B.

#### Soils

The soils are Class III prime soils suitable for a variety of coastal specialty crops. They are classified by the USDA Soils Survey as EtC2 – Elkhorn sandy loam, thick surface, sloped, eroded. The deepest most productive soils are the darker deeper soils in the south and west portions of the property. While these are prime soils for coastal specialty crops, they are thinner and steeper than Class I and II soils. Some areas have drainage problems.

#### Water

The water supply is provided by 14 shares in the Bean Hollow/Lake Lucerne system and in a normal year produces greater than 14 acre-feet of water. This water supply is sufficient for a wide variety of coastal crops.

It has been a reliable source of agricultural water for many years. It is intended that this water will continue to be used as it has been. The Lake Lucerne Water Company maintains dams and a pump at the lake. Water is pumped to a nearby reservoir which serves several uses in the area according to water rights. It is proposed that water will be pumped from the reservoir through existing underground pipes owned by Marchi Farms. Water will be distributed within the parcel from a valve located at the northeast corner of the property. See Map C.

Note that agricultural ditches within the property and flowing through the property shown in Map D currently exist on the property and are proposed to be left where they are. They will be maintained cooperatively where appropriate with adjoining neighbors. Several ditch easements exist but have not been physically implemented. As required, these easements will not be blocked by permanent development.

## **Land Use Plan**

The property is naturally divided into five areas by topography, tree plantings, ditches and drainage swales. The three westerly and southerly fields have a total of 13 acres, the proposed home site field has 2 acres, and the northerly eucalyptus field has 3 acres.

- Field #1, Northeast corner, 3.1 acres, ornamental eucalyptus
- Field #2, Northwest corner, 5.5 acres, row crops and barn.
- Field #3, West, center, 3.1 acres, row crops
- Field #4, South side, 3.8 acres, row crops
- Field #5, East, Center, 2.5 acres, experimental crops and home site.

## **Siting**

The best soil on the property is in the three westerly fields (#2, #3, and #4), south to the southern boundary. This is observable as darker soil on the aerial photos and in the fields. The northern and southern fields (#2 and #4) are the best according to Red Marchi, who recently farmed them.

The coastal terrace is strongly impacted by the prevailing northwest winds that blow 15-25 MPH in the afternoons during the prime crop season of March through September. The eucalyptus field (#1) provides a valuable windbreak for field #5 where the experimental crops will be grown. The eucalyptus field also provides an important buffer on the upwind side of the home site to prevent problems with sprays or dust from the conventional operations on fields #2, #3, & #4.

The alternative southerly home site is directly downwind of all of the primary crop fields, #2, #3, #4 and particularly #5. Moving the house to the southerly site would tend to increase the conflicts with agriculture rather than decrease them.

A shelter belt type windbreak will be planted along the northern edge of the property to protect the fields, but this will not mature enough to have a significant impact for at least 5 years.

## **Economics**

The limited size and crop potential for an 18 acre farm limits the potential farming operation to two general strategies. (1) It is too small for an independent conventional farming operation and needs to be leased to a larger operator. (2) It is large enough for a small specialty crop operation if new crops prove feasible to grow given the climate and the markets are developed to support it.

**Near-term plan:**

The near-term plan for the next 3-5 years is to continue leasing the three larger fields along the west and south side to the Marchis or other local farmers for conventional agriculture, while beginning to experiment with other crops near the house in field #5. The eucalyptus orchard in field #1 will remain as is, a windbreak.

To improve the local microclimate and shelter crops from the prevailing winds, additional windbreak trees will be planted along the northern boundary, and additional screening trees will be planted along the eastern boundary.

Field #5 is the best location for experimental crops because it leaves the large fields open for conventional agriculture and has the best wind protection due to the eucalyptus grove and screening trees along Bean Hollow Road.

Portions of field #5 surrounding the proposed house will be planted with a variety of orchard and berry crops and will be managed by the owners. Several varieties of orchard, berry, herb and vegetable crops will be chosen and tested at the site. Those crops that do well in the area will be replanted at the expense of those that do not do well. See map B.  
\* See Appendix 1 for list of proposed test crops. Earth berms, planted wind breaks, and the house structure will be strategically used to reduce the impact of wind in this area.

**Long-term plan:**

The long-term plan is to for the owner to gradually increase production of new specialty crops as they are determined to be marketable, and phase out the conventional crops.

**Pesticide Use**

Some pesticides may be used in fields #2 and #3, however there will be preference for lessees and crops that require less pesticides. It is intended that pesticides will not be used in fields #1, #4 and #5. This will constrain the range of crops possible in field #4 somewhat. Our intention is to convert fields #4 and #5 to certified organic first.

**Farm Labor**

Farm labor will be the responsibility of the lessees for fields #2, #3 and #4. Fields #1 and #5 will be maintained by the owner, with additional labor as needed hired from the Lessee. On this size parcel the labor requirements will not be extensive and it will be expected that the lessees would be able to provide their own labor either from existing resources or by hiring the Lessee's workers.

### **Ownership and Leases**

All sections are owned by the applicant and are the legal responsibility of the applicant. Separate lease agreements will be entered into with the lessee for fields #2, #3 and #4.

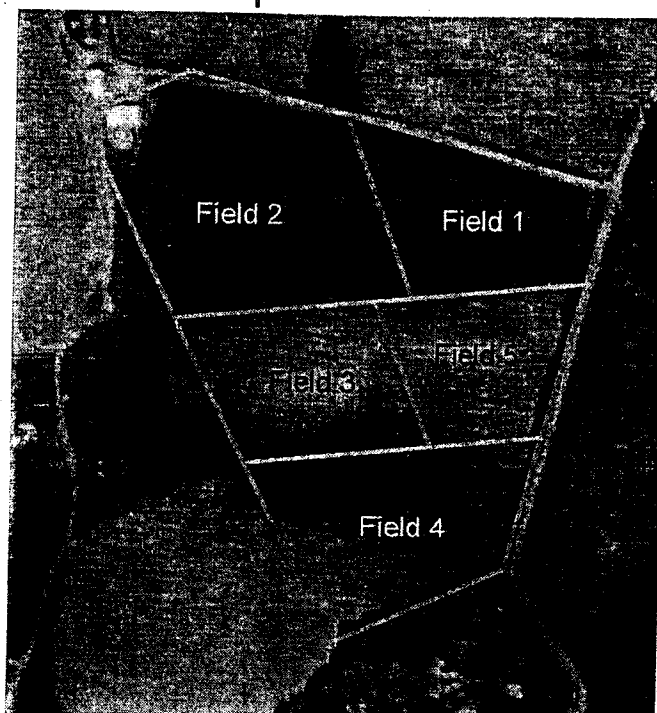
### **Marketing**

Marketing products from fields #2, #3 and #4 will be the responsibility of the lessees. Products from Field #5 and perhaps field #1 will be marketed at local markets.

This combination of conventional and experimental crops offers the best opportunity for the property continuing in economic production. It leaves the proven conventional farming on the most productive ground.

## Recent Crops

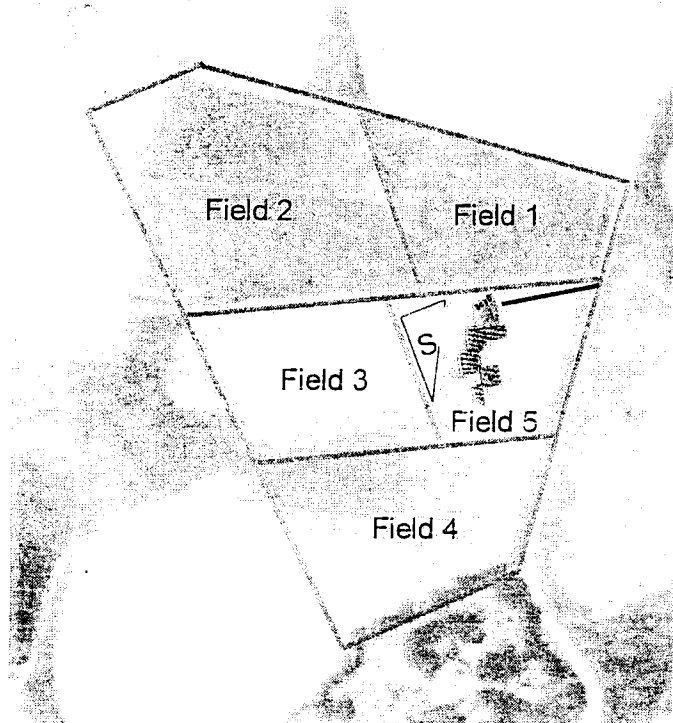
- Field 1
  - Ornamental Eucalyptus
- Fields 2, 3, 4, 5
  - Straw Flowers
  - Hay
  - Brussel Sprouts
  - Fava Beans
  - Leeks
  - Artichokes



USGS Satellite Photo

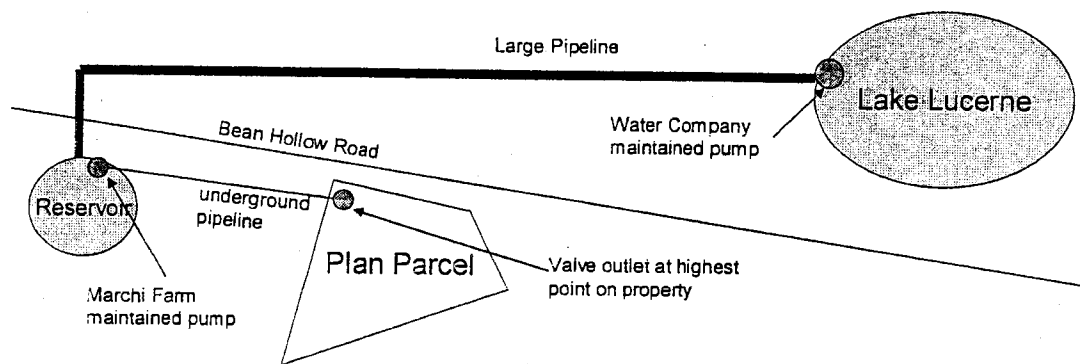
## New Crop Plan

- Field 1
  - Ornamental Eucalyptus
- Fields 2, 3, 4
  - Hay
  - Brussel Sprouts
  - Fava Beans
  - Leeks
  - Artichokes
- Field 5
  - Development
  - Fruit and Berry Varieties



USGS Satellite Photo

# Map C – Water Distribution Map

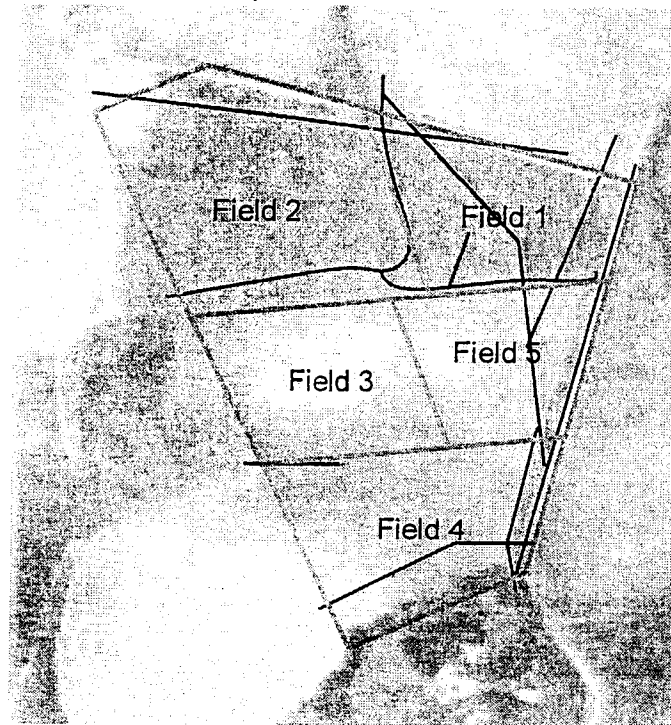




## Map D – Ditch Map

### Ditch Map

- Dark Blue Line = Ditch Easements
- Teal Blue Line = Ditches in Place



## Appendix 1 – Potential Experimental Fruit and Berry Varieties

- Blueberries – Sharpblue, Gulf Coast, Marimba
- Currants – Consort Black, Elk River
- Raspberries – Autumn Bliss, Cascade Delight
- Blackberry – Ollalie, Logan, Marion, Arapaho, Black Douglas, Boysenberry
- Chokeberry
- Elderberry - Blue
- High Bush Cranberry
- Mulberry - Illinois Everbearing, Black Beauty
- Quince – Aromatenaya, Orange, Pineapple, Smyrna
- Ginko Biloba
- Apple – Anna, Dorsett Golden, Einshemer, Gordon, Tropical Beauty, Winter Banana
- Fig – Osborn, White Genoa, Black Mission, Conadria
- Pomegranate – Eversweet, Ambrosia
- Persimmon – Diospyros lotus, Diospyros kaki, Fuyu
- Pear – Baldwin, Carnes, Fan Stil, Garber, Hengsan, Hood, Kieffer, Orient, Pineapple, Seleta, Spadona