

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST AREA  
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**RECORD PACKET COPY**

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Staff: SLG-V  
Staff Report: 3/29/04  
Hearing Date: 4/15/04

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** County of Santa Barbara  
**LOCAL DECISION:** Approval with Conditions  
**APPEAL NO.:** A-4-STB-04-035  
**APPLICANT:** Christopher and Kathryn Chase  
**APPELLANTS:** Commissioners Wan and Woolley; Bruce Murdock; Rick and Janet Stich; Edward Maguire; and Chris and Kathryn Chase  
**PROJECT LOCATION:** 6800 Block of Del Playa Drive, Isla Vista, Santa Barbara County

**PROJECT DESCRIPTION:** Construction of two-story single-family residences on adjacent bluff top lots. Construction of a 1,012 sq. ft. single-family dwelling & 400 sq. ft. carport on Parcel 22. Construction of a 1,220 sq. ft. single family dwelling, 400 sq. ft. carport, and 216 sq. ft. of first floor deck area on Parcel 23.

**SUBSTANTIVE FILE DOCUMENTS:** County of Santa Barbara Coastal Development Permits (01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004, approved 2/24/04); Proposed Final Environmental Impact Report for the Chase Single-Family Dwellings, Santa Barbara County, California (September 2003);

**SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE EXISTS**

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants' assertions that the project is not consistent with the wetlands, environmentally sensitive habitat, water quality, and visual resource standards of the certified Local Coastal Program (LCP). Motion and resolution can be found on **Page 5**.

The County's final approval permits construction of two single-family residences on blufftop parcels next to County and Isla Vista Parks and Recreation District-owned open space. The approved residences are adjacent to mapped environmentally sensitive habitat areas (ESHA) as shown on certified LCP maps and adjacent to known delineated wetland habitat.

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**EXHIBITS**

- Exhibit 1. Local Action Notice
- Exhibit 2. County Approval with Conditions (Parcel 22)
- Exhibit 3. County Approval with Conditions (Parcel 23)
- Exhibit 4. Commissioner Appeal
- Exhibit 5. Murdock Appeal
- Exhibit 6. Maguire Appeal
- Exhibit 7. Stich Appeal
- Exhibit 8. Vicinity Map
- Exhibit 9. Parcel Map
- Exhibit 10. Site Plans
- Exhibit 11. Wetland Delineation
- Exhibit 12. Chase Appeal

## **I. APPEAL JURISDICTION**

The project is located on blufftop property in Isla Vista, a community of unincorporated Santa Barbara County. The Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map certified for the County of Santa Barbara (Adopted November 19, 1982) indicates that the appeal jurisdiction for this area extends between the first public road and the sea, in this case between east-west trending Del Playa Drive and the sea. In addition, Section 30603 of the Coastal Act states, in part, that an action taken by a local government on a coastal development permit application may be appealed to the commission if the development approved is within 100 feet of any wetland, estuary, or stream. As such, the subject sites are located within the appeal jurisdiction of the Commission and any projects approved for these sites are therefore appealable to the Commission.

### **A. APPEAL PROCEDURES**

The Coastal Act provides that after certification of Local Coastal Programs (LCPs), a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of ten working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

#### **1. Appeal Areas**

Developments approved by cities or counties may be appealed if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater, on state tidelands, or along or within 100 feet of natural watercourses and lands within 300 feet of the top of the seaward face of a coastal bluff. (Coastal Act Section 30603[a]) Any development approved by a County that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission irrespective of its geographic location within the Coastal Zone. (Coastal Act Section 30603[a][4]) Finally, developments which constitute major public works or major energy facilities may be appealed to the Commission. (Coastal Act Section 30603[a][5])

#### **2. Grounds for Appeal**

The grounds for appeal for development approved by the local government and subject to appeal to the Commission 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 Division 20 of the Public Resources Code. (Coastal Act Section 30603[a][4])

### **3. Substantial Issue Determination**

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 the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three (3) minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

### **4. De Novo Permit Hearing**

If a substantial issue is found to exist, the Commission will consider the application de novo. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

In this case, if the Commission finds substantial issue, staff anticipates de novo permit consideration by the Commission at a future Commission hearing.

## **B. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL**

A Notice of Final Action for two Coastal Development Permits and associated variances (01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004) was issued by the County of Santa Barbara for the construction of two-story single-family residences on adjacent bluff top lots: construction of a 1,012 sq. ft. single-family dwelling & 400 sq. ft. carport on Parcel 22 and construction of a 1,220 sq. ft. single family dwelling, 400 sq. ft. carport, and 216 sq. ft. of first floor deck area on Parcel 23. The Notice of Final Action for the projects was received on March 9, 2004. A ten working day appeal period was set and notice provided beginning March 10, 2004 and extending to March 23, 2004.

An appeal of the County's action was filed by: (1) Commissioners Woolley and Wan on March 18, 2004; (2) Bruce Murdock on March 12, 2004; (3) Edward Maguire on March 18, 2004; (4) Rick and Janet Stich on March 22, 2004; and (5) Chris and Kathryn Chase on March 22, 2004, during the appeal period. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals and requested that the City provide its administrative record for the permit. The administrative record was received on March 19, 2004.

## II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

**MOTION:** *I move that the Commission determine that Appeal No. A-4-STB-04-035 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 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 actions 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-4-STB-04-035 presents a substantial issue with respect to the grounds on which the appeals have 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.

## III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

### **A. BACKGROUND**

The project site is located in the community of Isla Vista, within Santa Barbara County. The parcels are located on the south side of Del Playa Drive. Each lot is approximately 5,600 sq. ft. Both lots are zoned 10-R-1 (Single Family Residential 10,000 sq. ft. minimum lot size). The subject parcels are undeveloped, relatively flat and are covered with low-lying native wetland vegetation. They have a relatively flat topography with shallow depressions and low swales. There is one County easement running parallel to the easternmost project parcel to the bluff top where another easement runs east-west for some distance extending onto and beyond the subject parcels.

### **B. PROJECT DESCRIPTION**

The County's coastal development permits approved the construction of two-story single-family residences. On Parcel 22, the CDP approved construction of a 1,012 sq. ft. single-family dwelling & 400 sq. ft. carport. On Parcel 23, the CDP approved

construction of a 1,220 sq. ft. single family dwelling, 400 sq. ft. carport, and 216 sq. ft. of first floor deck area.

### Parcel 22

On Parcel 22, the approved CDP allows construction of a 1,012 sq. ft., two-story single-family dwelling with 400 sq. ft. carport. Due to a larger delineated wetland area on Parcel 22, the first floor development footprint would be 807 sq. ft., consisting of a maximum of 407 sq. ft. of living space and a 400 sq. ft. carport. The second story would be a maximum of 75% of the first floor area, or 605 sq. ft. This would allow for 1,012 sq. ft. of total living area. No first floor decks would be permitted. The development footprint would be located at the northern end of the parcel, entirely outside of the delineated wetland area. A front-yard and side yard setback variance would also be granted allowing the structure to be built with a 5-foot front yard setback, an eliminated western boundary setback, and a three-foot eastern side yard setback.

The foundation would be of raised floor construction with a minimum of 18" crawl space on caissons or piles. Grading is estimated at approximately 87 cubic yards of cut and 87 cubic yards of fill. Retaining walls of up to two feet in height would be installed according to building codes. Fencing approximately, but no higher than, six feet high would be installed at the east property line for the length of the dwelling. In addition, an approximately four-foot high split rail fence may be build on the balance of the property lines, in accordance with a wetland mitigation plan approved by the County. Two parking spaces would be provided within the attached carport. Water would be obtained from Goleta Water District and the residence would be connected to the Goleta West Sanitary District sewer system.

The Coastal Development Permit was approved subject to 22 project specific conditions (see Exhibit 2), including the following: conformance with final approved plans, construction timing and best management practices; location of development footprint and second story limitations; Board of Architectural Review approval; design standards such as building materials, landscaping plan, driveways, color, and fencing; exterior night lighting; offsite wetland mitigation; Onsite Wetland Protection Plan, requirement for caisson foundation; recordation of open space easement for the undeveloped remainder of the project parcel; long-term wetland protection measures; interim erosion control measures; permeable surfaces; runoff collection; water conservation; Revegetation and Restoration Plan for areas outside of the defined wetland/vernal pool complex; and fencing design for wildlife movement.

### Parcel 23

On Parcel 23, the approved CDP allows construction of a 1,220 sq. ft., two-story single-family dwelling with 400 sq. ft. carport. The first floor development footprint would be 926 sq. ft., consisting of 526 sq. ft. of living space and a 400 sq. ft. carport. The second story would be a maximum of 75% of the first floor area, or 694 sq. ft. This would allow for 1,220 sq. ft. of total living area. A first floor deck of approximately 216 sq. ft. would also be permitted. The development footprint would be located at the northern end of

the parcel, entirely outside of the delineated wetland area. A front and western side yard setback variance would also be granted allowing the structure to be built with a 12-foot front yard setback, a 2-foot western side yard setback, and a standard 5-foot eastern side yard setback.

The foundation would be of raised floor construction with a minimum of 18" crawl space on caissons or piles. Grading is estimated at approximately 87 cubic yards of cut and 87 cubic yards of fill. Retaining walls of up to two feet in height would be installed according to building codes. Fencing approximately, but no higher than, six feet high would be installed at the east side property line for the length of the dwelling. In addition, an approximately four-foot high split rail fence may be build on the balance of the property lines, in accordance with a wetland mitigation plan approved by the County. Two parking spaces would be provided within the attached carport. Water would be obtained from Goleta Water District and the residence would be connected to the Goleta West Sanitary District sewer system.

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## **C. LOCAL PERMIT HISTORY**

### Project Proposed By Applicants

The applicants propose to develop a two-story, 1,797 sq. ft. residence on each of two legal non-conforming lots located on the coastal bluff along Del Playa Drive in Isla Vista. Each residence would have an approximately 500 sq. ft. garage and 1,300 sq. ft. of living space (800 sq. ft. on the first floor and 500 sq. ft. on the second floor). Each dwelling would include an approximately 390 sq. ft. raised wood deck, and approximately 2,920 sq. ft. of the southern portion of each lot would remain undisturbed. The applicants requested a variance for each structure to extend into the front yard setback. Under this scenario, approximately 1,100 sq. ft. of wetland resources would be filled.

### Project Approved by Zoning Administrator

The project approved by the Zoning Administrator included a revised project footprint. The Zoning Administrator approval included approximately 400 sq. ft. garage and



approximately 1,400 sq. ft. of living space (800 sq. ft. on the first floor and 600 sq. ft. on the second floor). Both development footprints approved by the Zoning Administrator would reduce impacts to wetland resources, with Parcel 23 avoiding the delineated wetland altogether. The project included a side yard variance on Parcel 23 to permit design flexibility on that parcel, but without increasing the square footage of the development footprint or the maximum allowable square footage for the dwelling. The final development footprints for both parcels were to be determined in consultation with a County-approved biologist with expertise in wetland biology. This decision was appealed to the Board of Supervisors by Bruce Murdock; Edward Maguire; Rick and Janet Stich; and Chris & Kathryn Chase.

#### Board of Supervisors Appeal

The Board held hearings on the appeals and received evidence with respect to each appeal. After receiving public testimony, the Board directed staff to examine the feasibility of further restricting the development footprint on the parcels, avoiding encroachment of the delineated wetland entirely while allowing for more development flexibility in order to allow for economically feasible use of the properties. The results of the Board of Supervisor's hearings represent the final County action with a revised project as described above under Project Description within this staff report.

#### **D. APPELLANTS' CONTENTIONS**

The County's action was appealed to the Commission by: (1) Commissioners Woolley and Wan; (2) Bruce Murdock; (3) Edward Maguire; (4) Rick and Janet Stich; and (5) Chris & Kathryn Chase.

The appeal filed by Commissioners Wan and Woolley is attached as Exhibit 4. The appeal contends that the approved project is not consistent with the policies of the certified LCP with regard to wetland protection, environmentally sensitive habitat, water quality and visual resource policies of the LCP and applicable policies of the Coastal Act as incorporated by reference into the certified LCP. In addition, there may be alternative designs that would result in fewer or less significant impacts and which have not been analyzed. The Commissioners' appeal alleges that the project is inconsistent with the wetlands, ESHA, and water quality provisions of the LCP, specifically Coastal Act policies 30240 and 30250 as incorporated by reference by LUP Policy 1-1; LUP policies 2-11, 3-19, 9-9, 9-14, and 9-20; and Article II Zoning Ordinance Sections 35-97.7 and 35-97.9. Additionally, this appeal alleges that the design of the project is not consistent with Coastal Act policies 30251 & 30240(b) as incorporated by reference by LUP Policy 1-1 with regard to protection of visual resources and neighboring open space.

The appeal filed by Bruce Murdock is attached as Exhibit 5. The appeal contends that the approved single-family dwellings are approved to be built within designated and protected wetlands, and within the setbacks of vernal pools. He alleges that the project is therefore inconsistent with Coastal Act Sections 30240(a) and (b) which require that the only uses within ESH are those dependent on the ESH and that development



adjacent to ESH must be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat uses.

The appeal filed by Edward Maguire is attached as Exhibit 6. The appeal contends that the development will be built entirely within the perimeter of established vernal pools and setbacks for these pools and therefore project is inconsistent with the Local Coastal Plan and permits the potential destruction of one of the last remaining vernal pool complexes of its kind within the coastal area. The appeal further contends that the project should be reviewed by the USEPA and ACOE because development in this fragile area could have serious consequences which have not been studied or addressed. The appeal contends that a proper biological survey has not been done in a rainy year and should be required to rule out the presence of endangered fairy shrimp that have been observed in the vernal pool complex. The appeal further contends that the parcels are adjacent to one of the most highly concentrated communities in California and further development will adversely impact public access which is already impacted due to scarce parking and lack of egress.

The appeal filed by Rick and Janet Stich is attached as Exhibit 7. The appeal contends that the approval is inconsistent with the LCP with regard to wetlands and environmentally sensitive habitat (Policy 9-9, Section 30233, 30240, Policy 3-19, Policy 9-14, Policy 9-21, Section 30231, BIO-GV-2, BIO-GV-3), recreation (Policy 9-10), new development and protection of coastal resources (Section 30250, Policy 1-2).

The appeal filed by Chris and Kathryn Chase (applicants) is attached as Exhibit 12. The appeal contends: that the homes were specifically negotiated by the County of Santa Barbara in response to pending litigation against the County and they reflect the specific direction and input from the Santa Barbara County BAR; That the County induced the applicants to delay going to trial in exchange for promised staff report for these applications; and that the homes as proposed by the applicants are not within the "alleged wetland" locations on or near the parcel and vernal pool locations off the parcel to the greatest extent feasible. The appeal further contends that the only specific wetland study analyzing these applicant-proposed development footprints has determined that they are not in a wetland and that none of the area should be considered ESHA because it does not meet the definition under Section 30107.5 of the Coastal Act. The applicant' appeal also alleges that: Public access to the coast and to views of the coast are entirely protected under the applicant-proposed projects; the revised project approved by the Board of Supervisors does not have site plans or elevation drawings, has no architectural component, and has not been reviewed by the BAR; the revised project does not leave a reasonable or feasible area for a single family residence; the revised conceptual project is not in fact a "final action" as subsequent BAR and CDP actions would presumably be appealable; the proposed residences are infill housing and the applicant-proposed configuration is supported by the "balancing" provisions of the Coastal Act Section 30007.5; and the County's action (revised project) effectively constitutes a denial of the project and results in a "taking" of property inconsistent with Section 30010. Finally, the applicant alleges that the County's action is

inconsistent with Section 30604 of the Coastal Act which provides that no coastal development permit may be denied under this division on the grounds that a public agency is planning on contemplating acquisition of the subject property or property adjacent to the subject property.

## **E. ANALYSIS OF SUBSTANTIAL ISSUE**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified LCP or the public access policies of the Coastal Act.

A substantial issue does exist with respect to the grounds on which the appeal has been filed. The appeals raise significant questions about whether the approved project is inconsistent with policies of the County of Santa Barbara Local Coastal Program for the specific reasons discussed below.

### **1. Wetlands, ESHA, and Water Quality**

Several appellants contend that the project, as approved by the County does not conform to the policies of the LCP with regard to wetlands and environmentally sensitive habitat areas (ESHA). There are several policies in the County LCP that relate to wetland and ESHA protection.

Policy 1-1: All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Section 30231 of the Coastal Act states:

***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

Section 30233 of the Coastal Act states:

***(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:***

***(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.***

**(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.**

**(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.**

**(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.**

**(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.**

**(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.**

**(7) Restoration purposes.**

**(8) Nature study, aquaculture, or similar resource dependent activities.**

**(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.**

**(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.**

**(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.**

Section 30240 of the Coastal Act states:

**(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.**

**(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.**

Section 30250 of the Coastal Act states:

**(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.**

**(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.**

**(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.**

Section 30107.5 and Article II, Section 35-58 of the certified LCP state:

**"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.**

Policy 1-2:

**Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.**

Policy 2-11:

**All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.**

Policy 3-19:

**Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.**

Policy 9-9:

***A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Policy 9-10.***

***The upland limit of wetland shall be defined as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or 2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.***

***Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.***

Policy 9-14 Wetland:

***New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.***

Policy 9-21 Vernal Pools:

***Development shall be sited and designed to avoid vernal pool sites as depicted on the resource maps.***

Sec. 35-97.7. Conditions on Coastal Development Permits in ESH.

***A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.***

Zoning Code 35-97.9:

...

***4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in paragraph 5 of this Section, below. The upland limit of a wetland shall be defined as:***

a. *The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or*

b. *The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or*

c. *In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.*

5. *Light recreation such as bird-watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.*

6. *Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.*

9. *New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

**Policy BIO-GV-2:**

*Environmentally Sensitive Habitat (ESH) areas and Riparian Corridors within the Goleta Planning Area shall be protected and, where feasible and appropriate, enhanced.*

**Policy BIO-GV-3:**

*Development within areas designated Environmentally Sensitive Habitat or Riparian Corridor shall comply with the applicable habitat protection policies.*

The certified zoning maps designate the subject area as Environmentally Sensitive Habitat (ESH). Under the certified LCP, wetlands and vernal pools are specifically identified as unique, rare, and fragile habitats and specific policies are included in the LCP to provide protection of these resources. The existence of a vernal pool in this area was previously identified on the Coastal Commissions Coastal Resources Environmentally Sensitive Area maps prepared in the mid-1970s and are also listed on the County's zoning overlay maps as an ESHA area.

A wetland delineation was conducted by FLx in 1997 on the subject parcels (Exhibit 11). The wetlands were delineated based on positive evidence of at least one indicator (i.e., hydrophytic vegetation, hydric soils, and wetland hydrology). On the project parcels, the 1997 delineation concluded that wetland coverage was 61% on Parcel 22 and 48% on Parcel 23. The wetlands were vernal swales and flats which were classified in the FLx



report as palustrine emergent-nonpersistent seasonally-saturated vernal drainage swale wetlands. In addition to wetlands, the Final EIR for this project reports that several small patches of native perennial grassland dominated by purple needlegrass were recorded in the southern parts of Parcels 22 and 23.

The Project EIR found that in addition to direct loss of wetland due to the placement of development [if any], additional disturbance to the resources could occur during the construction process due to construction equipment impacts and over excavations. In addition to any direct impacts, the adjacent vernal pool could be indirectly affected by impacts to the wetlands if sufficient plant numbers are lost and/or if drainage patterns are affected due to construction of the residential structures. Indirect impacts are also likely due to site development, not only from the long-term presence of the residential development but from the grading during site preparation. Grading and increased impermeable surfaces on the project parcels do have the potential to result in potentially significant impacts to the sensitive wetland habitat by altering the established drainage patterns that helped create the habitat, potentially including the diversion of drainage from hardscaped areas toward the street. If soils were left exposed during the rainy season, additional erosion and offsite sedimentation could occur. In addition, the soils within the development footprint may need to be dried to conduct the foundation work which could lead to additional impacts. Furthermore, waste discharge from the construction site to the wetland resources are potentially significant impacts. Finally, residential use of the property would potentially introduce the use of herbicides, pesticides, animal life, and/or direct human disturbance into the wetland.

As approved, development on Parcels 22 and 23 may be constructed as close as the edge of the delineated wetland. The findings for the revised project indicate (pg. A-22):

*The revised project modifies the proposed mitigation to avoid encroachment of the delineated wetland areas on the site while providing design flexibility to allow for the construction of two single-family dwellings approximately 1,220 and 1,012 s.f. of living space on Parcels 23 and 22, respectively, with design standards subject to approval of the BAR.*

The appellants' contentions address a number of policies with regard to consistency with the LCP in relation to the project's proximity to wetland and wetland buffer. There are competing assertions regarding the adequacy of the wetland delineations. The 1997 FLx report was relied upon by the County to make its determination. One appellant contends that a biological survey for the project "has not been done in a rainy year and should be required to assess the presence/absence of endangered fairy shrimp that have been observed in the vernal pool complex." On the other hand, the applicants' appeal contends that the homes as proposed by the applicants are not within the "alleged wetland" locations on or near the parcel, and are setback from offsite vernal pool locations to the greatest extent feasible. The applicants' appeal further contends that the only specific wetland study analyzing these applicant-proposed development footprints has determined that they are not in a wetland.

Section 35-97.5 of the certified Zoning Ordinance does require an assessment of flora and fauna and detailed evaluation of a unique plant and animals species, their habitats,



and wetland locations at the time the application for development is received. Staff has not had sufficient time to adequately review the biological data in the administrative record, received on March 19, 2004. However, if a substantial issue is found, as recommended in this staff report, this issue will be more fully evaluated potentially through further review of the administrative record and site visits. Notably, however, the onsite biological survey (subsequent to the FLx report) indicates in the methodology that the survey did not occur in the season to evaluate hydrology or vegetative indicators, and uses the ACOE methodology, rather than the test for determining presence of wetlands used by the Coastal Commission and California Department of Fish and Game.

Staff notes that the evaluation of the wetland delineation is appropriately postponed to the *de novo* stage because the proximity (and thus impacts) of the approved project to wetland and wetland buffer is unclear for other reasons.

Conditions of approval (Condition 4) on both parcels indicate that the actual project footprint has not yet been determined, and another condition of approval (Condition 8) implies that there may be direct as well as indirect impacts to wetlands and therefore requires offsite mitigation. Condition 4 of the Parcel 22 CDP states, in part:

*... Structural development toward the south (ocean side) of the parcel shall be reduced to the maximum extent feasible to reduce wetland impacts. The actual development footprint shall be determined in consultation with a County-approved wetland biologist.*

Condition 4 of the Parcel 23 CDP states, in part:

*... The construction footprint shall avoid altogether the wetland habitat that enters the parcel from the east, as shown in the 1997 FLx report.*

Condition 8 (identical for Parcel 22 and 23) requires that:

*...in order to help offset the loss of wetland habitat due to the construction of the residences, the applicant shall provide offsite wetland mitigation at a ratio of 4:1 for each square foot lost directly as a result of the project, and at a ratio of 2:1 for each square foot lost indirectly, as determined by a County-approved biologist with expertise in wetland habitats. As an alternative, the applicant may provide funding to an existing offsite wetland mitigation bank, or may mitigate through a combination of land and funding. There would be no loss of primary wetland habitat through avoidance and a loss of approximately 1,187 square feet of wetland buffer, the entire development footprint of the first floor, including driveway and sidewalk areas. These estimates could be changed based on the actual design plans.*

The above language calls into question the level of certainty of the project's proximity to wetland resources and whether wetland mitigation will be required. Subsequently, the impacts to wetlands as a result of this project are not well defined. This uncertainty supports the appellants' contentions with regard to the allowable uses within wetlands and ESHA. Because there is uncertainty as to the specific approved development footprint in relation to the known wetland resources, there remains uncertainty whether wetlands might be filled and ESHA impacted as a result of the project. Therefore, there is a substantial question as to consistency with Coastal Act Sections 30233 and 30240 as incorporated by LUP Policy 1-1, LUP Policy 9-21, and Zoning Ordinance Section 35-

97.9 which limit fill of wetlands to certain types of projects, not including residential development, and reserves ESHA for those uses only which are dependent upon the ESHA resource itself.

In general, the LCP policies excerpted above and cited as the grounds for appeal, work together to require siting, design, and mitigation to protect wetland habitat. LUP Policies 2-11 and 9-9; Section 30240 (b) as incorporated by LUP Policy 1-1; and Zoning Ordinance Section 35-97.9 require measures including siting the project with setbacks and buffers to prevent impacts which would degrade the ESHA and/or wetland resource. Specifically LUP Policy 9-9 and Zoning Ordinance Section 35-97.9 require a 100-foot buffer to be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer except structures of a minor nature. There is no dispute that the approved project is, at a minimum, entirely within the required 100-foot wetland buffer. To the extent that there may be alternatives which further reduce the development in the wetland buffer, the approved project raises substantial issue with regard to consistency with LUP Policies 2-11 and 9-9; Section 30240 (b) as incorporated by LUP Policy 1-1; and Zoning Ordinance Section 35-97.9.

The existing certified LCP provides LUP Policy 1-1 and Section 30240 of the Coastal Act as incorporated into the LCP; LUP Policies 1-2, 2-11; certified policies of the Goleta Valley Community Plan BIO-GV-2 and BIO-GV-3; and Zoning Ordinance Sections 35-97.7 and 35-97.9 which require development adjacent to areas designated on the land use plans or resource maps as ESH, to be regulated to avoid adverse impacts on habitat resources, including measures such as setbacks, buffers, grading and water quality controls. Section 30240 of the Coastal Act requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and be compatible with the continuance of the habitat areas. Section 30240 of the Coastal Act also requires that development adjacent to parks and recreation areas must be sited and designed to prevent impacts.

Policy 1-2 provides for any conflict between ESHA protection standards and other development standards to be resolved by applying those that are most protective of ESHA resources or public access. Additionally, Policy 2-11 requires all development, including agriculture, shall be scaled to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints. The Goleta Community Plan is a certified portion of the LCP, which includes the subject parcels. Policies BIO-GV-2 and BIO-GV-3 specifically require protection of ESHA resources. Zoning Ordinance Section 35-97.7 allows for coastal development permits to be issued with conditions necessary to ensure protection of ESHA. Such conditions may include limits on size, kind or character.

The subject parcels are designated ESHA on the certified Zoning Maps. It is not clear that the ESHA resources (wetlands) have been protected to the maximum extent feasible. There may be alternative designs that further reduce the impact to ESHA resources consistent with the above certified LCP policies and implementation.

Additionally, as described above, there appears to be some uncertainty as to the exact location of the development footprint, and thus there are questions about whether the impacts to the known ESHA have been fully addressed.

The appellants further contend that the approved project is inconsistent with Section 30231 of the Coastal Act as incorporated into the certified LCP under Policy 1-1; Policy 3-19; and Zoning Ordinance Section 35-97.9. These policies require the protection of water quality to ensure that nearby wetlands are not degraded. Zoning Ordinance Section 35-97.9 specifically states that "new development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances."

The project EIR recognizes that the proposed development has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. These impacts reduce the biological productivity and the quality of coastal waters. To ensure protection of water quality consistent with the certified LCP, development must be sited on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources. There may be alternatives to the siting and design of the proposed residences which would further reduce the impact of the project on the site, consistent with the maximum feasible protection of water quality and wetlands.

Finally, one appellant has cited 30250 such that "new residential...development...shall be located... where it will not have significant adverse effects... on coastal resources." Where development is unavoidable in constrained areas, the siting and design of development should avoid, where feasible, and minimize individual and cumulative impacts to coastal resources. Coastal Act Section 30250, incorporated by reference in LUP Policy 1-1 provides a framework for new development to concentrate structures and requires that new development not create significant adverse impacts either individually or cumulatively on coastal resources. In conjunction with the requirements of wetland and ESHA protection as described above, there is a substantial question as to whether the project is sited and designed to protect wetlands to the maximum extent feasible. The location adjacent to the edge of the delineated wetland, the direct impact to the wetland as a result of construction, and the potential changes to drainage of the site indicate that the project would be inconsistent with the requirements of Coastal Act Section 30250.

The potential direct and indirect impacts to wetland, ESHA, and water quality are inconsistent with Sections 30231, 30233, 30240, and 30250 of the Coastal Act as incorporated by reference in the certified LCP; LUP Policies 1-2, 2-11, 3-19, 9-9, 9-14, and 9-21; certified Goleta Community Plan policies BIO-GV-2 and BIO-GV-3; and the certified Zoning Ordinance (Article II) Sections 35-97.7 and 35-97.9. The County

approved the development in reliance of Section 30010 of the Coastal Act with regard to "takings" claim. However, there may be alternative designs that further reduce the impact to the onsite wetlands consistent with the certified LCP. At a minimum, the benefits of removing the accessory decking should be considered.

For all of these reasons, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the project does not meet provisions of the certified Local Coastal Program regarding wetland, ESHA, and water quality protection.

## **2. Visual, Recreation and Access**

The appellants contend that the project, as approved by the County does not conform to the policies of the LCP with regard to public access, recreation, and visual resources. The appellants cited the policies summarized below in the County LCP relating to recreation and visual resources protection. The appellant that cited public access issues did not address any LCP or Coastal Act policies. However, staff notes that in general, the public access policies require maximum protection of access. The public access component and impacts are addressed further below.

Policy 1-1: All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Section 30240 of the Coastal Act states:

***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

Section 30251 of the Coastal Act states:

***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.***

Policy 9-10 (Wetlands) states:

***Light recreation such as birdwatching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.***

The Final EIR (September 2003) for the project reports that: "no organized activities are known to occur on the parcels, but there is ample evidence of regular human (and domestic wildlife) use of the site due to the trampled vegetation and scattered trash, as well as a number of well-worn paths (both legal and incipient) crossing the open space to the bluff top."

The EIR further reports that there is a vertical County easement running parallel to the easternmost project parcel to the bluff top where another easement runs east-west for some distance extending onto and beyond the subject parcels. The parcels have been somewhat degraded by disturbances such as the presence of trails well-used by humans and domesticated animals, and deep tire ruts worn into the soil near Del Playa Drive.

The project parcels are located between open space parcels with neighboring parcels owned by the County of Santa Barbara to the west and Isla Recreation and Parks District to the west. As reported in the project EIR:

*Development of the project sites would occur within one of the last residentially-zoned coastal open spaces within the surrounding Isla Vista community. Although the areal extent of the loss of this open space is relatively unsubstantial (less than 1 acre), the loss is considered significant when viewed with the context of the surrounding community which is densely developed...*

The appellants contend that LUP Policy 1-1 and by extension Section 30251 requires protection of visual qualities of coastal areas. Additionally, Section 30240(b) as incorporated by reference in LUP Policy 1-1, specifically requires that development be sited and designed to prevent impacts (such as adverse impacts to visual resources) to adjacent parks and recreation. Policy 9-10 allows some light recreation in and around wetlands as long as there are no adverse impacts from such use. The LCP policies as described above require that the proposed development be sited and designed to protect views to and along the ocean and scenic coastal areas and be visually compatible with the character of surrounding areas. The subject parcels are located on adjacent blufftop lots between the first public road and the sea and neighboring properties are open space.

The County's approval incorporated several requirements for landscaping, fencing, building materials, exterior lighting, and color restrictions to reduce visual impacts. In particular, the restrictions limited fencing to no more than four-feet high, split-rail (visually permeable), along all property lines, except for the authorization of a six-foot fence along the east property line for the length of the dwelling. There may be additional measures that could further open up a view corridor through the property and make the project more compatible with the neighboring open space, by requiring landscape comprised of low-growing, low-mass plant species, such that at maturity the landscaping softens the effect of the structure but does not overpower the site with additional massing of trees, hedges, vines, etc. Therefore there remains potential to further reduce the visual impact to through-views and open space character of the area, to be more in conformance with Section 30251 and 30240(b).

It is unclear as to the exact nature of the appellant's contention of inconsistency of Policy 9-10 which makes provisions for light recreation in and around wetlands as long as there are no adverse impacts from such use. The County's approval requires enhancement of the onsite wetland areas. It also allows for continued use of the bluff

top public trail which would allow passive observation of the resource, but signage and fencing would be encouraged to keep passersby out of the sensitive area.

One appellant has stated that the project would adversely impact public access. The appeal was not clear, however, on the specific issue(s) relating to public access. The appellant's reference to the density of the surrounding community suggests that the appellant is considering the use of the property for continued open space use. With regard to public access, there is an existing dedicated vertical accessway to the beach adjacent to one of the subject parcels, and there is an east-west trending accessway along the blufftop offsite of the subject parcels. In addition, there are informal access trails traversing through the property. Since the vertical or blufftop accessways allow access directly around the parcels and according to the County staff reports, would not be modified, staff has not found anything in the administrative record that indicates the approved project would adversely impact public access to the beach. It would, however, require the closing and restoration of informal trails through the wetland area.

For the above reasons, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the project does not meet provisions of the certified Local Coastal Program regarding protection of visual resources. The Commission finds no substantial issue with regard to public access and recreation.

### **3. Other Contentions That Are Not A Basis of Appeal**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeals is whether a substantial issue exists with respect to the grounds raised by the appellants.

Section 30603 provides:

*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. (Section 30603(b)(1)).*

Section 30625 provides:

*The commission shall hear an appeal unless it determines the following: ... (2) 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. (Section 30625(b)(2)).*

In this case, the appellants have appealed the County's final action on a number of issues, several of which do not meet the grounds for an appeal of a CDP to the Commission. The grounds for appeal are limited to an allegation that the action does not conform to the LCP or public access policies of the Coastal Act.

The applicants' contentions with regard to negotiations and litigation with the County are not a grounds of appeal under the Coastal Act. The lack of revised site plans is not a grounds for appeal pursuant to Section 30603 of the Coastal Act. Additionally the



"balancing" (Section 30007.5), "takings" (Section 30010), and "acquisition" (Section 30604) provisions of the Coastal Act are not incorporated within the certified LCP and therefore are not grounds for appeal. Therefore, these issues cannot form the basis for the Coastal Commission's review of the County's action in approving the CDP for the Chase residences.

## **F. CONCLUSION**

The purpose of the substantial issue determination is to review the administrative record and establish whether a substantial question is raised with respect to the appellants' assertions that the project does not conform to the certified LCP and public access policies of the Coastal Act. As described above, the Commission finds that the appellants' contentions do raise substantial issue with regard to the consistency of the approved project with the wetlands, environmentally sensitive habitat, water quality, and visual resources standards of the certified Local Coastal Program.



45TB-04-042

Appeal period start 3/10/04



# County of Santa Barbara Planning and Development

Valentin Alexeeff, Director  
Dianne Meester, Assistant Director

## NOTICE OF FINAL ACTION



DATE: March 3, 2004  
TO: California Coastal Commission  
Shana Gray  
89 South California Street, Suite 200  
Ventura, California 93001

MAR 09 2004

SOUTH CENTRAL DISTRICT

On February 24, 2004, Santa Barbara County took final action on the appealable development described below:

- Appealable Coastal Development Permit
- X Appealable Coastal Development Permits, 01CDH-00000-00060 and 01CDH-00000-00061 following discretionary cases, 02VAR-00000-00003 and 02VAR-00000-00004
- Discretionary action on a case

**Project Applicant:**  
Jeffrey C. Nelson, Attorney  
Mullen & Henzel, LLP  
112 E. Victoria Street  
Santa Barbara, CA 93101  
(805) 966-1501

**Property Owner:**  
Christopher and Kathryn Chase  
23835 Oxnard Street  
Woodland Hills, CA 91367

### Approved Project:

- a) **02VAR-00000-00003** [application filed on May 17, 2002] for a Variance from the front setback requirement to allow a residence to be located five feet from the right of way line, a side yard variance on the western property boundary to be zero feet and a side yard variance on the eastern property boundary to be three feet from the property line;
- b) **01CDH-00000-00060** [application filed on December 14, 2001] for a Coastal Development Permit under Section 35-169.5 in the 10-R-1 Zone District of Article II to allow a two-story single family dwelling with a maximum of 1,012 square feet of living space and a 400 square foot carport;
- c) **02VAR-00000-00004** [application filed on May 17, 2002] for Variances from the front setback requirement to allow a residence to be located 12 feet from the right of way line and a side yard variance on the western property boundary to be two feet from the property line;
- d) **01CDH-00000-00061** [application filed on December 14, 2001] for Coastal Development Permit under Section 35-169.5 in the 10-R-1 Zone District of Article II to allow construction of a two-story single family dwelling with a maximum of 1,220 square feet of living space and a 400 square foot carport and approximately 200 square feet of deck area;

and to certify the Environmental Impact Report, 03-EIR-03 pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. As a result of this project, significant effects on the environment are anticipated in the following categories: Biological Resources and Land Use.

123 East Anapamu Street · Santa Barbara, CA 93101-2058  
Phone: (805) 568-2000 Fax: (805) 568-2030

<b>EXHIBIT 1</b>
<b>A-4-STB-04-035</b>
<b>Local Action Notice</b>

**Location:** The project is identified as AP Nos. 075-181-022 and -023, located on the 6800 Block of Del Playa Drive in the Isla Vista area, Third Supervisorial District.

The receipt of this letter and the attached materials start the 10 working day appeal period during which the County's decision may be appealed to the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office.

Please contact Jackie Campbell, Deputy Director, Development Review at (805) 568-2076 if you have any questions regarding the County's action or this notice.

*Jackie Campbell*

3.2.04

Jackie Campbell, Deputy Director, Development Review

Date

Attachment: Final Action Letter dated March 2, 2004

cc: Case File: 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004  
Jeff Nelson, Mullen & Henzell, LLP, 112 E. Victoria Street, Santa Barbara, CA 93101  
Christopher and Kathryn Chase, 23835 Oxnard Street, Woodland Hills, CA 91367  
Edward F. Maguire, 1774 Cousino Way, El Cajon, CA 92019  
Rich and Janet Stich, 6865 Del Playa Drive, Goleta, CA 93117  
Bonnie Murdock, 6875 Sabado Tarde Road, Goleta, CA 93117  
Cintia Mendoza, Hearing Support

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# County of Santa Barbara Planning and Development

Valentin Alexeeff, Director  
Dianne Meester, Assistant Director

March 2, 2004

Jeffrey C. Nelson, Attorney  
Mullen & Henzell, LLP  
112 E. Victoria Street  
Santa Barbara, CA 93101

BOARD OF SUPERVISORS  
HEARING OF FEBRUARY 24, 2004

**RE: *Appeal of the Zoning Administrator's Approval of the Chase Single Family Dwellings and Variances***

Hearing to consider recommendations regarding the appeal of the Zoning Administrator's approval of the Chase Single Family Dwellings and Variances, Case Nos. 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003 and 02VAR-00000-00004. The project is identified as AP Nos. **075-181-022 and -023**, located on the 6800 Block of Del Playa Drive in the Isla Vista area, Third Supervisorial District.

Dear Mr. Nelson:

At the Board of Supervisors' hearing of February 24, 2004, Supervisor Marshall moved, seconded by Supervisor Rose and carried by a vote of 3-2 (Gray/Centeno no) to:

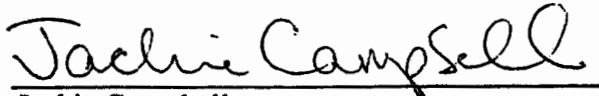
1. Adopt the required findings for the project specified in Attachment A of the Board Letter dated February 6, 2004;
2. Deny the Chase appeal;
3. Deny the Maguire appeal;
4. Deny the Murdock appeal;
5. Partially uphold the Stich, et al appeal by reducing the size of the development approved by the Zoning Administrator on September 15, 2003;
6. Certify the Environmental Impact Report, 03-EIR-03, pursuant to Section 15120 of the State Guidelines for Implementation of the California Environmental Quality Act; and
7. Approve Case Nos. 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003 and 02VAR-00000-00004 subject to the conditions of approval attached to each permit.

***The attached findings and conditions of approval reflect the Board of Supervisors' action of February 24, 2004.***

The time within which judicial review of this decision must be sought is governed by Section 65009 (c) of the California Government Code and Section 1094.6 of the California Code of Civil Procedure. You are advised to consult an attorney immediately if you intend to seek judicial review of this decision.

Board of Supervisors' Hearing of February 24, 2004  
Chase Single Family Dwellings and Variances Appeal, 01CDH-00000-00060,  
01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004  
Page 2

Sincerely,



Jackie Campbell  
Deputy Director, Development Review  
FOR VAL ALEXEEFF, DIRECTOR

cc: Case File: 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004  
Planning Commission File  
Lisa Martin, Planning Technician  
Owner: Christopher and Kathryn Chase, 23835 Oxnard Street, Woodland Hills, CA 91367  
Appellant: Edward F. Maguire, 1774 Cousino Way, El Cajon, CA 92019  
Appellant: Rich and Janet Stich, 6865 Del Playa Drive, Goleta, CA 93117  
Appellant: Bonnie Murdock, 6875 Sabado Tarde Road, Goleta, CA 93117  
Shana Gray, California Coastal Commission, 89 S. California St., Suite 200, Ventura, CA 93001  
County Chief Appraiser  
County Surveyor  
Fire Department  
Flood Control  
Park Department  
Public Works  
Environmental Health Services  
APCD  
Alan Seltzer, Chief Assistant, County Counsel  
Jackie Campbell, Deputy Director, Development Review

**Attachments:** Board of Supervisors' Minute Order dated February 24, 2004  
Attachment A - Findings  
Attachment B - Coastal Development Permit w/Conditions, 01CDH-00000-00061  
Attachment C - Conditions of Approval, 02VAR-00000-00004  
Attachment D - Coastal Development Permit w/Conditions, 01CDH-00000-00060  
Attachment E - Conditions of Approval, 02VAR-00000-00003

JC:cm

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**County of Santa Barbara  
BOARD OF SUPERVISORS**

**Minute Order**

**February 24, 2004**

---

**Present:** Supervisor Schwartz, Supervisor Rose, Supervisor Marshall and  
Supervisor Centeno

**Absent:** Supervisor Gray

PLANNING AND DEVELOPMENT

File Reference No. 03-01001

**RE:** HEARING - Consider recommendations regarding the appeal of the Zoning Administrator's Approval of the Chase Single Family Dwellings and Variances (01CDH-00000-0000-00060; 01CDH-00000-00061; 02VAR-00000-00003; 02VAR-00000-00004) located in the 6800 block of Del Playa Drive, Isla Vista, Third District, as follows: (EST. TIME: 1 HR.)

a) Option One:

- i. Deny the appeals, upholding the Zoning Administrator's decision;
- ii. Adopt the required findings for the project (attachment A to the staff report dated November 14, 2003);
- iii. Certify the Environmental Impact Report (03-EIR-03) pursuant to Section 15120 of the Guidelines for the Implementation of the California Environmental Quality Act;
- iv. Approve Case Nos. 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003 and VAR-00000-00004 subject to the conditions attached to each permit (Attachments B, C, D and E of the Staff Report dated November 14, 2003);

OR

b) Option Two

- i. Adopt the required findings for the project (Attachment A to the Board Letter dated February 17, 2004);
- ii. Deny the Chase appeal;
- iii. Deny the Maguire appeal;
- iv. Deny the Murdock appeal;
- v. Partially uphold the Stich, et al appeal, reducing the size of the

February 24, 2004

**Present:** Supervisor Schwartz, Supervisor Rose, Supervisor Marshall and  
Supervisor Centeno

**Absent:** Supervisor Gray

development approved by the Zoning Administrator;

vi. Certify the Environmental Impact Report (03-EIR-03) pursuant to Section 15120 of the Guidelines for Implementation of the California Environmental Quality Act;

vii. Approve Case Nos. 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003 and 02VAR-00000-00004 subject to the conditions attached to each permit included as Attachments B, C, D and E of this staff report.

**COUNTY ADMINISTRATOR'S RECOMMENDATION: POLICY**

**A motion was made by Supervisor Marshall, seconded by Supervisor Rose, that this matter be Acted on as follows:**

**Conducted public hearing and received staff report.**

**a) No action taken.**

**b) Approved Option Two.**

**i. Adopted the required findings for the project (Attachment A to the Board Letter dated February 24, 2004.**

**ii. Denied the Chase appeal.**

**iii. Denied the Maguire appeal.**

**iv. Denied the Murdock appeal.**

**v. Partially upheld the Stich, et al appeal, reducing the size of the development approved by the Zoning Administrator.**

**vi. Certified the Environmental Impact Report (03-EIR-03) pursuant to Section 15120 of the Guidelines for Implementation of the California Environmental Quality Act.**

**vii. Approved Case Nos. 01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003 and 02-VAR-00000-00004 subject to the conditions attached to each permit and revised the first page of each permit to reflect approval date of February 24, 2004. The motion carried by the following vote:**

**Ayes: 3 - Supervisor Schwartz, Supervisor Rose and Supervisor Marshall**

**Noes: 2 - Supervisor Gray and Supervisor Centeno**

## ATTACHMENT A

### FINDINGS AND FACTS IN SUPPORT OF FINDINGS

#### 1.0 CEQA FINDINGS

FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, PUBLIC RESOURCES CODE SECTIONS 21000 ET SEQ. ("CEQA"), AND THE CEQA GUIDELINES, TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15000 ET SEQ. ("CEQA GUIDELINES"):

#### 1.1 CONSIDERATION OF THE EIR

The Final Environmental Impact Report ("EIR") for the Chase Single-Family Dwellings (the "Project") (03-EIR-03), was presented to the Board of Supervisors, which has reviewed and considered the EIR and all of its contents including, without limitation, the Draft EIR, the Appendices, public comments, and Responses to Comments prior to approving the Project. In addition, the Board has reviewed and considered all of the evidence presented in the record of these proceedings, both written and oral, including all testimony and additional information presented at or prior to the public hearings on November 25, 2003, January 20, 2004, February 24, 2004 and all staff and consultant reports prepared for the Project. The EIR reflects the independent judgment of the Board of Supervisors and is adequate for this Project.

#### 1.2 FULL DISCLOSURE

The Board of Supervisors finds and certifies that the Final EIR constitutes a complete, accurate, adequate and good faith effort at full disclosure under CEQA. The Board of Supervisors further finds and certifies that the Final EIR has been completed in compliance with CEQA and the CEQA Guidelines. Revisions to the EIR do not include significant new information and do not require recirculation of the EIR prior to certification pursuant to CEQA Guideline Section 15088.5.

#### 1.3 LOCATION OF RECORD AND PROCEEDING

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Clerk of the Board of Supervisors, located at 105 East Anapamu Street, Santa Barbara, CA 93101.

#### 1.4 ENVIRONMENTAL REPORTING AND MONITORING PROGRAM

Public Resources Code section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby incorporated into the conditions of approval for the Chase Single Family Dwellings Project that require project construction and restoration monitoring.

#### 1.5 PROJECT DESCRIPTION AND OBJECTIVE

The Revised Project is the proposed project with the mitigation measures and conditions of approval discussed in the EIR and in staff's report to the Board of dated November 13, 2003 and January 12, 2004, with a further reduction in the size of the development approved by the Zoning



Administrator. The objective of the Revised Project is to allow two separate lots of record to be developed with a residential single-family dwelling on each, while managing and protecting on-site wetland and visual resources to the maximum extent possible in order to find the project consistent with the County's Local Coastal Program.

### **Project Proposed By Applicants**

The applicants propose to develop a two-story, 1,797 square feet residence on each of two legal non-conforming lots located on the coastal bluff along Del Playa Drive in Isla Vista. Each lot is approximately 5,600 square feet gross. As applied for, each residence would have an approximately 500 square foot garage and 1,300 square feet of living space (800 square feet on the first floor and 500 square feet on the second). Each dwelling would include an approximately 390 square foot raised wooden deck, and approximately 2,920 square feet of the southern portion (ocean side) of each lot would remain undisturbed. The applicants request a variance for each structure to extend into the front yard setback. Under development as applied for, approximately 1,100 square feet of wetland resources would be removed or disturbed on the two parcels to accommodate the dwellings and deck area.

The mitigation measures proposed by the environmentally superior alternative identified in the EIR would reduce the total allowable square footage of each residence to 1,353 square feet. Each residence would have an approximately 400 square foot garage and 950 square feet of living space (500 square feet on the first floor and 450 square feet on the second). This would result in the protection of 400 additional square feet of wetland resources on the project parcels. However, this reduced development would not entirely avoid the delineated wetland areas on the properties and was initially considered to be infeasible when compared to the nearby single-family residential development.

### **Project Approved By Zoning Administrator**

After completion of the proposed FEIR, staff recommended to the Zoning Administrator a project that would include an approximately 400 square foot garage and approximately 1,400 square feet of living space (800 square feet on the first floor and 600 square feet on the second). Both development footprints would be designed to avoid the wetland resources to the maximum extent feasible, with Parcel 23 avoiding the delineated wetland altogether. Staff also proposed a side yard variance on Parcel 23 to permit design flexibility on that parcel, but without increasing the square footage of the development footprint or the maximum allowable square footage for the dwelling. The final development footprints for both parcels were to be determined in consultation with a County-approved biologist with expertise in wetland biology. The Zoning Administrator approved this original Staff Recommended Project, and this decision was appealed by both the applicant and various neighbors.

### **Revised Project**

The Board held hearings on the appeals and received evidence with respect to each appeal. After receiving public testimony, the Board directed staff to examine the feasibility of further restricting the development footprint on the parcels, avoiding encroachment of the delineated wetland entirely while allowing for more development flexibility in order to allow for economically feasible use of the properties. In response to this direction, staff presented the Revised Project.

The Revised Project allows the construction of a 1,620 square foot, two-story, single family dwelling on Parcel 23. The first floor development footprint would be 926 s.f., consisting of 526 s.f. of living space and a 400 s.f. carport. The second story would be a maximum of 75% of the first floor area, or 694 s.f. This would allow for 1,220 square feet of total living area. A first floor deck of approximately 216 square feet would also be permitted. The development footprint would be located at the northern end of the parcel, entirely outside of the delineated wetland area, to reduce impacts to the wetland habitat on site. A front and western side yard setback variance would also be granted, allowing the structure to be built with a 12-foot front yard setback, a 2-foot western side yard setback, and a standard 5-foot eastern side yard setback.

On Parcel 22, the Revised Project allows the construction of a 1,412 square foot, two-story, single-family dwelling. Due to a larger delineated wetland area on Parcel 22, the first floor development footprint would be 807 s.f., consisting of a maximum of 407 of living space and a 400 s.f. carport. The second story would be a maximum of 75% of the first floor area, or 605 s.f. This would allow for 1,012 square feet of total living area. No first floor decks would be permitted. The development footprint would be located at the northern end of the parcel, entirely outside of the delineated wetland area, to reduce impacts to the wetland habitat on site. A front and side yard setback variance would also be granted, allowing the structure to be built with a 5-foot front yard setback, an eliminated western boundary setback, and a three-foot eastern side yard setback.

#### **1.6 FINDINGS THAT CERTAIN UNAVOIDABLE IMPACTS ARE MITIGATED TO THE MAXIMUM EXTENT FEASIBLE**

The EIR identified significant adverse impacts in two issue areas that cannot be fully mitigated and are therefore considered unavoidable (Class I impacts).

Each of the potential Class I impacts identified in the EIR is discussed below, along with the appropriate mitigation measures that are hereby included as project conditions of approval to reduce the impacts to the maximum extent feasible. Significant cumulative impacts are also identified and mitigation measures are listed.

#### **Biological Resources**

Impact Summary: Overall the site is considered a critical habitat resource area. Under the applicant's proposed project, a total of approximately 1,100 square feet of wetland habitat would be directly lost due to the placement of the proposed residences. Furthermore, both new residences would be entirely within environmentally sensitive habitat and adjacent buffer areas. Indirect impacts are also likely due to site development, not only from the long-term presence of the residential development but also from grading during site preparation. Because the development would occur within a wetland habitat, any changes in drainage patterns are considered a significant impact (Class I) due to potential changes to the wetland, which is hydrologically linked to the adjacent vernal pool.

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant biological impacts of the project, but not all impacts are lessened to a level of insignificance. Specific economic, legal, social, technological, or other considerations make further mitigation of this biological impact infeasible. To the extent that impacts described above and identified in the FEIR will remain significant, overriding considerations justify approval of the Project.

Facts in Support of Findings: The Revised Project proposes development of the parcels so as to avoid the delineated wetland areas on site in their entirety. Therefore, no delineated wetland habitat will be lost due to the placement of the proposed residences. However, both new residences are still located entirely within wetland buffer and environmentally sensitive habitat areas.

In order to offset the unintended loss of wetland habitat associated with the construction of the residences, the applicant shall provide offsite wetland mitigation at a ratio of 2:1 for each square foot lost, as determined by a County-approved biologist with expertise in wetland habitats. As an alternative, the applicant may provide funding to an existing offsite wetland mitigation bank, or may mitigate through a combination of restoration and funding. If the applicant must provide offsite mitigation, the applicant must submit an Offsite Wetland Mitigation Plan prepared by a County-approved biologist with expertise in wetland biology for review and approval by Planning & Development and County Counsel. The Plan must identify the mitigation sites, performance standards, approximate mitigation acreage to be provided, and mechanisms for securing the offsite location. Offsite mitigation is permissible in this case only because residential development is being approved to avoid a taking of private property under Section 30010 of the Coastal Act.

In order to protect the remaining wetland habitat on-site, the applicant shall record an open space easement for the undeveloped remainder of the two project parcels (excluding the front and side yards). The easement language shall specify the purpose and restrictions in the easement area. The language shall include, but not be limited to specifying that the purpose of the easement is to preserve and to restore vernal pool and wetland vegetation and the activities that occur in the easement area shall be compatible with this intent and purpose. The management of this area shall be in conformance with the Onsite Wetland Protection Plan described below. This easement is necessary to ensure that the remaining wetland resources are protected from certain incompatible activities normally associated with residential development, such as gardens, sheds and other similar structures and uses that would further degrade the remaining wetland resources. Signs shall be placed strategically around/within the easement area alerting the public of the sensitive resource.

In order to offset impacts to the onsite wetland habitat associated with the construction of the residences, the applicant shall prepare an Onsite Wetland Protection Plan. The plan shall specify methods to ensure the long-term health and viability of the wetland resources and include at a minimum measures such as revegetation and periodic weeding, periodic debris collection, periodic soil nourishment and fencing, as appropriate, to be determined by a County-approved biologist with expertise in wetland biology. In order to reduce construction-related and long-term impacts to the wetland, and particularly to the wetland hydrology, caisson foundations shall be used for both residences.

In order to reduce the potential of dust generation within proximity to the wetland habitat, dust generated by the development activities shall be kept to a minimum using specified dust control measures and best available erosion and sediment control measures shall be implemented during grading and construction in order to reduce impacts to the wetland/vernal pool complex. Furthermore, during construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site.

To protect the wetland complex, temporary fencing shall be required during construction, grass cutting and disking in the wetland area is prohibited, a permanent split-rail exclusionary fence

shall be required on the properties, and mosquito abatement practices shall be restricted within the wetland areas (including the buffer areas) designated on the biological survey maps.

To limit runoff into the wetland/vernal pool complex from impervious areas and to allow for infiltration, all proposed hardscape areas (e.g., driveways, walkways) shall use permeable surfaces (e.g., porous pavement or unit pavers on sand) in the project design. To reduce storm water runoff into the wetland/vernal pool complex, one of the following driveway designs shall be used: paving only under wheels, flared driveway, or use of permeable surfaces for temporary or non-permanent parking areas.

The applicant shall install a roof runoff collection and disposal system. Runoff shall be directed to either a subsurface infiltration trench or french drains. The intent of this mitigation is to direct water to the wetland area.

The mitigation measures proposed in the EIR would have reduced the total allowable square footage of each residence to 1,353 square feet. Under this mitigation, each residence would have an approximately 400 square foot garage and 950 square feet of living space (500 square feet on the first floor and 450 square feet on the second). This would have resulted in the protection of 400 additional square feet of wetland resources on the project parcels. Despite the restriction on square footage that would result in a very minimally sized residential structure on each parcel, the development would still encroach into the delineated wetland areas on the parcels. Staff believed the size of these structures may not provide economically feasible use of the properties, and originally proposed an increased square footage for each structure. However, after receiving public testimony during the appeals of the Zoning Administrator's decision, the Board directed staff to examine the feasibility of further restricting the development footprint on the parcels, avoiding encroachment of the delineated wetland entirely, while allowing for more development flexibility (particularly on the second story) in order to allow for economically feasible use of the properties. In response to this direction, staff prepared the Revised Project.

The Revised Project further reduces impacts related to wetland loss due to building coverage while at the same time providing for reasonable economic use of the site. The mitigation measures in the EIR have been revised to require that the maximum first story footprint for the habitable portions of the structure on Parcel 23 shall not exceed 926 square feet, and the second story shall not exceed 694 square feet (75% of the first floor footprint). The carport shall not exceed 400 square feet. A first floor deck of approximately 216 square feet is allowed on Parcel 23, but shall not encroach into the delineated wetland area. This will allow for 1,220 square foot of living space for the residence. The variance for Parcel 23 allows for a 12-foot front yard setback and a 2-foot western side yard setback to allow for design flexibility for the structure on Parcel 23.

For Parcel 22, the mitigation measures in the EIR have been revised to require that the maximum first story footprint for the habitable portions of the structure shall not exceed 807 square feet, and the second story shall not exceed 605 square feet (75% of the first floor footprint). The carport shall not exceed 400 square feet. No first floor decks are permitted. This will allow for 1,012 square foot of living space for the residence. The variance for Parcel 22 allows for a 5-foot front yard setback and a side yard setback of zero feet (west) and three feet (east) to allow for design flexibility for the structure on Parcel 22. Both development footprints are subject to review by a County-approved biologist with expertise in wetland biology.

No other feasible mitigation measures are known which would further reduce the impacts of the proposed project. Even with mitigation, significant Class I impacts remain in the areas of Biological Resources. Normally, the applicable policies of the Coastal Act, the County's Local

Coastal Program, and the Goleta Community Plan would prohibit the proposed uses on the property. Such inconsistency with these policies is considered a significant and unavoidable impact. However, Section 30010 of the Coastal Act requires the County to balance these environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Section 30010 does not authorize the County to otherwise suspend the operation or ignore the policies of the Coastal Act in acting on a permit application. The County must still comply with the policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible by protecting against the significant loss and degradation of the wetland habitat at the site to the extent this can be done consistent with the direction to avoid a taking of private property. After the mitigation described above is incorporated into the project, the impacts to sensitive resources will be mitigated to the maximum extent feasible while still providing the applicants with an economically feasible use of their property. Therefore, the County finds that the mitigation described above reduces the biological impacts of the project to the maximum extent feasible, and further mitigation is legally infeasible.

### **Biological Resources – Cumulative Impacts**

Impact Summary: Due to the potential impacts to native vegetation and vernal pool habitat as well as the potential loss of foraging habitat from developing the parcels, this proposed project would considerably contribute to the cumulative significant impacts on biological resources of the Goleta Valley and specifically in the Isla Vista community due to the tremendous adverse pressure on the limited remaining wetland resources.

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant biological impacts of the project, but not all impacts are lessened to a level of insignificance. Specific economic, legal, social, technological, or other considerations make further mitigation of this cumulative biological impact infeasible. To the extent that impacts described above and identified in the FEIR will remain significant, overriding considerations justify approval of the Project.

Facts in Support of Findings: All of the Biological Resources mitigation measures identified in this Section would apply to this cumulative impact. No other feasible mitigation measures are known which would further reduce the cumulative impacts of the proposed project. Even with mitigation, significant Class I impacts remain. In light of the requirements of Coastal Act section 30010, described above, the County finds that the mitigation described above reduces the cumulative biological impacts of the project to the maximum extent feasible, and further mitigation is legally infeasible.

### **Land Use**

Impact Summary: Due to the presence of the wetland and vernal pool habitats on the subject parcels, the proposed project would be subject to numerous Coastal Plan and Goleta Community Plan policies, particularly those policies relating to the protection of environmentally sensitive habitats. Coastal Plan Policies 9-6 through 9-16b and related Coastal Act policies clearly require avoidance, setbacks and impact mitigations where development is necessary in wetland habitats. The impacts also are inconsistent with the provisions of the Article II Coastal Zoning Ordinance that require protection of environmentally sensitive habitat areas. Specifically, Article II, Section 35-97.9 requires conformance with the provisions of the Coastal Act policies listed above for the protection of wetland habitats. Because of the significance and sensitivity of the wetland habitat on the project parcels, the impacts of this proposed development are considered significant (Class I).



Development of the project sites would occur within one of the last residentially zoned, privately owned coastal open spaces within the surrounding Isla Vista community. Although the areal extent of the loss is relatively small (less than one acre), the loss is considered significant when viewed within the context of the surrounding community, which is developed with high-density apartment buildings, duplexes and triplexes, as well as other single- and multi-family residences. These impacts are considered significant (Class I).

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant land use impacts of the project, but not all impacts are lessened to a level of insignificance. Specific economic, legal, social, technological, or other considerations make further mitigation of these land use impacts infeasible. To the extent that impacts described above and identified in the FEIR will remain significant, overriding considerations justify approval of the Project.

Facts in Support of Findings: All of the mitigation measures identified for Aesthetics/Visual Resources (discussed below) and Biological Resources impacts apply to these impacts, as well.

In order to further reduce the impacts to the sensitive wetland habitat and environmentally sensitive habitat areas at the site, as required by the policies of the Coastal Act, the Local Coastal Plan, and the Goleta Community Plan, grading and erosion and sediment control plans shall be designed to minimize erosion, as set forth in the conditions of approval. These plans include the prohibition of ground disturbances beyond the development footprint of each structure, the use of special erosion reduction methods during grading and construction activities, stabilization of all entrances and exits to the construction site, the use of inlet protection devices, revegetation of all graded areas, and prohibition of temporary storage of construction equipment on site. These mitigation measures are intended to ensure the project's compliance with the applicable policies of the Coastal Act, the Local Coastal Plan, and the Goleta Community Plan to the maximum extent feasible.

No other feasible mitigation measures are known which would further reduce the impacts of the proposed project. Even with mitigation, significant Class I impacts remain in the area of Land Use. Normally, the applicable policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan would prohibit the proposed uses on the property. Such inconsistency with these policies is considered a significant and unavoidable impact. However, Section 30010 of the Coastal Act requires the County to balance these environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Section 30010 does not authorize the County to otherwise suspend the operation or ignore the policies of the Coastal Act in acting on a permit application. The County must still comply with the policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible by protecting against the significant loss and degradation of the wetland habitat at the site to the extent this can be done consistent with the direction to avoid a taking of private property. After the mitigation described above is incorporated into the project, the project will further applicable coastal policies while still providing the applicants with an economically viable use of their property. Therefore, the County finds that the mitigation described above reduces the land use impacts of the project to the maximum extent feasible, and further mitigation is legally infeasible.

#### **Land Use - Cumulative Impacts**

Impact Summary: The proposed project of constructing two single family residences would add significantly to cumulative land use impacts in the area. Specifically, these impacts would add

cumulatively to the impacts and loss of environmentally sensitive habitats (ESH), specifically coastal wetland habitats, as well as the loss of open space.

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant cumulative land use impacts of the project, but not all impacts are lessened to a level of insignificance. Specific economic, legal, social, technological, or other considerations make further mitigation of this impact infeasible. To the extent that impacts described above and identified in the FEIR will remain significant, overriding considerations justify approval of the Project.

Facts in Support of Findings: All of the Aesthetic/Visual Resources, Biological Resources,

and Land Use mitigation measures identified in this Section would apply to this cumulative impact. No other feasible mitigation measures are known which would further reduce the cumulative land use impacts of the proposed project. Even with mitigation, significant Class I impacts remain. In light of the requirements of Coastal Act section 30010, described above, the County finds that the mitigation described above reduces the cumulative land use impacts of the project to the maximum extent feasible, and further mitigation is legally infeasible.

#### 1.7 FINDINGS THAT CERTAIN IMPACTS ARE MITIGATED TO "NOT SIGNIFICANT" BY CONDITIONS OF APPROVAL

The EIR (03-EIR-03) also identified several subject areas for which the project is considered to cause or contribute to significant, but mitigable environmental impacts (Class II). Each of these impacts is discussed below, along with the appropriate mitigations that are included as project conditions of approval to reduce the impacts to insignificance.

#### Visual Resources

Impact Summary: The proposed structures would be two stories in height (approximately 25 feet). Parcel 22 would have 5-foot front yard and western side yard setbacks, and a two-foot setback from the eastern property boundary, while Parcel 23 would have a 12-foot front yard setback, a 5-foot setback on the east property line, and no setback requirement on the west property line. These setback variances would avoid encroachment of the structures into the delineated wetland but allow for design flexibility.

The structures would affect public views of both the ocean and of the San Gabriel foothills from certain vantage points. These impacts to visual resources are considered potentially significant, but mitigable (Class II) with requirements to reduce massing and incorporate other design standards to harmonize the structure sizes and design with the local setting.

Under the project site's 10-R-1 zoning, structures can reach a maximum height of 25 feet. Structures measuring 25 feet in height on the project site would be consistent with the zoning requirements and would also be subject to the design standards set forth by the Board of Architectural Review. As described in the EIR, the parcels are approximately centered within an open space area. The surrounding parcels on the coastal bluff are either owned by the County or the Isla Vista Recreation and Park District (IVRPD) and will remain undeveloped. As such, the two new proposed structures would permanently stand out in their central location, and in a sense gain landmark status. With implementation of innovative project design and landscaping, the impacts to the visual character of the area would still be considered significant, but mitigable (Class II).



Because the new single-family dwellings would be located on parcels surrounded by open space, any exterior lighting would have the potential to spill over onto adjacent parcels and other public areas. However, low intensity lighting, shielding, directional restrictions, and other lighting design standards will reduce this potential night glare. With implementation of these mitigation measures, the lighting impacts of the project would still be considered significant, but mitigable (Class II).

The applicants originally proposed two two-story single-family residences with wooden frames, raised wood floors, stucco siding, fiberglass shingle roofs, containing four bedrooms and two baths. The structures were approximately 30 feet wide and approximately 45 feet long. At a November 1, 2002 Board of Architectural Review (BAR) meeting, the members unanimously agreed that the proposed architectural style was potentially satisfactory but less than optimum for this important coastal site. The BAR recommended that the architect/applicant return to the BAR with more creative designs for each home that are more fitting of this important site. The BAR specifically noted that these two new structures would likely take on landmark or icon status because of their "unique" location and should be designed to gather positive attention rather than trying to hide them. The applicant must receive final approval for design of the structures from BAR prior to issuance of CDPs. The visual impacts of the proposed structures will be mitigated to a less than significant level with incorporation of the recommended design standards.

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant visual impacts of the project listed above and identified in the final EIR, and all impacts are lessened to a level of insignificance.

Facts in Support of Findings: The design, scale and character of the project architecture shall be compatible with the area development, particularly that which is located on the coastal bluff. Natural building materials and colors compatible with surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including any fences. The incorporation of these design standards will harmonize the structure sizes and design with the local setting.

In order to reduce the visual impacts of the proposed residential structures, only partial second stories shall be allowed. No more than 75% coverage by the second stories of the first floor footprint shall be allowed. To further reduce visual impacts, carports instead of garages are required. To the extent feasible, the structures shall incorporate other design standards to reduce massing, as recommended by the BAR. The applicant shall submit architectural drawings and site plans to the BAR and for review by a County-approved biologist with expertise in wetland biology. These requirements will reduce massing to harmonize the structure sizes and design with the local setting and will reduce impacts to the wetland resource to the maximum extent feasible. The visual impacts of the proposed structures will be mitigated to a less than significant level by requiring the applicant to receive final approval for design of the proposed structures from BAR.

Specific Design Standards for the two new single-family residences, as set forth in the Conditions of Approval, shall be implemented. These standards include restrictions on building materials, landscaping design, driveways design and materials, colors, solar design, fencing, and overall design requirements, subject to review and approval by the County BAR and in consultation with a County-approved biologist with expertise in wetland biology.

Any exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels and any public open space areas, or into the wetland habitat. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after

10:00 p.m. These mitigation measures will avoid spillover of exterior lighting onto adjacent parcels and other public areas, and minimize lighting impacts on wildlife that resides or otherwise uses the adjacent wetland habitat, reducing the lighting impacts of the project to a less than significant level.

The mitigation measures identified in this Section will reduce the visual impacts of the project to a less than significant level. No other mitigation measures are required.

## **Biological Resources**

Impact Summary: Non-native vegetation on the project parcels is of habitat value, since such species make up approximately 50 percent of the total ground cover on the delineated wetland areas in the surveyed parcels. Even with avoidance of the delineated wetland area onsite, the loss of non-native vegetation on the remaining environmentally sensitive habitat and buffer areas on the project site is considered a potentially significant but mitigable impact (Class II) with implementation of a vegetative management plan.

Because the project would result in a loss of wetland habitat and introduce a barrier into an existing open space area, it is likely that there would be a reduction in the numbers of animals onsite, and a reduction in diversity may occur depending on whether particular species are affected by the close presence of residential development. Adding new residences to this area and removing a portion of the limited remaining foraging habitat (an incremental loss) would result in significant but mitigable (Class II) impacts, and could contribute to cumulative impacts, but it is not likely to be significant due to the small areas involved.

The site is immediately adjoined by open space to the east and west, and farther in those directions are single-family residences and other bluff top development such as recreational uses. Generally, the entire Isla Vista area to the north is densely developed with single-family residences, duplexes, and commercial structures. Although already restricted by the surrounding development and the ongoing use of the site for sea cliff access, wildlife movement through the site would be further impaired by the construction of the two residences. Impacts are identified to be potentially significant but mitigable (Class II) with incorporation of mitigation measures that lessen the impacts to wildlife movement.

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant biological resources impacts of the project listed above and identified in the final EIR, and all impacts are lessened to a level of insignificance.

Facts in Support of Findings: The applicant shall implement a Revegetation and Restoration Plan. This plan shall apply only to those areas outside of the delineated wetland areas. In addition, all of the Biological Resources mitigation measures would apply to this impact. These mitigation measures will adequately provide for the maintenance and protection of non-native vegetation and foraging habitat on the project site, and reduce impacts on these resources to a less than significant level.

All permanent fencing shall be designed in consultation with a County-approved biologist with expertise in wetland biology, and the minimum distance from ground level to any fence's first rung shall be 18 inches. Barbed-wire fencing shall not be installed between lots or along property boundaries. This additional mitigation measure will avoid the creation of barriers to wildlife movement on the project site, and reduce wildlife corridor impacts to a less than significant level.

These mitigation measures and the remaining mitigation measures identified for significant but unavoidable Biological Resources will reduce the biological impacts of the project on non-native vegetation, loss of foraging habitat, and loss of wildlife corridors to a less than significant level. No other mitigation measures are required.

## Land Use

Impact Summary: Coastal Plan Policy 4-1 requires BAR review of bluff top development. Policy 4-4 requires that new development in coastal urban areas be of similar scale and character as the existing community. Policy 4-5 mandates bluff setbacks to ensure safety and to reduce obstruction of public views. Mitigation measures include stringent criteria for both architectural form and materials, and restrictions on structural size so that any conflicts with these policies would be eliminated. The land use impacts are considered significant, but mitigable (Class II).

Findings: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant land use impacts of the project listed above and identified in the final EIR, and all impacts are lessened to a level of insignificance.

Facts in Support of Findings: All of the Aesthetic/Visual Resources mitigation measures required of the project, as previously discussed, will reduce these land use impacts of the project to a less than significant level. The incorporation of BAR-approved design standards reduce massing and harmonize the structure sizes and design with the local setting, and lighting mitigation measures will reduce the lighting impacts of the project to a less than significant level. No further mitigation is required.

## 1.8 PROJECT ALTERNATIVES

In accordance with Section 15126.6 of the State CEQA Guidelines, the EIR included an analysis of a reasonable range of alternatives to the project, which could feasibly attain most of the basic project objectives. As required by the CEQA Guidelines, the EIR analysis focused on alternatives that could avoid or substantially reduce significant effects of the project. In addition, the EIR identified the Environmentally Superior Alternative as required by the CEQA Guidelines, which is identified below. The square foot (s.f.) measurements listed for each alternative are approximate.

### A. Alternatives Rejected from Consideration in EIR

Potential project alternatives were limited because of site constraints, namely the coastal wetland habitat that covers both parcels. A full size development proposal that meets all of the zoning requirements, including setbacks, was considered but dropped from further consideration. This alternative was dropped because it does not meet the criteria of a "feasible" alternative pursuant to CEQA Guidelines Section 15126(d)(2). This Section states that a "feasible" alternative is one that "could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the *significant* effects" (emphasis added). A full size proposal of 1,797 square feet of development on each parcel with no front yard setback variances would more *significantly* impact the wetland resources that cover the entire project parcels.

Alternative development locations on the project parcels were also considered but dismissed due to the fact that the applicant-proposed locations are anticipated to have lesser impacts. The reason is that the proposed structures are located within the standard front yard setback in order to reduce loss of wetland habitat. Potential offsite project locations were considered pursuant to

CEQA Guidelines Section 15126.6(2)(A), which states that the "key question (regarding alternative locations) is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR." No other feasible offsite locations were identified other than moving development from Parcel 23 to Parcel 21 as part of a land exchange with the County. This alternative was considered the only feasible alternative location, and is described below.

## **B. No Project Alternative**

This alternative consists of no change of land use on the parcel and no other residential development. The project parcels are presently undeveloped. There is currently no regular mowing or maintenance of the parcels due to the presence of the wetland habitat, although some fire prevention brush maintenance could be required by the Fire Department at some time in the future. The public would likely continue to use the parcels (as well as the adjacent County and IVRPD-owned parcels) to gain access to the coastal bluff top easement as evidenced by the few well-worn footpaths leading to the bluff top. With continued public use, the quality of the wetlands (and adjacent vernal pool) would likely continue to be impacted due to vegetative trampling and littering.

**Reasons for Rejecting.** Even though the No Project Alternative results in far fewer impacts than the proposed project or any of the alternatives, it may not be chosen as the Environmentally Superior Alternative. CEQA Guidelines section 15126.6(e) describes the evaluation of the No Project Alternative. This Section states that the specific alternative of "no project" shall be evaluated along with its impacts. The "no project" analysis must discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. Most importantly, if the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives. (CEQA Guidelines section 15126.6(e)(2).) This is because the environmentally superior alternative must meet the criteria of CEQA Guidelines section 15126(d)(2), which describes "reasonable" alternatives as those that "could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects." In the case of the No Project Alternative, it would not meet any of the basic purposes of the project, as no development would occur.

## **C. Reduced Square Footage - Two-Story**

This alternative consists of reducing the size of each residential structure to a 900 s.f. development footprint. First floor living space for each residential structure would be 500 s.f., with a 400 s.f. garage. The second floor living space would be restricted to no more than 50% of the first floor living space, allowing a maximum square footage of 1,350 for each structure. Both parcels would use caisson foundations to reduce impacts to the wetland geology and hydrology. In addition, there would be no balconies on the second stories in order to reduce the visual massing of the structures and reduce shading of the wetland habitat, and the deck sizes would be limited to further reduce intrusion into the wetland. On Parcel 23, the residential structure would be designed to avoid the "finger" of the wetland that enters from the east. Finally, the undeveloped portion of each parcel (on the ocean side) would be protected as open space easements.

**Impacts. Aesthetic/Visual Resources:** This alternative would offer some advantages over the proposed project by reducing the development footprints and hence the visual impacts.

However, the benefits would be minimal as the structures would still be generally centered in the open space area, would still be two stories in height, remain highly visible, would be within the front yard setback area, and would remain highly visible from public viewing places. The residual visual impacts would be the same as the project – Class II, significant but mitigable.

**Biological Resources:** This alternative would reduce the direct impacts to the wetland habitat by approximately half by reducing the development footprints. However, the development footprints of both parcels would still be within the sensitive wetland habitat as well as intruding into the 100-foot wetland buffer zone on the northern portion of the parcels. Although this alternative would result in fewer residual biological impacts than the project, they would remain Class I, significant and unavoidable.

**Land Use:** This alternative would reduce the development footprints of both parcels by approximately half. Therefore the impacts to the open space would be relatively reduced. However, because the location of development would be the same as the proposed project, the reduction in impact would be considered minimal. In addition, this alternative would be inconsistent with the same Coastal Plan and Goleta Community Plan policies and sections of the Article II Coastal Zoning Ordinance that provide for protection of the wetland and coastal open space resources.

**Reasons for Rejecting.** Specific economic, legal, social, technological, or other considerations make this project alternative infeasible. Under this alternative, impacts to the wetland resources would be reduced by limiting the first floor development footprints of both residential structures. Even so, significant impacts would occur. However, as set forth in the EIR, Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. This alternative allows the applicant to build two structures with only a 950 square feet of living space. Under these special circumstances, the County finds that the limitation on second story construction presented by this alternative, in combination with the restriction on the first floor footprint, may not allow for a economically viable use of the property as required by Section 30010, particularly when compared to the nearby single-family residential development, which ranges from 1,300 to 2,100 square feet of living space, and the trend towards larger square foot homes in the area. Therefore, this alternative is legally and economically infeasible and is rejected.

#### **D. Reduced Square Footage - Single-Story**

This alternative reduces each residential structure to one story and restricts the total development footprint to 900 s.f, with 500 s.f of living space and a 400 s.f garage. No second story would be allowed. All other design parameters described under the *Reduced Square Footage - Two Story* alternative would apply to this alternative, including the requested front yard setback variances. This alternative would reduce the development footprint of the proposed project in the wetland habitat, and minimize the adverse visual impacts associated with the construction of two-story structures on the properties.

**Impacts. Aesthetic/Visual Resources:** This alternative would offer some advantages over the proposed project by reducing the development footprint and hence the visual impacts at the ground level. Limiting the structures to one story would further reduce the visual impacts resulting from the placement of second-story structures on the properties. However, just as with the two-story alternative, the structures would still be generally centered in the open space area, would be within the front yard setback area, and would remain highly visible from public



viewing places. The residual visual impacts would be less than the project, but would still be significant but mitigable.

**Biological Resources:** This alternative would reduce the direct impacts to the wetland habitat by approximately half by reducing the development footprints. However, the development footprints would still be within the sensitive wetland habitat, as well as intruding into the 100-foot wetland buffer zone on the street side of both parcels. Although this alternative would result in fewer residual biological impacts than the project, they would remain Class I, significant and unavoidable.

**Land Use:** This alternative would reduce the development footprint by approximately half. Therefore the impacts to the open space would be relatively reduced. However, because the location of development would be the same as the proposed project, the reduction in impact would be considered minimal. In addition, this alternative would still be inconsistent with the same Coastal Plan and Goleta Community Plan policies and sections of the Article II Coastal Zoning Ordinance that provide for protection of the wetland and coastal open space resources on the project parcels.

**Reasons for Rejecting.** Specific economic, legal, social, technological, or other considerations make this project alternative infeasible. Under this alternative, the visual impacts of the residential structures would be further minimized than under the *Reduced Square Footage – Two-Story* alternative, and the wetland resources avoided to the maximum extent feasible on the project sites. However, as set forth in the EIR, Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. This alternative allows the applicant to build a structure with only a 500 square foot living space. Under these special circumstances, the County finds that the absolute prohibition on second story construction presented by this alternative, in combination with the restriction on the first floor footprint, does not allow for a reasonable economic use of the property as required by Section 30010, especially when compared to the nearby single-family residential development, which ranges from 1,300 to 2,100 square feet of living space, and the trend towards larger square foot homes in the area. Therefore, this alternative is legally and economically infeasible and is rejected.

#### **E. Alternative Site – Full Development Footprint**

This alternative consists of a land swap with the County. The applicant would swap Parcel 23 for the County's Parcel 21 and build on both Parcel 21 and 22. Both parcels would be developed with a full-size 1,797 s.f. (living space) house as requested, but all setbacks would be applied as required in the zone district. Deck sizes would be limited to reduce intrusion into the wetland habitat. The trade would require owner and County agreement. The purpose of this alternative is to maximize contiguous open space. Lot 21 is farther west of the two project lots and abuts a currently developed residential lot (Lot 20). As with the previously described alternatives, the structures would use caisson foundations to reduce wetland impacts and the undeveloped portion of each parcel (on the ocean side) would be protected as open space easements.

**Impacts. Aesthetic/Visual Resources:** This alternative would offer advantages over the proposed project by eliminating development on one of the project parcels (Parcel 23) and transferring that development to Parcel 21, farther west and away from the center of the open space. This would help preserve the contiguous open space area. This alternative would also enable more creative site designs, perhaps removing or reducing the "bowling alley" effect of the side yard setbacks by slightly staggering the two adjacent structures north and south to break up the massing. Enforcing the setback requirements of the zone district would further reduce the

visual impacts. However, while this alternative would result in less visual impact than the proposed project, the residual impacts would remain significant but mitigable.

**Biological Resources:** Under this alternative, proposed development on Parcel 23 would be transferred to Parcel 21, which is farther west and abuts a currently developed residential lot (Parcel 20). However, Parcel 21 was evaluated in the 1997 FLx biological report and was the location of one of eight sampling stations (Sampling Station 8). Appendix B of the FLx report identifies that Sampling Station 8 demonstrated indicators for all three wetland parameters including hydrophytic vegetation, wetland hydrology and hydric soils. Thus, any development on Lot 21 would result in similar direct biological impacts as were identified on the project parcels. The distinct benefit of this alternative is that the biological impacts would be moved a greater distance from the vernal pool, potentially reducing impacts such as drainage alternation, runoff and pollution into that sensitive resource. However, even with mitigation, the residual biological impacts would remain significant and unavoidable.

**Land Use:** This alternative would reduce the impacts to land use by removing the development from the central location of the open space area. The impacts of inconsistency with the Coastal Land Use Plan policies, the Goleta Community Plan policies and Coastal Zoning Ordinance concerning wetland protection would still remain, but to a lesser degree than the proposed project because the biological impacts would be moved further from the vernal pool.

**Reasons for Rejecting.** Specific economic, legal, social, technological, or other considerations make this project alternative infeasible. In particular, the project applicant has informed the County that they will not agree to a land swap shifting development from Parcel 23 to Parcel 21. Since the applicant refuses to engage in such a land swap, the *Alternative Site – Full Development Footprint* is not a feasible alternative.

Furthermore, Coastal Act section 30010 requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Section 30010, however, does not authorize the County to otherwise suspend the operation or ignore the policies of the Coastal Act in acting on a permit application. The County must still comply with the policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible by protecting against the significant loss and degradation of the wetland habitat at the site to the extent this can be done consistent with the direction to avoid a taking of private property. As described below, the visual and biological impacts to the site would be further reduced under the *Alternative Site – Reduced Development Footprint* alternative. Since the County is required to mitigate these impacts to the maximum extent feasible, the *Alternative Site—Full Development Footprint* would not be legally feasible or environmentally superior, even if the project applicant would agree to the land swap.

#### **F. Alternative Site – Reduced Development Footprint**

This alternative is a variation of the *Alternative Site – Full Development Footprint* but considers smaller structures. As with the previously described alternatives, the structures would use caisson foundations to reduce wetland impacts and the undeveloped portion of each parcel (on the ocean side) would be protected as open space easements. On Parcel 22 (farthest to the east), the development footprint would be restricted to a one-story structure of 900 s.f., with 500 s.f. of living space and a 400 s.f. garage. On Parcel 21, a larger structure would be allowed. The first floor development footprint would be 900 s.f., with 500 s.f. of living space and a 400 s.f. garage. In addition, a partial second story of 250 s.f. would bring the total structural development to



1,150 s.f., with 750 s.f. of living space. Deck sizes would be limited to reduce intrusion into the wetland habitat.

**Impacts. Aesthetic/Visual Resources:** Under this alternative, development on Parcel 23 would be transferred to Parcel 21, which is farther west and abuts a currently developed residential lot (Parcel 20). This would preserve the contiguous open space area. In addition, the development footprints would be reduced, which would further diminish the visual impacts of the residential structures. Similar to the *Alternative Site - Full Development Footprint*, this alternative would also enable more creative site designs, perhaps removing or reducing the "bowling alley" effect of the side yard setbacks by staggering the two residential structures north and south to reduce massing. Also, the setback requirements of the zone district would be enforced. While this alternative would result in less visual impact than the proposed project, the residual impacts would remain significant but mitigable.

**Biological Resources:** Under this alternative, the proposed development on Parcel 23 would be transferred to Parcel 21. Parcel 21 was also evaluated in the 1997 FLx biological report, and was the location of one of eight sampling stations (Sampling Station 8). Appendix B of the FLx report identifies that Sampling Station 8 demonstrated indicators for all three wetland parameters including hydrophytic vegetation, wetland hydrology and hydric soils. Thus, any development on Parcel 21 would result in similar direct biological impacts as were identified on the project parcels. However, the distinct benefit of this alternative is that the biological impacts would be moved a greater distance from the vernal pool, potentially reducing impacts such as drainage alteration, runoff, and pollution into that resource. In addition, because of the reduced development footprints, these impacts would occur to a lesser degree than under *Alternative Site - Full Development Footprint*. The greatest benefit of this alternative over the proposed project is that Parcel 23 would be eliminated from development, the project parcel closest to the vernal pool. The second benefit is that the reduced development footprint should reduce the level of impact to the wetland resources. However, because impacts to the wetland resources would remain, the residual biological impacts of this alternative would be significant and unavoidable.

**Land Use:** This alternative would reduce the impacts to land use by removing the development from the central location of the open space area and reduce the open space impacts by reducing development footprints. The impacts of inconsistency with the Coastal Plan policies, the Goleta Community Plan policies and Coastal Zoning Ordinance concerning wetland protection would normally still remain, but to a lesser degree than the proposed project because the development would be moved farther from the vernal pool, reducing potential biological impacts.

**Environmentally Superior Alternative and Reasons for Rejecting.** This alternative represents the environmentally superior alternative to the project. Under this alternative, the visual impacts of the residential structures would be minimized and the wetland resources avoided to the maximum extent feasible, while still achieving the basic objective of the project to allow for the construction of two single-family homes. The structures would be placed farther away from the vernal pool, shifted away from the center of the open space area, and building mass would be reduced. However, specific economic, legal, social, technological, or other considerations make this project alternative infeasible. In particular, the project applicant has informed the County that they will not agree to a land swap shifting development from Parcel 23 to Parcel 21. Since the applicant refuses to engage in such a land swap, the *Alternative Site - Reduced Development Footprint* is not a feasible alternative.

## 2.0 ADMINISTRATIVE FINDINGS

The Administrative Findings for the Chase Single Family Dwelling Projects are provided below, as required for approving a Coastal Development Permit.

### 2.1 Article II Zoning Ordinance Findings: Coastal Development Permit

The proposed project requires Coastal Development Permits pursuant to the requirements of the Article II Coastal Zoning ordinance 10-R-1 Zone District, Section 35-71.2.

Both the applicant's proposed project and the Revised Project are analyzed below, where appropriate.

*2.1.1 That the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article and/or the project falls within the limited exception allowed under Section 35-161.7.*

**Applicant's Proposed Project:** As discussed in Section 7.0 of the staff report prepared for the hearing of September 15, 2003 (incorporated herein by reference), the applicant's proposed project is inconsistent with Coastal Plan policies 1-2, 2-11, 3-14, 3-19, 9-9, 9-14, and 9-21, with Coastal Act sections 30231, 30233, 30240 and 30250, and with Goleta Community Plan policies BIO-GV-2, BIO-GV-3, and BIO-GV-15. The project's inconsistency with these policies stems from the damage to and loss of wetland habitat, a defined environmentally sensitive habitat area, and related buffer area resulting from the construction of the two proposed residences on the subject lots. The EIR identified that any development on the constrained lots would result in significant (Class I) impacts to the wetland resources and that no mitigation would reduce the impacts to levels of insignificance.

The applicant's project is also inconsistent with the applicable Sections of the Article II Coastal Zoning Ordinance, in particular Section 35-97.9 (4), which pertains to wetland habitats. The project would result in a direct loss of wetland habitat through project construction. The development would also occur within the 100-foot wetland buffer zones, which are also protected as sensitive habitat. The impacts to the wetland could adversely and significantly affect the adjacent vernal pool that is part of the wetland complex. Additional impacts to the wetland could occur during construction from siltation and runoff and other construction-related activities. In addition, the EIR found that the proposed projects would add significantly to the cumulative loss of wetlands, vernal pool habitats and native vegetation in the Goleta Valley, placing tremendous adverse pressure on the limited remaining wetland resources.

However, the policies of the Coastal Act, the County Coastal Plan, and the Goleta Community Plan must be applied in the context of all the Coastal Act requirements, particularly Public Resources Code section 30010. This section provides that the policies of the Coastal Act "shall not be construed as authorizing ... any local government to exercise [its] power to grant or deny a permit in a manner which will take or damage private property for public use, without payment of just compensation." Thus, if strict application of any of the Act's policies would cause a taking of property, that policy must be implemented in a manner that will avoid this result.

Once an applicant has obtained a final and authoritative decision from a public agency, and a takings claim is "ripe" for review, a court is in a position to determine whether the permit

decision constitutes a taking. If a permit denial denies the property owner of all economically viable use of the property, the decision constitutes a categorical or *per se* taking. (*Lucas v. South Carolina Coastal Council* (1992) 505 U. S. 1005.)

If the permit decision does not constitute a *per se* taking under *Lucas*, a court then considers whether the permit decision would constitute a taking under an *ad hoc* inquiry, which requires an examination into the character of the government action, the economic impact of the regulation, and the regulation's interference with reasonable investment-back expectations. (*Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 123-125.)

In this case, there is insufficient evidence to evaluate whether the denial of non-resource dependent uses would constitute a taking under *Lucas* because there is no evidence regarding whether such a decision would render the property "valueless" or whether the use being proposed by the applicant would constitute a nuisance or otherwise be precluded by some background principle of California property law. For the reasons that follow, however, the County finds that there is sufficient evidence that the denial of a non-resource dependent use on this property would constitute a taking under the *ad hoc* takings analysis, and that the Coastal Act, therefore, allows for the approval of a non-resource dependent use.

In this situation, the Del Playa Drive area has already been subdivided into residential lots, and has over the years been partially developed. Indeed, residences are located to the east and west of the project site, and across Del Playa Drive to the north. All of these parcels, including the subject parcels, are zoned for residential use except for the recreational zoning of the nearby IRRPD park. In view of the location of the applicants parcels and, in particular, their smaller, non-conforming lot sizes, the County is unaware of any use that would be both dependent on the environmentally significant resources of the site as otherwise required by the Coastal Act and still capable of providing a reasonable economically viable use for the applicant. Therefore, it is reasonable to conclude that permanently restricting the use of property to resource dependent uses would have a drastic impact on the value of the property.

The applicants purchased the properties on March 2, 1988 for \$30,000 each. Applicant Kathryn Chase testified that the lots were purchased with the intent to construct a vacation residence for her family. According to the applicants, at that point in time they felt it was reasonable to expect that residential use would be allowed based on a number of factors. For instance, although the CLUP identified an ESHA on the property, the parcel was and is designated for residential use in the Land Use Plan and in the County's zoning ordinance, and adjacent parcels were already developed with residential uses. On the other hand, the applicants purchased the subject properties with actual and constructive knowledge that there was a vernal pool complex and wetlands on the properties, that existing regulations restricted residential development, and that site development would likely require minimization of intrusion of structures in ESHAs. Before purchasing the properties, the applicants' father and father-in-law, John Chase, who assisted the applicants in purchasing the subject properties, was aware that a vernal pool was located on adjacent lots. He knew that regulatory restrictions imposed on residential development of vernal pools and wetlands in effect before the Chase family's purchase of any of the five lots on Del Playa Drive would pose impediments to residential development of the properties. He discussed the vernal pools complex and the impediments to development they presented with County planning staff before closing escrow on parcel 27, purchased before the applicants bought the subject lots. In describing that conversation in deposition testimony, John Chase admitted that he knew residential development near vernal pools would probably require design modifications to minimize the intrusion of structures into vernal pool areas.

Based on this evidence and under these special circumstances, the County finds that the applicants had a reasonable basis for expecting that the County would approve some residential use of the property, subject to conditions that would mitigate the adverse impacts that likely would result from development in this sensitive resource area to the maximum extent possible.

In view of the findings that (1) none of the resource dependent uses provided for in Section 30240 would provide an economic use of the parcels for the property owner, (2) residential use of the property would provide an economic use for the property owner, and (3) the applicants had a reasonable investment-backed expectation that a properly mitigated residential use would be allowed on their property, there is a reasonable possibility that a court might determine that the final denial of a residential use, based on the inconsistency of this use with Coastal Act, County Local Coastal Program, and Goleta Community Plan policies, could constitute a taking. Therefore, consistent with Coastal Act Section 30010 and the Constitutions of California and the United States, the County determines that implementation of the Coastal Act, County Local Coastal Program, and Goleta Community Plan policies in a manner that would permanently prohibit residential use of the subject property is not authorized in this case.

Having reached this conclusion, however, the County also finds that Section 30010 only instructs the County to construe the policies of the Coastal Act, the County Local Coastal Plan, and the Goleta Community Plan in a manner that will avoid a taking of property. It does not authorize the County to otherwise suspend the operation of or ignore these policies in acting on permit applications. Moreover, while the applicants in this instance may have reasonably anticipated that residential use of the subject property might be allowed, the Land Use Plan and Coastal Act also provided notice that such residential use would be contingent on the implementation of mitigation measures necessary to minimize the impacts of development on environmentally sensitive habitat. Thus, the County must still comply with these policies to the maximum extent feasible by protecting against the significant disruption of habitat and coastal open space resources at the site, and avoiding impacts that would degrade these values, to the extent that this can be done without rendering an unconstitutional taking of property.

In the present situation, there are several conditions that the County can adopt to implement applicable policies and standards of the Coastal Act, the County Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible, while still allowing some residential use of the property. The applicants currently propose to cover nearly 1,800 square feet of each parcel with structures, with approximately 400 additional square feet of decking and paving. As a result, 1,100 square feet of delineated wetlands habitat will be permanently lost, and additional wetland buffer area will also be disrupted. The EIR proposed the implementation of various mitigation measures, including requiring the applicant to provide off-site wetland mitigation, prepare on-site and off-site wetland mitigation plans as well as a revegetation and restoration plan, and dedicate an open space easement over the remaining undeveloped portion of the subject parcels. The applicants must also use caisson foundations for both structures, utilize various dust, runoff, and sediment control and wetland protection measures during and after construction. However, mitigation measures proposed in the EIR would have also restricted the allowable first floor building area for each structure to 900 square feet (including a 400 square foot garage), and the second floor to 450 square feet, for a total livable square footage of only 950 square feet. Restricting the applicants to 950 square feet of living space, in light of these nearby uses, would be economically and socially infeasible.

**Revised Project:** In order to allow for economically viable residential use of the property, the Board has approved a revised project that allows the construction of a 1,620 square foot, two-story, single family dwelling on Parcel 23. The first floor development footprint would be 926 s.f., consisting of 526 s.f. of living space and a 400 s.f. carport. The second story would be a maximum of 75% of the first floor area, or 694 s.f. This would allow for 1,220 square feet of total living area. A first floor deck of approximately 216 square feet would also be permitted. The development footprint would be located at the northern end of the parcel, entirely outside of the delineated wetland area as depicted on the "Wetlands and Plant Species" figure, FLx Report, 1997, to reduce impacts to the wetland habitat on site. A front and western side yard setback variance would also be granted, allowing the structure to be built with a 12-foot front yard setback, a 2-foot western side yard setback, and a standard 5-foot eastern side yard setback.

On Parcel 22, the Revised Project allows the construction of a 1,412 square foot, two-story, single family dwelling. Due to a larger delineated wetland area on Parcel 22, the first floor development footprint would be 807 s.f., consisting of a maximum of 407 of living space and a 400 s.f. carport. The second story would be a maximum of 75% of the first floor area, or 605 s.f. This would allow for 1,012 square feet of total living area. No first floor decks would be permitted. The development footprint would be located at the northern end of the parcel, entirely outside of the delineated wetland area, to reduce impacts to the wetland habitat on site. A front and sideyard setback variance would also be granted, allowing the structure to be built with a 5-foot front yard setback, an eliminated western boundary setback, and a three-foot eastern side yard setback. The final footprint for both parcels will be determined in consultation with a County-approved biologist with expertise in wetland biology. All of the remaining Aesthetic/Visual Resources, Biological Resources, and Land Use mitigation measures recommended in the EIR, as described or modified in the Staff Report and set forth in the conditions of approval, shall be imposed on the applicants.

The revised project, with the revised mitigation described above, will lessen impacts to the wetland resource to the maximum extent possible. Although the mitigated project would still normally be inconsistent with the applicable coastal policies and zoning code requirements for the protection of wetland resources, Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Under these special circumstances, as presented by this project, the revised project will provide for application of the Coastal Act, County Local Coastal Plan, and Goleta Community Plan policies to the maximum extent feasible while also avoiding a taking of private property. After the mitigation described above is incorporated into the project, the project will further applicable coastal policies while still providing the applicants with a reasonable economic use of their property. Therefore, the County finds that the project as mitigated is consistent with the Coastal Act and County policies.

***2.1.2 That the proposed development is located on a legally created lot.***

The project parcels were created by recordation of the Orilla Del Mar parcel map recorded on May 4, 1926. The applicants Christopher and Kathryn Chase acquired the project parcels from the Getty Oil Company on March 2, 1988. Therefore, this finding can be made for both the applicant's proposed project and the revised project.

**2.1.3 That the subject property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and such zoning enforcement fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures under Section 35-160 et seq.**

The project parcels are currently undeveloped legal non-conforming lots. There is no evidence that the subject property is in conflict with any law, rule or regulation pertaining to zoning uses, subdivisions, setbacks, or any other applicable provision of the Article II Zoning Ordinance. The two parcels are legally created lots. When they were rezoned to 10-R-1, they retained their same configuration of approximately 5,600 square feet, making them legal non-conforming lots. Section 35-71.6(2) of the Article II Coastal Zoning Ordinance (10-R-1 zoning) states that "a dwelling may be located upon a smaller lot if such lot is shown as a legal lot, either on a recorded subdivision or parcel map or is a legal lot as evidenced by a recorded certificate of compliance." Therefore, because the two lots were created by a parcel map, the owners are still eligible to develop the lots consistent with the current zoning requirements, subject also to the development constraints imposed by the sensitive resources on site. Therefore, this finding can be made for both the applicant's proposed project and for the revised project.

**2.1.4 That the development does not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.**

**Applicant's Proposed Project:** The EIR identified significant, but mitigable (Class II) visual impacts with the proposed project. The impacts would result from the proposed two-story residences being constructed in currently open space area on the coastal bluff top. As described in the EIR, panoramic views of the ocean from Del Playa Drive would be disrupted by the new development. The EIR also identified that because the residential structures would be located approximately in the center of the lots themselves, bounded by County-owned open space, they would permanently stand out in their central location, and in a sense gain visual landmark status. In order to lessen the visual impacts of the project, the EIR identified mitigation measures that would become conditions of project approval. The mitigation measures require design review by the County Board of Architectural Review (BAR). Additionally, building materials were identified that would help the structures blend into the natural colors and bluff topography. Finally, mitigations specified that there would be no more than 50% coverage by the second stories of the first floor. Therefore, with implementation of the identified mitigation measures and conditions of approval, the proposed project is consistent with this finding.

**Revised Project:** All of these mitigation measures will apply to the revised project, with the exception that the restriction on second story development has been modified to allow for development of 75% of the first floor footprint. With this modified mitigation measure, the revised project allows for a 926 square foot development footprint on the first floor on Parcel 23, and limits the second floor of that structure to 694 square feet. On Parcel 22, the revised project allows for a 807 square foot development footprint on the first floor, with a second story structure of 605 square feet.

The applicant will be required to use building materials that help the structures blend in with the natural colors and bluff topography, and receive BAR design approval. Development on Parcel 23 and 22 would be allowed a 12-foot and 5-foot front yard setback, respectively. The variance for Parcel 23 would allow a 2-foot setback on the west property line in order to provide design flexibility on that parcel without increasing the square footage of the development footprint or



increasing the maximum allowed square footage for the dwelling. The variance for Parcel 22 would allow a zero lot line setback on the west property line and a three-foot setback on the eastern property line. With the revised mitigation measures and the conditions of approval, the revised project would provide for ocean views between the structures and separation between the proposed dwellings consistent with the single-family residential neighborhood.

The revised project, with the revised mitigation described above, will lessen impacts to Aesthetic/Visual Resources to the maximum extent possible. Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Under these special circumstances, as presented by this project, the revised project will provide for application of the Coastal Act, County Local Coastal Plan, and Goleta Community Plan policies to the maximum extent feasible while also avoiding a taking of private property. After the mitigation described above is incorporated into the project, the project will further applicable coastal policies while still providing the applicants with a reasonable economic use of their property. Therefore, the County finds that the project as mitigated is consistent with the Coastal Act and County policies.

#### ***2.1.5 The development is compatible with the established physical scale of the area.***

**Applicant's Proposed Project:** As identified in the EIR, under the project site's 10-R-1 zoning, structures can reach a maximum height of 25 feet. Structures measuring 25 feet in height on the project site would be consistent with the zoning requirements and would also be subject to design review by the Board of Architectural Review. Many of the parcels across Del Playa Drive to the north are developed with either one or two story single-family dwellings, duplexes and triplexes and high density apartment buildings. Immediately to the east and west of the project parcels are vacant parcels. Structures of 25 feet in height would be compatible with area development.

However, the proposed project as mitigated in the environmentally superior alternative in the EIR would only allow for a total livable space of 950 square feet. This is smaller than the majority of surrounding residential structures. Farther east and west are single family dwellings, some of typical coastal cottage design such as the 1,300 square foot home designed by Lurah Marie Riggs, a designer of renown, which lies just west on Parcel 20, and some larger in design and scale such as a nearby two story structure of approximately 2,000 square feet (s.f.) of living space. Other homes on nearby coastal bluff lots range in size from 1,316, s.f., 1,344 s.f., and 1,494 s.f. of living space. While a development of 950 square feet of living space would be compatible with the physical scale of the area, it would not allow for economically or socially feasible, reasonable residential use of the properties, as required under Coastal Act section 30010.

**Revised Project:** The revised project modifies the proposed mitigation to avoid encroachment of the delineated wetland areas on the site while providing design flexibility to allow for the construction of two single-family dwellings of approximately 1,220 and 1,012 s.f. of living space on Parcels 23 and 22, respectively, with design standards subject to approval by the BAR.

The revised project, with the revised mitigation described above, will lessen impacts to Aesthetic/Visual Resources and Land Use to the maximum extent possible. Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Under these special circumstances, as presented by this project, the revised project will provide for application of the Coastal Act, County Local Coastal Plan, and Goleta Community Plan policies to the maximum extent feasible while also avoiding a taking of private property. After the



mitigation described above is incorporated into the project, the project will further applicable coastal policies while still providing the applicants with a reasonable economic use of their property. Therefore, the County finds that the project as mitigated is consistent with the Coastal Act and County policies.

**2.1.6 *The development is in conformance with the public access and recreation policies of Article II and the coastal land use plan.***

Neither the proposed project nor the staff recommended project will conflict with or affect any public access or recreation policies. There currently is a public easement that runs parallel to Parcel 22 and provides access to the bluff top open space. Under both development scenarios, that public access would remain available. Therefore, the applicant's proposed project and the revised project are consistent with this finding.

**2.2 Article II Coastal Zoning Ordinance Findings**

**2.2.1 *ESH Overlay District***

**Applicant's Proposed Project:** The residential development would occur within an area designated under the Article II Coastal Zoning Ordinance as an Environmentally Sensitive Habitat Area (ESHA). The ESHA is a designated wetland habitat. In order for the proposed development to occur, the following finding must be made pursuant to Section 35-97.6 (Findings Required for Approval of Coastal Development Permits). Section 35-97.6 states that prior to issuance of a Coastal Development Permit for any development within the ESHA Overlay District, a finding must be made that the proposed development meets all applicable development standards in Sections 35-97.8 through 35-97.19.

The proposed project cannot meet the applicable development standards set forth in Section 35.97.9, Development Standards for Wetland Habitats, the only section applicable to this project. The EIR identified significant Class I impacts if development were to proceed within the ESHA area, even with mitigation. The project as proposed would result in a direct loss of 1,100 square feet of delineated wetland habitat. With the mitigation proposed in the EIR, the development would be restricted to 900 square feet of development on the first floor, which would protect an additional 400 square feet of wetland habitat. These mitigation measures would provide for very limited residential development of the site, while approximately 700 square feet of delineated wetland habitat would still be lost.

Section 30010 of the Coastal Act requires that the County balance this loss of environmental resources against the potential to apply the Act in such a manner as to result in a taking of private property. The proposed mitigation as described in the EIR may result in economically, socially, and legally infeasible development for the property, and does not mitigate the impacts to wetland habitat on the sites to the maximum extent feasible. Therefore, County finds that the proposed project as mitigated remains inconsistent with the County's ESHA overlay zone policies.

**Staff Recommended Project:** Staff proposes to revise the mitigation included in the EIR to allow for a total first floor development footprint of 926 square feet for Parcel 23 (526 square feet of living space and a 400 square foot carport) and 807 square feet for Parcel 22 (407 square feet of living space and a 400 square foot carport). This mitigation will lessen impacts to the wetland resources and ESH area to the maximum extent feasible under the circumstances presented in this case, and allow for increased design flexibility with a total square footage that still provides economically viable residential use of each property in light of the environmental constraints onsite.

Although the mitigated project will still be inconsistent with the applicable coastal policies and zoning code requirements for the protection of ESH areas, Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Under these special circumstances, as presented by this project, the revised project will provide for application of the applicable Coastal Act, County Local Coastal Program, and Goleta Community Plan policies to the maximum extent feasible so as to avoid a taking of private property. After the mitigation described above is incorporated into the project, the project will further applicable coastal policies while still providing the applicants with a reasonable use of their property. Therefore, the County finds that the revised project is consistent with the County's ESHA overlay zone policies.

### **2.2.2 Section 35-97.9 – Development Standards for Wetland Habitats**

The purpose of this Section is to develop standards for development within or within close proximity to wetland resources to protect their biological productivity and water quality. The proposed project would result in grading directly in the wetland habitat as well as within the 100-foot buffer zone. On the other hand, the revised project would avoid grading within delineated wetland habitat. Although erosion and sediment control measures are required to ensure that no graded materials adversely affect the wetland resources, impacts under either project would occur. Because of the onsite construction, it is also possible that wastewater and other contaminants would accidentally be discharged into the wetland area.

It is reasonable to assume that both vehicle and personnel access would occur within the wetland boundaries and its buffer during construction under either the proposed or revised project, and both projects would result in increased access into the wetland after completion because of the residential development. In summary, the proposed project as mitigated and the revised project are incompatible with the continuance of the habitat area and will result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, and other disturbances.

However, as described above, the revised project will lessen impacts to the wetland resources to the maximum extent feasible under the circumstances presented in this case by avoiding development within the delineated wetland boundary altogether. Although the project will still be inconsistent with the applicable coastal policies and zoning code requirements for the protection of ESH areas, Section 30010 of the Coastal Act requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Under these special circumstances, as presented by this project, the project after mitigation will provide for application of the applicable Coastal Act, County Local Coastal Program, and Goleta Community Plan policies to the maximum extent feasible so as to avoid a taking of private property. After the mitigation described above is incorporated into the project, the revised project will further applicable coastal policies while still providing the applicants with a reasonable use of their property. Therefore, the County finds that the revised project is consistent with the County's development standards for wetland habitats.

### **2.3 Section 35-173.6. Findings Required for Approval of Variance**

The proposed project requests Variances to front yard setback requirements of the Article II Coastal Zoning Ordinance, Section 35-173. In addition, staff has proposed a variance for Parcel 23 that would allow a 2-foot setback on the west side yard and a variance for Parcel 22 that would allow a zero lot line setback on the west side yard and a three-foot setback on the eastern side yard. These variances are proposed in order to avoid encroachment of the delineated wetland on each site while permitting design flexibility to allow for economically viable residential use of the parcels. The

purpose and intent of the Variance section is to allow relief from the strict application of the provisions of Article II where, because of exceptional conditions such as size, shape, unusual topography, or other extraordinary situation or condition of such piece of property, the literal enforcement of Article II would impose practical difficulties or would cause undue hardship unnecessary to carry out the intent and purpose of the zoning ordinance.

A variance shall only be approved if all of the following findings are made:

***2.3.1 Because of special circumstances applicable to the property, including but not limited to size, shape, topography, location and surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity under identical zoning classification.***

The Article II Coastal Zoning Ordinance establishes a front setback in the 10-R-1 zone district of fifty (50) feet from the centerline and twenty (20) feet from the right-of-way line of any public street. The side yard setback requirement is five (5) feet. As described in the Staff Report, the proposed variances would allow the structure on Parcel 23 to encroach into the required front setback such that it would be located twenty-seven (27) feet from the centerline and twelve (12) feet from the right-of-way line of Del Playa Drive. The front yard variance would allow the structure on Parcel 22 to encroach into the required setback such that it would be located twenty (20) feet from the centerline and five (5) feet from the right-of-way line of Del Playa Drive. The staff proposed variance for Parcel 23 would allow for a 2-foot setback on the west side yard, while the proposed variance on Parcel 22 would allow for a zero lot line on the west side yard and a three-foot setback on the east side yard.

Unlike other properties in the vicinity zoned for residential development, the subject properties contain extensive delineated wetland habitat and are completely covered by designated environmentally sensitive habitat and buffer areas. The reason for the front yard variance requests is to minimize the impact to these wetland resources. By allowing placement of the structures closer to the street and away from the center of the wetland and vernal pool complex, the requested front yard variances would reduce impacts to biological resources by protecting the most viable section of the sensitive resource area. Under the revised project, approval of the requested front yard variances would provide the applicant with a reasonable economic residential use of the properties, while avoiding encroachment into the delineated wetland area altogether and protecting the wetland habitat and buffer area to the maximum extent feasible. Approval of the proposed revised side yard variances would further support reasonable economic residential use by allowing design flexibility and a slightly increased square footage for the proposed dwellings. Without the variances, development on the site would be further restricted and reasonable economic use may be precluded. As such, permitting variances to the front yard setback requirements on the subject parcels and to the side yard setbacks on each parcel is consistent with this finding.

***2.3.2 The granting of the Variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.***

The reason for the front yard variance requests is to minimize the impact to the wetland habitat and habitat buffer area, which encompass the parcels in their entirety. The reason for the side yard variance requests on each parcel is to allow for design flexibility for that dwelling. The granting of variances on the subject parcels would not constitute granting of a special privilege, as the property owners are severely limited in the use of their remaining property due to the presence of delineated wetland habitat and associated wetland habitat buffer areas. Other parcels

within the two-block vicinity have also been granted variances for front and side yard setbacks due to individual lot constraints. This setback variance is necessary to grant the applicant a reasonable use of their properties consistent with the surrounding development. In addition, because the subject parcels are bounded by properties owned by the County and the Isla Vista Parks and Recreation District, those properties are likely to remain undeveloped. Therefore, additional requests for similar variances because of property constraints along that stretch of bluff top property are very unlikely. Therefore, permitting a variance on the subject parcels in order to protect the wetland and vernal pool habitats is consistent with this finding.

***2.3.3. That the granting of the Variance will not be in conflict with the intent and purpose of this Article or the adopted Santa Barbara County Coastal Land Use Plan.***

The reason for the variance requests to encroach into the front yard setbacks is to minimize the impact of the proposed development on the wetland habitat and buffer zone, which encompass the parcels in their entirety. The additional side yard variances will provide design flexibility on each parcel due to the wetland constraints. Even with the variances, the project development would still result in significant impacts to the wetland resource and buffer area. However, by moving the development closer to the street and away from the main body of the vernal pool/wetland complex, the front yard variances will help reduce impacts to the wetland resources on the site. In addition, the side yard variances will allow flexibility in the floor planning of the proposed dwellings while providing some reasonable residential use of the property.

Normally, the applicable policies of the Coastal Act, the County's Coastal Land Use Plan, and the Goleta Community Plan would prohibit the proposed uses on the property. However, Section 30010 of the Coastal Act requires the County to balance these environmental concerns with the Act's prohibition on applying coastal development policies so as to result in a taking of private property. Section 30010 does not authorize the County to otherwise suspend the operation or ignore the policies of the Coastal Act in acting on a permit application. The County must still comply with the policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible by protecting against the significant loss and degradation of the wetland habitat at the site to the extent this can be done consistent with the direction to avoid a taking of private property. With the granting of the requested variances, the staff recommended project will further applicable coastal policies while still providing the applicants with a reasonable use of their property. Therefore, granting of the variances in order to protect the wetland resources to the maximum extent feasible is consistent with this finding.

***2.3.4 The applicant agrees in writing to comply with all conditions imposed by the County.***

The applicant shall agree in writing to comply with all conditions imposed by the County in granting the variances, otherwise, the approval shall be null and void. A form for such approval has been included with the variances and conditions of approval require its execution prior to issuance of the Coastal Development Permits.

## **STATEMENT OF OVERRIDING CONSIDERATIONS**

### **I. INTRODUCTION**

The following Statement of Overriding Considerations prepared for the Chase Single-Family Dwellings with the mitigation set forth in the EIR as discussed and revised in the staff report prepared February 9, 2004 and set forth in the Conditions of Approval attached thereto is hereby adopted by the Santa Barbara County Board of Supervisors pursuant to the requirements of the

California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA") and the State CEQA Guidelines, Title 14, California Code of Regulations ("CEQA Guidelines").

When a project will have one or more unavoidable significant environmental effects, CEQA and the CEQA Guidelines require the lead agency to balance the economic, legal, social, technological, or other benefits of a project against its unavoidable significant environmental effects when determining whether to approve the project. If the benefits of the project outweigh the unavoidable significant environmental effects, those effects may be considered acceptable. CEQA requires the lead agency to adopt written findings describing the specific reasons for considering a project acceptable when the project's significant effects are unavoidable. (CEQA Guidelines § 15091.)

## II. UNAVOIDABLE SIGNIFICANT EFFECTS

Adoption of the revised project (the "Project") will result in the following unavoidable impacts on the environment:

### **Impact BIO-1: Direct Loss of Wetland Habitat and Adjacent Habitat Buffer.**

Overall the site is considered a critical habitat resource area. While the delineated wetland habitat on both parcels would be avoided altogether, both new residences remain entirely within the mandatory 100-foot buffer for this environmentally sensitive habitat, resulting in additional indirect wetland habitat loss. Indirect impacts are also likely due to site development, not only from the long-term presence of the residential development but also from the grading during site preparation. Because the development would occur within a wetland habitat, any changes in drainage patterns are considered a significant unmitigable impact (Class I) due to potential changes to the wetland, which is hydrologically linked to the adjacent vernal pool.

**Cumulative Biological Impacts:** Due to the impacts to native vegetation and vernal pool habitat and due to the loss of foraging habitat from developing the parcels, this proposed project would contribute considerably to the cumulative significant impacts on biological resources of the Goleta Valley and specifically in the Isla Vista community.

### **Impact LU-1: Conflicts with Policies and Regulations.**

Due to the presence of the wetland and vernal pool habitats on the subject parcels, the proposed project would conflict with numerous Coastal Program and Goleta Community Plan policies, particularly those policies relating to the protection of Environmentally Sensitive Habitats. Coastal Plan Policies 9-6 through 9-16b and related Coastal Act policies require avoidance, setbacks, and impact mitigations where development is necessary in wetland habitats. While the delineated wetland habitat on both parcels would be avoided altogether, the wetland buffer area within which the residences would be located would be lost. These impacts are inconsistent with the provisions of the Article II Coastal Zoning Ordinance that require protection of Environmentally Sensitive Habitat areas. Specifically, Article II, Section 35-97.9 requires conformance with the provisions of the Coastal Act policies listed earlier for the protection of wetland habitats. The applicant also requests variances for each parcel under the Article II Zoning Ordinance to encroach into the front yard setbacks, and the approved Revised Project also provides side yard variances on both parcels to provide design flexibility. Although the variances are proposed by the applicant and Revised Project to reduce the impacts on the wetlands and provide floor planning options, the development would still occur within the wetland buffer zone. Because of the significance and sensitivity of the wetland habitat on the project parcels, as well as policies and standards specifically precluding

development within these coastal resources, the impacts of this proposed development are considered significant (Class I) and unmitigable.

### **Impact LU-3: Loss of Open Space.**

Development of the project sites would occur within one of the last residentially zoned privately owned coastal open spaces within the surrounding Isla Vista community. Although the areal extent of the loss is relatively unsubstantial (less than 1 acre), the loss is considered significant when viewed with the context of the surrounding community, which is densely developed with high-density apartment buildings, duplexes, and triplexes, as well as other single- and multi-family residences. These impacts are considered significant (Class I) and unmitigable.

**Cumulative Land Use Impacts:** The proposed construction of two single family residences would add significantly to cumulative land use impacts in the area. Specifically, these impacts would add cumulatively to the impacts and loss of environmentally sensitive habitats (ESH), specifically coastal wetland habitats, as well as the loss of open space.

### **III. OVERRIDING CONSIDERATIONS THAT OUTWEIGH THE PROJECT'S UNAVOIDABLE SIGNIFICANT EFFECTS**

The Board of Supervisors find that the economic, social, legal or other benefits of the Project outweigh all of the Project's significant and unavoidable impacts summarized above and any other remaining significant impacts found to be unavoidable. In making this finding, the Board of Supervisors has balanced the benefits of the Project against its unavoidable impacts and has indicated its willingness to accept those adverse impacts.

In particular, the Board of Supervisors acknowledge the requirements of Section 30010 of the Coastal Act, which requires the County to balance environmental concerns with the Act's prohibition on applying coastal development policies in a manner that results in a taking of private property. Section 30010, however, does not authorize the County to otherwise suspend the operation or ignore the policies of the Coastal Act in acting on a permit application. The County must still comply with the policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible by protecting against the significant loss and degradation of the wetland habitat at the site to the extent this can be done consistent with the direction to avoid a taking of private property.

In the instant case, the Board of Supervisors find that under the proposed project as mitigated, the County has applied the applicable policies of the Coastal Act, the County's Local Coastal Program, and the Goleta Community Plan to the maximum extent feasible, and that to apply these policies in any more restrictive fashion would not provide the applicants with a reasonable use of the site. The evidence in the record indicates that further restriction of the use of the property could result in a taking of private property. In order to avoid this result, as required by Section 30010, the County must allow the significant adverse impacts identified above to occur. The Board of Supervisors find that these impacts are outweighed by the statutory mandate to balance environmental concerns by avoiding a taking of private property, and that this mandate warrants approval of the revised project as mitigated through the conditions of approval.



ATTACHMENT D



**APPROVAL/INTENT TO ISSUE  
A DISCRETIONARY APPEALABLE  
COASTAL DEVELOPMENT PERMIT (CDP)**

Case No.: 01CDH-00000-00060 Planner: Jackie Campbell  
Project Name: Chase SFD  
Project Address: 6800 Block of Del Playa Drive  
A.P.N.: 075-181-022

The Board of Supervisors *grants approval* of this discretionary Coastal Development Permit for the development described below, subject to the attached conditions and final issuance of the Coastal Development Permit.

**APPROVAL DATE:** February 24, 2004

The Board of Supervisors' final decision may be appealed to the California Coastal Commission.

**COASTAL COMMISSION APPEAL PERIOD STARTS:** March 1, 2004 (approximate)

**COASTAL COMMISSION APPEAL PERIOD ENDS:** (ten working days after receipt by the CCC)

**DATE OF PERMIT ISSUANCE:**

**PROJECT DESCRIPTION AND CONDITIONS:** See Exhibit A, hereby incorporated by reference.

**EXPIRATION:**

Upon permit issuance, the permit shall be valid for two years. Failure to obtain a required construction or grading permit and to lawfully commence development within two (2) years of permit issuance, shall render this Coastal Development Permit null and void.

**Board of Supervisors Approval:**

\_\_\_\_\_  
Chair, Signature 2/24/04  
Date

**ACKNOWLEDGMENT:** Undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

\_\_\_\_\_  
Print Name Signature Date

**Planning & Development Issuance by:**

\_\_\_\_\_  
Name Date

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**EXHIBIT 2  
A-4-STB-04-035  
Local Approval with  
Conditions (Parcel 22)**



**EXHIBIT A**  
**PROJECT DESCRIPTION AND CONDITIONS**

**Project Description**

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the hearing exhibits marked Figure # 2, dated February 24, 2004 and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval would constitute a violation of permit approval.

The project description is as follows:

This Coastal Development Permit (with Hearing) for case number 01CDH-00000-00060 allows the construction of a two-story single-family dwelling with an attached carport on APN 075-181-022. The first floor development footprint would be 807 s.f. with a maximum of 1,012 s.f. of living space and a 400 s.f. carport. The second story would be a maximum of 75% of the first floor area, or 605 s.f. The development footprint would be to the northern end of the parcel, to the maximum extent feasible, to reduce impacts to the wetland habitat. The foundation would be of raised floor construction with a minimum 18" crawl space on caissons or piles. Grading is estimated at approximately 87 cubic yards of cut and 87 cubic yards of fill. Retaining walls of up to two feet in height would be installed according to building codes. Fencing approximately, but no higher than, six feet high would be installed at the east property line for the length of the dwelling. In addition, an approximately four-foot high split rail fence may be built on the balance of the property lines, in accordance with a wetland mitigation plan approved by the County. Two parking spaces would be provided within the attached carport. Water would be obtained from Goleta Water District and the residence would be connected to the Goleta West Sanitary District sewer system.

A Variance for building encroachment into the front and side setbacks is allowed pursuant to case number 02VAR-00000-00003.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto.

**Project Specific Conditions**

2. All site preparation and associated grading and exterior construction activities shall be limited to the hours between 7:00 A.M. and 4:00 P.M., weekdays only. No construction shall occur on State holidays (e.g. Labor Day, Thanksgiving). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions.
3. All construction must comply with final plans approved by the County Board of Architectural Review for 01CDH-00000-00060 prior to issuance of a Coastal Development Permit.

### **Mitigation Measures from the EIR**

4. In order to reduce impacts related to wetland loss due to building coverage, the maximum first story footprint for the structure shall not exceed 807 square feet. The carport footprint shall not exceed 400 square feet. The second story shall be limited to no more than 75% of the total coverage of the first floor, or 605 square feet for a total living space area of 1,012 square feet. There shall be no other structural development in or over the wetland habitat, including decks. Structural development toward the south (ocean side) of the parcel shall be reduced to the maximum extent feasible to reduce wetland impacts. The actual development footprint shall be determined in consultation with a County-approved wetland biologist. **Plan Requirements and Timing:** The plans shall be reviewed and approved by the Board of Architectural Review and Planning and Development prior to issuance of Coastal Development Permits.

**Monitoring:** Permit compliance staff shall site inspect throughout the construction period.

5. The design, scale and character of the project architecture shall be compatible with the area development, particularly that which is located on the coastal bluff. Natural building materials and colors compatible with surrounding terrain (earth tones and non reflective paints) shall be used on exterior surfaces of all structures, including any fences. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the Board of Architectural Review prior to issuance of a Coastal Development Permit. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.
6. The Design Standards shall be as follows:

#### **Goals and Objectives:**

- To protect and enhance the scenic character and natural integrity of the site.
- To encourage grading and development that will be appropriate to the site and will not significantly alter the topography
- To encourage architecture that blends with the site and is compatible in terms of size, massing and scale, that is compatible with the neighborhood and has a high standard of architectural quality.

#### **Standards:**

The architectural design of the structure shall conform to the following criteria. Definition of terms shall be in accordance with the Santa Barbara County Article II Coastal Zoning Ordinance.

- a) **Materials:** The materials should weather properly in an ocean environment. Unified design materials should be used. Shingle or horizontal siding should be considered. Materials subject to glare, rapid deterioration and inconsistent with high quality standards shall not be permitted.
- b) **Landscaping:** A Landscaping Plan shall be developed and clearly distinguish between those areas determined to be outside of the wetland area as well as the wetlands. Generally, the front yard area would be considered outside of the wetland area, although it is still considered a buffer area. The wetland area portion of the plan shall consist only of wetland delineated vegetation. The main plant communities that may be included in the plan are vernal pool, vernal swales or flats, introduced

annual grasslands, and native perennial grassland. Any proposed vegetation for the front yard area must be compatible with and non-invasive to the wetland vegetation. The Landscaping Plan shall be reviewed and approved by a County-approved botanist/biologist.

- c) Driveways: The driveway shall be designed such that vehicles remain outside setbacks, as modified.
- d) Color: The color of exterior materials shall be subdued and to the maximum extent feasible, blend into the natural environmental surroundings (colors which blend in with the surrounding vegetation and soils). All colors shall be reviewed and approved by the Board of Architectural Review.
- e) Passive Solar Design: It is encouraged but not mandatory that passive solar energy design principles be used in the design of the residence, such as south-facing glass, thermal storage, shading, insulation devices, and other elements of passive design that can result in an attractive building that also provides heating and cooling. Solar equipment shall be screened from offsite views.
- f) Fencing: An open type fence such as split rail shall be used, when fencing is desired, in the front yard. Rear/side yard fencing shall be similar and may include wire mesh, however permanent chain link fencing is prohibited. All fencing within the project site shall be subject to review and approval by P&D and the Board of Architectural Review, in consultation with a County-approved botanist/biologist.
- g) Design: The design of the structure shall have individuality but work with the adjacent project on APN 075-181-023. All elevations should exhibit a cohesive vocabulary.

**Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the Board of Architectural Review prior to issuance of a Coastal Development Permit. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.

7. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels and any public open space areas, and into the wetland habitat. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The lighting plan shall show the locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture, the foot candles and other lighting specifications, and the height of the fixtures. The plan shall be designed in particular to avoid lighting impacts to the wetland habitat.

**Monitoring:** P&D and BAR shall review a Lighting Plan for compliance with this measure prior to issuance of a Coastal Development Permit. Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

8. In order to help offset the loss of wetland habitat due to the construction of the residences, the applicant shall provide offsite wetland mitigation at a ratio of 4:1 for each square foot lost directly as a result of the project, and at a ratio of 2:1 for each square foot lost indirectly, as determined by a County-approved biologist with expertise in wetland habitats. As an alternative, the applicant may provide funding to an existing offsite wetland mitigation bank, or may mitigate through a combination of land and funding. There would be no loss of primary wetland habitat through avoidance and a loss of approximately 1,187 square feet of wetland buffer, the entire development footprint of the first floor, including driveway and

sidewalk areas. These estimates could change based on the actual design plans. **Plan Requirements:** The applicant shall prepare an Offsite Wetland Mitigation Plan prepared by a County-approved biologist (with expertise in wetland habitats) for review by P&D and County Counsel. The plan shall specify the offsite mitigation site(s), include performance standards, explain the methodology for choosing the sites and determining the appropriate acreage (or a calculation of the in lieu mitigation fees), and explain the mechanism(s) for securing the offsite location for mitigation. **Timing:** The mitigation plan shall be approved by P&D and County Counsel prior to issuance of a Coastal Development Permit.

9. In order to help offset the impacts to the wetland habitat due to the construction of the residence, the applicant shall prepare an Onsite Wetland Protection Plan. **Plan Requirements:** The Onsite Wetland Protection Plan shall be prepared by a County-approved biologist (with expertise in wetland habitats) for review by P&D and County Counsel. The plan shall specify the onsite methods to ensure the long-term health and viability of the wetland resources and include at a minimum measures such as revegetation and periodic weeding, periodic debris collection, periodic soil nourishment and fencing, as appropriate. **Timing:** The Plan shall be approved by P&D and County Counsel prior to issuance of a Coastal Development Permit.
10. In order to reduce construction related and long-term impacts to the wetland and particularly to the wetland hydrology, a caisson foundation shall be used. **Plan Requirements and Timing:** This requirement shall be stated on all building plans and be approved by P&D prior to issuance of a Coastal Development Permit.
11. In order to reduce the potential of dust generation within proximity to the wetland habitat, dust generated by the development activities shall be kept to a minimum using the dust control measures listed below.
  - a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
  - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
  - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods.

**Monitoring:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

12. In order to protect the wetland habitat, the applicant shall record an open space easement for the undeveloped remainder of the project parcel (excluding the front and side yards). The easement language shall specify the purpose and restrictions in the easement area. The language shall include, but not be limited to specifying that the purpose of the easement is to preserve and to restore vernal pool and

wetland vegetation and the activities that occur in this area shall be compatible with this intent and purpose. The easement area shall have signs alerting the public of the sensitive resources. In addition, the management of this area shall be in conformance with the Onsite Wetland Protection Plan approved by P&D. **Plan Requirements and Timing:** Prior to issuance of a Coastal Development Permit, the applicant shall specify how management of the easement area will be funded and provide the funding. P&D and County Counsel shall approve the method of funding.

**Monitoring:** Provisions of the easement and encroachment prevention plans shall be monitored annually through site inspections and photo documentation by P&D staff.

13. The following mitigations shall apply to the wetland complex (including the buffer area) designated on the biological survey maps:
- a. During construction, temporary fencing shall be installed at edge of the permitted construction zone to prevent any further intrusion into the wetland habitat. The placement of the fence as well as the fence design shall be approved by a County-approved wetland biologist.
  - b. No grass cutting shall be permitted within the delineated wetland areas except for as provided in an approved landscaping/planting plan.
  - c. Installation of a permanent split rail fence should be considered, in consultation with a County-approved wetland biologist. The purpose of the fence would be to protect the remaining wetland habitat against impacts from humans, vehicles and pets. The fence would have signs posted to explain this requirement and discourage vandalism.
  - d. No disking for fire control or any other use shall occur in the wetland or buffer areas.
  - e. No mosquito control shall be permitted except use of mosquito fish.

**Plan Requirements:** These wetland protection measures shall be included in the Onsite Wetland Protection Plan and the site restoration/revegetation plan and recorded on all project plans. **Timing:** These measures shall be included in the appropriate plans prior to issuance of a Coastal Development Permit.

**Monitoring:** Permit Compliance shall site inspect throughout the implementation and maintenance periods.

14. During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which minimizes the potential for storm water contamination. **Plan Requirements:** The applicant shall designate washout and storage areas, acceptable to P&D, and these areas shall be shown on the construction and/or grading and building plans. **Timing:** The washout and storage areas shall be designated on all plans prior to

issuance of Coastal Development Permits. Both areas shall be in place and maintained throughout construction.

**Monitoring:** P&D staff shall check plans prior to issuance of a Coastal Development Permit and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout and storage areas.

15. Best available erosion and sediment control measures shall be implemented during grading and construction in order to reduce impacts to the wetland/vernal pool complex. The following measures shall be used and be placed outside of the wetland habitat to the extent feasible to remain effective. Best available erosion and sediment control measures may include but are not limited to use of gravel bags, silt fences, geo-bags or gravel and geotextile fabric berms, erosion control blankets, coir rolls, jute net, and straw bales. Sediment control measures shall be maintained for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping. Construction entrances and exits shall be stabilized using gravel beds, rumble plates, or other measures to prevent sediment from being tracked onto adjacent roadways. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods. **Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to issuance of a Coastal Development Permit. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction.
16. To limit runoff into the wetland/vernal pool complex from impervious areas and to allow for infiltration, all proposed hardscape areas (i.e., driveways, walkways) shall use permeable surfaces (e.g., porous pavement or unit pavers on sand) in the project design. Driveway designs could also include paving only under wheels. **Plan Requirements and Timing:** Pervious surfaces shall be described and depicted graphically on the site, building, grading and landscape plans and including all specifications. The plans shall be submitted to P&D for review prior to issuance of a Coastal Development Permit.  
  
**Monitoring:** P&D shall site inspect for installation.
17. The applicant shall install a roof runoff collection and disposal system. Runoff shall be directed to either a subsurface infiltration trench or French drains. The intent of this mitigation is to direct clean water to the wetland area. **Plan Requirements and Timing:** The roof runoff collection system shall be shown on grading, building and landscape plans. The plans shall be submitted to P&D for review prior to issuance of a Coastal Development Permit. The system shall be installed prior to final inspection.
18. Indoor water use shall be limited through the following measures:
  - a. All hot water lines shall be insulated.
  - b. Recirculating, point-of-use, or on-demand water heaters shall be installed.
  - c. Water efficient clothes washers and dishwashers shall be installed.

**Plan Requirements:** Prior to issuance of the Coastal Development Permits, indoor water-conserving measures shall be graphically depicted on building plans, subject to P&D review and approval. **Timing:** Indoor water-conserving measures shall be implemented prior to occupancy clearance.

**Monitoring:** P&D shall inspect for all requirements prior to occupancy clearance.

19. The applicant shall implement a Revegetation and Restoration Plan. This plan shall apply only to those areas outside of the defined wetland/vernal pool complex and generally includes the front and side yards. Only seed stock from locally obtained sources shall be used for landscaping purposes. The plan shall utilize only species compatible with and noninvasive to the wetland. **Plan Requirements and Timing:** The plan shall be submitted to and approved by P&D and a performance surety posted prior to issuance of a Coastal Development Permit. The plan shall be reviewed and approved by a County-approved biologist for compatibility with the wetland vegetation. All plant genus and species shall be denoted in the plan.

**Monitoring:** P&D staff shall perform site inspections both throughout the construction phase and during the long-term performance phase.

20. The minimum distance from ground level to any fence's first rung shall be 18 inches. Barbed-wire fencing shall not be installed between lots or along property boundaries. **Plan Requirements:** All fences shall be shown on plans prior to issuance of a Coastal Development Permit. **Timing:** Fencing shall be installed prior to final inspection.

**Monitoring:** P&D shall site inspect prior to occupancy clearance.

21. In order to reduce the impacts to the sensitive wetland habitat, grading and erosion and sediment control plans shall be designed to minimize erosion and shall include the following:

- a. Ground disturbances shall be prohibited beyond the development footprint of each structure. The exclusion areas shall be designated with orange construction fencing or other barrier to prevent entry by equipment or personnel.
- b. Methods such as geotextile fabrics, erosion control blankets, drainage diversion structures, and spot grading shall be used to reduce erosion and siltation into the wetland area during grading and construction activities.
- c. All entrances/exits to the construction site shall be stabilized (e.g. using rumble plates, gravel beds or other best available technology) to reduce transport of sediment off site. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.
- d. Storm drain inlets shall be protected from sediment-laden waters by the use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps.
- e. Graded areas shall be revegetated in accordance with the project revegetation/restoration plan to minimize slope failure and erosion potential. Geotextile binding fabrics shall be used if necessary until vegetation is established.



- f. Temporary storage of construction equipment shall not be permitted on site to avoid any additional impacts to the wetland resource. This requirement shall be stated in the Grading and Erosion Control Plan and be noted on all project plans.

**Plan Requirements:** A Grading and Erosion Control Plan shall be submitted for review and approved by P&D prior to issuance of a Coastal Development Permit. The plan shall be designed to address erosion and sediment control during all phases of development of the site and include a performance standard section consistent with other project required wetland protection plans. The applicant shall notify Permit Compliance prior to commencement of grading. **Timing:** Components of the grading plan shall be implemented prior to final inspection. Erosion and sediment control measures shall be in place throughout grading and development of the site until all disturbed areas are permanently stabilized.

**Monitoring:** Permit Compliance will photo document revegetation and ensure compliance with plan. Grading inspectors shall monitor technical aspects of the grading activities.

22. The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the applicant agrees to:
  - a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
  - b. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
  - c. Pay fees prior to issuance of Coastal Development Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

### **Conditions Unique to Permit Type**

23. If the Zoning Administrator determines at a noticed public hearing that the permittee is not in compliance with any conditions of this permit pursuant to the provisions of section 35-169.9 of Article II of the Santa Barbara County Code, the Zoning Administrator may, in addition to revoking the permit pursuant to said section, amend, alter, delete or add conditions to this permit.
24. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.

25. The approval of this appealable CDP shall expire one year from the date of approval by the Board of Supervisors or the California Coastal Commission on appeal, if the permit for use, building or structure permit has not been issued.
26. The use and/or construction of the building or structure, authorized by this approval cannot commence until the Coastal Development Permit has been issued. Prior to the issuance of the Coastal Development Permit, all of the project conditions that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Plans accompanying this Coastal Development Permit shall contain all project conditions.

### **County Rules and Regulations**

27. Prior to issuance of the Coastal Development Permit, the applicant shall pay all applicable P&D permit processing fees in full.
28. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
29. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
30. If the applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.
31. Prior to issuance of the Coastal Development Permit, the applicant shall obtain an address for the subject property.
32. Applicant shall comply with the letter from the Public Works Department dated January 20, 2004.
33. Prior to issuance of the Coastal Development Permit, applicant shall obtain all other agency permit approvals or exemptions.

# ATTACHMENT E

## CONDITIONS OF APPROVAL

CHASE VARIANCE  
02VAR-00000-00003  
APN 075-181-022

### Project Description

1. This Variance approval [02VAR-00000-00003] is based upon and limited to compliance with the project description, Board of Supervisors Exhibit # 2 dated February 24, 2004 and the conditions of approval set forth below. Any deviations from the project description or the conditions must be reviewed and approved by the Director of Planning and Development for conformity with this approval. Deviations from the project description or conditions of approval may require a modification to 02VAR-00000-00003 and further environmental review.

The project description is as follows:

The front yard variance would allow the building a front yard setback encroachment of twenty (20) feet from the centerline and five (5) feet from the right of way line. The 10-R-1 Zone District requirements are fifty (50) feet and twenty (20) feet, respectively. The variance is requested to site the structure as close to Del Playa Drive as possible to avoid, to the maximum extent feasible, impacts to the wetland and vernal pool resources that cover the parcel in its entirety but are more sensitive to impacts towards the center of the parcel.

The side yard variance along the western property boundary would allow the structure to encroach up to the property line. The 10-R-1 zone district requirement for a side yard setback on the subject lot would be five feet. The variance allows the structure to be located up to the property line to avoid impacts to the wetland and vernal pool resources and to allow floor planning flexibility.

The side yard variance on the eastern property boundary adjacent to Lot 23 would allow the structure to be three feet from the property line and five feet from the structure on Lot 23 if development is approved as recommended in case number 01CDH-00000-00061 and 02VAR-00000-00004.

This Variance is approved in conjunction with case number 01CDH-00000-00060.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the conditions of approval hereto.

2. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Coastal Development Permit from Planning and

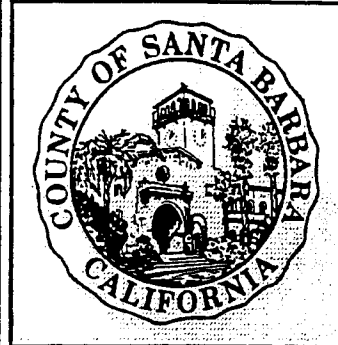
Development. The Coastal Development Permit (zoning clearance) is required by ordinance and is necessary to ensure implementation of the conditions required by the Board of Supervisors.

3. The applicant shall agree in writing to comply with all of the conditions of approval for this Variance request.
4. The effective date of this Variance shall be the date of expiration of the appeal period or, if appealed, the date of action by the California Coastal Commission.
5. Approval of this variance is considered project specific. The variance applies only to the project described above. Any future development proposals would be subject to the standard setbacks of the 10-R-1 zone district as described in the Article II Zoning Ordinance.
6. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void or annul, in whole or in part, the County's approval of this Variance. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
7. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

ATTACHMENT B

**APPROVAL/INTENT TO ISSUE  
A DISCRETIONARY APPEALABLE  
COASTAL DEVELOPMENT PERMIT (CDP)**

Case No.: 01CDH-00000-00061 Planner: Jackie Campbell  
Project Name: Chase SFD  
Project Address: 6800 Block of Del Playa Drive  
A.P.N.: 075-181-023



The Board of Supervisors *grants approval* of this discretionary Coastal Development Permit for the development described below, subject to the attached conditions and final issuance of the Coastal Development Permit.

**APPROVAL DATE:** February 24, 2004

**APPEALS:** The Board of Supervisors' final decision may be appealed to the California Coastal Commission.

**COASTAL COMMISSION APPEAL PERIOD STARTS:** March 1, 2004 (estimated)

**COASTAL COMMISSION APPEAL PERIOD ENDS:** (ten working days after receipt by the CCC)

**DATE OF PERMIT ISSUANCE:**

**PROJECT DESCRIPTION AND CONDITIONS:** See Exhibit A, hereby incorporated by reference.

**EXPIRATION:**

Upon permit issuance, the permit shall be valid for two years. Failure to obtain a required construction or grading permit and to lawfully commence development within two (2) years of permit issuance, shall render this Coastal Development Permit null and void.

**Board of Supervisors Approval:**

\_\_\_\_\_  
Chair, Signature 1-5-31-04  
Date

**ACKNOWLEDGMENT:** Undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

\_\_\_\_\_  
Print Name Signature Date

**Planning & Development Issuance by:**

\_\_\_\_\_  
Name Date

G:\GROUP\PERMITTING\CASE FILES\CDH\01 CASES\01CDH-00000-00060\BOARD APPEAL\CDPH61 LOT 23.FINAL

**EXHIBIT 3**  
**A-4-STB-04-035**  
**Local Approval with**  
**Conditions (Parcel 23)**

**EXHIBIT A**  
**PROJECT DESCRIPTION AND CONDITIONS**

**Project Description**

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the Board of Supervisors hearing exhibit marked Figure 1, dated February 24, 2004 and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval would constitute a violation of permit approval.

The project description is as follows:

This Coastal Development Permit (with Hearing) for case number 01CDH-00000-00061 allows the construction of a two-story single-family dwelling with an attached carport on APN 075-181-023. The first floor development footprint would be 926 s.f. with 526 s.f. of living space and a 400 s.f. carport. A first floor deck of approximately 216 square feet would also be permitted. The second story would be a maximum of 75% of the first floor area, or 694 s.f. The development footprint would be to the northern end of the parcel, to the maximum extent feasible, to reduce impacts to the wetland habitat. The foundation would be of raised floor construction with a minimum 18" crawl space on caissons or piles. Grading is estimated at approximately 87 cubic yards of cut and 87 cubic yards of fill. Retaining walls of up to two feet in height would be installed according to building codes. Fencing approximately, but no higher than, six feet high would be installed at the east side property line for the length of the dwelling. In addition, an approximately four-foot high split rail fence may be built on the balance of the property lines, in accordance with a wetland mitigation plan approved by the County. Two parking spaces would be provided within the attached carport. Water would be obtained from Goleta Water District and the residence would be connected to the Goleta West Sanitary District sewer system.

A Variance for building encroachment into the front and side (west) setbacks is allowed pursuant to case number 02VAR-00000-00004.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto.

**Project Specific Conditions**

2. All site preparation and associated grading and exterior construction activities shall be limited to the hours between 7:00 A.M. and 4:00 P.M., weekdays only. No construction shall occur on State holidays (e.g. Labor Day, Thanksgiving). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities, such as interior painting, are not subject to these restrictions.
3. All construction must comply with final plans approved by the County Board of Architectural Review for 01CDH-00000-00061 prior to issuance of the Coastal Development Permit.



### **Mitigation Measures from the EIR**

4. In order to reduce impacts related to wetland loss due to building coverage, the maximum first story footprint for the habitable portion of the structure shall not exceed 526 square feet. The carport footprint shall not exceed 400 square feet. The second story shall be limited to no more than 75% of the total coverage of the first floor, or 694 square feet for a total living space area of 1,220 square feet. There shall be no other structural development in or over the wetland habitat, including decks. The construction footprint shall avoid altogether the wetland habitat that enters the parcel from the east, as shown in the 1997 FLx report. **Plan Requirements and Timing:** The plans shall be reviewed and approved by the Board of Architectural Review and Planning and Development prior to issuance of the Coastal Development Permit.

**Monitoring:** Permit compliance staff shall site inspect throughout the construction period.

5. The design, scale and character of the project architecture shall be compatible with the area development, particularly that which is located on the coastal bluff. Natural building materials and colors compatible with surrounding terrain (earth tones and non reflective paints) shall be used on exterior surfaces of all structures, including any fences. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the Board of Architectural Review prior to issuance of the Coastal Development Permit. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.
6. The Design Standards shall be as follows:

#### **Goals and Objectives:**

- To protect and enhance the scenic character and natural integrity of the site.
- To encourage grading and development that will be appropriate to the site and will not significantly alter the topography.
- To encourage architecture that blends with the site and is compatible in terms of size, massing and scale, that is compatible with the neighborhood and has a high standard of architectural quality.

#### **Standards:**

The architectural design of the structure shall conform to the following criteria. Definition of terms shall be in accordance with the Santa Barbara County Article II Coastal Zoning Ordinance.

- a) **Materials:** The materials should weather properly in an ocean environment. Unified design materials should be used. Shingle or horizontal siding should be considered. Materials subject to glare, rapid deterioration and inconsistent with high quality standards shall not be permitted.
- b) **Landscaping:** A Landscaping Plan shall be developed and clearly distinguish between those areas determined to be outside of the wetland area as well as the wetlands. Generally, the front yard area would be considered outside of the wetland area, although it is still considered a buffer area. The wetland area portion of the plan shall consist only of wetland delineated vegetation. The main plant communities that may be included in the plan are vernal pool, vernal swales or flats, introduced

- annual grasslands, and native perennial grassland. Any proposed vegetation for the front yard area must be compatible with and non-invasive to the wetland vegetation. The Landscaping Plan shall be reviewed and approved by a County-approved botanist/biologist.
- c) Driveways: The driveway shall be designed such that vehicles remain outside setbacks, as modified.
  - d) Color: The color of exterior materials shall be subdued and to the maximum extent feasible, blend into the natural environmental surroundings (colors which blend in with the surrounding vegetation and soils). All colors shall be reviewed and approved by the Board of Architectural Review.
  - e) Passive Solar Design: It is encouraged but not mandatory that passive solar energy design principles be used in the design of the residence, such as south-facing glass, thermal storage, shading, insulation devices, and other elements of passive design that can result in an attractive building that also provides heating and cooling. Solar equipment shall be screened from offsite views.
  - f) Fencing: An open type fence such as split rail shall be used, when fencing is desired, in the front yard. Rear/side yard fencing shall be similar and may include wire mesh, however permanent chain link fencing is prohibited. All fencing within the project site shall be subject to review and approval by P&D and the Board of Architectural Review, in consultation with a County-approved botanist/biologist.
  - g) Design: The design of the structure shall have individuality but work with the adjacent project on APN 075-181-022. All elevations should exhibit a cohesive vocabulary.

**Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the Board of Architectural Review prior to issuance of the Coastal Development Permit. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.

7. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels and any public open space areas, and into the wetland habitat. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The lighting plan shall show the locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture, the foot candles and other lighting specifications, and the height of the fixtures. The plan shall be designed in particular to avoid lighting impacts to the wetland habitat.

**Monitoring:** P&D and BAR shall review a Lighting Plan for compliance with this measure prior to issuance of the Coastal Development Permit. Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

8. In order to help offset the loss of wetland habitat due to the construction of the residences, the applicant shall provide offsite wetland mitigation at a ratio of 4:1 for each square foot lost directly as a result of the project, and at a ratio of 2:1 for each square foot lost indirectly, as determined by a County-approved biologist with expertise in wetland habitats. As an alternative, the applicant may provide funding to an existing offsite wetland mitigation bank, or may mitigate through a combination of land and funding.

There would be no loss of primary wetland habitat through avoidance and a loss of approximately 1,522 square feet of wetland buffer, the entire development footprint of the first floor, including driveway, sidewalk and deck areas. These estimates could change based on the actual design plans. **Plan Requirements:** The applicant shall prepare an Offsite Wetland Mitigation Plan prepared by a County-approved biologist (with expertise in wetland habitats) for review by P&D and County Counsel. The plan shall specify the offsite mitigation site(s), include performance standards, explain the methodology for choosing the sites and determining the appropriate acreage (or a calculation of the in lieu mitigation fees), and explain the mechanism(s) for securing the offsite location for mitigation. **Timing:** The mitigation plan shall be approved by P&D and County Counsel prior to issuance of a Coastal Development Permit.

9. In order to help offset the impacts to the wetland habitat due to the construction of the residence, the applicant shall prepare an Onsite Wetland Protection Plan. **Plan Requirements:** The Onsite Wetland Protection Plan shall be prepared by a County-approved biologist (with expertise in wetland habitats) for review by P&D and County Counsel. The plan shall specify the onsite methods to ensure the long-term health and viability of the wetland resources and include at a minimum measures such as revegetation and periodic weeding, periodic debris collection, periodic soil nourishment and fencing, as appropriate. **Timing:** The Plan shall be approved by P&D and County Counsel prior to issuance of the Coastal Development Permit.
10. In order to reduce construction related and long-term impacts to the wetland and particularly to the wetland hydrology, a caisson or pile foundation shall be used. **Plan Requirements and Timing:** This requirement shall be stated on all building plans and be approved by P&D prior to issuance of the Coastal Development Permit.
11. In order to reduce the potential of dust generation within proximity to the wetland habitat, dust generated by the development activities shall be kept to a minimum using the dust control measures listed below.
  - a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
  - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
  - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

**Plan Requirements:** All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods.

**Monitoring:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

12. In order to protect the wetland habitat, the applicant shall record an open space easement for the undeveloped remainder of the project parcel (excluding the front and side yards). The easement language shall specify the purpose and restrictions in the easement area. The language shall include, but not be limited to specifying that the purpose of the easement is to preserve and to restore vernal pool and wetland vegetation and the activities that occur in this area shall be compatible with this intent and purpose. In addition, the management of this area shall be in conformance with the Onsite Wetland Protection Plan approved by P&D. **Plan Requirements and Timing:** Prior to issuance of the Coastal Development Permit, the applicant shall specify how management of the easement area will be funded and provide the funding. P&D and County Counsel approve the method of funding.

**Monitoring:** Provisions of the easement and encroachment prevention plans shall be monitored annually through site inspections and photo documentation by P&D staff.

13. The following mitigations shall apply to the wetland complex (including the buffer area) designated on the biological survey maps:
- a. During construction, temporary fencing shall be installed at edge of the permitted construction zone to prevent any further intrusion into the wetland habitat. The placement of the fence as well as the fence design shall be approved by a County-approved wetland biologist.
  - b. No grass cutting shall be permitted within the delineated wetland areas except for as provided in an approved landscaping/planting plan.
  - c. Installation of a permanent split rail fence should be considered, in consultation with a County-approved wetland biologist. The purpose of the fence would be to protect the remaining wetland habitat against impacts from humans, vehicles and pets. The fence would have signs posted to explain this requirement and discourage vandalism. No residentially-related uses shall be permitted outside of the fenced areas except for the decks.
  - d. No disking for fire control or any other used shall occur in the wetland or buffer areas.
  - e. No mosquito control shall be permitted except use of mosquito fish.

**Plan Requirements:** These wetland protection measures shall be included in the Onsite Wetland Protection Plan and the site restoration/revegetation plan and recorded on all project plans. **Timing:** These measures shall be included in the appropriate plans prior to issuance of the Coastal Development Permit.

**Monitoring:** Permit Compliance shall site inspect throughout the implementation and maintenance periods.

14. During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the

construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which minimizes the potential for storm water contamination. **Plan Requirements:** The applicant shall designate washout and storage areas, acceptable to P&D, and these areas shall be shown on the construction and/or grading and building plans. **Timing:** The washout and storage areas shall be designated on all plans prior to issuance of the Coastal Development Permit. Both areas shall be in place and maintained throughout construction.

**Monitoring:** P&D staff shall check plans prior to issuance of a Coastal Development Permit and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout and storage areas.

15. Best available erosion and sediment control measures shall be implemented during grading and construction in order to reduce impacts to the wetland/vernal pool complex. The following measures shall be used and be placed outside of the wetland habitat to the extent feasible to remain effective. Best available erosion and sediment control measures may include but are not limited to use of gravel bags, silt fences, geo-bags or gravel and geotextile fabric berms, erosion control blankets, coir rolls, jute net, and straw bales. Sediment control measures shall be maintained for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping. Construction entrances and exits shall be stabilized using gravel beds, rumble plates, or other measures to prevent sediment from being tracked onto adjacent roadways. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods. **Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to issuance of the Coastal Development Permit. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction.
16. To limit runoff into the wetland/vernal pool complex from impervious areas and to allow for infiltration, all proposed hardscape areas (i.e., driveways, walkways) shall use permeable surfaces (e.g., porous pavement or unit pavers on sand) in the project design. Driveway designs could also include paving only under wheels. **Plan Requirements and Timing:** Pervious surfaces shall be described and depicted graphically on the site, building, grading and landscape plans and including all specifications. The plans shall be submitted to P&D for review prior to issuance of the Coastal Development Permit.

**Monitoring:** P&D shall site inspect for installation.

17. The applicant shall install a roof runoff collection and disposal system. Runoff shall be directed to either a subsurface infiltration trench or French drains. The intent of this mitigation is to direct clean water to the wetland area. **Plan Requirements and Timing:** The roof runoff collection system shall be shown on grading, building and landscape plans. The plans shall be submitted to P&D for review prior to issuance of the Coastal Development Permit. The system shall be installed prior to final inspection.
18. Indoor water use shall be limited through the following measures:
  - a. All hot water lines shall be insulated.

- b. Recirculating, point-of-use, or on-demand water heaters shall be installed.
- c. Water efficient clothes washers and dishwashers shall be installed.

**Plan Requirements:** Prior to issuance of the Coastal Development Permits, indoor water-conserving measures shall be graphically depicted on building plans, subject to P&D review and approval. **Timing:** Indoor water-conserving measures shall be implemented prior to occupancy clearance.

**Monitoring:** P&D shall inspect for all requirements prior to occupancy clearance.

19. The applicant shall implement a Revegetation and Restoration Plan. This plan shall apply only to those areas outside of the defined wetland/vernal pool complex and generally includes the front and side yards. Only seed stock from locally obtained sources shall be used for landscaping purposes. The plan shall utilize only species compatible with and noninvasive to the wetland. **Plan Requirements and Timing:** The plan shall be submitted to and approved by P&D and a performance surety posted prior to issuance of a Coastal Development Permit. The plan shall be reviewed and approved by a County-approved biologist for compatibility with the wetland vegetation. All plant genus and species shall be denoted in the plan.

**Monitoring:** P&D staff shall perform site inspections both throughout the construction phase and during the long-term performance phase.

20. The minimum distance from ground level to any fence's first rung shall be 18 inches. Barbed-wire fencing shall not be installed between lots or along property boundaries. **Plan Requirements:** All fences shall be shown on plans prior issuance of the Coastal Development Permit. **Timing:** Fencing shall be installed prior to final inspection.

**Monitoring:** P&D shall site inspect prior to occupancy clearance.

21. In order to reduce the impacts to the sensitive wetland habitat, grading and erosion and sediment control plans shall be designed to minimize erosion and shall include the following:
- a. Ground disturbances shall be prohibited beyond the development footprint of each structure. The exclusion areas shall be designated with orange construction fencing or other barrier to prevent entry by equipment or personnel.
  - b. Methods such as geotextile fabrics, erosion control blankets, drainage diversion structures, and spot grading shall be used to reduce erosion and siltation into the wetland area during grading and construction activities.
  - c. All entrances/exits to the construction site shall be stabilized (e.g. using rumble plates, gravel beds or other best available technology) to reduce transport of sediment off site. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods.
  - d. Storm drain inlets shall be protected from sediment-laden waters by the use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps.



- e. Graded areas shall be revegetated in accordance with the project revegetation/restoration plan to minimize slope failure and erosion potential. Geotextile binding fabrics shall be used if necessary until vegetation is established.
- f. Temporary storage of construction equipment shall not be permitted on site to avoid any additional impacts to the wetland resource. This requirement shall be stated in the Grading and Erosion Control Plan and be noted on all project plans.

**Plan Requirements:** A Grading and Erosion Control Plan shall be submitted for review and approved by P&D prior to issuance of a Coastal Development Permit. The plan shall be designed to address erosion and sediment control during all phases of development of the site and include a performance standard section consistent with other project required wetland protection plans. The applicant shall notify Permit Compliance prior to commencement of grading. **Timing:** Components of the grading plan shall be implemented prior to final inspection. Erosion and sediment control measures shall be in place throughout grading and development of the site until all disturbed areas are permanently stabilized.

**Monitoring:** Permit Compliance will photo document revegetation and ensure compliance with the plan. Grading inspectors shall monitor technical aspects of the grading activities.

22. The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the applicant agrees to:
- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
  - b. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
  - c. Pay fees prior to issuance of Coastal Development Permits as authorized under ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

#### Conditions Unique to Permit Type

23. If the Zoning Administrator determines at a noticed public hearing that the permittee is not in compliance with any conditions of this permit pursuant to the provisions of section 35-169.9 of Article II of the Santa Barbara County Code, the Zoning Administrator may, in addition to revoking the permit pursuant to said section, amend, alter, delete or add conditions to this permit.

24. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
25. The approval of this appealable CDP shall expire one year from the date of approval by the Board of Supervisors or the California Coastal Commission, if the permit for use, building or structure permit has not been issued.
26. The use and/or construction of the building or structure, authorized by this approval cannot commence until the Coastal Development Permit has been issued. Prior to the issuance of the Coastal Development Permit, all of the project conditions that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Plans accompanying this Coastal Development Permit shall contain all project conditions.

#### **County Rules and Regulations**

27. Prior to issuance of the Coastal Development Permit, the applicant shall pay all applicable P&D permit processing fees in full.
28. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
29. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
30. If the applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.
31. Prior to issuance of the Coastal Development Permit, the applicant shall obtain an address for the subject property.
32. Applicant shall comply with the letter from the Public Works Department dated January 20, 2004.
33. Prior to issuance of the Coastal Development Permit, applicant shall obtain all necessary permits or exemptions from other agencies.

# ATTACHMENT C

## CONDITIONS OF APPROVAL

### CHASE VARIANCE

02VAR-00000-00004

APN 075-181-023

#### Project Description

1. This Variance approval [02VAR-00000-00004] is based upon and limited to compliance with the project description, Figure #1 dated February 24, 2004, and the conditions of approval set forth below. Any deviations from the project description or the conditions must be reviewed and approved by the Director of Planning and Development for conformity with this approval. Deviations from the project description or conditions of approval may require a modification to 02VAR-00000-00004 and further environmental review.

The project description is as follows:

The front yard variance would allow the building a front yard setback encroachment of twenty-seven (27) feet from the centerline and twelve (12) feet from the right of way line. The 10-R-1 Zone District requirements are fifty (50) feet and twenty (20) feet, respectively. The variance is requested to site the structure close to Del Playa Drive to avoid, to the maximum extent feasible, impacts to the wetland and vernal pool resources that cover the parcel in its entirety but are more sensitive to impacts towards the center of the parcel.

The side yard variance along the western property boundary would allow the structure to be located as close as two feet from the property line. The 10-R-1 zone district requirement for a side yard setback on the subject lot would be five feet. The variance allows the structure to be located close to the property line to avoid impacts to the wetland and vernal pool resources and to allow floor planning flexibility.

This Variance is approved in conjunction with case number 01CDH-00000-00061.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the conditions of approval hereto.

2. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Coastal Development Permit from Planning and Development. The Coastal Development Permit (zoning clearance) is required by ordinance and is necessary to ensure implementation of the conditions required by the Board of Supervisors.

3. The applicant shall agree in writing to comply with all of the conditions of approval for this Variance request.
4. The effective date of this Variance shall be the date of expiration of the appeal period or, if appealed, the date of action by the California Coastal Commission.
5. Approval of this variance is considered project specific. The variance applies only to the project described above. Any future development proposals would be subject to the standard setbacks of the 10-R-1 zone district for interior lots as described in the general regulations of the Article II Zoning Ordinance.
6. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void or annul, in whole or in part, the County's approval of this Variance. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
7. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

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

Zip

( )  
Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Santa Barbara

2. Brief description of development being appealed: Two, two-story single family residences on bluff-top lots.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 6800 Block of Del Playa Drive, 151/2 Vista APN Nos 075-181-022 and -023

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: 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: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

EXHIBIT 4
A-4-STB-04-035
Commissioner Appeal

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: February 24, 2004

7. Local government's file number (if any): OICDH-00000-00060; OICDH-00000-00061

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:  
Christopher and Kathryn Chase  
23835 Onard St.  
Woodland Hills, CA 91367

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) See Attached
- (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.)

The project is appealed on the grounds that the design of the project is inconsistent with the wetland protection, environmentally sensitive habitat, water quality and visual resource policies of the LCP and applicable policies of the Coastal Act as incorporated by reference into the certified LCP. In addition, there may be alternative designs that would result in fewer or less significant impacts and which have not been analyzed. The project is inconsistent with the wetlands, ESHA, and water quality provisions of the LCP, specifically Coastal Act policies 30240 and 30250 as incorporated by reference by LUP Policy 1-1; LUP policies 2-11, 3-19, 9-9, 9-14, and 9-20; and Article II Zoning Ordinance Sections 35-97.7 and 35-97.9. Additionally, the design of the project is not consistent with Coastal Act policies 30250 & 30240(b) as incorporated by reference by LUP Policy 1-1 with regard to protection of visual resources and neighboring open space.

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

SECTION V. Certification

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

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date 3-18-04

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

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 Sara Wan

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Santa Barbara

2. Brief description of development being appealed: Two, two-story single family residences on bluff-top lots.

3. Development's location (street address, assessor's parcel no., cross street, etc.): 6800 Blocks of Del Playa Drive, Isla Vista APN Nos. 075-181-022 and -023

4. Description of decision being appealed:

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

b. Approval with special conditions: 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: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

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: February 24, 2004

7. Local government's file number (if any): OICDH-00000-00060; OICDH-00000-00061

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:  
Christopher and Kathryn Chase  
23835 Onard St.  
Woodland Hills, CA 91367

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) See Attached
- (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)

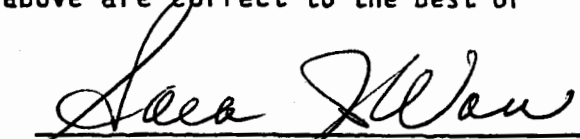
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The project is appealed on the grounds that the design of the project is inconsistent with the wetland protection, environmentally sensitive habitat, water quality and visual resource policies of the LCP and applicable policies of the Coastal Act as incorporated by reference into the certified LCP. In addition, there may be alternative designs that would result in fewer or less significant impacts and which have not been analyzed. The project is inconsistent with the wetlands, ESHA, and water quality provisions of the LCP, specifically Coastal Act policies 30240 and 30250 as incorporated by reference by LUP Policy 1-1; LUP policies 2-11, 3-19, 9-9, 9-14, and 9-20; and Article II Zoning Ordinance Sections 35-97.7 and 35-97.9. Additionally, the design of the project is not consistent with Coastal Act policies 30250 & 30240(b) as incorporated by reference by LUP Policy 1-1 with regard to protection of visual resources and neighboring open space.

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

SECTION V. Certification

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

  
Signature of Appellant(s) or  
Authorized Agent

Date 3/18/04

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
9 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

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):

Bruce Murdock, 6875 SABADO TACOE ROAD,  
COLSTA, CA 93117  
(805) 968-0035  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: SANTA BARBARA

2. Brief description of development being appealed: COASTAL DEVELOPMENT PERMITS  
# 01CDH-00000-00060  
# 01CDH-00000-00061

3. Development's location (street address, assessor's parcel no., cross street, etc.): APN#s 075-181-022 AND-023,  
ON THE 10800 BLOCK OF DEL PLAYA DRIVE IN SEA VISTA

4. Description of decision being appealed:

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

b. Approval with special conditions: of 2 SINGLE-FAMILY DWELLINGS  
IN A WETLAND & VEGETAL POOLS

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-4-STB-04-035

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

RECEIVED

MAR 12 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT 5  
A-4-STB-04-035  
Murdock Appeal

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 Board of Supervisors

6. Date of local government's decision: February 24, 2004

7. Local government's file number (if any): \_\_\_\_\_

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:

CHRISTOPHER & KATHLEEN CHASE  
23835 ORNARD ST.  
WOODLAND HILLS, CA 91367

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) EDWARD MAGUIRE  
1774 CONSUMM WAY  
EL CAYON, CA 92019

(2) Rich & Janet Stinch  
68105 DEL PLANA DRIVE  
GOLETA, CA 93117

(3) JEFF NELSON, MULLIN & MINZEL, LLP  
112 E. VICTORIA STREET  
SANTA BARBARA, CA 93101

(4) BRUCE & Barbara Murooch  
68105 STRADA TARGO ROAD  
GOLETA, CA 93117

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.)

The project as shown allows single family dwellings to be built within designated and protected wetlands, and within the setback of vernal pools. The project is therefore inconsistent with Coastal Act Sections Pub. Res. Code Section 30240(a) and (b) which require that the only uses within ESH are those dependent on the ESH, and that development adjacent to ESH must be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

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

SECTION V. Certification

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

  
Signature of Appellant(s) or Authorized Agent

Date 3/11/04

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Zimmerman Marcus LLP to act as my/our representative and to bind me/us in all matters concerning this appeal.

  
Signature of Appellant(s)

Date 11 March 2004

PROOF OF SERVICE  
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am over the age of 18 and not a party to the within action; my business address 2640 Las Encinas Lane, Santa Barbara, California.

On March 11, 2004 I served the foregoing document described as: LOCAL COASTAL PROGRAM DEVELOPMENT PERMIT APPEAL on the following parties, or their attorneys of record by depositing a copy in the U.S. Mail as follows:

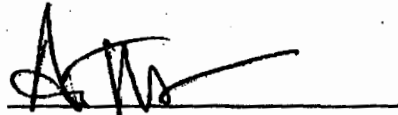
Jeff Nelson  
Mullen & Henzell, LLP  
112 E. Victoria Street  
Santa Barbara, CA 93101

Edward F. Maguire  
1774 Cousino Way  
El Cajon, CA 92019

Rich and Janet Stitch  
6865 Del Playa Drive  
Goleta, CA 93117

County of Santa Barbara  
Planning and Development  
Attn: Jackie Campbell  
123 E. Anapamu Street  
Santa Barbara, CA 93101

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 11, 2004 at Santa Barbara, California



Andrea Marcus  
Zimmer & Marcus, LLP  
Attorney for Appellant Bruce Murdock

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

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):

EDWARD F. MAGUIRE  
1774 COUSINO WAY  
EL CAJON, CA, 92019-3833 (619) 444-6690  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: SANTA BARBARA COUNTY

2. Brief description of development being appealed: COASTAL DEVELOPMENT PERMITS  
# 01CDH-00000-0009-000609 02 VAR-00000-00003  
# 01CDH-00000-00061 ; 02 VAR-00000-00004

3. Development's location, (street address, assessor's parcel no., cross street, etc.): APN #15 075-181-022 AND 023,  
ON THE 6800 BLOCK OF DEL PLAYA DRIVE IN ESBA VISTA,  
SANTA BARBARA, COUNTY.

4. Description of decision being appealed:

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

b. Approval with special conditions: DEVELOPMENT OF 2 SINGLE FAMILY,  
2 STORY RESIDENCES IN VETLAND  
AND VERNAL POOLS ON OCEAN PARK  
FRONTAGE

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-4-STB-04-035

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

RECEIVED

MAR 18 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT 6  
A-4-STB-04-035  
Maguire Appeal

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: FEB. 24, 2004

7. Local government's file number (if any): 03-01001

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:

CHRIS AND KATHY CHASE  
2385 OXNARD ST.  
WOODLAND HILLS, CA 91367

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) RICH AND JANET STICH  
6865 DEL PLAYA DR.  
GOLFETA, CA 93117
- (2) BRUCE AND BONNIE MURDOCK  
6875 SABADO TARDE ROAD  
GOLFETA, CA 93117
- (3) JEFF NELSON, Esq., MULLEN & HENZEL LLP  
113 E. VICTORIA STREET  
SANTA BARBARA, CA 93101
- (4) OTHER PARTIES WHO SPOKE AND ARE  
ON FILE WITH SANTA BARBARA COUNTY  
FILE 03-01001, 03-EIR-03, ETC.
- (5) SEE ATTACHED LETTER

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 LETTER

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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.

Edward R. Morgan III  
Signature of Appellant(s) or  
Authorized Agent

Date 3/14/2004

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

Edward F. Maguire  
1774 Cousino Way  
El Cajon, CA 92019-3833  
Phone 619-444-6690  
Fax 619-444-7589  
Cell 619-993-6850

March 14, 2003

California Coastal Commission  
South Central Coast Area  
89 South California St., Second Floor  
Ventura, CA 93001

Dear Sirs:

It is requested that you review the proposed development and deny all construction on this rare, fragile ocean front vernal pool and wetland area. If this project can not be denied it is requested that development be limited to one story and modified to lessen impact on ocean and mountain views, to allow continued public access to the ocean beach and cliffs, to lessen potential destructive impact on vernal pools and fragile ocean cliffs and to not increase shoreline erosion and potential destruction of the entire remaining vernal pool complex.

The development as proposed will be built entirely within the perimeter of established vernal pools and setbacks for these pools. The project is inconsistent with the Local Coastal Plan and permits the potential destruction of one of the last remaining vernal pool complexes of its kind within the coastal area. These issues have been acknowledged by the County of Santa Barbara which initially denied the project and appears to be granting approval to avoid further, ongoing litigation regarding a "taking" of property. County approval is completely inconsistent with its own Local Coastal Plan as is acknowledged several times in public and written testimony regarding this project (County file 03-01001, 03-EIR 03, etc.).

This project should also be reviewed by the US EPA and the Army Corp of Engineers since these properties are adjacent to the Pacific Ocean and there is a hydrological connection when heavy rains cause drainage and erosion over cliffs and into the Pacific Ocean less than 20 feet away. Development in this fragile area could have serious consequences which have not been studied or addressed. A proper biological survey has not been done in a rainy year and should be required to rule out the presence of endangered fairy shrimp that have been observed in the vernal pool complex.

This project will destroy the significant investment of public monies already spent on surrounding land to preserve this vernal pool and park complex. For years, on most evenings, as many as twenty to thirty people gather to watch the sunset from this last remaining open space. Each day hundreds of people walk by or across this property to

enjoy the ocean, mountain and Channel Island Views. These parcels are located adjacent to one of the most highly concentrated communities in California, Isla Vista and Orilla Del Mar and further development will worsen public access which is already impacted due to scarce parking and lack of egress. This is one of the last unrestricted vehicle, bicycle and foot traffic public access points to the California Coast for several miles to the west.

Thank you for your consideration of this appeal.

Sincerely,



Edward F. Maguire

Cc: With Appeal Form

Jack C. Malone  
Regulatory Branch, Los Angeles District  
U. S. Army Corps of Engineers  
2151 Alessandro Drive, Suite 110  
Ventura, CA 93001

Jorine Campopiano  
US Environmental Protection Agency  
75 Hawthorne Street, WTR-8  
San Francisco, CA 94105

Katie Drexhage  
US Fish and Wildlife Service  
Santa Barbara/Ventura/LA Division  
2493 Portola Road, Suite B  
Ventura, CA 93993

Jackie Campbell  
Santa Barbara County Planning and Development  
123 East Anapamu Street  
Santa Barbara, CA 93101



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

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):

Rick and Janet Stich  
6865 Del Playa  
ISLA VISTA, California 93117 (805) 685-4338  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: COUNTY OF SANTA BARBARA

2. Brief description of development being appealed: Shoreline Development on coastal blufftop. Coastal Development Permits: OICDH-00000-00060 and OICDH-00000-00061 following discretionary cases: OAVAR-00000-00003 and OAVAR-00000-00004

3. Development's location (street address, assessor's parcel no., cross street, etc.): AP Nos: 075-181-022 and 075-181-023  
6800 Block of Del Playa Dr., Isla Vista area, Santa Barbara County.  
Cross street: Camino Lindo

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: Approval of two, multi-story (2) single family dwellings on two adjacent, ocean-front lots—Both completely within the 100 foot
- c. Denial: buffer zone for an identified vernal pool complex.

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-4-STB-04-035

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

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MAR 22 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT 7

A-4-STB-04-035

Stich Appeal

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.)

Included is a brief overview of coastal + local policies with which this project is inconsistent.

THE FLY REPORT - THE CONCLUSION TO WHICH I HAVE INCLUDED - WAS THE ONLY BIOLOGICAL REPORT ALLOWED TO BE USED IN THE PERMITTING PROCESS.


IF THIS PROJECT IS APPROVED, THERE WILL BE CLASS I, UNMITIGATABLE, BIOLOGICAL IMPACTS TO THE COASTAL WETLANDS ON THE PROJECT PARCELS.

THE EIR STATES: "OVERALL THE SITE IS CONSIDERED A CRITICAL HABITAT RESOURCE AREA"

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.

 R. Stein  
Signature of Appellant(s) or  
Authorized Agent

Date 3/20/04

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

California Coastal Commission  
89 South California Street, 2<sup>nd</sup> Floor  
Ventura, California 93001

March 20, 2004

Dear Commissioners,

Briefly, the decision we wish to appeal is the approval to build two single family dwellings on one of the last remaining coastal, bluff-top wetlands. There are a number of continuous, undeveloped lots that comprise the wetland, three to four of which have been purchased by the County and by the Recreation and Parks Department at a considerable expense in order to preserve them. Two of these contiguous lots were purchased by the Chase Family. The Chases purchased the lots knowing the wetlands existed on them and knowing they would have difficulty developing them due to existing State and local policies specifically protecting them.

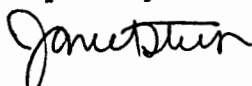
The Chases filed a "takings" lawsuit (now on hold during this process) when their application to build was denied by the Board of Supervisors in 1998. The denial of the project was based on State and local environmental policies. The Chases reapplied, the process was completed and development permits were granted.

We believe this decision warrants a new hearing as the Supervisors' decision does not adequately balance the environmental constraints on the property with the development rights of the Chases.

As noted in the project EIR, the U.S. Supreme Court states that "the governing entity is not required to permit a landowner to develop property to the full extent he might desire or be charged with an unconstitutional taking of the property."

As any development on this coastal wetland will result in Class I biologic impacts, the decision to allow such development should be overseen by the California Coastal Commission. We hope you will make the decision to review this case.

Respectfully,



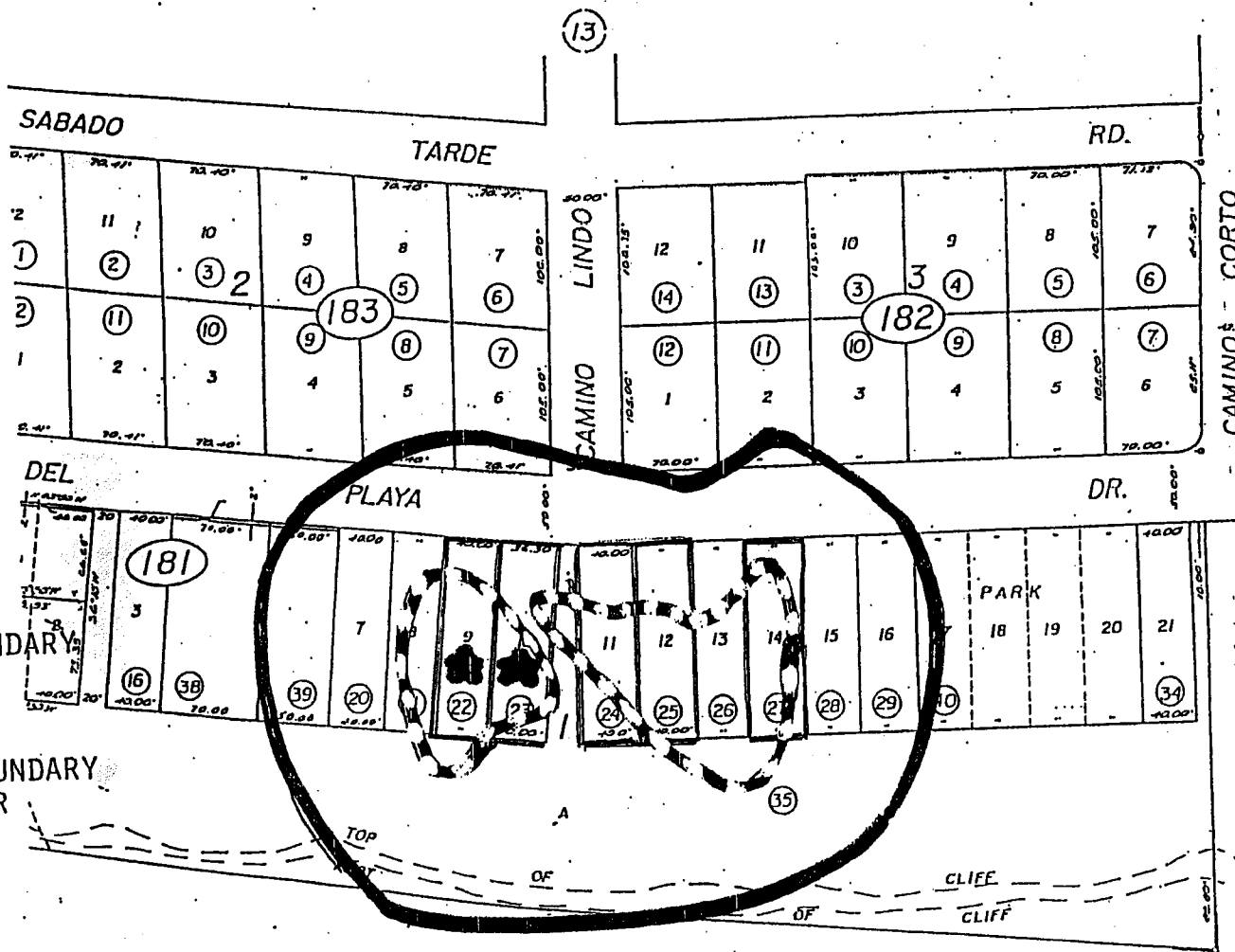
Rick and Janet Stich

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MAR 22 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

FIGURE 2



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MAR 2 2 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

(19)

PROJECT SITES

APPROXIMATE BOUNDARY  
WETLAND

APPROXIMATE BOUNDARY  
100 FOOT BUFFER

NOTE: PROJECT  
SITES HAVE BEEN  
MOVED BACK AND  
ARE NOW LOCATED  
CLOSER TO THE  
STREET

Drilla Del Mar

PACIFIC

OCEAN

NOTE-RECORD TITLE ALONG SHORE OF  
PACIFIC OCEAN SHALL BE CONSTRUED

**Coastal Plan:** 1-2, 2-11, 3-14, 3-19, 9-9, 9-10, 9-14, 9-21

**Coastal Act:** Sections 30231, 30233, 30240, 30250

**Goleta Community Plan:** Bio-GV-2, Bio-GV-3,

**Coastal Plan Policy 9-9**

A buffer strip, minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. *No permanent structures* shall be permitted within the wetland or buffer area except structures of a minor nature, i.e. fences or structures necessary to support the uses in policy 9-10.

**Coastal Plan Policy 9-10**

Light recreation such as bird watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.

**Coastal Act Policy 30233**

States completely what is permitted on wetlands.....does NOT include residential construction.

**Coastal Act Policy 30240**

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally-sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**Coastal Plan Policy 3-19**

Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.

**Coastal Plan Policy 9-14**

New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality due to run-off (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

**Coastal Policy Plan 9-21**

Development shall be sited and designed to avoid vernal pool sites as depicted on the resource maps.

**Coastal Act Policy 30231**

(biological productivity/organism and human health)

**Coastal Act Policy 30250**

New residential...development... shall be located ... where it will not have significant adverse effects....on coastal resources.

**Coastal Plan Policy 1-2**

Where policies within the land use plan overlap, the policy which is the most protective of coastal resources shall take precedence.

### **Goleta Community Plan Bio-GV-2**

*Environmentally Sensitive Habitat areas* and Riparian Corridors within the Goleta Planning Area *shall be protected* and, where feasible and appropriate, enhanced.

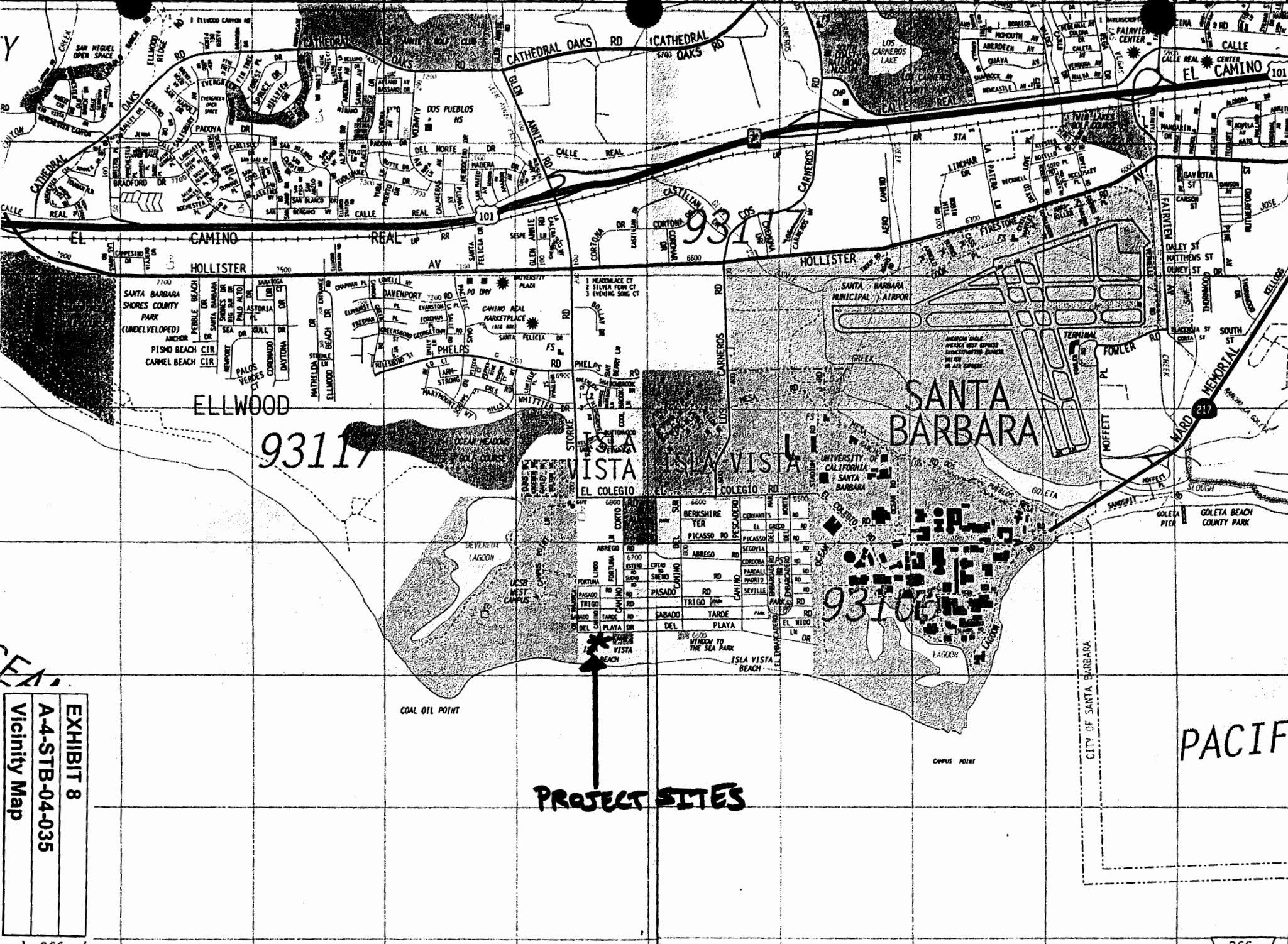
### **Goleta Community Plan Bio-GV-3**

Development within areas designated as Environmentally Sensitive Habitat or Riparian Corridor shall comply with the applicable habitat protection policies.

### **Conclusion of FLX Report**

“Due to the loss of historical native vernal wetlands and native grasslands in the region, the existing native habitats on the five parcels *are particularly important, and should be preserved and protected.*”





93117

93106

PROJECT SITES

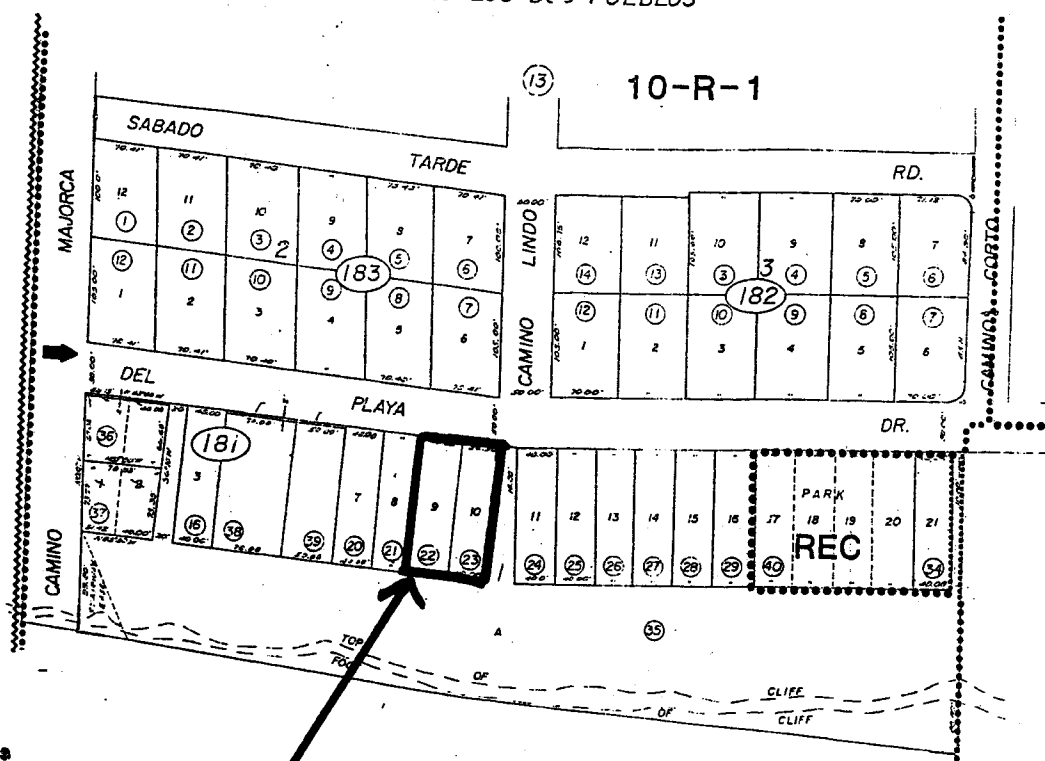


EXHIBIT 8  
A-4-STB-04-035  
Vicinity Map

RANCHO LOS DOS PUEBLOS

10-18  
CZ

10-R-1



Bk. 73

19

Restricted Resources  
District Boundary  
and -GOL Overlay  
District Boundary

R. M. Bk. 15, Pg. 115--Orilla Del Mar

PACIFIC

OCEAN

Assessor's Map Bk.75 -Pg.18  
County of Santa Barbara, Calif

-18

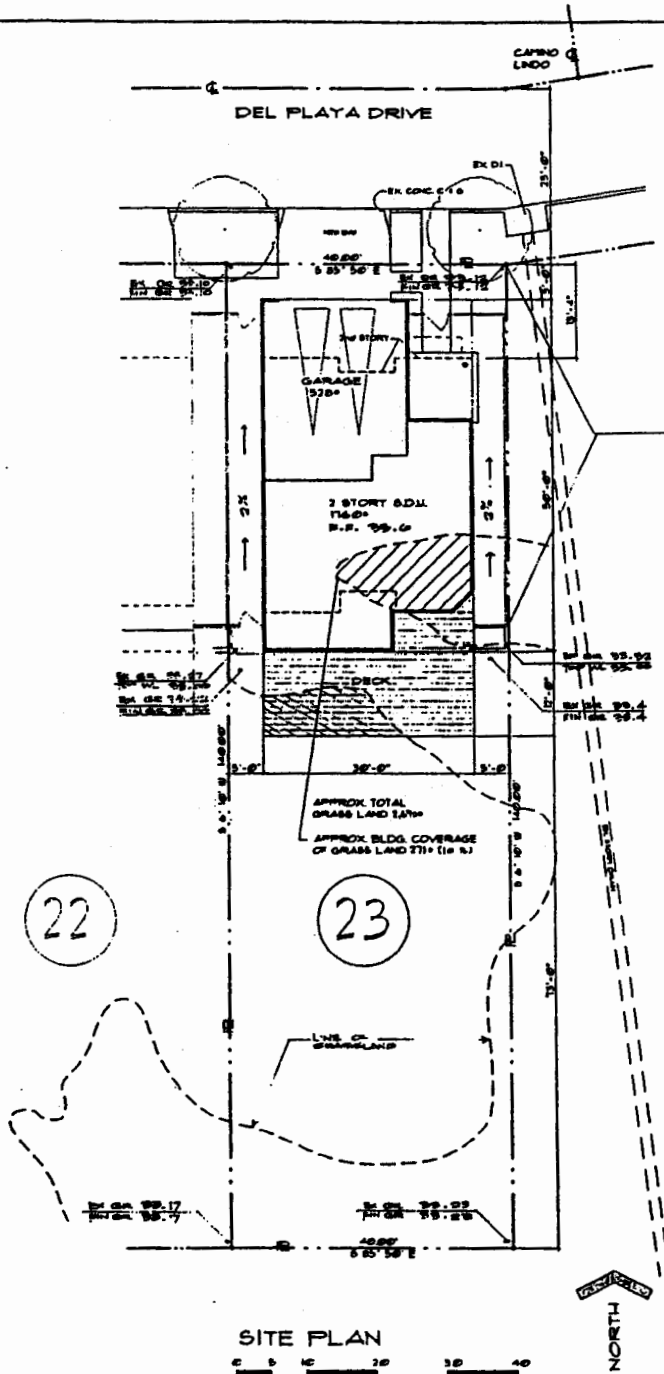
Project Sites

EXHIBIT 9
A-4-STB-04-035
Parcel Map

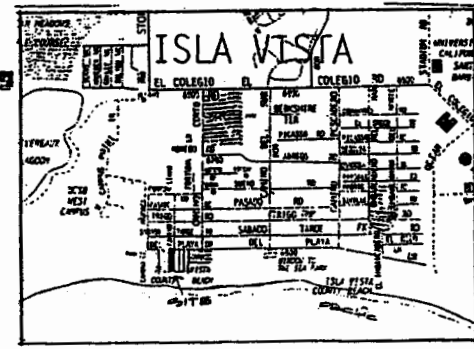


# Figure 4

## Parcel 23 Site Plan



GRADING ON THE PROJECT SITE SHALL OCCUR ONLY IN THIS NORTH HALF OF THE LOT LEAVING THE REST UNDISTURBED. THE CRAWL SPACE WILL REQUIRE REMOVAL OF APPROXIMATELY 87 CUBIC YARDS OF MATERIAL WHICH WILL THEN BE USED TO SLOPE THE SIDE YARDS TO THE STREET, PER COASTAL POLICY 3-5. MINOR, APPROXIMATE 2' HIGH RETAINING WALLS WILL OCCUR FROM THE SOUTH BUILDING CORNERS TO THE SIDE PROPERTY LINES AND DIMINISH ON THE PROPERTY LINE AS THEY RUN NORTH TO DEL PLAYA.



VICINITY MAP

**SITE SUMMARY:**

Building Coverage	1367 s.f.	24%
Raised Wood Deck	378 s.f.	7%
Open Area and Landscaping	3487 s.f.	64%
Driveway & Entry Walk	182 s.f.	3%
Total Site (48' x 147')	5400 s.f.	100%

**SITE INFORMATION:**

APN: 075-01-022  
 Zoning: R-108 Overlay Requirements  
 Commission: MM

**BUILDING INFORMATION:**

Two Story, Single Family Residence (SDF)  
 Wood frame, tiled wood floor, stucco siding  
 fiber glass single roof, 4 bedrooms, 2 bath

First Floor: 751 s.f.  
 Second Floor: 1009 s.f.  
 Total Living: 1760 s.f.

**GRADING:**

Approximately 87 cubic yards will be removed for the crawl space and used to fill the side yards so drainage will slope to the street. No grading will occur beyond the south edge of the building.

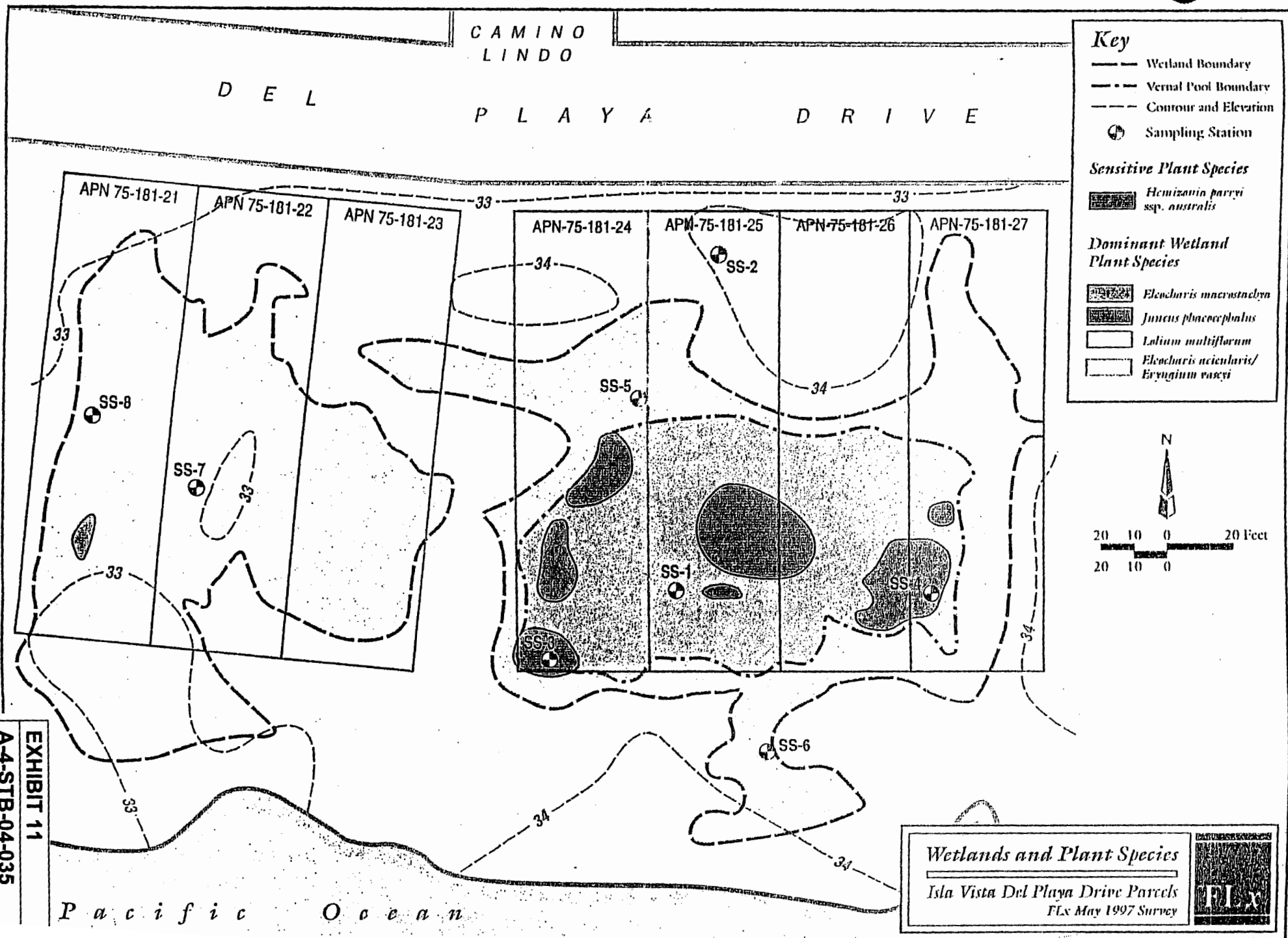
REVISION	BY	DATE

**Stan Riffle** Architect  
 805-687-3586  
 santa.barbara.ca

NEW SINGLE FAMILY RESIDENCE FOR  
**KATHY AND CHRIS CHASE**, APR 75, 181-23  
 LOT 23 ... DEL PLAYA DRIVE, ISLA VISTA  
 GOLETA, CALIFORNIA

JOB: CH  
 Dwg: 01  
 SHEET

Fig 1



CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., 2ND FLOOR  
VENTURA, CA 93001  
(805) 641-0142

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):

Chris & Kathryn Chase

2234 Kingsbridge Lane

Oxnard, CA 93035

Zip

(818) 346-4878

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Santa Barbara County

2. Brief description of development being appealed: Two separate single family homes on existing lots 01CDH-00000-00060 & 01CDH-00000-00061

3. Development's location (street address, assessor's parcel no., cross street, etc.): 6800 Block of Del Playa Drive, Isla Vista (Santa Barbara County) APNs 075-181-22, 075-181-23

4. Description of decision being appealed:

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

b.  Approval with special conditions: 2 conceptual footprints are "approved"

c.  Denial: This represents a denial of applicants' project

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-4-STB-04-035

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

H5: 4/88

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MAR 22 2004

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL

EXHIBIT 12

A-4-STB-04-035

Chase Appeal

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: February 24, 2004

7. Local government's file number (if any): See #2 above

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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) Edward Maguire  
1773 Cousino Way  
El Cajon, CA 92019

(2) Rich & Janet Stitch  
6865 Del Playa Drive  
Goleta, CA 93117

(3) Bruce & Bonnie Murdock  
6875 Sabado Tarde Road  
Goleta, CA 93117

(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 letter

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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.

Jeffrey Nelson

Signature of Appellant(s) or  
Authorized Agent

Date MARCH 22, 2004

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Jeffrey Nelson to act as my/our representative and to bind me/us in all matters concerning this appeal.

Jeffrey Nelson

Signature of Appellant(s)

Date March 22, 2004

# Mullen & Henzell L.L.P.

ATTORNEYS AT LAW

e-mail: jnelson@mullenlaw.com



March 22, 2004

California Coastal Commission  
South Central Coast Area  
89 South California Street, 2<sup>nd</sup> Floor  
Ventura, CA 93001

**Re: Santa Barbara County – Chase Single Family Homes,  
Local Permits 01CDH-00000-00060 and 01CDH-00000-00061**

Ladies and Gentlemen:

We represent the owners of the above parcels and were applicants/agents in the local permitting action. We appealed the local action as set forth below, in the appeal and in the documents filed at the local level.

Our understanding is that the appeal is a de novo review of the Chases' applications in this matter. *Regulation* §13114, *Public Resources Code* 30621(a).

The applications that the Commission will be considering de novo in an appeal are two homes, each 1,797 square feet of living space and a garage of 528 square feet. (See Exhibit 1)

These homes were specifically negotiated by the County of Santa Barbara in response to pending litigation against the County that claimed the County's prior denial of housing applications for these existing legal parcels constituted a taking. They also reflect the specific direction and input from the Santa Barbara County BAR.

The County induced the applicants to delay going to trial in exchange for promised staff report for these applications, not only before the County but before the Coastal Commission. (See Exhibit 2)

The homes as designed in this original County-suggested plan are removed from alleged "wetland" locations on or near the parcel and "vernal pool" locations off the parcel to the greatest extent feasible.

"Wetlands", "Environmentally Sensitive Area"

The only specific wetland study analyzing these footprints of the homes has determined that they are not in a wetland.

J. ROBERT ANDREWS  
JEFFREY C. NELSON  
JAY L. BECKERMAN  
JOSEPH F. GREEN  
MACK S. STATON  
LAWRENCE T. SORENSEN  
GREGORY F. FAULKNER  
RICHARD G. BATTLES  
EDWARD C. THOITS  
WILLIAM E. DEGEN  
MICHAEL E. CAGE  
CHRISTINE P. ROBERTS  
JOSEF D. HOUSKA  
PAUL K. WILCOX  
MONICA M. ROBLES  
GÓN R. GUPTA  
MIGUEL GONZALEZ  
JOHN G. DERRICK  
JANA S. JOHNSTON

DENNIS W. REILLY  
CHARLES S. BARGIEL  
OF COUNSEL

THOMAS M. MULLEN  
1915-1991  
ARTHUR A. HENZELL  
RETIRED

“In conclusion, my focused study was conducted to provide additional information regarding the nature of a small portion of the wetland/upland boundary, unlike the Flx study, which covered a much larger area spanning eight parcels. Based on this additional information, it is my professional opinion that the area located under the proposed building footprint does not support a wetland.” *Rachel Tierney project specific wetland study, November 17, 2003.*

None of the area on these lots should be considered an “environmentally sensitive area” as it is defined in *California Coastal Act* §30107.5 which states, “‘Environmentally sensitive area’ means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activity and development.” In fact, no animal life has been identified to be rare or especially valuable as to these parcels nor are there any plants that are rare or especially valuable because of their special nature or role in the ecosystem. The only identified plant on these parcels is the *Lillium multiflorum*, Italian ryegrass, which is not on the official list of wetland indicator species. It is an entirely introduced, not native, plant.

In no fashion have the areas around it considered “wetland” ever been protected from full public use, which have included burned couches, beer bottles and dog waste. If these areas were special or fragile, the public agency owners would have taken protective measures.

The Army Corps of Engineers has declined jurisdiction for these parcels. (See Exhibit 3)

#### Public Access and Views

Public access to the coast and to views of the coast are entirely protected with these plans.

- An open space lot adjacent to the ocean exists between these lots and the ocean bluff
- Ample open space areas exist to the east and west of these parcels so that if one wants to park at the road and look at the ocean, they can do so. The views of the ocean are best seen from the bluff top area rather than the road, as the bluff tips upward

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- The square footage of the structure is not material to views as a 2-story building is permitted. The depth of the second story is immaterial to anyone's views, and the public (as to private) ocean views are best available from the bluff top in any case. (A neighbor appellant across the street, Mr. McGuire, is seeking to prevent development of the second story to protect private views that are not protected under the Coastal Act.)

#### Appeal of "Final Action"

The Coastal Act provides for appeals of a local government's final action (§30603). The Coastal Commission's model form notice of final local action and coastal permit (on Coastal Commission website) shows that such final action could include site plans and elevations for the project. In this case, only the original compromise plan negotiated by the County as shown on Exhibit 1 has such site plans and elevations.

Under County of Santa Barbara coastal regulations, no final permit can be issued without the project being brought to the Board of Architectural Review. (*Santa Barbara County Article 2 §35-184*) At the conclusion of two years of processing, the County staff conceived of a new and different building footprint it suggests be developed; this concept received Supervisor's approval, the footprints are shown on Exhibit 4, but this development concept has no architectural component, it has not received BAR review. Also, it does not leave a reasonable or feasible area for a single family residence per the one architect who rendered an opinion on the matter (See letter from Architect Stan Riffle to Zoning Administrator, in Administrative Record)

County approval of the CDP application includes the condition, "The actual development footprint shall be determined in consultation with a county-approved wetland biologist. Plan requirements and timing: the plans shall be reviewed and approved by the Board of Architectural Review and Planning and Development prior to issuance of coastal development permit." (*County Condition of Approval No. 4 in CDP permits*)

Based on the applicable facts in this case, one could reasonably conclude that the revised conceptual project as approved by the County is not, in fact, "final action", as the subsequent BAR and CDP actions would presumably be appealable. Nevertheless, as the appeal is de novo and there is a specific project with architecture as per County BAR input, it can and should be approved in this de novo hearing without a second County CDP process.

Infill Housing and Coastal Policies

*Public Resources Code* §30007.5 reads, "The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The legislature therefore declares that in carrying out the provisions of this division, such conflict be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective overall, than specific wildlife habitat or other similar resource policies." (Emphasis added)

This coastal policy supports providing this much needed housing in Santa Barbara County, which has recognized a shortage of housing in the South Coast. These homes are infill homes, their approval is supported under the above provisions of the Coastal Act.<sup>1</sup>

Taking

Additionally, the Coastal Act cannot be implemented in a fashion that results in a taking of property. *Public Resources Code* §30010. The County has specifically expressed its intent and interest in acquiring these specific parcels. This followed the County specifically negotiating these 1,797 square foot homes and can naturally be viewed as a principal motivation in trying to diminish the value of the lots by discarding existing architecture and presenting uncertain standards for a new and different project on these lots. The County's action constituted in our view a denial of the original application and approval of its own separate development proposal. *Public Resources Code* §30604(e) provides that, "No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located . . . [unless the agency has funding to purchase the lots]."

The County staff's action to revise its recommended developable area for these lots came after it received an offer from the owners based on the fair market value of the lots which the County could not fund.

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<sup>1</sup> We have discussed with UCSB officials about first offering them for sale or lease to UCSB employees if they are sold or leased.

California Coastal Commission  
South Central Coast Area  
March 22, 2004  
Page 5

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The County is in a unique position of having denied all use of these parcels in original applications filed in 1996 and, subject to takings litigation, approached applicants about submitting a revised plan it could support, promised to support those plans, withdrew that support and approved new and other building footprints that have no architecture. It still has an intention to acquire these parcels, though it does not have the resources to do so.

The County may be endeavoring to shift takings liability to the Coastal Commission as the permit, after action on the appeal is apparently a Coastal Commission permit.

We would submit that the Commission should, in fact, approve the homes as shown on Exhibit 1. That will constitute good planning, fair treatment for these applicants who have been caught in an unfair process for nearly the last 8 years, and avoid taking liability.

For all the foregoing reasons, we respectfully request that the Commission approve the 1,797 square foot (living area) compromise plans specifically negotiated by the County and refined by the County BAR.

Very truly yours,



Jeffrey C. Nelson of  
Mullen & Henzell L.L.P.

JCN:cml

Enclosures

cc: Kathy and Chris Chase  
Lawrence T Sorenson, Esq.

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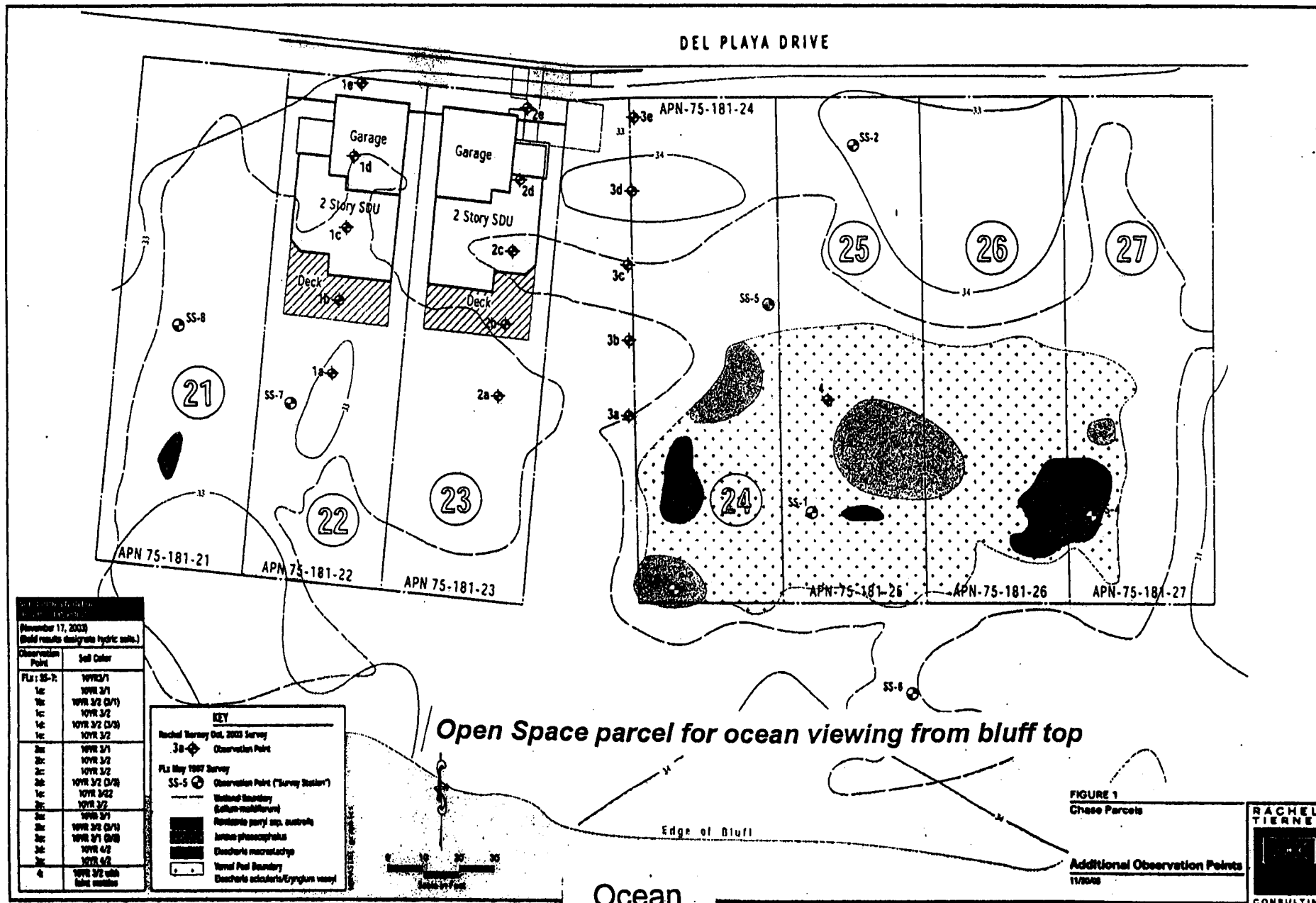
23

22

Chase Coastal Single family Residences  
Per Santa Barbara County BAR design input  
1797 Square feet, living space, each  
528 square feet attached garage, each

**EXHIBIT 1**





**FIGURE 1**  
 Chase Parcels  
 Additional Observation Points  
 11/2008



The County of Santa Barbara through its County Counsel represented the status of the 1797 square foot settlement project to the Superior Court and to the Chase attorneys in the County's trial brief filed February 20, 2002. The following are quotes from the trial brief.

"For the two remaining parcels, remaining in Plaintiff's ownership, revised development applications, proposing reduced development have been filed with the Planning and Development Department and are undergoing review and processing at this time. The evidence will show that the County has indicated a willingness to approve the reduced development proposals now pending." (emphasis added) (County Trial Brief Page 4.)

....

"County's consideration and staff's declared willingness to recommend approval of the pending reduced applications now on review at Planning and Development demonstrates the point." (emphasis added) (County Trial Brief Page 5.)

....

"As to the two remaining lots, the expected approval of the pending development proposal will forever moot the claim of a permanent taking." (emphasis added) (County Trial Brief Page 18.)

**EXHIBIT 2**

In a letter to us as the Chases representatives, Santa Barbara County Counsel stressed not only that Staff would support the revised applications of 1797 square feet of living space plus a 2-car garage but also, among other things,

**“Advocacy by the County of the value of the compromise in front of the Coastal Commission, should any local environmental group take an appeal: (and) our best efforts to be pro-active with the environmental groups to discourage any such appeal, and to explain to them why this is a reasonable compromise from the resource protection perspective”. (Letter to Mullen & Henzell L.L.P. January 11, 2002 from Senior Deputy County Counsel; cc’s to Alan Seltzer, June Pujo and John Patton among others, emphasis added)**

The letter goes on to state,

**“We understand that you would be giving up your claims for temporary takings and for attorneys fees by such an agreement. Briefly, our position is that by Planning and Development agreeing to the value and merit of your present applications, we have demonstrated the fact that the previous denial was not final in the constitutional sense, thus that there was always a realistic avenue of mitigated development open to you, and that therefore your claims as to Lot 22 and 23 were never ripe. That being so, it follows that the delay was of your own making, that you could have initiated this exact land use plan by simply amending your proposal in 1998, and thus there has been no temporary taking by the County and no basis for a claim for attorneys’ fees.”**

The letter also stated,

**“You have the right, and have always had the right, to make a new application proposing mitigated development for these two lots, which would maximize to the extent feasible the protection of the natural resource, by allowing for the best possible economic use consistent with resource**

protection. You have submitted applications which do just that. ... "We would anticipate their ultimate approval by the Z.A. in view of the fact that County Counsel and P&D both recognize that this proposal is workable compromise, and that inconsistent resource policies must be overridden in some cases, such as this, to avoid a constitutional taking of property."  
*(County Counsel letter January 11, 2002, page 2, emphasis added)*

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DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, CORPS OF ENGINEERS  
VENTURA FIELD OFFICE  
2151 ALESSANDRO DRIVE, SUITE 110  
VENTURA, CALIFORNIA 93001

REPLY TO  
ATTENTION OF:

November 21, 2001

Office of the Chief  
Regulatory Branch

Mullen and Henzell L.L.P.  
Attention: Jeffrey C Nelson  
112 East Victoria Street  
P.O. Drawer 789  
Santa Barbara, California 93102-0789

Dear Mr. Nelson:

Reference is made to your letter (No. 200200201-JCM) dated November 8, 2001 regarding a Department of the Army jurisdictional determination for Chase lots APN -75-181-22 and APN-75-181-23 (lots 22 and 23) located off Del Playa Drive in Isla Vista, Santa Barbara County, California.

Based on the information furnished in your letter, we have determined that the wetland areas located in lots 22 and 23 are isolated and are not adjacent to other waters of the United States. Therefore, the project is not subject to our jurisdiction under Section 404 of the Clean Water Act and a Section 404 permit is not required from our office. Please be aware that our determination does not preclude the need to comply with Section 13260 of the California Water Code (Porter-Cologne) and we recommend that you contact the California Regional Water Quality Control Board to insure compliance with the above regulations. Furthermore, our determination does not obviate the need to obtain other Federal, state, or local authorizations required by law, such as the Endangered Species Act.

The receipt of your letter is appreciated. If you have any questions, please contact Jack C. Malone of my staff at (805) 585-2149.

Sincerely,

A handwritten signature in cursive script that reads "David J. Castanon".

David J. Castanon  
Chief, North Coast Section  
Regulatory Branch

EXHIBIT 3





PARCEL 22

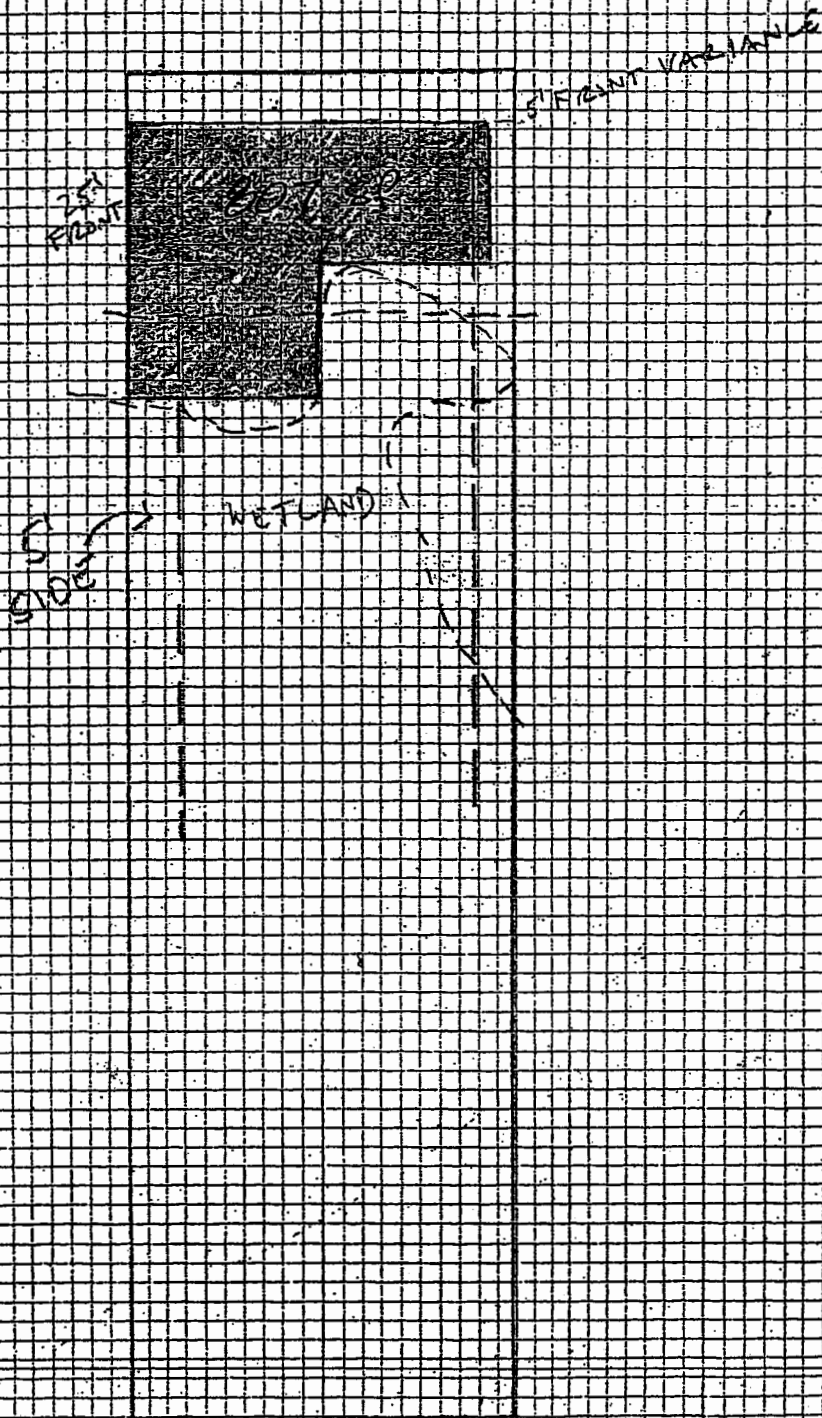


EXHIBIT 4

Figure 2 - Parcel 22



