

CALIFORNIA COASTAL COMMISSION

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APPEAL STAFF REPORT - DE NOVO REVIEW**Application number**A-2-SMC-04-002, Polacek Residence**Applicant**.....Michael and Ana Polacek**Local Government**.....San Mateo County**Local Decision**.....Approved with Conditions**Substantial Issue**The Commission found that the appeal of the local government action on this development raised a substantial issue on March 19, 2004.**Project location**.....Bean Hollow Road, in the unincorporated Pescadero area of San Mateo County; APN 86-191-120.**Project description**Construction of a single family dwelling in the Planned Agricultural District consisting of: 4,974 square feet of heated living space, 861 square foot garage and storage area, 350 square foot garden shed, 600 square foot indoor/outdoor greenhouse (attached to the house) for a total of 6,785 square feet. Additional proposed development includes a pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel.**Appellants**Commissioners Mike Reilly and John Woolley**File documents**.....See Appendix A**Staff recommendation** ...Approval with Conditions

Summary: The applicants propose to construct a new single-family dwelling consisting of 4,974 square feet of heated living space, 861 square feet of garage and storage area space, a 350 square foot garden shed, a 600 square foot indoor/outdoor greenhouse (attached to the house) for a total square footage of 6,785 square feet. The proposed project also includes a swimming pool, a new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel. San Mateo County approved the project on January 14, 2004. The Commission appealed this approval. On March 19, 2004, the Commission found that the appeal raised substantial issues regarding the conformance of the approved development with the agriculture, new development, and visual resources policies of the San Mateo LCP. In order to approve a coastal development permit through a *de novo* review of the project, the Commission required: 1) a site-specific



California Coastal Commission
May 2005 Meeting in Palo Alto

Staff: S. Craig Approved by:

biological resources assessment and wetland delineation (in accordance with the LCP definition of wetlands), including an analysis of the site regarding potential habitat for the San Francisco garter snake and California red-legged frog; 2) an analysis of the feasibility of continued or renewed agricultural use of the soils at the site; 3) further documentation of the visual impacts of the project; 4) a more detailed survey of the soils at the site, and; 5) information regarding the financial nature of the applicants' property interest.

The project as proposed does not conform to the agricultural resources policies of the San Mateo County LCP. The Coastal Act provides strong protection for agricultural lands in the coastal zone. The San Mateo County LCP carries out the agricultural protection requirements of Coastal Act through strict land use and zoning policies designed to maintain the maximum amount of agricultural lands in agricultural production and to concentrate development in existing urban areas and rural service centers. Approximately 70 percent of the agricultural land in San Mateo County is zoned Planned Agricultural District (PAD). The project site is zoned PAD. Soils on the property consist of prime agricultural soils. The purpose of the PAD zoning designation is to maintain the maximum amount of agricultural land in agricultural production. As such, the policies of the San Mateo County LCP strictly limit the conversion of agricultural lands to non-agricultural uses. Conversion of agricultural lands is prohibited unless the applicant provides factual evidence demonstrating that the development would meet the goals of the PAD zoning district to maintain the maximum amount of prime land in production, minimize the encroachment of non-agricultural development on to agricultural lands, ensure that residential development will not diminish the productivity of adjacent lands, and preserve the viability of agriculture on agricultural parcels. The proposed project includes the construction of a single-family residence and other development totaling 6,785 square feet. The proposed development is much larger than most other residences constructed on agricultural lands within the PAD zone. As detailed in these findings, the development would not meet the goals and standards of the PAD zoning district.

To address these concerns, Commission Staff recommends approval of the project with Special Condition #1, which would limit the size of a single-family residence to 2,500 square feet. Special Condition #1 is necessary to minimize the encroachment of non-agricultural development on agricultural lands, but also to ensure that residential development does not adversely impact agriculture, as the LCP requires. This limitation allows a reasonable residential development while minimizing the impacts to agricultural resources. This 2,500 sq. ft. limit is similar to and consistent with local, state, and national data regarding the sizes of residential development on agricultural properties and is consistent with the size, scale and character of similar development on agricultural lands in San Mateo County. Special Condition #1 also establishes a residential development envelope of 10,000 sq. ft. to ensure that development on the site is clustered, to ensure that the residence and related development occupy the minimal amount of agricultural land necessary (and thus are incidental to agriculture), while still allowing a reasonable residential development. Additionally, Special Condition #1 relocates the residential development closer to Bean Hollow Road to further minimize encroachment of the residential development on agriculture land.

In addition, Staff is also recommending Special Condition #2, which would establish an agricultural



easement to ensure the long-term viability of agricultural resources on the undeveloped portions of the parcel. Additional conditions include landscaping requirements to eliminate existing invasive pampas grass and to prohibit the planting of invasive species on the parcel, as well as conditions to require best management practices during construction, to allow for development of an additional agricultural water source in the future (if deemed necessary for continued agricultural use on the parcel), and to require a prior-to-construction survey be undertaken for the San Francisco garter snake and the California red-legged frog. As conditioned, staff recommends approval.

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I. Project Procedural History

San Mateo County has a certified LCP, and the proposed project was reviewed in a local coastal permit process before the County took action on it on January 14, 2004. Commissioners Mike Reilly and John Woolley then appealed the County's approval to the Commission. On March 19, 2004, the Commission found that the appeal of the development approved by San Mateo County raised substantial issues regarding the conformance of the approved development with the agriculture, new development, and visual resources policies of the San Mateo LCP. In order to approve a coastal development permit through a *de novo* review of the project, the Commission required a site-specific biological resources assessment and wetland delineation conducted in accordance with the LCP definition of wetlands, an analysis of the feasibility of continued or renewed agricultural use of the soils at the site, further documentation of the visual impacts of the project, a more detailed survey of the soils at the site, and information regarding the financial nature of the applicants' property interest.

II. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-2-SMC-04-002 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

III. Conditions of Approval

A. Standard Conditions



1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Revised Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Applicants shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be consistent with the following requirements:
 - A. **Residential Development Envelope.** All residential development (i.e., the residence, all impermeable pathways, turnarounds, courtyards, garages, swimming pools, retaining walls, etc.), except the approved driveway, shall be confined within an area of no greater than 10,000 square feet. The residential development envelope shall be sited within the "potential building area" depicted on Exhibit #10.
 - B. **House Size.** The habitable internal floor area (excluding non-habitable space such as garages and unenclosed decks or patios) of the approved single-family residence shall not exceed 2,500 square feet.
 - C. **Other Grading/Utilities and Septic Line Area.** Following utility and septic system installation, all disturbed areas shall be contoured to mimic the natural topography of the site.
 - D. **Building Materials.** Non-reflective, earth tone materials shall be used on all surfaces (siding, roofing, windows, chimney, gutters, etc.) to prevent the detection of glare or light reflection from public viewing areas and to ensure that the development blends well into the surrounding rural



environment.

- E. Landscaping Plan.** The landscape plan shall show the location, type, and sizes of all landscaping elements within the 10,000 square foot residential building envelope (there shall be no ornamentally landscaped areas outside of the residential building envelope) and shall show how views from Cabrillo Highway will be softened by the introduction of trees and shrubs. No species included in the *California Exotic Pest Plant List* shall be used for landscaping purposes. The landscaping plan shall also reflect measures included in the applicants' agricultural land management plan that provide appropriate windbreaks and protection from agricultural operations on the site. All plantings will be maintained in good growing conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. The landscaping plan shall also provide for the removal of all pampas grass (*Cortaderia jubata*) on the parcel.
- F.** The Permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. Agricultural Use.

- A.** No development, as defined in section 30106 of the Coastal Act shall occur outside of the approved development envelope pursuant to the final approved plans in accordance with Special Condition #1 and as generally depicted in Exhibit #10, except for:
1. Agricultural production activities defined as "activities that are directly related to the cultivation of agricultural commodities for sale. Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material.
 2. Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds, except that no structures shall be located within any wetlands, streams, riparian corridor, sensitive habitat areas or their buffers as generally depicted on Exhibit #11.
 3. Underground utilities.
 4. Public access improvements.
 5. Farm labor housing, if approved by the Coastal Commission as an amendment to this coastal development permit.
- B.** All areas of the Property, except for the 10,000 square foot development envelope specified in Special Condition #1, shall at all times be maintained in active agricultural use. Agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for



commercial purposes. The Permittees shall be responsible for ensuring that an adequate water supply is available for the life of the approved development to sustain the agricultural viability of the property, and shall acquire or develop any additional water supply determined by the Executive Director, Grantee of the Agricultural Conservation Easement, or lessee to be necessary to fulfill this requirement.

- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall dedicate an agricultural conservation easement to a public agency or private association approved by the Executive Director (hereinafter referred to as the "Grantee"). The agricultural conservation easement shall be for the purposes of implementing the requirements of Paragraphs A and B above. Such easement shall be located over the entire parcel except for the area contained within the approved development envelope pursuant to Special Condition #1 as shown in Exhibit #10. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria stated above. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.
- D.** In the event that an acceptable Grantee cannot be identified, the applicant may in the alternative execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural conservation easement consistent with the purposes and requirements described above. The recorded document shall include legal descriptions of both the applicants' entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- E.** The landowners shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowners' compliance with the terms of this condition. Such information may include a written report describing current uses and changes in uses (including residential uses). The written report and any other required information shall be provided as needed upon the request of the Executive Director and/or Grantee, in a form as shall be reasonably required by same. If the landowner enters into a lease agreement with a farm operator for any portion of the property, a copy of the lease agreement may also be required as further documentation of compliance with this condition.
- F.** If circumstances arise in the future beyond the control of the landowner or operator that render continued agricultural production on the property infeasible, the easement may be converted to an open space easement upon Commission certification of an amendment to the LCP changing the land use designation of the parcel to Open Space in accordance with all applicable policies of the certified LUP and the Coastal Act, and the requirements of Paragraph B above may be extinguished upon



Commission approval of an amendment to this coastal development permit.

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

4. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

5. Pre-Construction Frog & Snake Survey/Construction Plan. No more than 30 days prior to grading or construction activities on the site, a pre-construction survey shall be completed by a qualified biologist to determine if the California red-legged frog or the San Francisco garter snake occur in or adjacent to the proposed construction/grading area. In addition, the following avoidance measures shall be implemented:

- Before construction/grading begins, a qualified biologist shall inform the grading/heavy equipment operators of the potential presence of the California red-legged frog or San Francisco garter snake, their protected status, work boundaries, and measures to be implemented to avoid the incidental take of frogs and/or snakes;
- Heavy equipment operators shall be informed of the location of wetland habitats on the parcel and instructed to avoid entry into any wetland habitat areas on the parcel;



- Temporary sediment settling basins and structures such as sediment fencing, straw bales, or other appropriate erosion control measures shall be used to delineate project areas boundaries and prevent sediment-laden runoff from entering the drainage channels/wetland areas.
- A qualified biologist shall monitor grading activities occurring within 500 feet of the aquatic and wetland habitats;
- During construction, ensure that all holes are covered at night to prevent California red-legged frog or San Francisco garter snake from taking cover in holes on the construction site;
- Food and food-related trash items associated with construction works shall be enclosed in sealed containers and regularly removed from the project site to deter potential predators of California red-legged frog or San Francisco garter snake;
- Pets shall not be permitted on the construction site;
- All staging areas and all fueling and maintenance of vehicles and other equipment shall take place at least 100 feet from any wetland areas on the parcel;

If California red-legged frog or San Francisco garter snake are observed during the pre-construction survey or during construction/grading activities, the applicant shall consult with U.S. Fish & Wildlife Service to establish any additional avoidance measures designed to avoid take of these species.

6. Implementation of Best Management Practices During Construction. Appropriate best management practices shall be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook. These measures shall include: 1) limiting the extent of land disturbance to the minimum amount necessary to construct the project; 2) designating areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; 3) providing for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in any runoff from construction, staging, and storage/stockpile areas; 4) incorporating good construction housekeeping measures, including the use of dry cleanup measures whenever possible; 5) collecting and filtering cleanup water when dry cleanup methods are not feasible; 6) cleaning and refueling construction equipment at designated offsite maintenance areas, and; 7) the immediate clean-up of any leaks or spills. The construction areas shall be delineated with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

7. Post-Construction Stormwater Pollution Prevention Plan.

A. Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, a Post-Construction Stormwater Pollution Prevention Plan showing final drainage and runoff control measures. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs)



designed to control the volume, velocity and pollutant load of storm water leaving the developed site after completion of construction. The Post-Construction Polluted Runoff Prevention Plan shall include, at a minimum, the BMPs specified below:

1. A pop-up drainage emitter system, or similar device shall be installed to conduct roof runoff from roof gutter systems and downspouts away from structural foundations and to disperse runoff in lawn or landscaped areas. Emitters shall be sized according to downspout and watershed (roof area) size. Pipe riser height shall be designed to create head sufficient enough to lift pop-up. Outfall and sheetflow shall be designed to disperse runoff onto vegetated areas or suitable landscaped.
2. Where possible, runoff from the driveway should be directed to natural drainage systems that allow for filtration.
3. Native or noninvasive drought-tolerant adapted vegetation shall be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
4. The final site plan shall show the finished grades and the locations of the drainage improvements, including downspouts and, where necessary, splashguards.

B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Conditions Imposed By Local Government. All previous conditions of approval imposed on the project by San Mateo County pursuant to an authority other than the California Coastal Act remain in effect (San Mateo County File Number PLN 2002-00199; see Exhibit 13).

IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The project approved by the County consists of construction of a new two-story single family dwelling consisting of 4,974 square feet of heated living area, an 861 square foot garage and storage area, a 350 square foot garden shed, a 600 square foot greenhouse (attached to the house), for a total development of 6,785 square feet. The project also includes a swimming pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel that is zoned PAD (Planned Agricultural District) (see Exhibit 2 for project plans). The approved development also includes a domestic orchard garden and patios. The parcel is located on Bean Hollow Road in the unincorporated area of San Mateo County.



The project approved by the County is located inland of Highway 1, on a 17.98-acre parcel on the west side of Bean Hollow Road (APN 086-191-120) in the unincorporated Pescadero Area of San Mateo County (see Exhibit 1 for location maps). The property is located approximately 0.5 mile from the coast, inland of Bean Hollow State Beach. The project site is located adjacent to the Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, which is a State Scenic Road, and will be partially visible from Bean Hollow Road. The property is bordered by Bean Hollow Road on the east, agricultural land on the north and west, and agricultural and residential development to the south. The County planning staff conducted a site visit and concluded that all adjacent parcels appeared to be within agricultural production (December 8, 2003 report to Agricultural Advisory Committee).

The subject property is a gradually sloped terrace with slopes ranging between 5 and 7%. Elevation at the site ranges from approximately 165 feet above sea level in the western portion of the property to approximately 230 feet above sea level in the eastern portion of the property. The approved development would be located on the central portion of the eastern side of the property, at elevations of approximately 190 to 210 feet above sea level (see Exhibit 2, pg. 1).

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

The 17.98-acre parcel is comprised entirely of prime agricultural land and has a long history of agricultural use as part of the larger approximately 220-acre Campanotti farm (pers. comm. Jack Olsen, San Mateo County Farm Bureau). The parcel was in active cultivation up until the time that the applicants purchased the property in 2000.

On November 2, 2000, the County granted the applicants (Mike and Ana Polacek) a conditional Certificate of Compliance and Coastal Development Permit for the legalization of the subject parcel. According to the County's staff report for these permits (PLN 2000-00346), the parcel was a portion of a 22.96-acre parcel described in a deed that was one of 41 lots of the Peninsula Farms Subdivision recorded on January 8, 1923 at the County Recorder's Office. This report also states that, in 1959, a 5.02-acre portion of the original parcel was conveyed by recorded deed to another person, and was legalized in 1959 when the County issued a building permit to construct a house upon it. This report concludes that since the conveyance of the subject 17.98-acre parcel occurred without filing an approved subdivision map and after the County's Subdivision Ordinance was adopted in August 1946, the parcel was never legally subdivided. As such, the County determined that a conditional certificate of compliance was required under the Subdivision Map Act, County LUP Policies 1.28 and 1.29, and the County's Subdivision Ordinance to legally subdivide the parcel. In accordance with both the Subdivision Map Act and the County's LCP, a conditional certificate of compliance may only be granted



to legalize the subdivision of undeveloped land where the resulting parcel(s) would fully conform with all applicable requirements of the LCP in effect at the time the certificate of compliance is approved.

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

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

Although the above-cited condition provides clear notice that any development on the parcel would need to comply with the LCP agricultural protection policies, it is not clear that the County's action in approving the certificate of compliance met the LCP requirements for the subdivision of prime agricultural lands, including for example, LUP Policy 5.7, which states:

5.7 Division of Prime Agricultural Land Designated as Agriculture

- a. Prohibit the division of parcels consisting entirely of prime agricultural land.*
- b. Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity would not be reduced.*
- c. Prohibit the creation of new parcels whose only building site would be on prime agricultural land.*

The property consists entirely of prime agricultural land, is designated in the County's LUP as Agriculture, and is zoned Planned Agricultural District (PAD). As shown above, subdivision of such lands is prohibited under the LCP. However, since the County's action approving the certificate of compliance was not appealed to the Commission or otherwise challenged, this action is final and the 17.98-acre parcel is now a legally subdivided lot.

A single-family residence is not a principally permitted use anywhere within the PAD zone, but may be allowed only with the issuance of a Planned Agricultural Permit. A Planned Agricultural Permit may only be approved for a conditional use such as a single-family residence if the resulting development is consistent with the purpose of the PAD zoning district and meets all of the substantive criteria specified in the zoning code necessary to keep the maximum amount of agricultural land in agricultural production and minimize conflicts between agricultural and non-agricultural land uses. These criteria, which are contained throughout zoning code sections 6350-6363, require: (1) minimizing encroachment on land suitable for agricultural use, (2) clustering development on the parcel, (3) ensuring an adequate water supply for agricultural use, (4) ensuring that the productivity of adjacent agricultural lands is not diminished as a result of the development, (5) ensuring that agricultural viability is not impaired through



increased assessment costs, (6) developing all areas unsuitable for agriculture before converting agricultural lands, and (7) limiting conversion of agricultural land to areas where continued or renewed agricultural use is no longer feasible.

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

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

The County's staff reports for the proposed residential project describe the property as being vacant and only developed with an agricultural well. However, the site plan approved by the County shows a barn in the northwest corner of the property as being mostly located on the subject parcel. Based on a review of aerial photographs (Exhibit 4), there is a cluster of approximately four structures (including at least one barn) located in the vicinity of the northwest corner of the property. These photographs show the area to the north, east and west of the site as being almost entirely in agricultural production. Additionally, these photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property. Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

B. Prime Agricultural Land Definition

Prime agricultural soil is a resource of tremendous importance to coastal agriculture in San Mateo County. While there is a lot of agricultural land on the coastside, prime agricultural soils, as a percentage of total agriculture, is relatively small. Therefore, the importance of maintaining the maximum amount of prime agricultural land for important coastal crops is a priority on the San Mateo County coast. The prime soils in the rural areas of the coast should have, and presently do have, the highest land use priority and protection, consistent with Coastal Act Section 30241. LCP Policy 5.1 provides the following definition of prime agricultural lands (Zoning Regulations Section 6351 provides the same definition). This definition is equivalent to the definition of prime agricultural land in the California Land Conservation Act of 1965 (commonly referred to as the Williamson Act):

5.1. Definition of Prime Agricultural Lands:



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

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

This definition includes five criteria, only one of which needs to be met to qualify a parcel as prime agricultural land. As discussed further below, although the subject parcel does not qualify as prime agricultural land based on subsections (b) and (c) of the above definition, the subject parcel qualifies as prime agricultural land based on subsections (a), (d) and (e) of LUP Policy 5.1.

With regards to the subsections of LUP Policy 5.1 which do not qualify this subject parcel as Prime Agricultural Land, LUP Policy 5.1(b) states that all land that qualifies for rating 80-100 in the Storie Index Rating is prime agricultural land (this index numerically expresses the relative degree of suitability of a soil for general intensive agricultural use). The subject parcel does not meet the criteria of LCP Policy 5.1(b) because the Storie Index for the soils on the property is 41 and 61.¹ Additionally, LCP Policy 5.1(c) states that land may be considered prime agricultural land if it supports at least one head of livestock per acre. This parcel has not historically been used as grazing land; therefore, it is difficult to determine how many head of cattle or other livestock the land could support. However, it is San Mateo County Farm Bureau Executive Manager Jack Olsen's opinion that this parcel would only support approximately three head of livestock (specifically cattle) per year (approximately 0.17 head per acre). If the parcel was replanted with a good nutritional plant base for grazing, the parcel might support one head of livestock per acre, but this is highly speculative. Thus, the subject parcel does not meet the criteria of LCP Policy 5.1(c).

The subject parcel does qualify as Prime Agricultural land under subsections (a), (d) and (e) of LCP Policy 5.1. First, LCP Policy 5.1(d) applies to land planted with fruit or nut trees or other perennial plants (pers. comm. Robert Blanford, Williamson Act Program, California Department of Conservation). The applicants' Agricultural Land Management Plan (Exhibit 3) states that historical crops on the property have included artichokes. According to Jack Olsen, Executive Manager of the San Mateo County Farm Bureau, artichokes would meet the criteria of LCP Policy 5.1(d) because they are perennial

¹ Wagner, R.J., and R. E. Nelson. 1961. Soil Survey of the San Mateo Area, California. USDA Soil Conservation Service/University of California Agricultural Experiment Station. 111 pp., plus maps.



plants that have a non-bearing period of less than five years. The second part of this criterion requires that the economic return from such use equal not less than \$200 per acre, adjusted for inflation (using 1965 as the base year). The Consumer's Price Index is used to calculate how prices have changed over the years. Using this index, \$200 in 1965 is equivalent to \$1240 in 2005.² According to the 2003 San Mateo County Agricultural Crop Report (which is the most recent Crop Report), artichokes that year produced an average yield of \$4,993 per acre. Thus, if artichokes were grown on this parcel (as they have been in the past), the expected yield would produce an economic return more than adequate to meet the minimal yield stated in LCP Policy 5.1(d). Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(d).

LCP Policy 5.1(e) states that land may be defined as prime agricultural land if it has produced an unprocessed agricultural plant product valued at not less than \$200 per acre within three of the five previous years. The property was in active Brussels sprouts production through the year 2000, prior to the purchase of the property by the applicants. Although there is no available data on the specific agricultural return from Brussels sprouts grown on this parcel during the years 1998 through 2000, the San Mateo County Agricultural Crop Reports for the years 1998 through 2000 show that Brussels sprouts produced an average yield of \$4,264 per acre during those years.³ The second part of the criterion of LCP Policy 5.1(e) requires that the economic return from such use equal not less than \$200 per acre, adjusted for inflation (using 1965 as the base year). Using the Consumer's Price Index as above, \$200 in 1965 is equivalent to \$1,093 in 2000. Thus, the expected yield from active Brussels sprouts production on the parcel in the three years prior to purchase of the parcel by the applicants would have produced an economic return more than adequate to meet the minimal yield stated in LCP Policy 5.1(e). Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(e).

Lastly, LCP Policy 5.1(a) defines prime agricultural land as "all land which qualifies for rating Class I or Class II in the U.S. Department of Agriculture Soils Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts." In this case, the soils at the site are designated as Class III soils by the U.S. Department of Agriculture and are mapped as primarily Elkhorn sandy loam (thick surface, sloping, eroded) with smaller areas of Watsonville sandy loam (sloping, eroded) along the drainage areas on the western side of the property (Exhibit 5). The description of Elkhorn sandy loam soils states: "most of the soil is used for growing Brussels sprouts; some areas are used for flax and grain grown in rotation. When used intensively for truck crops, fair to high yields may be expected." The description of Watsonville sandy loam (sloping, eroded) states "The soil has a wide variety of uses, including dry farming to flax, grain, and grain hay, and some use for Brussels sprouts and other truck crops."

The soils at the subject property qualify as prime agricultural lands under LCP Policy 5.1(a) because they are Class III soils that have been used to grow Brussels sprouts. Additionally, in a September 10, 2003 report to the Planning Commission, County Planning Staff concluded, "Almost the entire project parcel

² Calculation made using the Federal Reserve Bank of Minneapolis's web site: (<http://minneapolisfed.org/Research/data/us/calc/index.cfm>)

³ Brussels sprouts produced an average yield per acre of \$3,024 in 1998, \$4,199 per acre in 1999, and \$5,569 per acre in 2000, for an average yield of \$4,264 per acre for these three years.



is covered with prime soil.” The Agricultural Land Management Plan prepared by the applicants states that the most productive soils are located in the western and northeast portions of the property (Exhibit 3, pg.1).

The applicants retained a soil specialist to perform a site-specific soils survey analysis in May 2004. On-site investigations were performed to further define soils mapped in the 1961 National Soil Conservation Service (NRCS) Soils Survey for San Mateo County. Based on mapping the soils, the applicants’ specialist concluded that the soils within the footprint of the proposed single-family residence are not suitable for Brussels sprouts because of the eroded nature of the soil and the shallow depth to the underlying clay layer. Soils unsuitable for the production of Brussels sprouts are not considered prime soils as defined in the 1961 NRCS Soils Survey for San Mateo County. However, according to a report by Thomas Reid Associates (April 2003), the property has been farmed in the past for straw flowers, leeks, and Brussels sprouts. The Agricultural Land Management Plan (Exhibit 3) prepared by the applicants states that the property has been farmed in row and grain crops since 1900 or earlier and that historical crops have included artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers and ornamental eucalyptus. Additionally, an aerial photograph taken in June 2000 shows that the majority of the parcel was plowed in preparation for planting, including the area of the parcel where the proposed house would be located (Exhibit 4, pg. 2). Also, according to the County’s November 2, 2000 staff report regarding the Conditional Certificate of Compliance (Type B) to legalize the 17.98-acre parcel, the parcel was cultivated with Brussels sprouts at that time. Additionally, Jack Olsen, Executive Director of the San Mateo County Farm Bureau, is familiar with this parcel and states that the entire parcel consists of prime soil suitable for cultivation of Brussels sprouts. Therefore, although the soils within the proposed footprint of the proposed house may be more eroded than other soils on the site, these and other soils on the parcel were in agricultural use through the year 2000 and are designated as prime soils in the NRCS Soils Survey for San Mateo County. Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(a).

In conclusion, the soils on the parcel meet the definition of prime agricultural land as described in LCP Policy 5.1, subsections (a), (d) and (e).

C. Coastal Issues

1. Agricultural Resources/Locating New Development

Note: Please see Exhibit 6 for Coastal Act Sections 30113, 30241, 30241.5, 30242, and 30108; Exhibit 7 for the certified San Mateo County Land Use Plan Agricultural policies and Locating and Planning New Development Policies; Exhibit 8 for the certified PAD (Planned Agricultural District) zoning regulations.

1.8 Land Uses and Development Densities in Rural Areas

- a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts,



either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

5.1 Definition of Prime Agricultural Lands

Define prime agricultural lands as: a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

5.8 Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use



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

5.22 Protection of Agricultural Water Supplies

Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that: a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (2) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (a) on that parcel, or (b) on the larger property that was subdivided to create the new parcel, providing that a single well source may not serve more than four (4) new parcels. b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished. c. All new non-agricultural parcels are severed from land bordering a stream and their deeds prohibit the transfer of riparian rights.

Zoning Code Section 6350. Purpose of the Planned Agricultural District

The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques: (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas, (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, (c) developing available lands not suitable for agriculture before converting agricultural lands, (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

Zoning Code Section 6353. Uses Permitted Subject to the Issuance of a Planned Agricultural Permit

The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural



Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance. Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore. A. On Prime Agriculture Lands 1. Single-family residences...

Zoning Code Section 6355. Substantive Criteria For Issuance of a Planned Agricultural Permit

It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria: 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized. 2. All development permitted on a site shall be clustered. 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

D. Criteria for the Conversion of Prime Agricultural Lands

1. Prime Agricultural Land within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless it can be demonstrated that: a. No alternative site exists on the parcel for the use, b. Clearly defined buffer areas are provided between agricultural and non-agricultural uses, c. The productivity of any adjacent agricultural land will not be diminished, d. Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

Overview

The protection of agricultural land is a primary goal of the San Mateo County Local Coastal Program (LCP). Of the approximate 88,000 acres in the San Mateo County coastal zone, 70% (approximately 61,000 acres) is zoned *Planned Agricultural District* (PAD). This land is either in active agricultural use or has the potential for such use. The total gross value of San Mateo County agriculture for 2003 was \$180,621,000 (this gross value does not reflect the cost of production). The total gross value, however, does not reflect the real impact agricultural production has on the local economy. For every dollar of agricultural production, a multiplier of 3.5 may be applied. Using this factor, the estimated economic impact of agriculture on San Mateo County for 2003 was \$632,173,500.⁴ Typical agricultural crops grown in San Mateo County include vegetable crops such as Brussels sprouts and artichokes, field crops such as beans and hay, fruit and nut crops, mushrooms, and floral and nursery crops. There are also significant grazing lands in the County. San Mateo County agriculture, however, is threatened by a

⁴ *San Mateo County 2003 Agricultural Report.* San Mateo County Department of Agriculture/Weights & Measures.



decreasing amount of land available for agriculture, including a shortage of rental land, high land rental rates, and ranchette and urban development that leads to the loss of farms and farmland.⁵

The San Mateo County LCP has strong policies designed to protect the significant agricultural economy of the coastal zone, and the productive capability of PAD zoned lands. This includes policies that generally prohibit the subdivision of prime agricultural land and that severely limit the circumstances under which agricultural lands may be converted to non-agricultural uses. The core LCP agricultural protection Policy 1.8(a), in relevant part, states:

Allow new development . . . in rural areas only if it is demonstrated that it will not . . . diminish the ability to keep all prime agricultural land and other land suitable for agriculture . . . in agricultural production.

In addition to the designation of a considerable acreage of rural lands in the Planned Agricultural District, the LCP protects agricultural lands by establishing clear urban/rural boundaries and by limiting the types, locations, and intensities of new development on agricultural lands to those that will not adversely affect agriculture. The LCP Agricultural protection policies are further implemented by the PAD zoning regulations, the purpose of which is to “preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land in agricultural production, and . . . [to] minimize conflicts between agricultural and non-agricultural land uses.” Together, the LCP’s agricultural component and the PAD implementation regulations provide a comprehensive program that gives agricultural land uses and development a clear and overriding priority on the rural San Mateo County rural coastside.

As discussed above, the applicants are proposing to construct an approximately 6,785 square foot single-family residence and related development on rural PAD land that has historically been in agricultural production. Although the applicants have proposed an agricultural management plan (Exhibit 3), which would continue agriculture on the parcel in a limited form, the project raises fundamental questions about the conversion of rural land from agriculture to residential use. It is important, therefore, to fully understand the letter and intent of the San Mateo County LCP with respect to this issue, particularly concerning the potential conversion of prime agricultural lands, such as is proposed in this case. In particular, it is useful to see how the LUP’s agricultural component and PAD zoning regulations derive from the Coastal Act agricultural protection policies.

The Coastal Act Policy Framework

The Coastal Act protects coastal agriculture first and foremost by requiring that “new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it . . .” (Section 30250(a)). This requirement to concentrate urban development in existing urban areas establishes the fundamental framework for assuring that new urban development, including urban services, are not located in rural coastal areas where the protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to

⁵ *San Mateo County Agricultural Industry Profile & Strategic Farmland Maps, Final Report.* American Farmland Trust, 2004.



existing developed areas, the Coastal Act requires the establishment of stable urban-rural boundaries to assure that urban sprawl from existing urban areas does not overtake rural agricultural areas. The Coastal Act also requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land be limited to instances where agriculture is no longer feasible or where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where conversion of agricultural lands would complete a logical neighborhood and contribute to the establishment of a stable limit to urban development or would concentrate development in urban areas. Specifically, Coastal Act Section 30241 states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following: (a) By establishing stable boundaries separating urban and rural areas, including, where necessary clearly defined buffer areas to minimize conflicts between agricultural and urban land uses. (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250. (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands. (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality. (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

The clear intent of section 30241 is to maintain prime agricultural land in agricultural production and assure that agricultural land is not converted to non-agricultural land uses except in limited circumstances on the periphery of designated urban areas. Thus, the presumption inherent in Coastal Act Section 30241 is that conversion of agricultural lands is prohibited unless there is some basic incompatibility or conflict with immediately adjacent urban land uses that makes agricultural use no longer viable, or unless conversion would complete a logical urban area and/or help to establish a stable urban-rural boundary that better protects agricultural land.⁶

The Coastal Act also contemplates that both the identification and protection of agricultural land, and its

⁶ Coastal Act section 30113 defines prime agricultural land as those lands defined as prime in sections (1), (2), (3), and (4) of Williamson Act section 51201(c). This includes: (1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications. (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating. (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. (4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.



possible conversion to non-agricultural land uses, will be specifically addressed through LCP planning. In particular, the Coastal Act contemplates that in conjunction with the identification of urban-rural boundaries, agricultural lands will be designated and restricted to agricultural land uses, unless a future LCP amendment is approved that allows the conversion of the land to non-agricultural uses. Coastal Act section 30241.5 identifies a viability test for conversion of agricultural lands around the urban periphery when conversion is an issue in any LCP or LCP amendment. By its terms, section 30241.5 applies only to certain agricultural land conversions controlled by section 30241(b), i.e., "conversions of agricultural lands around the periphery of urban areas....where the viability of existing agricultural use is already severely limited by conflicts with urban uses." Because Section 30241(b) is not limited in its application to prime agricultural lands, section 30241.5 is not so limited. Rather, sections 30241 and 30241.5 apply to all agricultural lands on the urban periphery that are proposed for conversion. The analysis required by section 30241.5 to support conversion of agricultural lands must include an economic evaluation of the gross revenue and operational costs, excluding land values, of the crops in the geographic area of the proposed land conversion.

In comparison to section 30241 and its focus on conversions of agricultural lands around the urban fringe and creating a stable urban-rural boundary, Section 30242 addresses conversions of land suitable for agriculture in all locations. Coastal Act section 30242 states:

All other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30242 states rules to be applied for conversion of "all other lands suitable for agricultural use," i.e., all conversions not addressed by the general Section 30241 policy against prime land conversions ("the maximum amount of prime agricultural land shall be maintained in agricultural production...") or the specific conversion standards of section 30241 and 30241.5. Section 30242 includes no direct requirement for considering the resulting stability of the urban limit and in general provided a different standard of review than does 30241(b). Notably, section 30242 does not deal with "agricultural land," but rather with "all other lands suitable for agriculture." One of the tests for conversion of such land is that agricultural use cannot feasibly be continued or renewed. This wording indicates that the policy was intended to be broadly applied, even to land that is not currently in agricultural use.

In summary, the Coastal Act provisions on conversion of agricultural lands are as follows: Prime agricultural lands are to be maintained in production. Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if they satisfy standards stated in subsections (b) and (c) of Section 30241, as well as other applicable provisions of the Coastal Act. All other lands suitable for agricultural may be converted only if conversion is consistent with section 30242 and other applicable provisions of the Act. When an LCP or LCP amendment proposes conversion of any agricultural land on the urban periphery under the viability provision of section 30241(b), the viability tests of section 30241.5 also must be satisfied.



The Agricultural policies of the San Mateo County LCP

The San Mateo County LCP carries out the requirements of Coastal Act Sections 30241, 30242, and 30250, through strict land use and zoning policies designed to maintain the maximum amount of agricultural lands in agricultural production and to concentrate development in existing urban areas and rural service centers. To address the Coastal Act requirement to concentrate new urban development in existing developed areas and establish stable urban-rural boundaries, LUP Policy 1.16 defines the urban-rural boundary as a stable planning line, and requires the LCP maps to designate this line. LUP Policies 1.3 through 1.8 provide definitions for the urban and rural areas and specify the land uses and allowable development densities in urban and rural areas. As referenced earlier, LUP Policy 1.8(a) is a core policy for agriculture that implements Coastal Act Sections 30241 and 30242 by requiring that new development in rural areas be allowed *only* if it is demonstrated that it will not have significant impacts on coastal resources, nor diminish the ability to keep all prime agricultural lands and other lands suitable for agriculture in agricultural production.

In addition to the general urban-rural planning framework of the LCP, the policies of the LUP's Agriculture component closely map the Coastal Act. First, LUP policies 5.1-5.4 define and require the designation of prime agricultural land and other land suitable for agriculture. The LCP definition of prime land is based on the Williamson Act, consistent with Coastal Act section 30113 (see above for detail). Second, LUP policies 5.5-5.10 strictly limit the circumstances under which agricultural land can be subdivided or converted to non-agricultural land uses. The permitted and conditional land uses allowed on agricultural lands is also strictly limited (see Exhibit 7 for full policy text).

The LUP agricultural policies also are implemented by the PAD zoning regulations (Exhibit 8), which provide detailed regulations for new development proposed on PAD lands. Consistent with the Coastal Act, LUP Policy 1.8(a), and the LUP Agricultural component, the purposes of the PAD regulations are:

1) to preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses.

LUP Policies 5.5(a) and 5.6(a) and corresponding Zoning Code Section 6352 specify the limited range of principal permitted uses that are allowable on prime agricultural lands and other lands suitable for agriculture. For example, LUP Policy 5.5(a) states:

5.5(a). Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and



additions to existing single-family residences.

Significantly, all of these principally permitted uses are either agricultural production or are directly related to agricultural production or existing residential development on an AG parcel. New residential development, whether agriculturally related or not, is not a principally permitted use on either prime agricultural lands or other lands suitable for agriculture.

LUP Policies 5.5(b) and 5.6(b) and Zoning Code Section 6353 specify the conditionally permitted uses allowable on agricultural lands. Most of these conditionally permitted uses are uses that are ancillary to or supportive of agricultural production and are therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production. However, some of the conditionally permitted uses specified in the LUP and zoning code are not ancillary to or supportive of agricultural production, including oil and gas exploration and production, commercial woodlots and temporary storage of logs, and "single-family residences." Similarly, on other lands suitable for agriculture, these uses plus multi-family affordable housing, public recreation/shoreline access trails, schools, fire stations, commercial recreation, aquaculture facilities, wineries, and timber harvesting are all conditionally permitted.

The LCP allowance for certain uses on agricultural lands that are not ancillary to or supportive of agricultural production derives from other overriding Coastal Act requirements that also apply to agricultural lands. First, the provision allowing oil and gas exploration and development is derived from Coastal Act Section 30260, which expressly overrides the coastal resource protection policies of the Coastal Act in specified circumstances to allow oil and gas development and other coastal-dependent industrial development in the coastal zone, even when inconsistent with other Coastal Act policies.⁷

Similarly, coastal access, recreation, and aquaculture are all priority uses under the Coastal Act, and the Coastal Act requires protection of timberlands. By allowing coastal access and recreation trails, commercial recreation, aquaculture, commercial woodlots, and temporary storage of logs on agricultural lands as conditionally permitted uses, the LCP strikes a balance between these Coastal Act priorities and the protection of agricultural lands. Consistent with Coastal Act sections 30222, 30241 and 30242, the LCP gives precedence to agricultural land protection over these other Coastal Act priority uses on agricultural lands by specifying that these conditionally permitted uses may only be authorized on agricultural lands provided they meet the LCP requirements for conversion of agricultural land to non-agricultural land uses (see below).

With respect to residential development, the LCP clearly provides for improvements to and maintenance of existing residences on PAD lands by designating such uses principally-permitted. New residential

⁷ Section 30260 states that where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.



development, though, is a conditionally permitted use in the PAD zone, in recognition of the fact that residential development has the potential to undermine the protection of agricultural land by taking land out of agricultural production, as well as the fact that residential development is neither a Coastal Act priority nor is there a provision in the Coastal Act that overrides the Coastal Act resource protection policies in favor of residential development.

The LCP's allowance for new residential development as a conditionally permitted use rather than a principally permitted use is further clarified by looking to the Commission's intent in the certification of the San Mateo County LCP. The Coastal Commission's findings for the certification of the County's LCP specifically address this issue, stating:

The County has limited conditional use conversions of prime lands either to uses that are essential to farming (e.g., the farmer's personal residence, farm labor housing) or to public recreational use.

As expressed in this finding, the intent of the LCP is only to permit residential development on prime agricultural lands when the development is somehow integral to or essential to supporting farming on the land in question. Housing to support the farmer or farm labor housing would fall into this category. Allowing farmer or farm labor housing is supportive of continued agricultural use of prime agricultural land in that it allows the farmer to reduce costs and have direct access to the land being farmed. Thus, the LCP provides that a farmer's personal residence and farm labor housing may be permitted on agricultural lands where there is no alternative site and when all other requirements of the PAD zoning district can be met. Restricting conversion of agricultural land to residential use for farmers or farm laborers provides consistency with Coastal Act Section 30241 and LCP Policy 1.8(a) because it maintains the maximum amount of prime agricultural land in agricultural production. This interpretation is supported not only by the findings for the certification of the LCP agricultural policies, but it allows the LCP to be read as internally consistent because the development of farmer and farm labor housing is consistent with the LCP requirement to retain the maximum amount of agricultural lands in agricultural production.

Additional reasons for the conditional use designation for residential structures are rooted in the inherent incompatibility of residential and agricultural land uses. Typical incompatibility issues raised where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such incompatibilities can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

The interpretation of the LCP with respect to allowable uses on PAD lands is a critical first step in an evaluation of the applicants' project. As discussed above, the certified LCP provides numerous policies



for the protection of agricultural land in the rural areas of San Mateo County. In particular, conversion of agricultural lands to non-agricultural conditional uses is prohibited unless consistency with a number of criteria can be met. In order to approve non-agricultural development on agricultural land, the proposed conditional use must not diminish the ability to keep all prime agricultural land and other land suitable for agriculture in production, must provide clearly defined buffers between the non-agricultural use and agricultural uses, must not diminish the productivity of adjacent agricultural land, and must not impair agricultural viability, including by increased assessment costs. If any one of these findings cannot be made, then the proposed conditional use is prohibited.

The proposed residence is a conditional use under LUP Policy 5.5(b). Zoning Regulations Section 6353 requires the issuance of a Planned Agricultural Permit for conditional uses on PAD-zoned land, and Zoning Regulations Section 6355 provides substantive criteria that the applicants must meet prior to issuance of a Planned Agricultural Permit. These criteria support the purpose of the Planned Agricultural District, which is to preserve and foster existing and potential agricultural operations in order to keep the maximum amount of prime agricultural land in production and to minimize conflicts between agricultural and non-agricultural uses. Additionally, LUP Policy 1.8(a) requires that new development be allowed in rural areas only if it will not diminish the ability to keep *all* prime agricultural land in production. Consistent with this requirement, LUP Policy 5.8(a) establishes four criteria that must be met before prime agricultural land can be built upon ("converted") for a conditionally permitted use, as follows:

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

Taken together, the LCP's agricultural policies and zoning regulations require minimizing encroachment of development on agricultural land, as well clustering development on an agricultural site. Additional requirements include ensuring that the productivity of adjacent agricultural land will not be diminished, that the permitted use will not impair agricultural viability via increased land assessment costs, and that the maximum amount of agricultural land be kept in production. In this case, the proposed 6,785 square foot residential structures and associated pool, patio, and landscaping occupy approximately 2 acres of prime agricultural land on the parcel (see Exhibit 2, pg. 1). The proposed large-scale residential development does not constitute a farmhouse (the applicants are not farmers) and thus is not incidental to agricultural uses on the property. Furthermore, the proposed development does not minimize encroachment of agricultural land on the parcel, inconsistent Zoning Regulations Section 6355. Additionally, the project is inconsistent with LUP Policy 1.8(a) and Zoning Regulations Section 6350 in that, due to its size and sprawling nature, the proposed project diminishes the ability to keep the maximum amount of prime agricultural land in production. Additionally, as discussed below, large-scale residential development on agricultural parcels has the effect of raising surrounding land values such that it becomes prohibitively expensive to continue farming on surrounding parcels. Thus, the



project is additionally inconsistent with LUP Policy 5.8(a)(3), which requires that the productivity of adjacent agricultural land will not be diminished by conditional development, and with LUP Policy 5.8(a)(4), which requires that permitted uses shall not impair agricultural viability by increased assessment costs (also, see below).

Non-agricultural residential development on agricultural lands

As discussed above, a core policy concern of the Coastal Act is the protection of coastal agriculture through the limitation of non-agricultural land uses on agricultural lands. The original Coastal Plan that formed the basis for the Coastal Act identified this concern, including the issue of land speculation and valuation that could effectively undermine the goal of maintaining agricultural lands. Akin to the Williamson Act concern for not valuing agricultural land at non-agricultural prices, the Coastal Act evinces a concern for the protection of an area's agricultural economy, and an assurance that increased assessments due to public services or non-agricultural development do not impair agriculture (30241; also 30241.5).

The Commission has recently addressed the concern for the trend towards development of large rural residential projects in agricultural areas in the Periodic Review of the San Luis Obispo County LCP. In particular, the Commission adopted recommendations that the SLO County LCP be amended to establish stronger standards for non-agricultural residential development on agricultural lands, including performance standards for the size of development envelopes and other constraints that would better maintain lands in agricultural production (see Recommendation 5.8 of Commission's Adopted Periodic Review of SLO County LCP).

In contrast to residential development that is incidental to and/or in support of agricultural production, such as farmer and farm labor housing, the development of non-farming related single-family homes on agricultural lands is contrary to the goal of keeping agricultural lands in agricultural production. Given increasingly high housing costs, agricultural use cannot compete with the use of land for residential development even on a large un-subdivided farm parcel or ranch on the San Mateo County coast. The recent trend to develop large expensive homes on such properties exacerbates this problem by increasing the speculative value of these large parcels in the scenic rural coast side as sites for such homes. The development resulting from these pressures is widely recognized as contributing to the loss of agricultural production on agricultural land in conflict with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production.

The loss of available lands for farming to residential development is now being recognized as a national trend and many states, including California, have recently taken actions in attempt to curb this "rural sprawl." The American Farmland Trust views rural residential sprawl as a major threat to farm production stating:

The majority of the Central Valley's population lives in urban areas totaling more than 1,236 square miles. Yet that number does not tell the full story. What are not counted are the rural-residential parcels. These residences, also known as "ranchettes," dot the rural landscape and



affect everything from routine farming practices... a ranchette removes more farmland from agriculture than any higher density suburban dwelling.⁸

And:

The subdivision of land into ranchettes fuels speculation that drives up the cost of land and eventually makes it unaffordable for commercial agricultural production. The proliferation of rural residences throughout agricultural areas also poses a very real risk, right-to-farm laws notwithstanding, that agricultural insurance premiums will rise and that farming practices may be further regulated to protect public health and safety. Thus, agricultural policy should also address the need to significantly reduce scattered, rural development.

Greater certainty about land use expectations is critical to both farmers and developers. Places to farm and places to build should be clearly delineated, mutually exclusive and consistently enforced... [This] will also insulate agricultural production from speculation and other pressures exerted by urban proximity, and encourage reinvestment in California agriculture to meet the demands of a changing global marketplace.⁹

In its literature concerning agricultural conservation easements, as further discussed below, California FarmLink states:

Agricultural conservation easements may also limit the size of any single-family house to be build on the property with the intent to ensure that the house will be used by a true farmer instead of a "gentleman" farmer. An owner predominantly depending on agricultural income will presumably not be able to afford a significantly larger than average size house (i.e. 4,000 sq. ft.). If such an estate home were built, a farmer looking to purchase the land in the future would be priced out of the market.

The New Jersey Farmland Affordability/Availability Working Group observed:

The viability of New Jersey's agricultural industry depends on ensuring that farmland is affordable and available to new and established farmers. If farmers don't have access to farmland they can't farm.

Under the State Agricultural Retention and Development Act, the investment of Public Funds is intended to preserve land and strengthen the viability of agriculture. Estate situations – where the landowner does not farm the land or only minimally farms it – run counter to that purpose. To maintain public confidence in the Farmland Preservation Program and ensure preserved farmland remains available and affordable to farmers, the issue of housing on preserved farms

⁸ Ranchettes: the Subtle Sprawl. A Study of Rural Residential Development in California's Central Valley, AFT 2000.

⁹ Suggestions for an Agricultural Component of Governor Arnold Schwarzenegger's Smart Growth Initiative. AFT. May 2004.



*needs to be addressed.*¹⁰

Measures identified to address this issue include: (1) prohibiting all non-farm dwellings on agricultural lands, (2) limiting the size of new homes on agricultural lands, and (3) requiring agricultural conservation easements that ensure that land remains *in* agricultural use as opposed to simply remaining *available* for agricultural use. These measures have been adopted or are currently under consideration by many jurisdictions throughout the state and nation. As further discussed below, the Commission finds that such measures are necessary to ensure that the proposed development conforms to the agricultural protection requirements of the County's LCP.

Conditionally Permitted Residential Housing on Agricultural Lands Must Not Diminish the Productivity or Viability of Agricultural Land or the Ability to Keep Agricultural Land in Production.

As stated above, the construction of non-farming related single-family homes on agricultural lands is inconsistent with requirements of the LUP Policies 1.8, 5.8, 5.11 and Zoning Code Section 6350 which, among other things: (1) allow new development in rural areas only if it is demonstrated that the development will not diminish the productivity or viability of agricultural land or the ability to keep all agricultural lands in agricultural production, and (2) minimize conflicts between agricultural and non-agricultural land uses. Contrary to these requirements of the LCP, construction of homes that are not supportive of agricultural use on agricultural properties reinforces the market incentives to develop new homes on agricultural properties, diminishing the ability to keep agricultural lands in production and increasing conflicts between agricultural and residential land uses. In order to meet the LCP requirements to maintain the maximum amount of agricultural land in production and to minimize conflicts with other land uses, the Commission finds that measures must be implemented to discourage the continuation of the trend to treat agricultural lands as new home sites, where agricultural use becomes secondary to residential development.

One alternative to address this issue would be to adopt a policy like the Oregon Agricultural Land Use Policy. Under this policy, persons living on "high-value farmland" must be actively engaged in commercial agricultural production and must demonstrate a minimum annual gross income from farming of the property of \$80,000. As stated by the Oregon Department of Land Conservation and Development: "while \$80,000 is far below the average income of commercial farms, it is enough to sort farmers from people just looking for a home in the country."¹¹

Similar to Oregon's policies and as discussed above, the LCP only permits residential development on agricultural lands where the development does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production. The Commission's findings for the certification of the LCP support the interpretation of these policies to mean that residential development on farmland is limited to farmer and farm labor housing. However, even though this interpretation of the

¹⁰ Recommendations of the New Jersey Farmland Affordability/Availability Working Group. September 23, 2004.

¹¹ Using Income Criteria to Protect Commercial Farmland in the State of Oregon. Oregon Dept. of Land Conservation and Development.



LCP policies is supported by the Commission's findings and would provide internal consistency to the LCP agricultural protection policies, the LCP does not expressly prohibit non-farm dwellings on agricultural lands. As such, the Commission finds the LCP also allows conditionally permitted residential housing on agricultural lands only if it does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production.

Rural House Size Limit

The speculative value of agricultural land for residential development is driven in large part by the demand for very large homes. As shown below, most of the recently constructed homes in the PAD zone are, like the proposed development, several times larger than the typical house size in this zoning district. The Commission finds that the market pressures to convert agricultural lands to residential development sites can be effectively reduced by limiting the size of new homes. Conversely, the Commission finds that not restricting the size of new homes on farmland would contribute to the pressure to develop farmland and lead to further loss of agricultural production in conflict with the requirements of the LCP.

In 2002, the San Mateo County Board of Supervisors directed County staff to develop a proposal for limiting the height and floor area of new single-family residences in the rural portion of the County's coastal zone. During their evaluation, County staff found that the size of new houses in the rural zoning districts increased from an average of 2,484 square feet in 1993 to 4,926 square feet 1998. In several reports to the County Agricultural Advisory Board and Planning Commission in 2002, County staff described the issue as follows:

The principle intent of the PAD zoning district is preserve and foster existing and potential agricultural operations and minimize conflicts between existing agricultural and non-agricultural land uses. The PAD allows some non-agricultural uses, such as single-family residences, under strict conditions through the issuance of use permits.

The PAD does not foster or encourage the development of large, single-family residences for non-farm working families. Although, as documented, three have been proposed in the past year and several have been built since the PAD was established in 1980.

County staff also determined that:

General Plan policies and the Zoning Regulations provide strong justification to limit the size and height of single-family residences in order to minimize negative environmental effects on the preservation of agriculture and open space. They also provide strong justification to regulate the design of these residences.

The General Plan's Local Coastal Program policies in particular require that all development in the rural areas blend and harmonize with the natural environment so that it is subordinate and unobtrusive. It is debatable as to whether most of the large single-family residences that have been approved in the past ten years are as subordinate to the natural environment or as



*unobtrusive as possible.*¹²

Commission staff provided comments to the County in response to the proposed rural house size limit suggesting that in order to determine a size limit that would meet the requirements of the LCP the County should take into consideration the scale and character of existing residences in this area. Unfortunately, the County did not complete this evaluation and never adopted a rural house size limit. Thus, although the County has expressed concern about the trend of large single-family home construction on agricultural lands and the negative effects of such development on continued agricultural use of such lands, it has not yet taken action to address this issue and a rural house size limit has not been established.

In order to determine what the size limit for residential development should be to carry out the LCP agricultural protection policies, Commission staff reviewed all available records for existing residential development in the PAD zone for the County. These data show that the average size of existing single-family residences within the PAD zone is substantially smaller than the proposed development, but that in the past eight years several very large homes have been constructed. These data are summarized in the table below:

Table 1

Total No. of Developed Parcels	165
Median size	2,271 sq. ft.
Average size	2,677 sq. ft.
Minimum size	390 sq. ft.
Maximum size	21,000 sq. ft.

These data also show:

- 75% of residences are 3,000 sq. ft. or less
- 88% of residences are 4,000 sq. ft. or less
- 94% of residences are 5,000 sq. ft. or less

As shown in Exhibit #9, several large single-family residences have been constructed during the last eight years in the PAD zone, including two projects that were approved by the Commission on appeal (e.g., Blank and Lee). Nevertheless, these permit records also show that only three of the 165 single-family residences in the PAD zone exceed 7,000 square feet (10,250 square feet, 15,780 square feet and 21,000 square feet). Thus, while several large homes have recently been constructed in the PAD zone that are similar in size or larger than the proposed development, these developments greatly exceed the scale of typical residences in the PAD zone and the development of such large homes is a relatively

¹² County of San Mateo, Environmental Services Agency Planning and Building Division. Memo from Planning Staff to Planning Commission dated June 25, 2002. County File Number PLN 2002-00327.



recent trend. As such, these data validate the concerns expressed by the County of increasing pressure to build large non-farm related residences on coastal farmland.

The Commission finds that to meet the requirements of LUP Policies 1.8, 5.8, 5.11 and Zoning Code Section 6355 of the certified LCP to: (1) preserve and foster existing and potential agricultural operations in order to keep the maximum amount of agricultural land in agricultural production, (2) minimize conflicts between agricultural and non-agricultural land uses, (3) minimize the encroachment of non-agricultural development on agricultural lands, (4) ensure that residential development does not impair agricultural viability including through increased assessment costs, and (5) ensure that residential development on farmland does not diminish the productivity of any adjacent agricultural land, (i.e. that it is incidental to and in support of continued agricultural use of the land,) the proposed new residential development should not exceed the typical scale of existing residential development on agricultural lands in the County. Although the Commission has allowed some large non-agricultural residences to be constructed within the rural San Mateo County coastal zone, the Commission, like other agencies throughout the state and nation, now recognizes that such development threatens continued agricultural use of agricultural lands and is in conflict with the LCP agricultural land use protection policies and zoning. Accordingly, Special Condition #1 limits the proposed residence to a maximum internal floor area of 2,500 square feet.

The 2,500-square-foot limit imposed under Special Condition #1 not only conforms to the typical scale of existing residential development in the PAD zone (median 2,271 square feet, average 2,677 square feet), it also conforms to the limit recently established under the California Land Conservation Act (Williamson Act). In response to an increase in the conversion of agricultural lands to development sites for large single-family homes and the related loss of agricultural lands, the Williamson Act was amended in 2004 to limit the size of new single-family homes on parcels under Williamson Act contracts to 2,500 square feet (AB1492- Laird). Under this amendment, new residential development must also be "required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel."¹³ A Fact Sheet prepared by the California Department of Conservation describes these changes as follows:

Does AB 1492 repeal the Williamson Act?

No, AB 1492 provides enhanced penalties for a material breach of contract and extends the date of the lot line adjustment provisions. AB 1492 contains no new restrictions on uses allowed under the Williamson Act, existing contracts or local uniform rules or ordinances.

What is a "material breach of contract"?

Government Code §51250(b) defines a material breach on land subject to a Williamson Act contract as a commercial, industrial or residential building(s), exceeding 2,500 square feet that is not permissible under the Williamson Act, contract, local uniform rules or ordinances. AB

¹³ California Department of Conservation, Division of Land Resource Protection
Williamson Act Program Frequently Asked Questions
http://www.consrv.ca.gov/DLRP/lca/FAW/AB_1492_FAQ.htm



1492 only applies to structure(s) that have been permitted and constructed after January 1, 2004.

Does AB 1492 mean that I can now develop my Williamson Act property as long as none of the buildings exceed 2500 square feet?

No. Any development on property subject to a Williamson Act contract must be incidental to the primary use of the land for agricultural purposes and in compliance with local uniform rules or ordinances.

What does "incidental to the agricultural use of the land" really mean?

A use is incidental when it is required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel. Compatible uses on Williamson Act lands are defined in GC§51201(e). Additionally, each participating local government is required to adopt rules consistent with the principles of compatibility found in GC§§ 51231, 51238 and 51238.1.

Does AB 1492 prohibit me from building a house larger than 2500 sq. ft.?

Not necessarily. Homesites are allowed on contracted land but are limited in purpose and number and must be incidental to the agricultural use of the land. In addition, any homesite on land subject to a Williamson Act contract must be in compliance with local uniform rules or ordinances.

Thus, under the Williamson Act, residential development on agricultural land that exceeds 2,500 square feet is allowable only if the residence is "required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel." These changes establish a statewide standard for the allowable size of residential development incidental to the primary use of the land for agricultural purposes on an agricultural parcel under a Williamson Act contract, which can only be exceeded if specific requirements are met. The Commission finds it significant that the legislature, through amending the Williamson Act, established 2,500 square feet as the size of residential development considered incidental to agricultural use. In addition, the New Jersey Farmland Affordability/Availability Working Group has also recommended establishing a 2,500-square-foot limit for new residential development on farmlands in order to address the issue of residential development on preserved farmland.

Also, several studies evaluating the size of single-family residences nationally report that the average size of single-family residences ranges from 2,100 to 2,200 square feet. In comparison, the median and average sizes of residential development (2,271 square feet and 2,677 square feet, respectively) on agricultural land in San Mateo County is generally consistent with these national data, and the building size limit of 2,500 square feet established in the Williamson Act. When compared with other San Mateo agricultural properties, the 6,785 sq. ft residential development proposed by the applicant is roughly two-and-a-half times larger than most other residences constructed on agricultural lands.

In order to reduce the pressures for and discourage the development of residential land uses on agricultural lands that are not supportive of continued agricultural use, the Commission finds it



necessary to limit the proposed residence to 2,500 square feet. This restriction will help to ensure that only residential development that does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production is constructed on agricultural lands. A 2,500-square-foot limit would better meet the requirements of the LCP while still allowing a reasonable residential development that is comparable to most of the single-family homes in this zoning district. This 2,500-square-foot limit is also similar to and consistent with local, state, and national data regarding the sizes of residential development on agricultural properties and the limits placed on residential development on farmlands under the Williamson Act.

Development Envelope

Zoning Regulation Sections 6355.A.1 and 2 require encroachment of all development upon lands suitable for agriculture to be minimized and require non-agricultural development on PAD zoned lands to be clustered. To meet the requirement, the overall footprint of the proposed residence and all appurtenant non-agricultural development must be confined to a specifically defined development envelope. The establishment of this residential development envelope is necessary to ensure that the residence and related development displace the minimal amount of agricultural land necessary and are incidental to agriculture, while still allowing a reasonable residential development.

Typical conforming lots in the residentially zoned areas of the San Mateo County coast range from 5,000 square feet to 10,000 square feet. A 5,000-square-foot lot readily accommodates a 2,500-square-foot single-family residence and all appurtenant development such as landscaping, swimming pools, accessory structures, second residential units, guest units, etc. As such, limiting the residential component of the proposed development to a 5,000-square-foot envelope consistent with the minimum lot size allowable in the R-1 district would allow a reasonable residential development. However, the Commission finds that given the total size of the development site relative to the development envelope, a development envelope in the upper end of the range of lots in the residential zoning districts (10,000 square feet), would still achieve the LCP requirement to minimize the encroachment of development on agricultural lands. Therefore, Special Condition #1 requires the proposed residential development to be confined to a 10,000-square-foot development envelope. Pursuant to this condition, the 10,000-square-foot limit would not include the driveway. To further minimize encroachment on agricultural land, the 10,000 square foot development envelope must be located as close to Bean Hollow Road as possible, while avoiding structural encroachment upon existing inactive ditch easements. Special Condition #1 further limits the 10,000 square foot development envelope to the "potential building area" on the parcel shown in Exhibit 10.

Agricultural Conservation Easement

LUP Policy 5.16 requires that as a condition of any subdivision of an agricultural parcel the applicant must grant to the County and the County must accept an easement that limits the use of the land to agricultural uses, non-residential development customarily considered accessory to agriculture, and farm labor housing. Such easements are usually referred to as agricultural conservation easements.

Although the proposed development does not include subdivision of the parcel, conditioning the project



to require the application of an agricultural conservation easement on the property will ensure that the area of the property outside of the development envelope will remain in agricultural use. Special Condition #2 requires the applicant to either dedicate or record an offer to dedicate to an appropriate public or private entity acceptable to the Executive Director an agricultural conservation easement affecting all areas of the property outside of the approved development envelope.

While agricultural conservation easements typically prohibit development of agricultural land, they do not necessarily ensure that the land will continue to be farmed. To accomplish this, an easement must include an affirmative farming requirement in addition to development prohibitions. Without a clause requiring continued agricultural use, an easement can only guarantee the protection of open space but cannot guarantee the land will remain in agricultural use. In recognition of this shortcoming, affirmative farming clauses are included in agricultural conservation easements. Marin County is currently considering such an easement as a condition for the approval of a non-farming related single-family residence on an agricultural property near the town of Bolinas (Moritz). The organization California FarmLink, which works with land trusts in the state to secure agricultural conservation easements and to match easement holders with farmers seeking available farmland, has developed a sample easement with such language. This sample easement was based in part on easements that are in place in the state. FarmLink advocates the inclusion of an affirmative farming requirement in agricultural conservation easements, stating:

While many individuals who have signed agricultural conservation easements can rest easy with the thought that their land will be protected, they may have never considered the possibility that someone might someday buy the farm solely for the purpose of enjoying the views and the peace and quiet of a rural environment.

In order to ensure that the property remains in agricultural use consistent with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production, Special Condition #2 specifies that the required agricultural conservation easement shall include an affirmative farming clause. LUP Policy 5.16 includes a provision allowing lands covered by an agricultural conservation easement to be converted to open space if changed circumstances beyond the control of the land owner or operator have rendered the property unusable for agriculture and upon certification of an LCP amendment changing the land use designation to open space. Consistent with this provision, the affirmative farming clause would only remain in effect as long as agricultural use of the property is feasible.

Right To Farm

As discussed above, conflicts may occur between residential and agricultural land uses when in close proximity. Typical conflicts where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such conflicts can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as



residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

To ensure that such conflicts do not impair the continued viability of agricultural production, LUP Policy 5.15 and Zoning Code Section 6361.D establish a right to farm provision, stating:

When a parcel on or adjacent to agricultural land is subdivided, the following statement shall be included as a condition of approval on all parcel and final maps and in each parcel deed.

"This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations."

To ensure that the conflicts between the proposed residential development and agricultural production on the project site as adjacent properties do not impair the continued viability of agricultural uses on these lands, Special Condition #3 requires the applicant to record a deed restriction meeting the requirements of above cited LCP policies.

Agricultural Buffer

LUP Policy 5.8(a)(2) requires that "clearly defined buffer areas are provided between agricultural and non-agricultural uses." The purpose of this policy is to avoid negative impacts to agriculture due to complaints from nearby residents of adjacent parcels regarding ongoing normal agricultural operations. For example, the proximity of a single-family residence on a parcel adjacent to agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al.) could jeopardize the continued agricultural activities should complaints arise from residents of the single-family home. An appropriate buffer is especially relevant in the area of the project site because of the high prevailing westerly winds that may bring noise, dust, and odors from the adjacent farming operations to this site. The LCP, however, does not require a specific buffer in terms of number of feet between residential and agricultural use (the Santa Cruz County LCP requires a minimum buffer of 200 feet between residential and agricultural use; this buffer may be reduced if certain findings are made). The San Mateo County Farm Bureau does not recommend any specific buffer between residential and adjacent agricultural use (pers. comm. Jack Olsen, Executive Director). The revised house location, required pursuant to Special Condition #1 and shown on Exhibit 10, would provide a buffer greater than 400 feet from agricultural use on adjacent parcels to the north and west, and a greater than 100-foot buffer from the parcel to the south. The revised house location will be located at least 70 feet from the agricultural parcel directly across Bean Hollow Road to the east. This buffer should be adequate given that the prevailing winds come



from the west. Thus, the revised project provides adequate buffers between the proposed residential use and adjacent agricultural use, consistent with LCP Policy 5.8(a)(2).

2. Wetlands

San Mateo County LCP Policy 7.3 provides for the protection of sensitive habitat areas, including wetlands, and states:

(a) Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas; (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

LCP Policy 7.14 (in part) defines "wetland" as:

...an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground.

LCP Policy 7.16 describes permitted uses in wetlands, which do not include residential development:

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) 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.

LCP Policy 7.17 describes performance standards in wetlands, in relevant part:

Require that development permitted in wetlands minimize adverse impacts during and after construction...

LCP Policy 7.18 establishes buffer zones for wetlands and states:

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative



development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

LUP Policy 7.19 describes the permitted uses allowed in wetland buffer zones:

Within buffer zones, permit the following uses only: (1) uses allowed within wetlands (Policy 7.16) and (2) public trails, scenic overlooks, and agricultural uses that produce no impact on the adjacent wetlands [emphasis added].

LUP Policy 7.51 addresses the removal of undesirable invasive plants:

Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch, and other invasive brooms. Similarly, encourage landowners to remove blue gum seedlings to prevent their spread.

A Biotic Assessment report dated April 2003, prepared for the applicants by Thomas Reid Associates, described the vegetation on the property as being dominated by approximately 14 acres of fallow agricultural fields. This report also describes an approximately four-acre eucalyptus/scrub area as a likely wetland in the northeast portion of the property (shown on page 1 of Exhibit 4). The vegetation in this eucalyptus/scrub area is described as being dominated by silver mountain eucalyptus (which had previously been harvested from this area), but the report states that this area also includes coastal scrub and seasonal marsh vegetation such as Pacific bog rush and Pacific cinquefoil. This report states, "water seeps through this area and into drainage ditches that eventually flow into ponds on an adjacent property to the west." This report states that portions of this approximately four-acre eucalyptus/scrub area could meet the definition of a LCP and/or USACOE jurisdictional wetland. However, a wetland delineation of LCP wetlands was not performed.

This report also states that the headwaters of a "very small intermittent drainage" extend onto the western portion of the property for approximately 172 feet (shown on Exhibit 11 as "swale wetland"). This drainage, which consists of one of the active drainage easements, drains westward onto an adjacent property where it flows into two ponds located on an adjacent parcel.

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

In order to approve a coastal development permit through a *de novo* review of the project, the Commission required additional analysis of the impacts of the approved development to environmentally sensitive habitat areas, including any potential impact to wetland habitat or habitat of the San Francisco garter snake or the California red-legged frog, through a more detailed, site-specific biological resources



assessment and wetland delineation conducted in accordance with the LCP definition of wetlands. A Wetland Determination Report was prepared for the project on May 27, 2004. This report notes that a portion of the property, approximately five acres, was previously planted as an ornamental eucalyptus orchard. This area has been frequently inundated with irrigation runoff from nearby agricultural fields. The report notes that approximately 1.45 acres of this area qualify as jurisdictional wetlands under the California Coastal Act and LUP Policy 7.14 definition of wetlands based on the presence of wetland vegetation and hydric soils. Additionally, there are three active agricultural ditches on the property that also qualify as wetlands (see Exhibit 11). Two of these are adjacent to the eucalyptus wetland area, and one is located on the western border of the property.

LUP Policy 7.18 requires that development adjacent to wetlands be located outside a minimum 100-foot buffer zone measured from the outermost line of wetland vegetation. As described in Special Condition #1 and shown in Exhibit 10, the revised residence will be relocated several hundred feet southeast of the location approved by the County. This location is at least 300 hundred feet from all wetland areas on the property. Special Condition #1 also requires that the size of the residence be limited to 2,500 square feet within a 10,000 square foot building envelope. The remainder of the parcel that is located outside the 10,000 square foot building envelope, including the wetland area, will be placed under an agricultural conservation easement, which only allows for the continuation of agricultural harvesting/production in the wetland but precludes placement of agricultural structures or residential development in the wetland. Thus, the project, as conditioned, is consistent with LUP Policy 7.18.

Regarding the California red-legged frog and the San Francisco garter snake, the Thomas Reid 2003 report identified two ponds on an adjacent parcel west of the subject property as potential habitat for these species (the closest pond is located approximately 150 feet from the western edge of the property boundary and approximately 540 feet from the proposed building site; the second pond is located approximately 500 feet from the western edge of the property and is approximately 900 feet from the proposed building site). These ponds are on private land and no records were found indicating that the ponds have ever been surveyed for California red-legged frog or San Francisco garter snake. This report also found that seasonally wet areas on the subject parcel, including the intermittent drainage on the western boundary and the agricultural drainages and abandoned eucalyptus orchard may provide dispersal habitat for these species.

A follow-up report to the Wetland Determination Report of 2004 notes that the Commission follows guidance established by the U.S. Fish & Wildlife Service (USFWS) regarding recommended buffer zones from potential habitat of the California red-legged frog and the San Francisco garter snake. This includes both potential breeding habitat and habitat corridors used by the species to travel between ponds. Habitat corridors include areas between water features, such as the eucalyptus wetland area, the active agricultural drainages on the parcel, and the ponds on the adjacent parcel to the west. USFWS recommends a buffer between these types of water features and proposed development to protect potential red-legged frog habitat. As discussed above, Special Condition #1 relocates the residence and associated development several hundred feet southeast (as shown on Exhibit 10) of the location approved by the County. Thus, as conditioned, the proposed development will be located more than 300



feet from the eucalyptus wetland and more than 500 feet from the wetland agricultural drainages on the parcel and the ponds located on the adjacent parcel to the west.

Neither the California red-legged frog nor the San Francisco garter snake were observed on the property during field surveys. The Thomas Reid 2003 report notes, however, that these species could occur in the eucalyptus wetland area long the northern boundary of the property and in the drainage perpendicular to the western property boundary. The potential for these species to occur within the remainder of the parcel is low, however, because of the disturbed nature of the site due to past disking and agricultural activities, which discourage the California red-legged frog and the San Francisco garter snake from moving into an area. To ensure that no impacts to these species take place due to construction activities, Special Condition #5 requires that a pre-construction survey be completed by a qualified biologist to determine if California red-legged frog or San Francisco garter snake are present in or adjacent to the proposed construction area. Also, this condition, as well as Special Condition #6, require the implementation of appropriate avoidance measures during grading/construction to protect the sensitive wetland habitats on the site. Special Condition #7 provides further protection for sensitive habitats by requiring submission of a post-construction stormwater pollution prevention plan. With these conditions, the revised project is consistent with LUP Policy 7.3.

In conclusion, the revised residential development is located at least 300 feet from wetlands on the site, consistent with the LCP's wetland buffer requirements. The project is conditioned to reduce the house size to 2,500 square feet within a 10,000 square foot building envelope located in an area at least 300 feet from all wetlands on the property. All remaining portions of the parcel outside this 10,000 square foot building envelope will be placed under an agricultural conservation easement, which allows for the continuation of agricultural harvesting/production in the wetland area but precludes agricultural structures or residential development in the wetland area. This approval includes special conditions to protect the California red-legged frog, the San Francisco garter snake, and wetland areas on the parcel during construction. With these conditions, the proposed project is consistent with the policies of the Sensitive Habitats component of the LCP.

3. Water Supply

LUP policy 5.22 (equivalent to Zoning Regulations Section 6355(B)) provides protection for agricultural water supplies and states (in relevant part):

5.22. Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that: a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel... b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished...

LUP Policy 5.26(a) allows for development of small water impoundments on agricultural land to provide



additional water supplies for farmers, and states:

5.26(a). Encourage farmers, acting individually or as a group, to develop: (1) their own water supplies by utilizing small off-stream reservoirs which draw from winter stream flows or (2) dams on intermittent streams.

Thus, LUP Policy 5.22 & Zoning Regulations Section 6355(B) require that before either prime agricultural land or other land suitable for agriculture can be converted to a non-agricultural use, that the non-agricultural use demonstrate both the existence of an adequate and potable well water source on the parcel, as well as that it will not diminish adequate and sufficient water supplies needed for agricultural production and sensitive habitat.

The applicant proposes to convert an existing agricultural well on the parcel to domestic use. County Environmental Health permitted the well in February 2000 (pers. comm. Steve Hartsell, San Mateo County Dept. of Environmental Health). Although it was approved by the County as an agricultural well, it has never been used to provide water for agriculture use on the property. The County's minimum flow base standard for an adequate residential water supply is 2.5 gallons per minute. The results from a pump test (Exhibit 12, pp. 1-2) performed on this well demonstrate that the well meets this minimum flow base standard for residential use. Also, water analyses performed on water samples from the well meet the Environmental Protection Agency's drinking water standards (Exhibit 12, pg. 3). Additionally, the County's approval included Environmental Health Division special conditions that require the applicant to obtain a certification for the well as a domestic water source prior to issuance of the building permit, and also require the applicant to obtain a permit to operate the well as a domestic source prior to the final inspection of the building permit (see Exhibit 13, conditions #37 & 39). These conditions remain in effect pursuant to Special Condition #8 of this approval. Thus, the proposed project is consistent with the first of the two requirements of San Mateo County LUP Policy 5.22(a) and Zoning Regulations Section Zoning Regulation 6355(B) regarding the existence of an adequate and potable well water source on the parcel.

Agricultural water for the parcel will continue to be provided from Lake Lucerne, which is a manmade reservoir located less than one mile from the subject parcel. The Lake Lucerne Water Company maintains dams and a pump at the lake. Lake Lucerne has adequately provided water for agriculture in this area of San Mateo County for many years, except during a protracted drought in the 1970s when the Lake virtually dried up. During that drought period, there were major cutbacks in agricultural uses in the area until the drought ended and water was again available for agricultural use (pers. comm. Jack Olsen, Executive Director San Mateo County Farm Bureau). The Peninsula Open Space Trust (POST) is the majority shareholder in Lake Lucerne. Staff at POST has stated that in recent years there has been more than ample water from Lake Lucerne to serve the agricultural parcels that have shares in the Lake Lucerne Mutual Water Company (pers. comm. Walter Moore, POST). Currently, however, there are no additional shares available for purchase in the Lake Lucerne system.

Water from Lake Lucerne is pumped to various agricultural operations in the area, according to existing water rights. The subject parcel's water supply is provided by 14 shares in the Lake Lucerne system.



In a normal year of rainfall, these shares produce 14 acre-feet of water (1 share equals 1 acre-foot of water). In general, for flood or sprinkler irrigation, 2.5 acre-feet of water per year is required per acre of cultivation; for drip irrigation, approximately 1.5 acre-feet of water per year is required per acre of cultivation. Thus, to adequately irrigate approximately 16 acres of this parcel would require between 24 and 40 acre feet of water per year depending on whether sprinkler or drip irrigation is utilized, or 10 to 26 acre feet per year more than the water rights allocated to the project site from the Lake Lucerne system. LUP Policy 5.26(a) encourages the development of alternative water supplies, such as agricultural ponds, to support farming operations on PAD-zoned land. In the absence of an additional water supply to support continued agricultural use of the property, the proposed conversion of the existing agricultural well to a domestic well is inconsistent with the requirement of LUP Policy 5.22 & Zoning Regulations Section 6355(B) that adequate and sufficient water supplies needed for agricultural production are not diminished.

To permit the proposed conversion of the existing agricultural well to a domestic well while ensuring that agricultural use on the parcel is served by an adequate water supply, additional agricultural water supply must be developed. Therefore, Special Condition #2 requires the applicants to provide an additional water supply as needed to ensure an adequate water supply is available for agricultural use of the property. The capacity and manner in which this additional water supply shall be provided will be determined by the agricultural conservation easement grantee in consultation with the Executive Director, and may include but is not limited to the construction of an agricultural pond (see Exhibit 14), installation of a well, or acquisition of additional water rights from the local irrigation district. As conditioned, the proposed project is consistent with LUP Policy 5.22(b) regarding the requirement that water supplies for agricultural production not be diminished.

Finally, the eucalyptus wetland located on the applicants' parcel, as well as two ponds located on an adjacent property, receive their water primarily from surface drainage and agricultural drainages located on the parcel and adjacent parcels, not from groundwater. Thus the conversion of the agricultural well to a domestic use will not diminish these sensitive habitat areas. Thus, the proposed project is consistent with LUP Policy 5.22(b) and Zoning Regulations Section 6355(B) regarding protection of agricultural water supplies and sensitive habitats.

4. Visual Resources

LUP policy 8.5(a) requires that new development be sited to minimize visual impacts from State and County Scenic Roads, and states:

8.5a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.



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

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

LUP Policy 8.16 requires the use of landscaping to mitigate the visual impact of development, and states:

a. Use plant materials to integrate the manmade and natural environments and to soften the visual impact of new development. b. Protect existing desirable vegetation. Encourage, where feasible, that new planting be common to the area.

LUP Policies 8.18 and 8.19 provide for development design requirements and state:

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

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

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

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

c. Require that all non-agricultural development minimize noise, light, dust, odors and other interference with persons and property off the development site.

8.19 Colors and Materials

8.19 a. Employ colors and materials in new development which blend, rather than contrast, with the surrounding physical conditions of the site. b. Prohibit highly reflective surfaces and colors



except those of solar energy devices.

The project site is located approximately ½-mile inland from the Cabrillo Highway State Scenic Corridor. Aerial photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property (see Exhibit 4). Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

The County-approved and currently proposed project consists of a two-story residence and associated structural development totaling 6,785 square feet, as well as a pool, patios, driveway, and parking area. The location of the County-approved and currently proposed residence was several hundred feet from Bean Hollow Road. The County noted that the development would be briefly visible from several points along Cabrillo Highway.

The visual resource policies of the certified LCP require that the house be placed in the least visible location that best preserves public views consistent with all other applicable LCP Policies. As discussed in the Agricultural Finding above and required in Special Condition #1, however, the Commission is requiring that the residential structure be limited to 2,500 square feet in size, within a 10,000 square foot building envelope. Additionally, Special Condition #1 requires the relocation of the residence to a location several hundred feet southeast of the County-approved location (Exhibit 10), in an area much closer to Bean Hollow Road (which is *not* a County Scenic Road). The required reduction in development size provides consistency with the LCP's requirement to reduce encroachment on agricultural land and to not diminish the ability to keep all prime agricultural land in production. The requirement to relocate the residence as close to Bean Hollow Road as possible, without encroaching on the existing non-active agricultural ditch easements, further reduces the project's encroachment on agricultural land. Although the development will be briefly visible from points along Cabrillo Highway, the new location will provide the least impacts to the prime agricultural land resources on the parcel, consistent with the agricultural policies of the certified LCP.

The Commission finds that the location necessitated by application of the agricultural policies of the LCP to the proposed project is also consistent with the provisions of LCP 8.5 to locate new development in the least visible location that best preserves public views consistent with all other LCP policies. The reduced footprint of the house and the relocation of the development closer to Bean Hollow Road, a non-Scenic Country Road, coupled with the approximately ½-mile distance from the Cabrillo Highway Scenic Corridor, will minimize the visual impact of the development, consistent with LUP Policy 8.5(a).

LUP Policy 8.16 requires the use of landscaping to mitigate the visual impact of development. The residence will be visible briefly from Cabrillo Highway. Special Condition #1 requires submission of a landscaping plan to provide a natural frame of vegetation to the new structure and to ensure that the house blends in with the surrounding environment. Additionally, LUP Policies 8.18 and 8.19 provide for development design and color requirements to ensure that the development will blend with and be subordinate to the surrounding environment. Special Condition #1 also requires submission of the proposed colors and materials to be used for external surfaces to ensure that the development blends in



well with the surrounding rural environment. As conditioned, the project is consistent with the Visual Resource Policies of the San Mateo County LCP.

5. California Environmental Quality Act (CEQA)

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

The environmental review of the project conducted by Commission staff involved the evaluation of potential impacts to relevant coastal resource issues, including agricultural resources, water supply, visual resources, and environmentally sensitive wetland habitats. This analysis is reflected in the findings that are incorporated into this CEQA finding as if set forth in full. This staff report responds to all public comments that have been received as of the date of this staff report. Mitigation measures are incorporated as conditions of this approval. Accordingly, as so conditioned, the Commission finds that the proposed project is consistent with CEQA, as there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.



V. Appendix A: Substantive File Documents

EMC Planning Group, Inc. June 14, 2005. Potential Impact of Development on Visual Resources, Bean Hollow Road Single Family Residence, Pescadero, California.

EMC Planning Group, Inc. June 14, 2005. An Economic Analysis of a Farming Enterprise on a 17.98-acre site near Pescadero, San Mateo County.

David B. Kelley. October 9, 2004. Assessment of Farmed Wetlands – Polacek Family Residence Site, 900 Bean Hollow Road, Pescadero, San Mateo County, California.

San Mateo County Agricultural Industry Profile & Strategic Farmland Maps – Final Report. July 30, 2004.

David B. Kelley. June 2004. Soils of Polacek Property – Site-Specific Reconnaissance Survey, Bean Hollow Road, Pescadero, San Mateo County, California.

EMC Planning Group, Inc. May 27, 2004. Wetland Determination Report – Polacek Single Family Residence.

California Coastal Commission. March 19, 2004. Appeal Staff Report – Substantial Issue Determination.

California Coastal Commission. February 6, 2004. Notification of Appeal Period for Application No. 2-SMC-02-046 (Local Permit No. PLN2002-01999).

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

Committee for Green Foothills, Lennie Roberts. December 2, 2002 letter to Gabrielle Rowan, San Mateo County Planning Division.

San Mateo County Department of Agricultural/Weights & Measures. San Mateo County Agricultural Reports 2001, 2002, & 2003.

San Mateo County. 1994. Zoning Regulations.

San Mateo County. 1998. Local Coastal Program Policies.

San Mateo County. November 2, 2000. Planning and Building Division Staff Report to the Zoning Officer on Item #2/Costella/Moceo/Polacek, Consideration of a Conditional Certificate of Compliance and a Coastal Development Permit to Legalize a 17.98-acre parcel.

San Mateo County. September 10, 2003. Planning and Building Division Staff Report to the Planning Commission on Item #9/Polacek. Includes Attachments such as Initial Study and Negative Declaration, Biologist Report by Thomas Reid Associates, Prime Soils Map, Photo Simulations.

San Mateo County Planning and Building Division. December 8, 2003. Report to the Agricultural Advisory Committee from Gabrielle Rowan, Project Planner. County File No. PLN2002-0199 (Polacek), including Attachment C, Agricultural Land Management Plan for Parcel & 086-191-120.



San Mateo County Planning and Building Division. January 16, 2004. Notice of Approval by the Planning Commission of County File No. PLN2002-0199 (Polacek).

San Mateo County Planning and Building Division. February 3, 2004. Notice of Final Local Decision for County File No. PLN2002-0199 (Polacek).

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



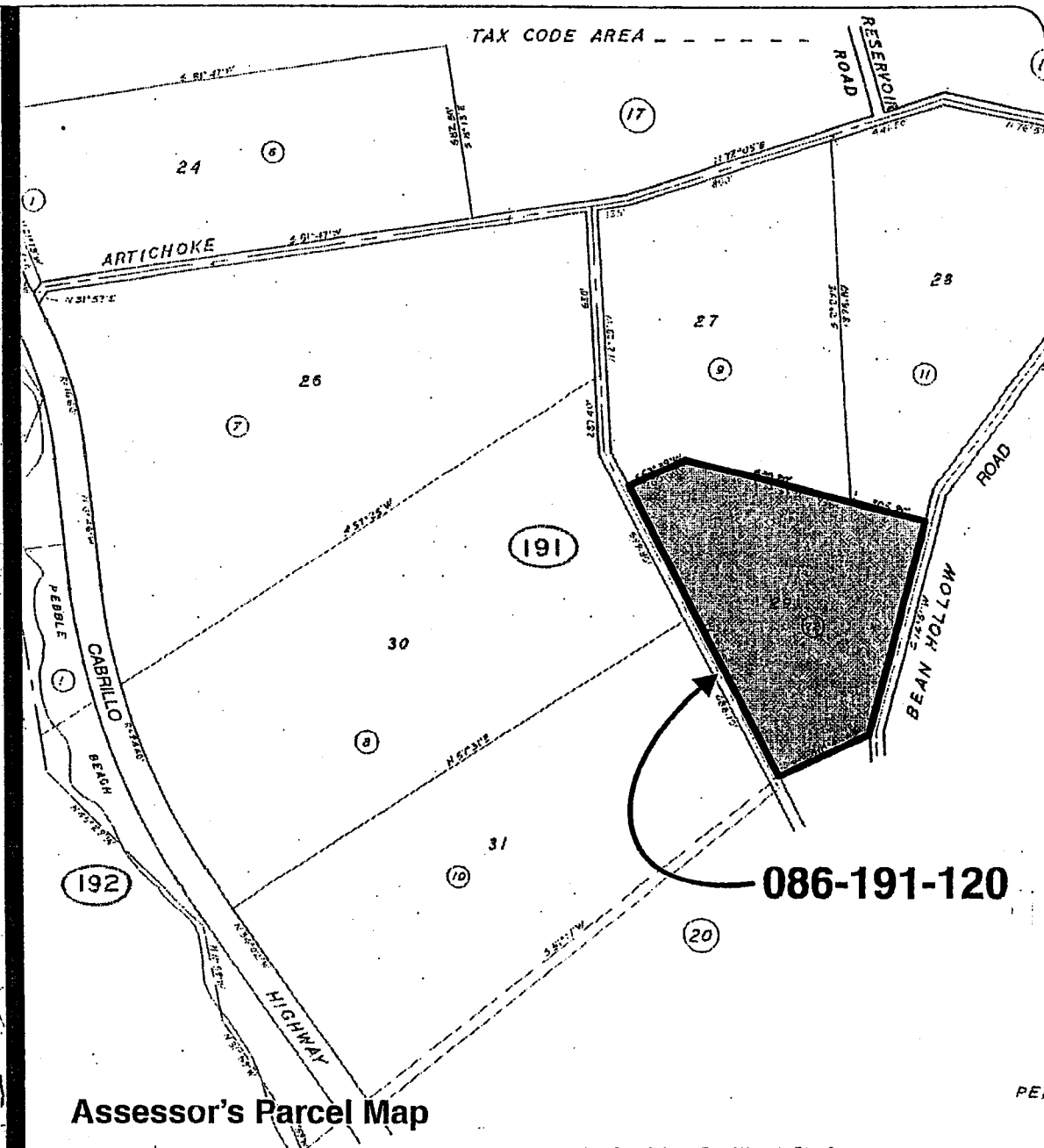
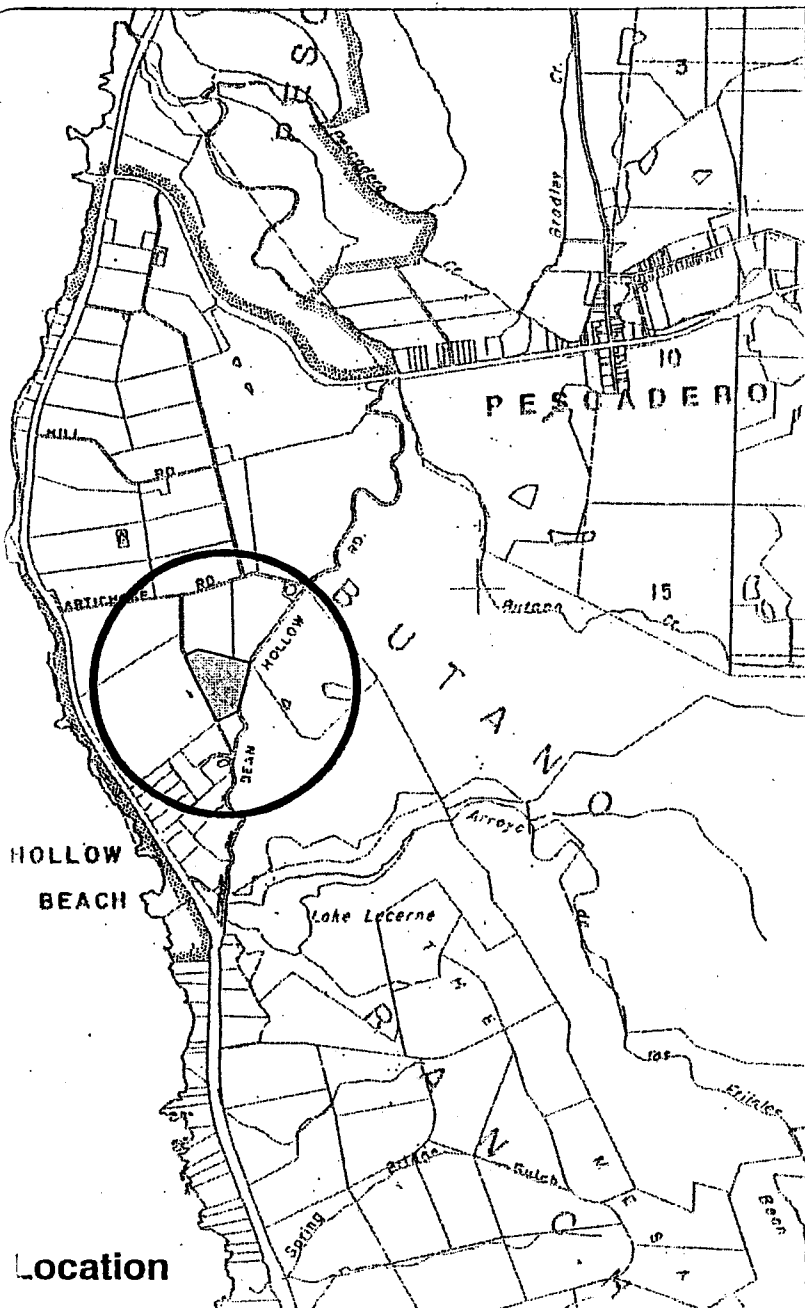
Exhibit 1 pg. 1 of 2

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

PIGEON POINT C
CALIFORNIA-SAN
7:5 MINUTE SERIES

551 25' 00" 552 553 1 450 000 FEET

This is a topographic map of the Pigeon Point area in California. The map features contour lines indicating elevation, with labels such as 40, 80, 120, 160, 200, 240, 280, 320, 360, 397, and 400. Key landmarks include Pescadero Marsh Natural Preserve, Pescadero Point, Bean Hollow State Beach, Lake Lucerne, and Arroyo de San Antonio. Roads are shown, including BM Road and a road labeled '1'. Other features include a Reservoir, a Quarry, a Landing Strip, and a Bridge. The map is oriented with North at the top. The scale bar indicates a distance of 1 450 000 FEET. The map is labeled with '551', '25' 00"', '552', '553', and '1 450 000 FEET' along the top edge. The map is titled 'PIGEON POINT C CALIFORNIA-SAN 7:5 MINUTE SERIES' in the top right corner. The map is labeled with 'Pescadero Marsh Natural Preserve', 'Pescadero Point', 'Bean Hollow State Beach', 'Lake Lucerne', 'Arroyo de San Antonio', 'Quarry', 'Reservoir', 'Landing Strip', 'BM Road', and 'Bridge'.



San Mateo County Planning Commission Meeting

Applicant: Polacek

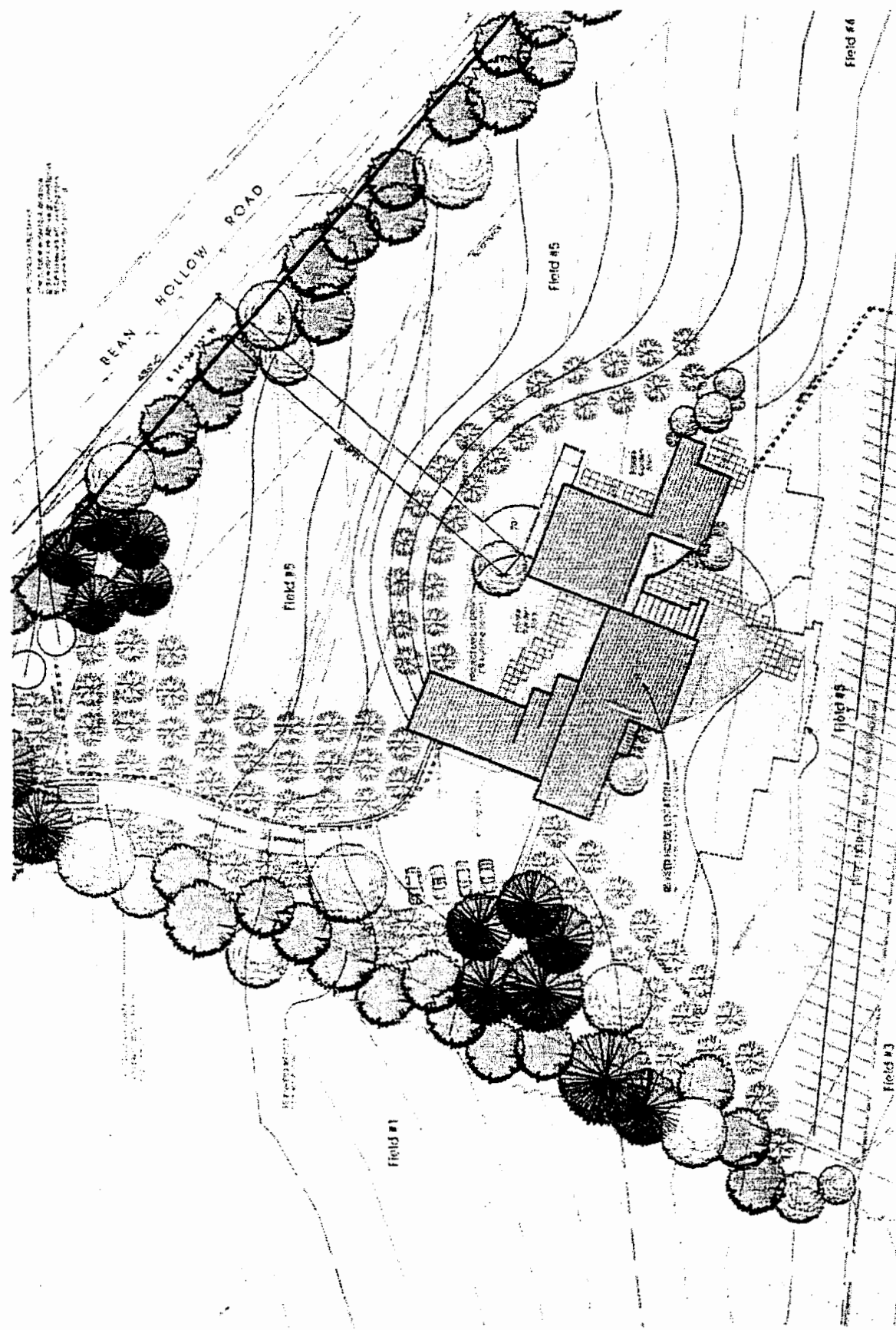
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Exhibit 1, pg. 2 of 2



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

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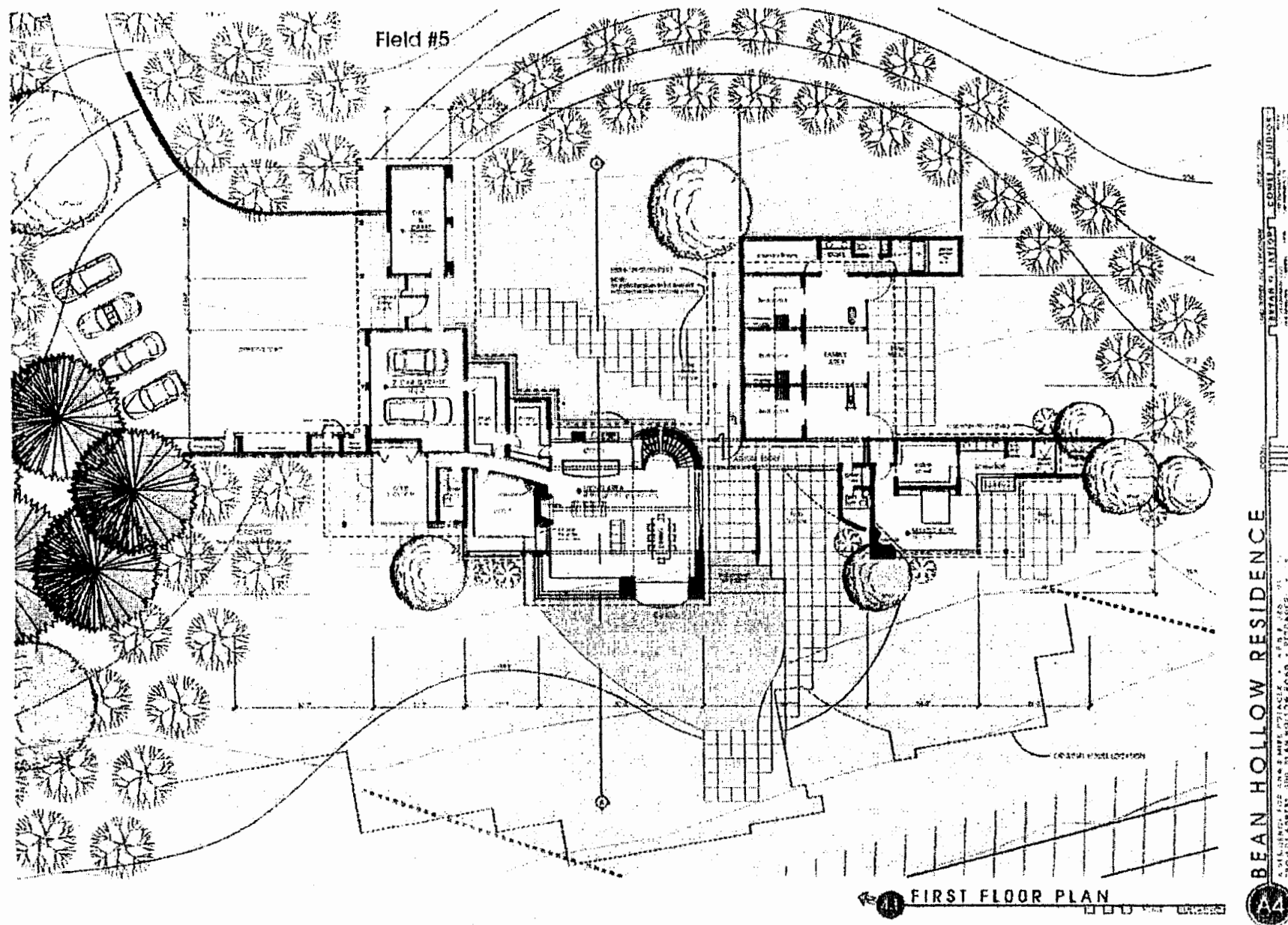
San Mateo County Planning Commission Meeting

Exhibit 2, pg. 2 of 8

Applicant: Polacek

File Numbers: PLN2002-00199

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



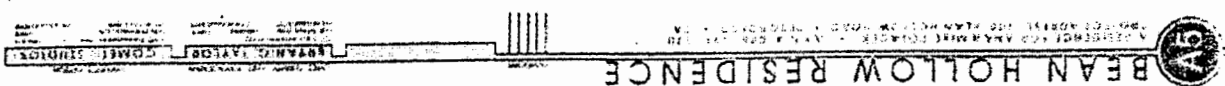
San Mateo County Planning Commission Meeting

Exhibit 2, pg. 4 of 8

Applicant: **Polacek**

File Numbers: **PLN2002-00199**

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

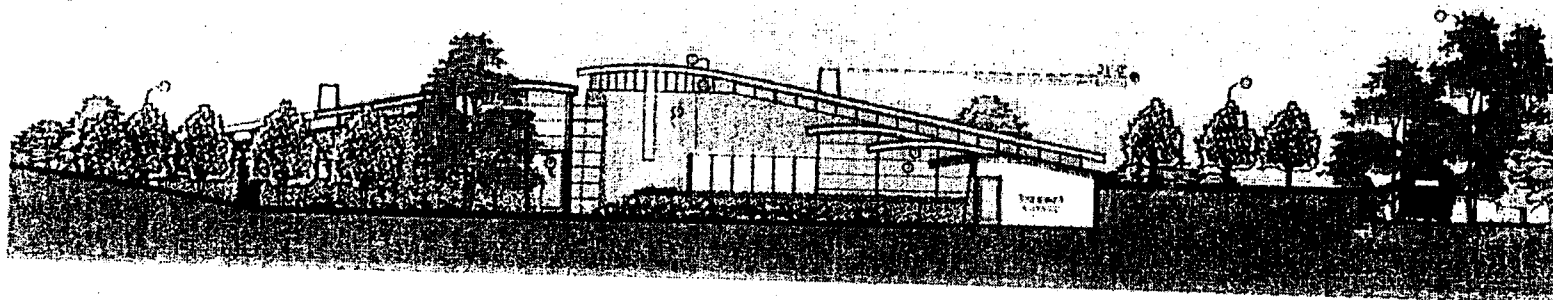


4-1 SECOND FLOOR PLAN

Exhibit 2, Pg. 5 of 8

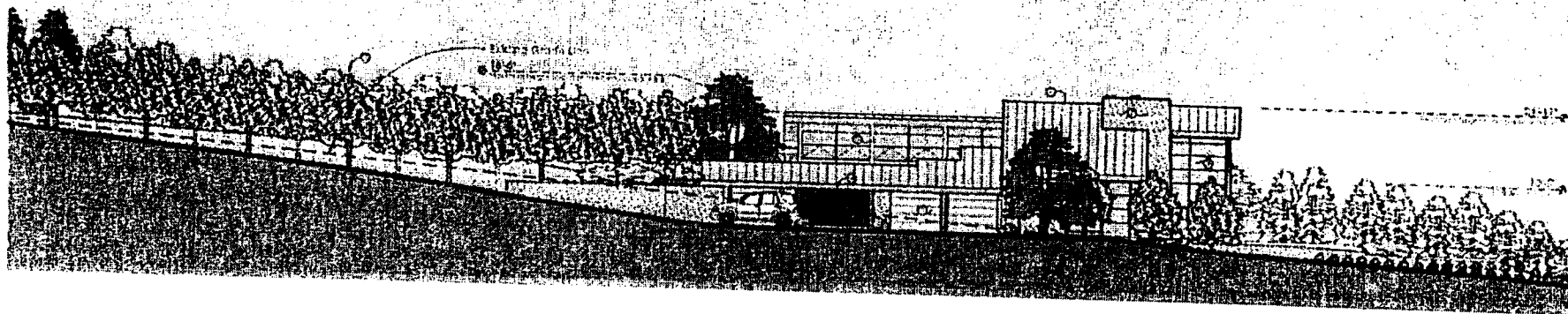
A-2-SMC-04-002 (POLACEK)

File Numbers: **PLN2002-00199**



- THE EXTERIOR MATERIALS**
- ① CARPENTRY: MODERN SLOTTED JOINTS
 - ② HANDRAILS: BURNED OAK, 1 1/2" DIA. ROUNDED, 36" HIGH, AND KNOCK DOWN 1 1/2" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ③ EXTERIOR LIGHTS: 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ④ SLABS AND BRICKS: 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑤ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑥ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑦ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑧ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑨ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑩ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑪ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT
 - ⑫ 12" DIA. ROUNDED, 36" HIGH, NON-CORROSION RESISTANT

60 NORTH EXTERIOR ELEVATION
1/16" = 1'-0"



61 EAST EXTERIOR ELEVATION
1/16" = 1'-0"

BEAN HOLLOW RESIDENCE

A6

San Mateo County Planning Commission Meeting

Applicant: **Polacek**

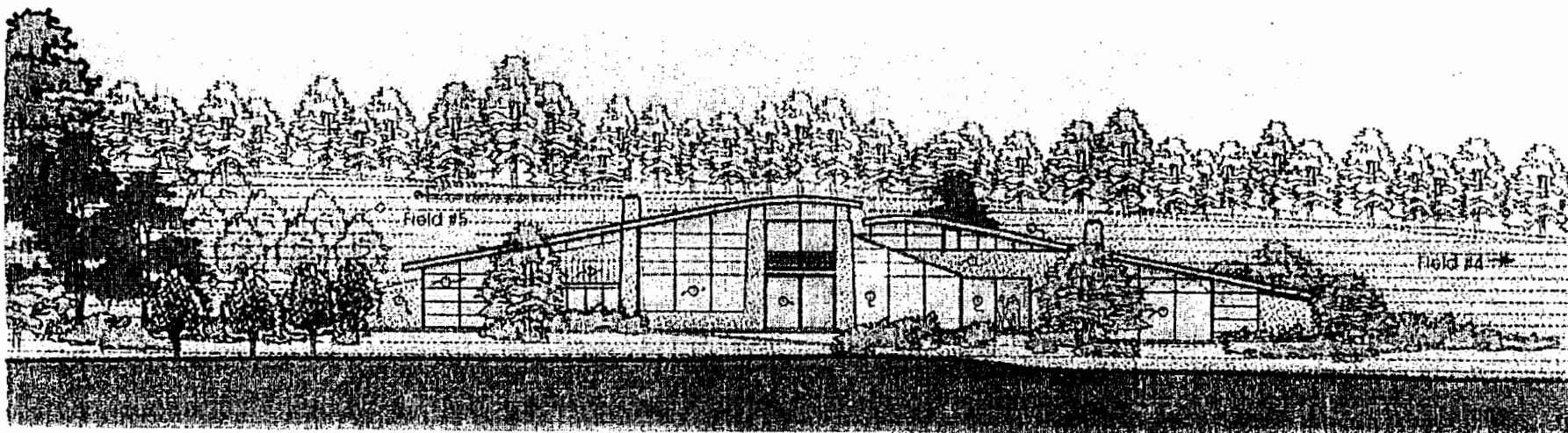
File Numbers: **PLN2002-00199**

Exhibit 2, pg. 6 of 8

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



72 SOUTH EXTERIOR ELEVATION



71 WEST EXTERIOR ELEVATION

BEAN HOLLOW RESIDENCE



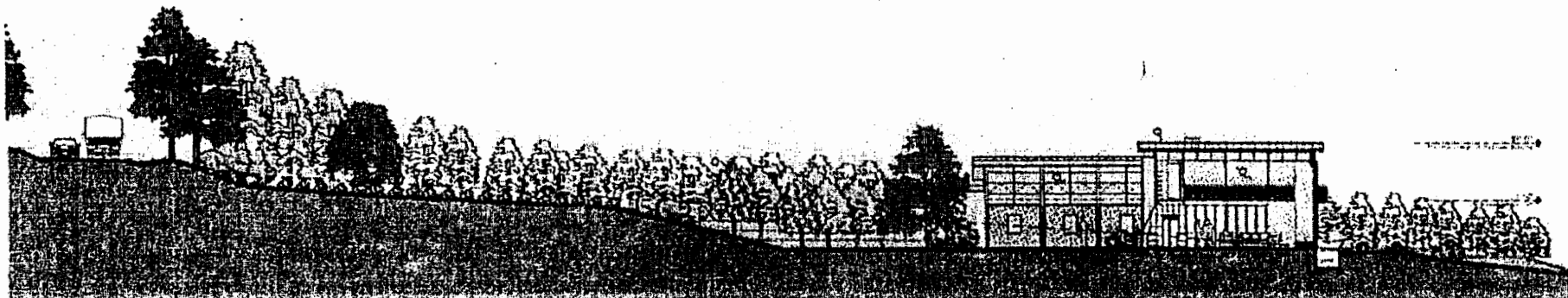
San Mateo County Planning Commission Meeting

Applicant: **Polacek**

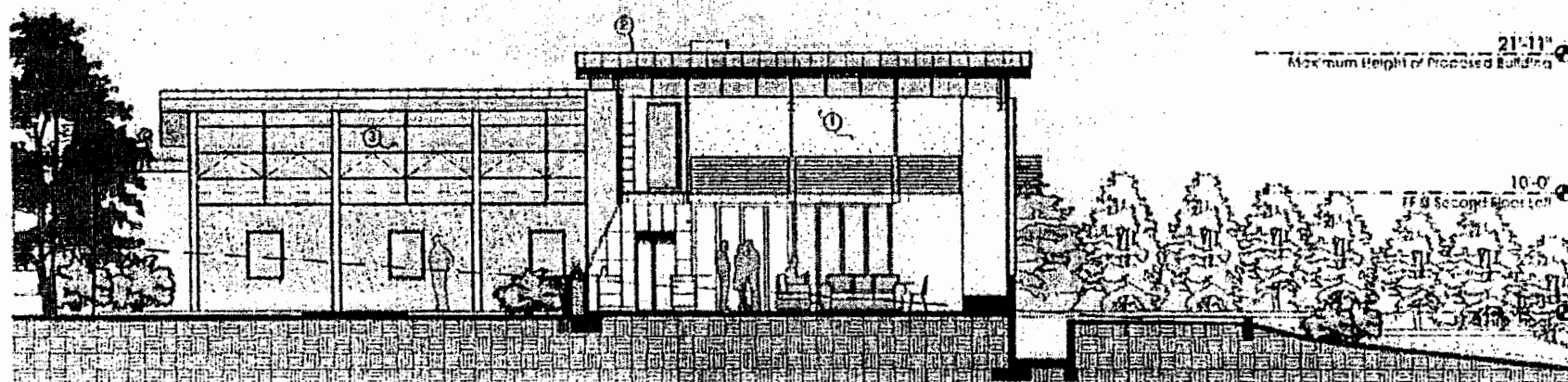
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Exhibit 2, pg. 7 of 8

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



02 SITE SECTION A-A



01 BUILDING SECTION A-A

BEAN HOLLOW RESIDENCE

A8

San Mateo County Planning Commission Meeting

Exhibit 2, pg. 8 of 8

Applicant: **Polacek**

File Numbers: **PLN2002-00199**

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

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

Background: History, Crops, Soils, Water,

History

The Polacek property was part of the Campinotti Ranch and has been farmed in row and grain crops since 1900 or earlier. The land was subdivided in the 1920's. The land was most recently owned by Peter and Sherry Marchi, Gerald Marchi, Frank Costella, and Ralph Moceo and farmed by Marchi Central Farms.

Crops

Historical crops have been artichokes, fava beans, brussel sprouts, leeks, hay, straw flowers, and ornamental eucalyptus. The ornamental eucalyptus was planted on the least productive row cropland. A wide variety of experimental crops have been suggested by local farmers, the UC Davis Agricultural Extension and product suppliers. Historically, wind and soil quality have been significant constraints on coastal crops on this farm. Wind has caused damage to crops and increased evaporation of irrigation water. See maps A and B.

Soils

Some soils are Class III prime soils suitable for a variety of coastal specialty crops. They are classified by a recent soil survey as "sandy loam - deep" or "sands over clay" by the soil and agricultural specialist at Kelley and Associates Environmental Sciences, Inc. These soils are primarily located in the western portions of the property and in the northeast corner of the property. Areas in the eastern portion of the property including the land on which the residential development is proposed is classified as "sandy loam - shallow" or "clays - wet" and are not considered prime soils.

Water

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

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

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

Land Use Plan

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

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

Economics

The limited size and crop potential for an 18-acre farm limits the potential farming operation to two general strategies. (1) It is too small for an independent conventional farming operation and if not farmed by owner needs to be leased to a larger operator. (2) It is large enough for a small specialty crop operation if new crops prove feasible to grow given the climate and the markets are developed to support it.

Near-term plan:

The near-term plan for the next 3-5 years is to continue leasing fields 2, 3 & 4 to the Marchis or other local farmers for conventional agriculture at a lease rate equal to or below agricultural market rates, while beginning to experiment with other crops near the house in field #5. The eucalyptus orchard in field #1 will remain as is, a windbreak. Furthermore, if no lessee can be found the Polaceks will farm these fields, even at a loss, for a period of at least two years.

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

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

Portions of field #5 surrounding the proposed house will be planted with a variety of orchard and berry crops and will be managed by the owners. Several varieties of orchard,

berry, herb and vegetable crops will be chosen and tested at the site. Those crops that do well in the area will be replanted in lieu of those that do not do well. (See Appendix 1 for list of proposed test crops). Earth berms, planted windbreaks, and the house structure will be strategically used to reduce the impact of wind in this area.

Long-term plan:

The long-term plan is to for the owners to gradually increase production of new specialty crops which are found to be marketable, and phase out the conventional crops. The Polaceks will farm all fields themselves with conventional or experimental crops or will make available these lands for lease.

Pesticide and Herbicide Use

Some pesticides and/or herbicides may be used in fields #2 and #3; however there will be preference for lessees and crops that require less chemicals. It is intended that use of chemicals will be minimized in fields #1, #4 and #5. Preference will be given to organic crops to the extent practicable.

Farm Labor

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

Ownership and Leases

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

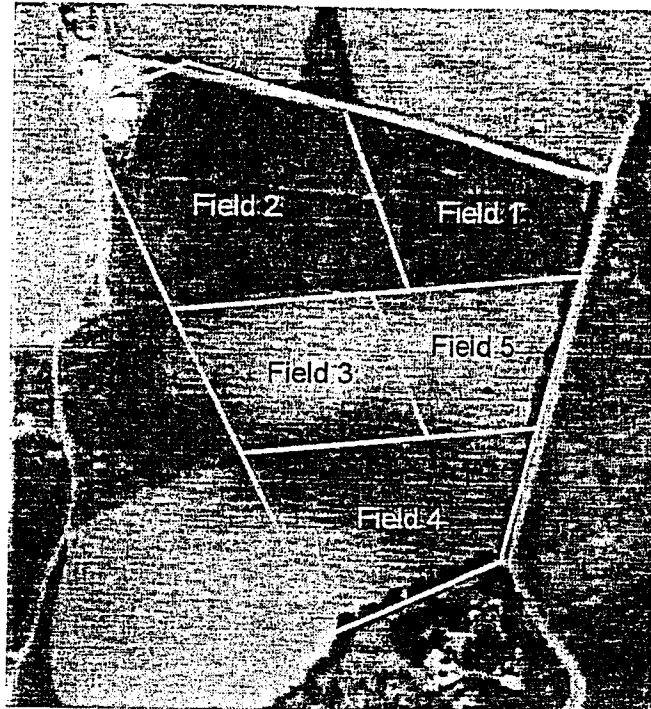
Marketing

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

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

Recent Crops

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

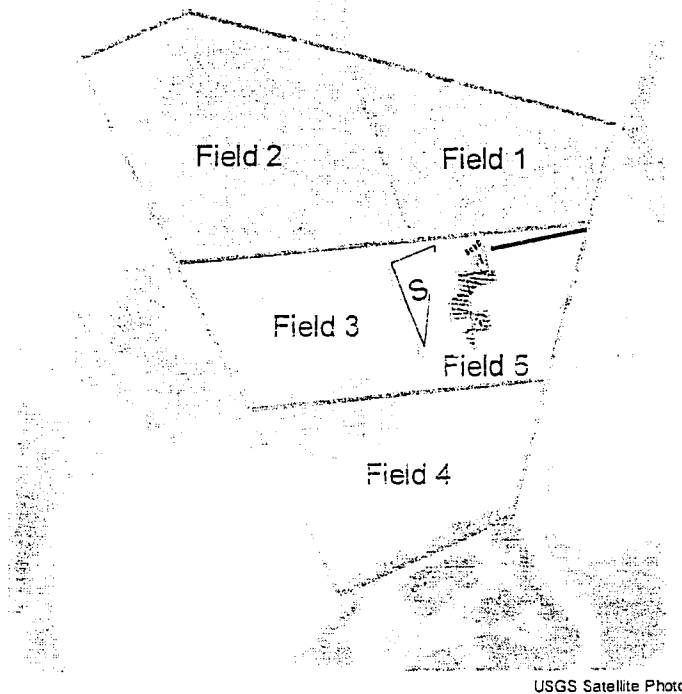


USGS Satellite Photo

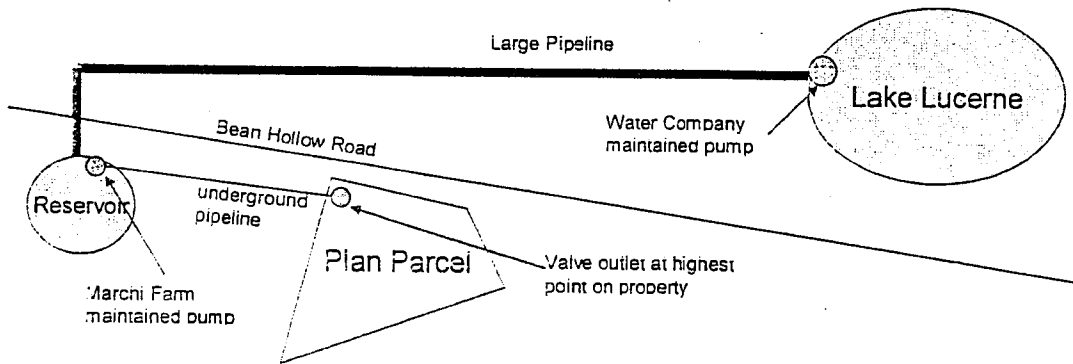
Map B – Site Map with New Crop Plan

New Crop Plan

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



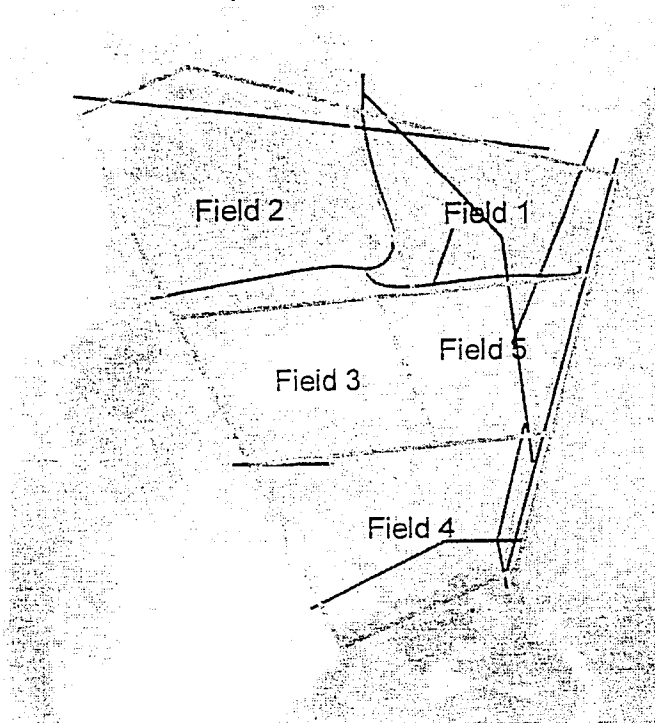
Map C – Water Distribution Map



Map D – Ditch Map

Ditch Map

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



Appendix 1 – Potential Experimental Fruit and Berry Varieties

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

Aerial Source: Dept. of Water Resources 2001

Eucalyptus
wetland

Project
Site

Bean Hollow Road



JUNE 2000

Pg 2 of 6



Project
Site

Bean Hollow Road

Aerial Source: Dept. of Boating and Waterways 1993

Aerial Source: Dept. of Boating and Waterways 1986

Project
Site

Bean Hollow Road



Project
Site

Bean Hollow Road

Aerial Source: Dept. of Water Resources 1978

CCG Exhibit 4
(page 6 of 6 pages)

CALIFORNIA
COASTAL
COMMISSION

Project
Site

Bean Hollow Road

Aerial Source: Dept. of Navigation and Ocean Development 1970

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

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

DESIGN

1990

200

2025

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86-191-120
Soids book pg. 35

Coastal Act Agricultural Definitions and Policies

Section 30108: Feasible

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

Section 30113: Prime agricultural land

"Prime agricultural land" means those lands defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.

Section 30241: Prime agricultural land; maintenance in agricultural production

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas, agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses. (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250. (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands. (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality. (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30241.5: Agricultural land; determination of viability of uses; economic feasibility evaluation

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements: (1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. (2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the

economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program. (b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242: Lands suitable for agricultural use; conversion

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

San Mateo County LUP Applicable Land Use and Agricultural Policies

1.8: Land Uses and Development Densities in Rural Areas

a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

5.1: Definition of Prime Agricultural Lands

Define prime agricultural lands as: a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

5.2: Designation of Prime Agricultural Lands

Designate any parcel which contains prime agricultural lands as Agriculture on the Local Coastal Program Land Use Plan Map, subject to the following exceptions: State Park lands existing as of the date of Local Coastal Program certification, urban areas, rural service centers, and solid waste disposal sites necessary for the health, safety, and welfare of the County.

5.5: Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

5.8: Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated: (1) That no alternative site exists for the use, (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses, (3) The productivity of any adjacent agricultural land will not be diminished, and (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

APPLICABLE PLANNED AGRICULTURAL DISTRICT (PAD) ZONING REGULATIONS

SECTION 6350. PURPOSE OF THE PLANNED AGRICULTURAL DISTRICT. The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques: (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas, (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, (c) developing available lands not suitable for agriculture before converting agricultural lands, (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

SECTION 6351(A). DEFINITIONS. For the purposes of this Chapter, certain terms used herein are defined as follows: A. Prime Agricultural Land: 1. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Compatibility Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. 2. All land which qualifies for rating 80-100 in the Storie Index Rating. 3. Land which supports livestock use for the production of food and fiber, and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. 4. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200 per acre. 5. Land which has returned from the production of an unprocessed agricultural plant product on an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsection (4) and (5) shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized Consumer Price Index.

SECTION 6352(A). USES PERMITTED. The following uses are permitted in the PAD: A. On Prime Agricultural Lands: 1. Agriculture. 2. Non-residential development customarily considered accessory to agricultural uses. 3. Soil dependent greenhouses and nurseries provided that a soil management plan is prepared showing how open prime soils on the site will be preserved and how soils will be returned to their original condition when operations cease. 4. Temporary roadstands for seasonal sale of produce grown in San Mateo County providing that (1) sales activities are limited to less than a nine month operating period per year, (2) all structures are of portable construction and shall be removed from the site within 10 days of the seasonal closure of the stand, (3) roadstand size shall be limited to 200 square feet and

appearance, including signs, color and materials, is consistent with the policies of the certified LCP and meets the satisfaction of the Planning Director, and (4) access and parking requirements meet the satisfaction of the Director of Public Works, however, no impervious paving shall be required. 5. Repairs, alterations, and additions to existing single-family residences. 6. Keeping of pets in association with a one-family dwelling. 7. Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit. 8. Animal fanciers.

SECTION 6353A. USES PERMITTED SUBJECT TO THE ISSUANCE OF A PLANNED AGRICULTURAL PERMIT. The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance. Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore. A. On Prime Agricultural Lands: 1. Single-family residences. 2. Farm labor housing. 3. Public recreation/shoreline access trail (see Section 6355D.2). 4. Non-soil dependent greenhouses and nurseries if no alternative building site on the parcel exists. 5. Onshore oil and gas exploration, production, and minimum necessary related storage subject to the issuance of an oil well permit, except that no wells shall be located on prime soils. 6. Uses ancillary to agriculture. 7. Permanent roadstands for the sale of produce, providing that the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, and subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance. 8. Facilities for the processing, storing, packaging, and shipping of agricultural products. 9. Commercial woodlots and temporary storage of logs.

SECTION 6355(A-D). SUBSTANTIVE CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT. It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria: 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized. 2. All development permitted on a site shall be clustered. 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

B. Water Supply Criteria: 1. The existing availability of an adequate and potable well water source shall be demonstrated for all non-agricultural uses according to the following criteria: (a) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with Local Coastal Program Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (b) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (1) on that parcel, or (2) on the larger property that was subdivided to create the new parcel, provided that a single well water source may not serve more than four (4) new parcels. 2. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished. 3. All new non-

agricultural parcels are severed from land bordering a stream and their needs prohibit the transfer of riparian rights.

C. Criteria for the Division of Prime Agricultural Land: 1. Prime Agricultural Land which covers an entire parcel shall not be divided. 2. Prime Agricultural Land within a parcel shall not be divided unless it can be demonstrated that existing or potential agricultural productivity of all resulting parcels would not be diminished. 3. Prime Agricultural Land within a parcel will not be divided when the only building site would be on such Prime Agricultural Land.

D. Criteria for the Conversion of Prime Agricultural Lands: 1. General Criteria: Prime Agricultural Land within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless it can be demonstrated that: a. No alternative site exists on the parcel for the use, b. Clearly defined buffer areas are provided between agricultural and non-agricultural uses, c. The productivity of an adjacent agricultural land will not be diminished, and d. Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality. 2. Public Recreation Facilities Criteria: For a recreation facility on land owned by a public agency before the effective date of this ordinance, the following additional criteria apply: a. The agency, as a condition of approval of the Planned Agricultural Permit, executes a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture. b. The agency, whenever legally feasible, agrees to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use. 3. Agriculturally Related Uses Criteria: For uses ancillary to agriculture, facilities for the processing, storing packaging and shipping of agricultural products, and commercial woodlots and temporary storage of logs, the following additional criteria applies: a. The area of Prime Agricultural Land converted shall be as small as possible, and, b. In all cases, the area of Prime Agricultural Land converted shall not exceed 3 acres.

SECTION 6361. PROCEDURAL CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.

A. Master Land Division Plan: Before any division of land, the applicant shall file a Master Land Division Plan demonstrating how the parcel will be ultimately divided according to maximum density of development permitted and which parcels will be used for agricultural and non-agricultural uses if conversions are permitted. Division for non-agricultural parcels shall be as small as practicable, not to exceed 5 acres when used for residential purposes, and shall ensure that minimum domestic well water and on-site sewage disposal area requirements are met. Division shall be permitted in phases, and all future divisions occurring on land for which a plan has been filed must conform to that plan. Master Land Division Plans shall not be required for land divisions which solely provide affordable housing, as defined by LCP Policy 3.7 on March 25, 1986.

B. Easements on Agricultural Parcels: After a Master Land Division Plan has been filed, and as a condition of approval thereof, the applicant shall grant to the County (and the County shall accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture (as defined in Section 6352C and D of this ordinance) and farm labor housing. The covenant shall specify that, anytime after three years

from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon the finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to open space. Uses consistent with the definition of Open Space shall mean all those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site's natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to the natural landforms.

C. Agricultural Land Management Plan: For parcels 20 acres or more in size before division or conversion, the applicant shall file an agricultural land management plan demonstrating how, if applicable, the agricultural productivity of the land will be fostered and preserved in accordance with the requirements of Sections 6350 and 6355 of this ordinance.

D. Map and Deed Notice: When a parcel on or adjacent to agricultural land is subdivided, the following statement shall be included as a condition of approval on all parcel and final maps and in each parcel deed. This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

E. Findings: The County shall make findings with respect to each application for division or conversion of lands in the Planned Agricultural District. Such findings shall be in writing, based on fact, and shall set forth specific reasons why proposed division or conversion meets or fails to meet all applicable requirements of this ordinance.

SECTION 6363. ESTABLISHMENT AND APPLICATION OF PLANNED AGRICULTURAL DISTRICT.

Any parcel of land in the Coastal Zone which contains prime agricultural land and lands suitable for agriculture shall be included in the Planned Agricultural District. The Planned Agricultural District is hereby established and applied to the area depicted on the maps entitled "Planned Agricultural District Boundary," for the Mid-Coast and South Coast, both dated January 23, 1979, and on file in the offices of the County Planning Department.

COMMISSION PERMIT HISTORY ON PAD-ZONED LAND

In reviewing the proposed project, Commission staff has reviewed past permit history on agricultural land in San Mateo County. This review is not comprehensive, i.e., it does not include a complete analysis of all previously allowed (or denied) development on agricultural land in San Mateo County, but is representative of past actions in this area over the last eight years.

The permit history detailed in the table below, however, does not include an analysis of whether the conditionally permitted single family residences diminish the ability to keep prime agricultural land and other land suitable for agriculture in agricultural production in contravention of LCP Policy 1.8a. An analysis has not been done regarding the existence or non-existence of continuing farm or ranching operations on these parcels since residential development has taken place.

CCC ID#	Location	Project Description	Prime or Land Suitable for Agriculture	Action by CCC
2-SMC-00-080 (Hines)	Ranch Rd West, Pescadero	4,315 sf SFD; 838 sf garage; 6,400 gal water storage tank	26.86 acres; LSA	
2-SMC-01-076 (Deierling)	4000 Stage Rd., Pescadero	3,812 sf SFD, 720 sf garage; 1000 ft. long driveway	45.7 acres; LSA	
1-SMC-97-315 (Turner)	4995 Stage Road, HMB	Construct 3,890 sf SFD and 1,200 sf stable for horses	Prime/LSA – 40.28 acres	
1-SMC-98-417 (Balopulos)	1180 Lobitos Creek, HMB	Construct 3,185 sf SFD (including 615 sf attached garage)	2.5 acres - LSA	
2-SMC-01-207 (Sullivan)	37 Frenchman's Creek Rd, HMB	Construct 2,779 sq. ft. SFD & 5,000 gallon water storage tank on a 62.5-acre PAD parcel; COC to confirm legality of parcel.	62.5 acres - LSA	
2-SMC-02-033 (Martinson)	3200 Miramontes Point Rd., HMB	Construct 4,475 sq. ft. SFD, 1,440 sq. ft. detached accessory structure, convert ag well.	22 acres - LSA	
2-SMC-02-099 (Donovan)	Cabrillo Highway, HMB	Construct 3,074 sq. ft. SFD, 616 sq. ft. garage, drill a domestic well.	54.1 acres - LSA	

2-SMC-01-159 (Palmer)	321 Verde Rd, HMB	Construct 3,423 sq. ft. SFD, convert 2 existing dwellings to affordable housing; allow 5 horses to be kept on parcel.	46 acres – LSA	
2-SMC-00-189 (Anderson)	400 Dehoff Canyon Rd., HMB	Construct 2,881 sf SFD; convert existing 950 sf SFD to affordable housing.	LSA – 30 acres	Appealed to CCC (A-2-SMC-00- 038) – No Substantial Issue
1-SMC-97-300 (Dixon)	2300 Stage Rd., Pescadero	Convert existing farm labor housing to non-farm labor (768 sf??) SFD;	Prime/LSA – 503 acres	
1-SMC-98-25 (Gardiner)	615 Bean Hollow Rd, Pescadero	Construct 3,000 sf SFD; convert ag well to domestic well.	Prime/LSA – 8.5 acres	
A-2-SMC-00-028 (Blank)	4100 Cabrillo Hwy, Pescadero	Construct 15,780 sf SFD, equipment barn, relocate farm labor housing, on 261-acre parcel.	Prime/LSA – 261 acres	Appealed by CCC – conditioned approval; clustered farm labor housing with other bldgs on LSA, instead of prime land. Project description includes some proposed ag use.
A-2-SMC-99-066 (Lee)	2050 Cabrillo Hwy, Pescadero	Construct 6,000 sf SFD on 84-acre parcel.	Prime/LSA – 84 acres	Appealed by CCC - Approved with conditions; no ag finding
A-3-SMC-95-025 (Pellegrini)	Audobon Ave., Montara	Construct 21,000 sf SFD on 10-acre PAD parcel.	Prime (10 acres), but no contiguous ag parcels; surrounded by smaller developed lots zoned R-1.	Appealed to CCC – No Substantial Issue
2-SMC-01-306 (Marsh)	333 Tunitas Creek Rd., San Gregorio	Construct 2,655 sf SFD & 846 sf detached garage; convert ag well to domestic use.	8 acres – Prime	
2-SMC-99-351 (Templeton)	Pescadero Creek Rd @ Dearborn Park Rd	Construct 2,300 sf SFD, 484 sf detached carport; 1,728 sf barn for horses.	3.6 acres – Prime	

2-SMC-99-367 (Muzzi)	2550 Pescadero Rd	Construct 1,790 sf SFD & attached garage; add 1,056 sf trailer for farm labor housing; convert ag well for domestic use; legalize 5-acre parcel.	5 acres – prime	
1-SMC-98-303 (Peterson/Schabe)	11260 Cabrillo Hwy, Pescadero (just north of Bean Hollow Rd.)	Construct a 1,322 sf addition to an existing 2,674 sf SFD.	No info on parcel size or soil type.	
2-SMC-02-212 (Lustig)	715 Bean Hollow Rd.	Addition to existing 2576 sf SFD (including garage); after addition, total sf = 4245 sf (including garage).	TPZ-CZ/PAD – 4.11 acres; no soil info	Approved by County - No record of CCC staff receiving Final Location Action Notice
A-1-SMC-97-013 (Lucchini)	West side of Hwy One, 800 feet south of HMB City limits	Requested to construct 3,490 sf SFD (including garage) and 2,033 foot long driveway; approved for 3,140 sf house and garage; 4,000 sf building envelope.	Prime – 4.88 acres	Appealed by CCC – substantial Issue 4/10/97; approved with conditions 5/12/98 (deed restriction allowing only ag use on remainder of property; reduced allowable house to max of 3,140 sf (including garage) and 4,000 sf building envelope (due to visual concerns); required re-design of house to look like farmhouse.



Potential building area

- 10,000 sq. ft. building envelope shall be located within this potential building area
- The remainder of the potential building area not included in the 10,000 sq. ft. building envelope shall be part of the agricultural easement area that covers all portions of the property outside of the 10,000 square foot building envelope



Legend



110 Feet



Property Boundary



Easements with Active Ditches



Inactive Ditch Easements

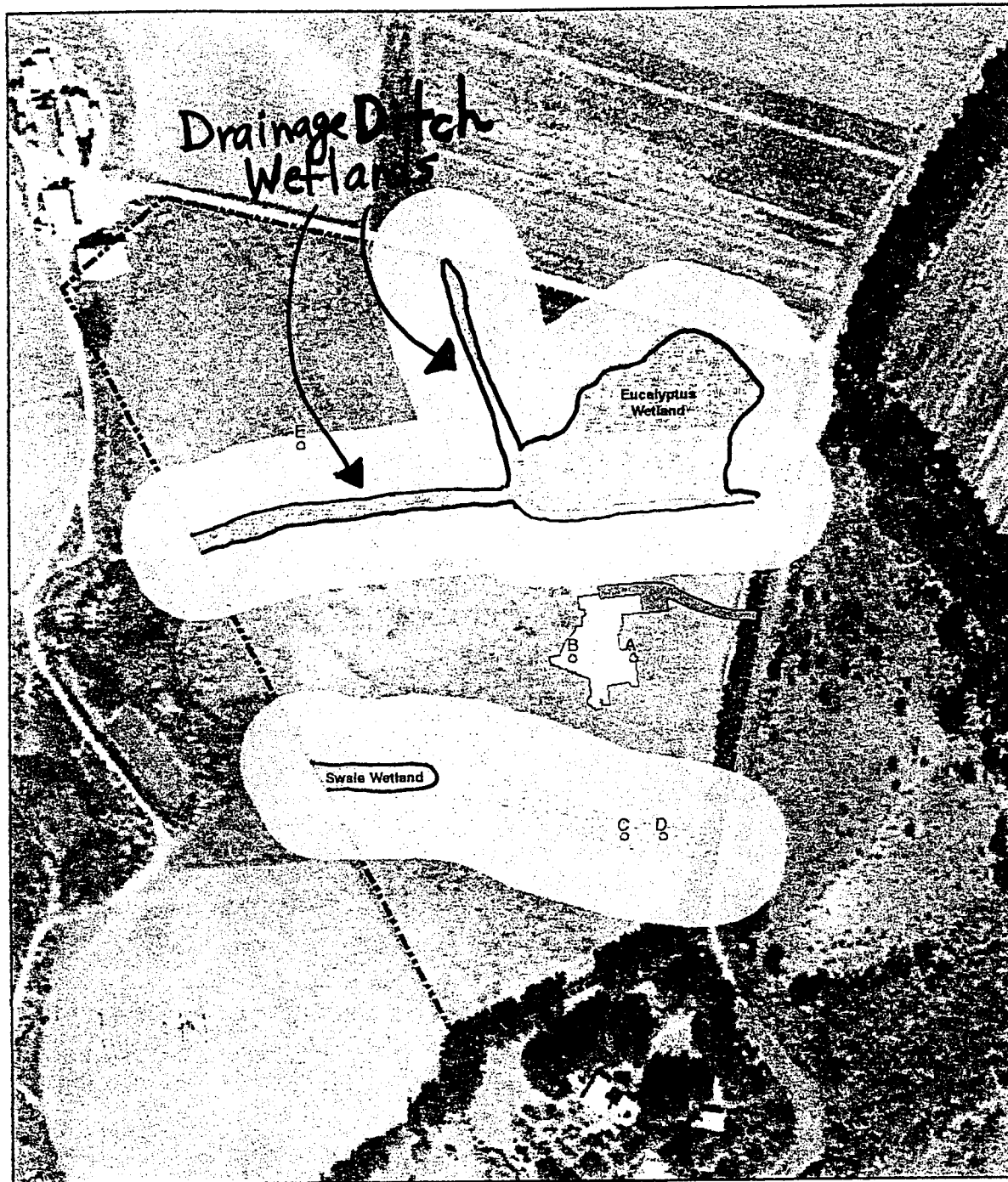
Source: EMC, 2004, Terraserver, 2002

Attachment 3

Approximate Ditch Easements Map

Polacek Single Family Residence

CCC Exhibit 10
(page 1 of 1 pages)



Note: Soil Locations are approximates based on field data.

Source: EMC 2004, David Kelley and Associates, 2004, Orthophoto: Terraserver, 2002

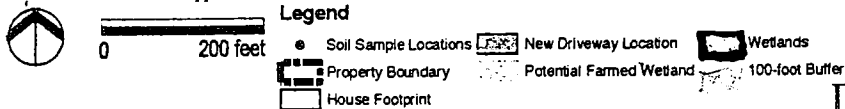


Figure 2
Delineated Wetlands,
Potential Farmed Wetlands, and Wetland Buffers
Polacek Single Family Residence

E M C

SIMMS PLUMBING & WATER EQUIPMENT, INC.P.O. BOX 738
PESCADERO, CA 94060
(650)879-1823**WELL REPORT INFORMATION**

OWNERS NAME MOCEO ASSOCIATES

ADDRESS 088-191-120 LOT 29

TEST DATE NOVEMBER 20, 2000

WELL DEPTH 27'-0

STANDING WATER LEVEL 0'-0

STATIC WATER LEVEL 21'-5

PUMP SETTING 25'-0

TIME TEST BEGAN 7:00 AM

TIME	DRAWDOWN	G.P.M.
7:00	0'-0	8.0
7:15	8'-8	8.0
7:30	15'-5	8.0
7:45	21'-1	8.0
8:00	21'-2	8.0
8:15	21'-3	8.0
8:30	21'-4	8.0
8:45	21'-6	7.5
9:00	21'-4	7.25
9:15	21'-5	7.0
9:30	21'-5	6.0
9:45	21'-5	5.0
10:00	21'-5	4.0
10:15	21'-5	4.0
10:30	21'-4	3.75
10:45	21'-5	3.75
11:00	21'-4	3.75
11:15	21'-4	3.75
11:30	21'-4 1/2	3.75
11:45	21'-5	3.75
12:00	21'-6	3.3
12:15	21'-6	3.3
12:30	21'-6	2.5

RECOVERY RATE

12:35	21'-1
12:45	20'-9
12:55	20'-3
1:05	19'-4
1:10	18'-9

11/28/00 15:16 FAX 6508790745

SIMMS PLUMBING

02

SIMMS PLUMBING & WATER EQUIPMENT, INC.P.O. BOX 738
PESCADERO, CA 94060
(650) 879-1823

MOCEO ASSOCIATES

086-191-120

NOVEMBER 20, 2000

Bill Ta

Job Location

Date

System to be: ☒ Individual ☐ SharedType: ☒ Well ☐ Spring ☐ Horizontal Well ☐ Stream

Location of Water Source (APN):

APN's to be served: 1.) 086-191-120 2.)
3.) 4.)**WELL PUMPING TEST**

DATE OF TEST	PUMPING RATE	DURATION	TOTAL YIELD
11-20-2000	2.5	6.5	2.5
DRAW DOWN	STATIC WATER LEVEL	WELL DEPTH	PUMP LEVEL
21'-5"	21'-5"	27'-0"	25'-0"

Disclaimer

This report is for informational purposes only. It is in lieu of, and supersedes any other representations or statements of the agents or employees of the company, and all other requirements or statements shall be relied upon at the customer's own risk.

The data and conclusions herein are based upon the tests and observations of the company using standard and accepted practices of the groundwater industry. However, conditions in water wells are subject to dramatic changes in even short periods of time. Additionally, the observational techniques employed may be subject to considerable error due to factors within the well and groundwater formation which are beyond the company's immediate control.

Therefore, the data and conclusions are valid only as of the date and within the limitations of the test and installation indicated, and should not be relied upon to predict either the future quantity or quality of the water the well will produce. The company makes no warranties, either express or implied as to such future water production. Further, it expressly disclaims and excludes liability consequential or incidental damages arising out of the breach of an express or implied warranty of future water production, or arising out of any further use of this report by the customer or third parties.

In presenting the data and conclusions herein, unless expressly stated to the contrary, does not represent the well or pump system is in any particular condition or state of repair, nor that the water will satisfy governmental ordinances or regulations, nor that the water is adequate or a particular use contemplated by the customer.

Steve D. Simms
Steve Simms

11-21-2000
Date



AnaCon Testing Laboratories, Inc.

415 Fairchild Drive
Telephone: (650) 335-1233

Mountain View, California 94043
Facsimile: (650) 335-1076

November 28, 2000 / ld

Simms Plumbing
P.O. Box 738
Pescadero, California 94060

ATL No.: 0023.01
Lab No.: 40628.1.6
Cert. No.: 1535

Attention: Steve Simms

Service:

ANALYSES OF WATER

Sample Identification: Moceo Associates - Lot 29, Pescadero, CA (APN 086-191-120)

Date Received: November 20, 2000

<u>Constituent</u>	<u>Found</u>	<u>Detection Limits</u>	<u>Required</u>	<u>Method *</u>
Chloride, ppm Cl	105	---	< 500	4500-Cl B
Iron, ppm Fe	0.12	0.043	< 0.30	3500-Fe B
Manganese, ppm Mn	0.018	0.015	< 0.05	3500-Mn B
Nitrate, ppm NO ₃	Separate Report	0.1	< 45	4500-NO ₃
Specific Conductance, umhos	535	---	< 1600	2510 B
Total Coliform Bacteria	Absent	---	Absent	9221 B

< = less than; > = greater than; N.D. = Not Detected.

* Standard Methods for the Examination of Water and Wastewater, 18th Edition

This sample meets the EPA drinking water requirements.

Respectfully submitted,
AnaCon Testing Laboratories, Inc.

Louis Davis
Chemistry Laboratory

CCC Exhibit 12
(page 3 of 5 pages)

Enclosures: 2



**SCIENTIFIC ENVIRONMENTAL
LABORATORIES, INC.**

AnaCon Testing Lab. Inc.
415 Fairchild Drive
Mountain View, CA 94043

Attn: Mr. Richard Maynez

Released: 11-27-00
Lab ID : M008908
Recv'd : 11-20-00
Col'd : 11-20-00
Sampler : AnaCon
Analyst : HA
Analyzed: 11-21-00
Matrix : Liquid

Analysis: Nitrate as NO₃

Method: EPA 300.0

Detection Limit: 0.05 mg/L

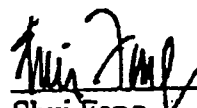
Source

086-191-12 Lot # 29 Pescadero, CA

Result (mg/L)

30.0

SF:dc


Shui Fong
Director, Water Laboratory

12-1-00
AP
CCC Exhibit 12
(page 4 of 5 pages)



HEALTH SERVICES AGENCY

December 7, 2000

via fax 726-0824

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

Subject: Septic system for 700 Bean Hololow Road, Pescadero (APN 086-199-120)

Dear Mrs. Polacek:

Percolation testing on this site has been approved by Environmental Health. Based on the results a septic system that can adequately serve a single-family residence can be installed and approved here.

There is some question about the presence of seasonal high groundwater on the site. This can be addressed by proposing a shallow septic system (3 feet) or performing wet weather testing.

If you have further questions please call me.

Sincerely,

Steven R. Hartsell, REHS
Program Supervisor

CCC Exhibit 12
(page 5 of 5 pages)

PUBLIC HEALTH AND ENVIRONMENTAL PROTECTION DIVISION

Board of Supervisors: Rose Jacobs Gibson • Richard S. Gordon • Mary Griffin • Jerry Hill • Michael D. Nevin • Health Services Director: Margaret Taylor

455 County Center • Redwood City, CA 94063 • PHONE 650.363.4305 • TDD 650.573.3206 • FAX 650.363.7882
<http://www.health.co.san-mateo.ca.us>

County of San Mateo
Environmental Services Agency
Planning and Building Division

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN PLN2002-00199

Hearing Date: January 14, 2004

Prepared By: Gabrielle Rowan

Adopted By: Planning Commission

FINDINGS

Regarding the Negative Declaration. Found:

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

Regarding the Planned Agricultural Permit. Found:

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

Regarding the Coastal Development Permit. Found:

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

CONDITIONS OF APPROVAL

Planning Division

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Building Inspection Section

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

Department of Public Works

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

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

Environmental Health Division

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

Mike and Ana Polacek

January 16, 2004

Page 13

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

pcd0114o_9kr.doc

RESOLUTION NO. 012100

BOARD OF SUPERVISORS
COUNTY OF SAN MATEO, STATE OF CALIFORNIA
* * * * *

RESOLUTION ACKNOWLEDGING RECEIPT
OF THE CALIFORNIA COASTAL COMMISSION'S RESOLUTION
APPROVING CATEGORICAL EXCLUSION E-81-1
AND ACCEPTING AND AGREEING TO THE TERMS AND CONDITIONS
TO WHICH THE EXCLUSION HAS BEEN MADE SUBJECT

RESOLVED by the Board of Supervisors, County of San Mateo, State of
California, that

WHEREAS, on April 1, 1981, the California Coastal Commission found
that the actions taken by the San Mateo County to implement the Local
Coastal Program as conditioned were legally adequate, and thereby returned
to the County permit review authority in the Coastal Zone, and

WHEREAS, on April 1, 1981, the California Coastal Commission subsequently
granted the County Categorical Exclusion E-81-1, with conditions, exempting
single-family dwellings in designated areas of Montara, Moss Beach and
El Granada, and agriculturally related development in designated rural
areas from Coastal Development permit requirements,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of
San Mateo County: (1) acknowledges receipt of the California Coastal
Commission's resolution approving categorical exclusion E-81-1 and (2)
accepts and agrees to the terms and conditions to which the exclusion
has been made subject.

* * * * *

CATEGORICAL EXCLUSION ORDER E-81-1

San Mateo County, Central Coast Region

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30610(e) and 30610.5(b), categorically excluding from the permit requirements of the California Coastal Act of 1976 the categories of development within the specifically defined geographic area described below.

I. BACKGROUND/GEOGRAPHIC AREA/CATEGORY OF DEVELOPMENT/COASTAL ACT

Section 30610 of the Coastal Act allows the State Commission to adopt a Categorical Exclusion for a specific type of development within a defined geographic area.

Section 30610(e) states:

"Any category of development, or any category of development within a specifically defined geographic area, that the Commission, by regulation, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the Commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and that such exclusion will not impair the ability of local government to prepare a local coastal program."

Public Resources Code Section 30610.5(b) additionally requires that the following findings and the provisions must be made.

Section 30610.5(b) states in part:

"Every exclusion granted...shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division and an order granting an exclusion under Sub-division (e) of Section 30610...may be revoked at any time by the Commission if the conditions of the exclusion are violated..."

A. Geographic Area

The proposed Categorical Exclusion, consistent with the certified LCP, is intended to eliminate the requirement for a Coastal Development Permit for the uses described in areas: (1) defined as urban in the LCP, zoned R-1/S-17 or R-1/S-9, designated as medium density or medium low density residential in the Land Use Plan; and, (2) defined as rural in the LCP, zoned PAD, RM/CZ, or TP/OZ. (Maps will be available at meeting).

B. Category of Development

The following types of development are excluded from coastal permit requirements within the geographic area, for parcels existing on the effective date of certification.

Single-Family Residences

On lots conforming to zoning district regulations, the construction, reconstruction, demolition, repair, maintenance, alteration or addition to any single-family dwelling or accessory building which does not require a variance after: (1) applying Design Review (DR) District regulations and (2) reviewing and approving required geologic reports in hazardous areas as defined in Policy 9.10 of the Local Coastal Program. All development must conform to the following criteria:

1. Area is within urban boundary of the Local Coastal Program (LCP).
2. Area was designated as Medium Density or Medium Low Density Residential in the Local Coastal Program.
3. Area is zoned either R-1/S-17 or R-1-1/S-9.
4. Area is not between the first public through road and the sea.
5. Area is not in an existing or proposed Geologic Hazards (GH) Overly Zone.
6. Area is not within a 100-year floodplain.
7. Area is not within appeal jurisdiction of the Coastal Commission.
8. Approval of any development in this category will not exceed the total number of residential building permits yearly authorized by the Board of Supervisors according to Policy 1.19 of the Local Coastal Program.

Agriculturally Related Development

1. The construction, improvement or expansion of barns, storage buildings, equipment buildings and other buildings necessary for agricultural support purposes, provided such buildings (a) do not exceed 36 feet in height; (b) do not cover more than 10,000 square feet of ground area; (c) do not include agricultural processing plants, greenhouses or mushroom farms; (d) are not located within 100 feet of blue line streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, 100 feet of the edge of any coastal bluff or 100 feet of Pescadero Marsh; and, (e) are not located on a slope of over 30%.
2. Improvement and expansion of existing agriculturally-related processing plants, mushroom farms or greenhouses not on Prime Agricultural Land, and existing soil dependent greenhouses on Prime Agricultural Land provided that such improvements do not exceed 36 feet in height or increase ground coverage by more than 25% or 10,000 square feet, whichever is less.
3. Paving in association with development listed in paragraphs 1 and 2, above, provided it is included within applicable ground cover limits and does not exceed 10% of the ground area covered by the development.
4. Fences for farm or ranch purposes, not including any solid or chain link fences or fences which would block existing equestrian and/or pedestrian trails.

5. Water wells, well covers, pump houses, water storage tanks of less than 10,000 gallons capacity and water distribution lines, including up to 50 cubic yards of associated grading, provided such water facilities are used for on-site agriculturally-related purposes only.
6. Water impoundments located in drainage areas not identified as blue line streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, provided such impoundments do not exceed 25 acre feet in capacity.
7. Water pollution control facilities for agricultural purposes if constructed to comply with waste discharge requirements or other orders of the Regional Water Quality Control Board.

CONDITIONS

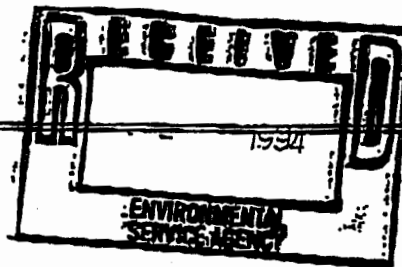
1. For Agriculturally Related Development, #1(d) should be clarified so that no development is excluded within 100 feet of any wetland meeting the definition of Local Coastal Program policy 7.14.
2. For Agriculturally Related Development, #6 shall be revised to indicate that all grading permits must be granted before water impoundments as defined are excluded.
3. All agriculturally-related development located within a hazardous area identified on the LCP Hazards Maps shall not be excluded from coastal development permit requirements.
4. Maps showing excluded areas for agriculturally related development with the appropriate approved zone district shown shall be submitted for Commission Executive Director review and concurrence before the County implements the Exclusion.
5. Maps showing excluded development shall be revised to not include any areas of potential public trust. Those areas include: San Gregorio, Pomponio and Gazos Creeks adjacent to and east of State Highway One, and additional areas adjacent to Pescadero Marsh along Pescadero and Butano Creeks.
6. Within the South County, the previously subdivided areas of Dearborn Park and Butano Falls tracts, zoned R-1/S-7+S-8+S-9 and S-10, are not excluded.

Limitations on Exclusion

- A. This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code Section 30610(d) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state or local government or agency.
- B. This exclusion shall not apply to tide and submerged land, beaches and lots immediately adjacent to the inland extent of any beach, or of the mean higher high tide line of the sea where there is no beach, potential public trust lands as identified by the State Lands Division in the trust claims maps, wetlands as identified in the power plant siting wetland resources maps.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 437-4863
HEARING IMPAIRED: (415) 904-5200



July 25, 1994

RECEIVED

FEB 28 2002

CALIFORNIA
COASTAL COMMISSION

Paul M. Koenig, Director
Environmental Services Agency
County of San Mateo
590 Hamilton Street
Redwood City, CA 94063

SUBJECT: Coastal Commission Action on Partial Rescission of San Mateo County
Categorical Exclusion E-81-1

Dear Mr. Koenig:

On May 10, 1994, the California Coastal Commission approved staff's recommendation to rescind that portion of the County's Categorical Exclusion E-81-1 that excluded agricultural water wells in the Pillar Point Marsh groundwater basin watershed from the requirement for obtaining a coastal development permit from the County. Please see the attached copy of the portion of the categorical exclusion relating to agricultural development, amended to reflect the Coastal Commission's action (Attachment 1). Also attached for your use is a copy of the adopted recommendation, resolution, and findings (Attachment 2). The amended language supersedes the original language in Categorical Exclusion E-81-1 and is effective as of May 10, 1994. We appreciate the cooperation of your agency and the County Board of Supervisors in supporting Coastal Commission staff's recommendation in this matter.

If you have any questions, please call Steve Guiney in this office.

Sincerely,

David Loomis
Assistant District Director

attachments

cc: Janice Jagelski, Planning Division
Jim Claitor, ETOP Properties
Scott W. Horsley, Horsley & Witten
Lennie Roberts, Committee for Green Foothills
L.J. D'Addio, Citizens Utilities
Anthony K. Kash, Coastside County Water District
Diane Kampe, Princeton Citizens Advisory Committee
Louis Wall

CCC Exhibit 14
(page 5 of 6 pages)

1041L

- e. If Coastal Commission monitoring identifies an overall shortage in the aquifer, additional replacement wells may not be permitted without Coastal Development Permits.
 - f. Formal notice of the intent to issue an Exclusion from a CDP for a replacement well shall be provided to interested parties.
6. Water impoundments located in drainage areas not identified as blue line streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, provided such impoundments do not exceed 25 acre feet in capacity.
 7. Water pollution control facilities for agricultural purposes in. constructed to comply with waste discharge requirements or other orders of the Regional Water Quality Control Board.

1041L



Sustainable Living Designs
P.O. Box 341 Point Reyes Station, CA 94956
(415) 663-9090 www.permacultureinstitute.com
lic. # 567589

January 24, 2005

To Whom It May Concern:

I'm writing this letter regarding the project for Michael and Ana Polacek in Bean Hollow, Half Moon Bay.

My background is in consulting and design farms and agricultural projects that are ecologically sound and provide increased habitat and bio-diversity value.

I was hired by the Polaceks in 2003 to help them develop an agricultural project that is ecologically sound and economically viable on their 18 acre parcel.

The surrounding farms consist of annual vegetable production that mostly involve cool season crops like brussel sprouts, cabbage, broccoli, onion etc. These crops heavy feeders requiring a lot of nutrients are conventionally grown with pesticides, herbicides and chemical fertilizers applied repeatedly throughout the growing season.

While we recognize the great importance of maintaining agricultural land in these rural areas we also acknowledge how destructive conventional agriculture can be on the environment. The solutions exist to create a system that results in increased habitat, bio-diversity for native species as well as providing an economically viable agricultural system.

The Polaceks are interested in providing a resource for the surrounding agricultural community to develop ways to increase the types of crops that can be grown in this coastal climate with some marginalized soils thus aiding in the needed diversification of agricultural crops. Windbreaks of native and agriculturally valuable species has been designed into the project to reduce water consumption and soil erosion. There is a zone to experiment with plants on a small scale and collect needed data for the local agricultural community. This diverse cropping systems eliminates the need for chemical fertilizers, herbicides and pesticides. Productivity is increased as there are multi-canopies and multi-tiered crops growing in the same areas. There is also a system for developing on-site fertility over time eventually eliminating the need to import fertilizers.

I encourage the Coastal Commission to support such a project.

Respectfully,

Penny Livingston-Stark

Penny Livingston-Stark
Permaculture Institute of Northern California
PO Box 341
Point Reyes Station, CA 94956
(415) 663-9090

CCC Exhibit 15
(page 1 **of** 9 **pages)**

Concept for Agricultural Plan
Polacek Residence
900 Bean Hollow Road

Goal

To develop a working model of agricultural diversification strategies.

Value

To increase biological diversity & habitat while providing a working economically viable agriculture system.

Cropping System

By diversifying farm crops to many different types of agricultural strategies, fertility will increased due to the increase in birds, butterflies, pollinators, insects, frogs etc. An ecological complexity starts to occur. This plan reflects the following components.

Conventional rotational cropping system which includes the following:

Broccoli, Cauliflower, Garlic, Onions, Kale, Brussel Sprouts, Collards, Lettuce, Spinach and other mixed greens.

Perennial Crops:

The focus is on plants that require low inputs with potentially high yields that would thrive in the existing coastal conditions.

Medicinal Plants - These plants offer a potentially lucrative return depending on finding the appropriate markets. We suggest developing a business relationship with local small scale herbalists prior to planting in any large quantity.

Edible Flowers - High end restaurants would be a potential market for fresh edible flowers to be added to salads, greens, desserts etc.

An Experimental Farm - This would include small numbers of specific plants that are not currently well known on the market in the US. Many are highly valued in other countries like Russia, China and Japan. Due to the close proximity to affluent and potentially sophisticated markets, this would be the ideal place to experiment and see how these food and medicinal plants do and if there is a potential market before planting on a large scale.

Fertility System

Developing on-site fertility by cover cropping, mulching, animal manures, composting, & vermiculture. Additional fertilizer can be easily developed on the farm by making compost & worm casting tea along with fermentation.

Animals - Animals to aid in farm management:

Bees, chickens, ducks and geese help provide pollination, fertilization as well as insect and weed management.

Habitat Development

Native Plants will be used as a foundation for the farm along with enhancing existing native wetland vegetation.

Non-disturbed areas - Some existing areas determined to be high habitat value will be left alone to eliminate disturbance of nesting animals.

CARR MCCLELLAN
INGERSOLL THOMPSON & HORN

Professional Law Corporation

Norman I. Book, Jr.
nbook@carr-mcclellan.com

January 21, 2005

RECEIVED

JAN 21 2005

Chris Kern
California Coastal Commission
North Central Coast District Office
45 Fremont, Suite 2000
San Francisco, CA 94105-2219CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**Re: Polacek Single Family Residence, Pescadero, California**
Uniqueness Factors and Local Coastal Plan Excerpts

Dear Chris,

Thank you for organizing the January 10, 2005 meeting. The following items are in response to our discussions regarding "uniqueness factors" and the allowances included in the San Mateo County Local Coastal Plan for residential development in agricultural areas.

I. Uniqueness Factors

1. The size of the parcel. The Polacek parcel is less than 18 acres, less than 14 acres if delineated wetlands are excluded.
2. The parcel is relatively isolated from other agricultural operations by County and agricultural access roads, natural drainages, agricultural drainages, and wetlands. The parcel also includes significant impediments to successful agricultural production, including poor soils in some areas, steep slope, and scouring wind.
3. The soil characteristics of the property do not lend easily to agricultural production. In interviews with farmers that have tried to grow crops on this parcel, substantial soil amendments, fertilizers, and maintenance have been required to grow crops. The original sale of the parcel to the Polaceks is due to these requirements.
4. The crops previously produced on the subject parcel and in nearby areas are not economically viable.

CCC Exhibit 15
(page 4 of 9 pages)

January 21, 2005

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5. The Polaceks are willing to experiment in crop production, investing in different crops on their site that may be feasible for production at a larger scale by other local farmers.
6. The Polaceks prefer low to no pesticide and herbicide use on their property. Runoff from the vicinity of their property drains directly to a pond complex to the west, which in turn drains to the ocean. A reduction in pesticide use at the site will also reduce the amount of pesticides and herbicides entering the Pacific Ocean.
7. The Polacek property is located in close proximity to other existing residential properties, and will not be an isolated residence.
8. The house has been designed to maximize environmental considerations on the property, including passive solar heating, wind protection, and contains features that will blend the roofline with surrounding landforms.
9. The house is sited on the least productive soil on the property.
10. The house is completely outside of the designated Cabrillo Scenic Corridor and is minimally visible from Highway 1.
11. The eastern edge of the parcel borders Bean Hollow Road, an existing county road not designated as a county or state scenic road.
12. The Polaceks are willing to enter into the agreement described below.

II. Applicable Local Coastal Plan Policies

1. Policy 1.8c includes regulations on density credits for non-agricultural uses. One density credit is needed for each dwelling unit. Density credits are outlined in Table 1.3 which states in the introductory paragraph "All legal parcels shall accumulate at least one density credit."
2. Policy 1.23a includes regulations on the timing of development on the South Coast. Table 1.4 outlines the number of "building permits allowed per year for new residential construction" in rather small areas like "Butano", "Gazos", "Pomponio" and others. This table places a limit on residential permits in the "Bean Hollow" area of 5 per year. Actual construction has proceeded at a much slower pace.

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3. Policy 5.5b includes regulations on the conditionally permitted uses on "prime agricultural land". 5.5b (1) itemizes "single-family residences" as the first conditionally permitted use. Policy 5.6b (1) similarly itemizes "single-family residences" as the first conditionally permitted use on soils suitable for agriculture.
4. Policy 5.8a specifies the conditions required to convert "prime agricultural land" within a parcel to a conditional use (e.g. residential use). Four points must be demonstrated 1) no alternative exists, 2) clearly defined buffer areas are provided, 3) productivity of adjacent agricultural land will not be diminished and 4) (not applicable to this project). We believe our submittals satisfy these conditions. See discussion below as to condition 3).
5. Policy 5.10a similarly specifies the conditions required to convert "land suitable for agriculture" within a parcel to a conditional use (e.g. residential use). Five points must be demonstrated 1) all unsuitable lands have been developed or are undevelopable, 2) continued or renewed agricultural use is not "feasible", 3) clearly defined buffer areas are provided, 4) productivity of adjacent agricultural land will not be diminished and 5) (not applicable to this project).

Here the primary issue is condition 2). Granting that we might differ on the issue of what feasibility means in the context of an 18-acre parcel, the Polaceks are now willing to commit the non-residential area of the property to agricultural use as discussed below.

6. Policy 5.11 includes regulations on the maximum density of development per parcel. 5.11c states "in any event, allow the use of one density credit per parcel".
7. Policy 5.15a requires as a condition of approval that when land suitable for agriculture is used for non-agricultural purposes, a statement must be recorded acknowledging that the development is in an agricultural area and that occasional "inconveniences and discomforts" are likely and must be allowed. The Polaceks are prepared to comply with this Policy.
8. Policy 7.18 deals with buffer zones around wetlands. The policy states that the buffer zone should be 100 feet. The required buffer zones have been provided for.
9. Policy 8.5a includes regulations on the location of development related to visual impact. The policy outlines three requirements: 1) "least visible site from State and County Scenic Roads" 2) least likely to impact views from "public viewpoints" 3) consistent with

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other LCP requirements. We believe the site visit will confirm that these requirements will be satisfied.

10. Policy 8.17 includes regulations on grading and adding roads in rural areas. We believe the care with which the house has been designed satisfies the requirements of this Policy.
11. Policy 8.18a includes regulations on the general design requirements and includes points that the development should "blend in and be subordinate to" the area and that it should be "as unobtrusive as possible". Same comment as on item 10 above.
12. Policy 8.18b includes regulations on the requirement of screening development from scenic roads by "vegetation or other materials which are native to the area or blend with the natural environment and character of the site". Screening will need to be addressed after the site visit.
13. Policy 8.20 required that the proposed house be related in size and scale to adjacent buildings and landforms. The scale of the house is comparable to other residences which have been approved by the Commission on agricultural lands. The residence to the immediate south of the subject property is being substantially enlarged.

III. Applicable County of San Mateo Zoning Regulations

1. Section 6353 includes regulations on the "uses permitted subject to the issuance of a planned agricultural permit. Section 6353A.1. lists "single family residences" "on prime agricultural lands" as such a permitted use. Similarly section 6353B.1. lists "single family residences" "on lands suitable for agriculture and other lands" as such a permitted use.
2. Sections 6355D. and F. mirror Policies 5.8a and 5.10a discussed above.
3. Section 6356 includes regulations on the maximum density of development and states, "all legal parcels shall accumulate at least one density credit."
4. Section 6358 includes regulations on the maximum height of structures and that structures shall not "exceed three stories or 36 feet in height". The maximum height of the proposed house is 22 feet.
5. Section 6361 includes regulations on the criteria for issuance of a planned agricultural permit. Section 6361C. states "for parcels 20 acres or more in size before division or

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conversion, the applicant shall file an agricultural land management plan demonstrating how, if applicable, the agricultural productivity of the land will be fostered and preserved".

Based upon previous submittals and for the reasons outlined above, we submit that the above described policies and regulations have been considered and incorporated into the project design and planned uses for the subject parcel.

IV. Commitment to Agricultural Use

1. On page 15 of the Substantial Issue Staff Report it is stated that in the absence of a legally enforceable requirement that the remainder of the parcel be used for agricultural production, there is insufficient support for the proposition that the project complies with LUP Policy 5.8.(a) (3).

As pointed out above the County does not require even the filing of an agricultural plan for parcels less than 20 acres. Further, a number of single-family residences have been permitted on agricultural lands in the vicinity of the subject parcel without requiring a commitment to agricultural production on the balance of the land.

Notwithstanding the foregoing, the Polaceks are prepared to enter into an enforceable agreement with the Commission which would include the following:

(a) A commitment to utilize the non-residential portion of the parcel in accordance with the revised Agricultural Land Management Plan included herewith; and

(b) Preservation of the wetlands by the recordation of a conservation easement.

With regard to the Commission's desire to transfer the administration of the Agreement to a third party, we believe it may take considerable time and effort to find a suitable third party willing to assume the responsibility and to work out the mechanics of how fields 2, 3, and 4 would be made available for this purpose. Therefore, the agreement would commit the Polaceks to execute an Offer to Dedicate during the term of which the third party administration would be arranged.

The Agreement would provide that it is binding upon heirs, successors and assigns of the Polaceks and the Agreement, or a memorandum thereof, would be recorded.

January 21, 2005

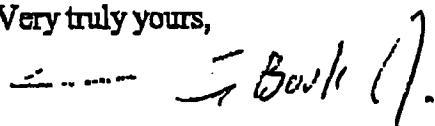
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If the foregoing meets with your approval, I will prepare a draft agreement for your review. We believe that this agreement will provide the mechanism for this project to move forward with a favorable staff recommendation. We are most hopeful that staff approval of the agreement can be accomplished in time to have this matter agendaized for the Commission's February meeting.

After your review of the foregoing, please give me a call so that we can discuss any questions or comments you may have.

Per your request, I am also enclosing a Takings Analysis prepared by Mike Polacek.

Very truly yours,



Norman I. Book, Jr.

cc: Mike Polacek, Applicant
Charles Lester, Deputy Director, California Coastal Commission
Janet Ilse and Michael Groves, EMC Planning Group Inc.

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