

CALIFORNIA COASTAL COMMISSION

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

F-11a

**Previous Commission Actions & Dates**

Substantial Issue Determination: 08/11/04
 Project Approved with Conditions: 05/12/05

Revised Findings

Revised Findings Staff Report Prepared: 1/25/06
 Revised Findings Hearing Date: 2/10/06
 Staff: ALW

Revised Findings For Appeal

Appeal No.: A-2-SMC-04-009

Applicant: Keith and Cindy Waddell

Local Government: San Mateo County

Local Decision: Approval with Conditions

Substantial Issue The Commission found that the appeal of the local government action on this development raised a substantial issue on August 11, 2004.

Project Location: 153-acre parcel at 21960 Highway 1, near Tunitas Creek Road, in the unincorporated area of San Mateo County south of the City of Half Moon Bay, APN 066-330-160

Project Description: Construction of a 7,650 sq. ft. single-family residence, 3,000 sq. ft. agricultural barn, two septic systems, 5,280 cubic yards of grading for an approximately 3,000 ft. long access road, conversion of an agricultural well for domestic purposes, and installation of a water tank.

Appellants Commissioners Meg Caldwell and Mike Reilly

File documents See Appendix A

Commission Action **Approval with Conditions**

Date of Action May 12, 2005

Commissioners on

Prevailing Side: Iseman, Haddad, Wright, Peters, Potter, Secord

Staff Recommendation ..Adopt Revised Findings

Staff Note: On May 12, 2005 the Commission approved the project pursuant to the staff recommendation but modified Special Condition #6 of the *de novo* staff report by removing a

requirement to relocate the access road to the alignment associated with Alternative 1C as shown on Exhibit 3. The Commission also deleted Special Conditions 6A and 6E, to locate the road entirely within coyote brush scrub habitat to avoid all coastal terrace prairie habitat and to elevate the road located between the agricultural pond and Tunitas Creek which is located within an identified dispersal corridor for California red-legged frog and San Francisco garter snake. The Commission also deleted Condition 6.G, which required the installation of a new domestic water supply well. Revisions to the Conditions and Findings to reflect these Commission actions are on pages 8 and 9 (Special Conditions #6, 6A, 6E, and 6G), as well as to findings on pages 22 to 52. Additions are shown with underline and deletions are shown with ~~strikethrough~~.

Staff Report Contents

I.	Project Procedural History.....	3
II.	Staff Recommendation on Revised Findings.....	3
II.	Conditions of Approval.....	4
A.	Standard Conditions.....	4
B.	Special Conditions	4
IV.	Recommended Findings and Declarations.....	13
A.	Project Location and Description.....	13
B.	Issues Identification and Analysis	16
1.	Sensitive Habitat	16
2.	Agricultural Resources	24
3.	Visual Resources	52
4.	Archeological Resources	54
5.	Summary of Alternatives Analysis.....	55
C.	California Environmental Quality Act (CEQA).....	58

Appendices

Appendix A: Substantive File Documents

Appendix B: Site Plans, Floor Plans, and Elevations

List of Exhibits

- 1 Regional Location Map
- 2 Project Site Location
- 3 Habitat Types and Site Alternative Locations Map
- 4 Site 6 Alternative Locations Map
- 5 San Mateo County's Conditions of Approval
- 6 Applicants Alternatives Analysis
- 7 Prairie dependent species of Santa Cruz County
- 8 Letter from Patrick McIntyre, Glen Lukos Associates to David Goldberg, Latham & Watkins, *Distribution of Sensitive Habitats Within the Waddell Property, Tunitas Creek Road, San Mateo County, California*, March 8, 2005.

9. Memorandum from Robert W. Floerke, California Department of Fish and Game, to Alfred Wanger, California Coastal Commission, January 25, 2005.
10. List of Coastal Act Agricultural Policies
11. Applicable County of San Mateo Local Coastal Plan Policies and Planned Agricultural District Zoning Regulations
12. Commission Permit History on PAD-Zoned Land
13. Slope Study Map

14. Letter from Lawrence D. Ford, PH.D. to Keith Waddell, *Coastal Terrace Prairie and Livestock Grazing at 21960 Cabrillo Highway*, Half Moon Bay, April 14, 2005.

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 June 9, 2004. Commissioners Meg Caldwell and Mike Reilly then appealed the County's approval to the Commission. On August 11, 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 sensitive habitat and agricultural protection policies of the San Mateo County LCP.

II. Staff Recommendation on Revised Findings

The staff recommends that the Commission, after public hearing, adopt the revised findings in support of the Commission's action on May 12, 2005 concerning Coastal Development Permit A-2-SMC-04-009, as follows:

Motion. I move that the Commission adopt the revised findings in support of the Commission's action on May 12, 2005 approving with conditions the development proposed under appeal number A-2-SMC-04-009.

Staff Recommendation of Adoption. Staff recommends a **YES** vote. Passage of this motion will result in adoption of the revised findings as set forth in this report. The motion requires a majority vote of the members from the prevailing side who are present at the May 12, 2005 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Iseman, Haddad, Wright, Peters, Potter, and Secord. If the motion fails, the revised findings are postponed to a later meeting.

Resolution. The Commission hereby adopts the findings set forth below for approval with conditions of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on May 12, 2005 and accurately reflect the reasons for it.

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 of 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

All previous conditions of approval imposed on the project by the San Mateo County pursuant to an authority other than the California Coastal Act remain in effect (San Mateo County File Number PLN 2002-00375; see Exhibit 5).

1. Revised Plans PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant 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 access road shall be confined within an area of no greater than 10,000 square feet. The residential development envelope shall be sited in the northeastern portion of the property in the area identified as Alternate 1C, as generally depicted on Exhibit 3.

B. House Size and Height. All development shall be sited and designed so that no portion of any structure is visible from public viewpoints or scenic roads. The revised plans shall be submitted with evidence, such as photo simulations, representative staking, or architectural renderings, that the residential structures will not be visible from any public viewpoints or scenic roads.

C. Water Tanks. Water tanks shall be located underground (unless not allowed, or found to be infeasible pursuant to standards of the California Department of Forestry), or otherwise be colored to mimic the site's natural backdrop (i.e., dark greens and browns), and shall not be visible from public viewing points.

D. Ornamental Landscaping. There shall be no ornamentally landscaped areas outside of the residential development envelope. All areas surrounding the building footprint shall be contoured to mimic the natural topography and planted with native grasses appropriate to coastal terrace prairie habitat on the San Mateo Coast.

E. 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 and revegetated with native grasses appropriate to coastal terrace prairie habitat on the San Mateo Coast.

F. 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.

G. Lighting. There shall be no exterior night lighting around the residence, other than the minimum lighting necessary for pedestrian and vehicular safety purposes. All interior lighting within the residence shall be directed away from windows, which are visible from public viewing areas. All lighting shall be downward directed and designed so that it does not produce any light or glares off-site. All lighting fixtures shall be shielded so that neither the lamp nor the related reflectors are visible from public viewing areas. Floodlighting or spotlighting of ground or ocean water surfaces shall be prohibited.

H. The Permittee 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 as Alternative 1C in Exhibit 3 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. Construction, repairs and maintenance of the access road authorized by this permit,

3. 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, or sensitive habitat areas or their buffers as generally depicted on Exhibit 3. The proposed 3,000 sq. ft. agricultural barn may only be used for purposes accessory to agricultural activities on the property. The barn may not be used for any residential related purposes, and may not be converted to residential use, nor be modified to include any residential related facilities including, but not limited to, kitchens, cooking or sleeping areas.

4. Underground utilities,

5. Public access improvements, and

6. 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 Permittee may satisfy this requirement either by engaging in good faith in agriculture at a commercial scale and/or by leasing the area of the Property outside of the approved 10,000-square-foot development envelope, in whole or in part, to a farm operator for commercial agricultural use. The terms of any lease agreement for purposes of this condition shall not exceed the current market rate for comparable agricultural land in the region and shall reflect a good faith effort on the part of the Permittee to maintain agricultural use of the property. The Permittee shall be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.

C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall dedicate an agricultural conservation easement to a public agency or private association approved by the Executive Director (hereinafter referred to as the "Grantee") an agricultural conservation easement 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 3. 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 applicant's 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 landowner shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowner's 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 Permittee acknowledges and agrees: (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 Permittee and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural 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 or in any way related to the property that is the subject of this permit.

4. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) 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. Landscaping Plan PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for executive director review and approval, two sets of landscape plans (Plan). The Plan shall be prepared in consultation with a landscape professional familiar with California native species. The Plan shall include an analysis by a qualified expert that considers the specific condition for all areas of the project disturbed of the site including soil, exposure, temperature, moisture, and wind. The Plan shall demonstrate that:

A. There shall be no ornamentally landscaped areas outside of the final approved residential development envelope. All areas within the residential development envelope shall be contoured

to mimic the natural topography and planted with native grasses appropriate to the coastal terrace prairie areas of the San Mateo Coast. The perimeter of the landscaping surrounding the residential area shall be adequately fenced to maintain an adequate buffer between the proposed development and agricultural operations.

B. Berms and vegetative screening shall be provided to reduce the visual impacts associated with the access road or residential development by using native species appropriate to the area that will not extend above the ridge line when mature. Plantings shall be staggered and not placed in uniform rows or lines so that the screening does not look unnatural.

1. Upon completion, all approved residential structures shall be screened 100 percent from views from Highway 1 and Tunitas Creek Road primarily by existing vegetation and landforms and through the construction of berms and native scrub vegetation as necessary. As-built plans shall be submitted with evidence, such as photo simulations, representative staking, or architectural renderings, that demonstrate conformity with this requirement. Berms shall be designed to appear part of the existing topography.

2. Prior to occupancy of the residence authorized herein, the permittee shall submit evidence, for the review and approval of the Executive Director, sufficient to demonstrate that no portion of any residential structure on the property is visible from Highway 1 or from Tunitas Creek Road.

C. All vegetation planted on the site and along the road alignment will consist of non-invasive, drought-tolerant plants native to the area.

D. All required 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.

E. The Plan shall include, at a minimum, the following components:

1. A map showing the type, size, and location of all plant materials that will be used, the irrigation system, topography, and all other landscape features, and,

2. A schedule for installation of plants, indicating that screening vegetation will be installed prior to access road use and home occupancy.

F. The permittee 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 final Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Sensitive Habitat. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised plans for the review and approval of the Executive Director, showing the relocation of the access road to the alignment associated with Alternative ~~4C~~ 1B as shown on Exhibit 3 and in accordance with all of the following requirements:

~~A. The road must be located entirely within coyote brush scrub habitat and must avoid all coastal terrace prairie habitat. No grading or construction activities shall occur within areas of coastal terrace prairie as shown on Exhibit 3.~~

AB. The revised plans shall clearly identify work zones. The applicant shall install protective fencing adjacent to areas of coastal terrace prairie prior to any grading or other construction activities. The applicant shall ensure that protective fencing is maintained until access road and residential construction work is completed.

BC. No grading or construction activities shall occur within 300 feet of nesting loggerhead shrikes or raptors. If grading or construction takes place between March 1 and September 30, a qualified biologist shall survey: (1) the coastal scrub habitat within 300 feet of each work area to determine if loggerhead shrikes or northern harriers are nesting in the scrub habitat and; (2) the Monterey cypress and pine woodlands and eucalyptus habitats within 300 feet of each work area to determine if other special status raptor species (e.g. Cooper's hawk, sharp-shinned hawk) are nesting there. The surveys shall be conducted within 30 days prior to grading or construction and shall be submitted for review and approval of the Executive Director. If active nests are found, no grading or construction work shall occur until all young have fledged.

CD. Prior to the roadway and residential development, the applicant's biologist shall conduct a survey for Gairdner's yampah and coastal marsh-milk vetch (*Astragalus pycnostachyus* var. *pycnostachyus*). If either species are found nearby, construction in that area shall cease, and the applicant shall submit a supplementary avoidance and mitigation plan, developed in consultation with qualified biologist and the Executive Director. In order to protect these species, any further development may only be undertaken consistent with the provisions of the supplementary avoidance and mitigation plan. If the Executive Director approves the supplementary avoidance and mitigation plan and determines that the supplementary avoidance and mitigation plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination. If the Executive Director approves the supplementary avoidance and mitigation plan but determines that the changes therein are not de minimis, construction may not recommence until the Commission approves an amendment to this coastal development permit authorizing the required avoidance and mitigation measures.

~~E. The stretch of roadway that bisects the identified dispersal corridor for California red-legged frog and San Francisco garter snake, located between the agricultural pond and Tunitas Creek, shall be elevated a minimum of two feet above ground surface to allow passage of these species and minimize potential impacts to these species. This stretch of roadway must be constructed and maintained in such a way to ensure that plants and debris are kept away from the edges of the elevated structure, and ensure that they do not act as a "bridge" from the ground to the road surface. The length of elevated roadway will be precisely determined in consultation with the Department of Fish and Game during the development of the grading plan.~~

DF The proposed agricultural barn must be sited outside of the coastal terrace prairie and other sensitive habitat areas on the site and clustered with other development on or adjacent to the project site.

~~G. A new domestic water supply well and related piping and appurtenances must be sited outside of the coastal terrace prairie and other sensitive habitat areas on the site.~~

~~1. PRIOR TO THE ISSUANCE OF THIS PERMIT, the applicant shall provide proof to the Executive Director that the installation of a new domestic water supply well and related piping and appurtenances sited outside of the coastal terrace prairie and other sensitive habitat areas as generally depicted on Exhibit 3 is feasible with all relevant County requirements pertaining to the installation of a water supply well for domestic purposes. If, prior to the issuance of this permit, the applicant is unable to demonstrate the feasibility of installing a new domestic water supply well meeting all these requirements, the applicant shall provide proof that meeting all these requirements is infeasible and shall seek an amendment to this permit.~~

EH. The permittee 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Grazing Plan PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a revised grazing plan for the review and approval of the Executive Director showing where pastures are located, how cattle would be rotated on a yearly and/or seasonal basis, and how grazing would be used to restore the native grasslands. The plan shall indicate where pasture fencing is located. No grazing shall occur within 100 feet of any riparian corridor or wetland. Fencing in the vicinity of the agricultural pond shall be maintained to prevent cattle from entering the sensitive habitat areas surrounding the pond.

The permittee 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 Coastal Commission approved to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. 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.

9. 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.

10. Grading

- A. *Prior to issuance of the coastal development permit*, the applicant shall submit a final proposed grading plan incorporating the requirements to relocate the residential development and access road under **Special Conditions 1 and 6** for review and approval by the Executive Director. Said plan shall also conform to the requirements of the San Mateo County Grading Ordinance, and shall incorporate the recommendations to protect special status species under **Special Condition 6**, above.
- B. All road surfaces shall be colored to blend in with the grassland, and that road cuts must be revegetated and visually screened as appropriate to minimize to visual impacts to the maximum extent feasible.
- C. The permittee 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 legally required.

11. Archaeological Resources

- ~~A. The applicant shall comply with the following pre construction survey and monitoring conditions during construction of the road alignment in the low lying areas of the southeast portion of the project site. Prior to commencement of work, a qualified archeologist shall:~~
- ~~1. Conduct a review of available information from the Northwest Information Center, located at Sonoma State University, regarding archeological resources in the area;~~
 - ~~2. Conduct a visual surface survey of the road alignment in the low lying areas of the southeast portion of the project site project site prior to commencement of grading work~~

~~associated with the access road to evaluate the project site for potential archeological resources; and~~

- ~~3. Conduct on site monitoring during grading activities associated with the access road in the low lying areas of the southeast portion of the project site to ensure that any archeological resources encountered during project activities are recorded, reported, and managed in accordance with applicable state and federal law.~~

~~B. If an area of cultural deposits is discovered during the course of the project:~~

- ~~(1) All construction shall cease and shall not recommence except as provided in subsection C.2.~~

~~C. The applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan, developed in consultation with qualified local Native Americans, for the review and approval of the Executive Director. In order to protect archaeological resources, any further development may only be undertaken consistent with the provisions of the supplementary archaeological plan.~~

- ~~(1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director's informs the permittee of that determination.~~

- ~~(2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit.~~

~~D. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the archaeological monitor shall conduct a brief training session with construction personnel discussing the cultural sensitivity of the area and the protocol for discovery of cultural resources during construction. The archaeological monitor shall also inform all qualified local Native Americans of the timing of construction and their opportunity to participate in construction monitoring.~~

IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location and Background

The subject property (APN 066-330-160) is an approximately 153-acre parcel bordering on the inland side of Highway 1 and the north side of Tunitas Creek Road in the rural unincorporated area of the San Mateo Coast south of Half Moon Bay (Exhibits 1 and 2). The project site is zoned Planned Agricultural District/Coastal Development (PAD/CD). The site contains a cellular facility, located along the western boundary of the site near Highway 1. The cellular facility was installed pursuant to a conditional use permit, approved by the County in June 2001. The facility occupies an approximately 10-foot by 20-foot area, at the end of a small access road from Highway 1. As shown on Exhibit 2, the cellular facility is located approximately 100 feet east of the highway, and is effectively screened from view from Highway 1 by stands of Monterey cypress and eucalyptus trees.

The property slopes up from Highway 1 and contains a number of habitat types including: coastal terrace prairie; coastal scrub; coyote brush scrub; non-native grassland; and native and non-native woodlands including Monterey pines, eucalyptus, and Monterey cypress; willow riparian woodland, alder riparian woodland, and freshwater marsh areas near the existing pond located in the southeast portion of the property. The 153-acre site contains approximately 88 acres of coastal terrace prairie, and approximately 3.6 acres of riparian and wetland habitats (one acre of willow riparian woodland, 0.4 acres of alder riparian woodland, two acres of wet meadow, and 0.2 acres of freshwater marsh habitats) (Biotic Resources Group, 2002). Biological surveys of the area identified this area as providing suitable habitat for several species of special concern including the California red-legged frog, the San Francisco Garter Snake, and the Southwestern Pond Turtle. Approximately 57% of the property is covered by coastal terrace prairie, which is considered rare habitat by the California Department of Fish and Game, and meets the definition of sensitive habitat in the San Mateo County LCP.

Although the project site does not contain prime agricultural soils, it is considered as “other lands suitable for agriculture” as defined by the LCP because it is capable of supporting animal grazing. Currently, the site is used for cattle grazing. Accordingly, the site is designated as Agriculture in the County’s Land Use Plan and is zoned PAD (Planned Agricultural District).

During an archaeological survey of the property, evidence of prehistoric cultural resources was found in the southeast area of the site, near Tunitas Creek Road (Clark, 2002). This prehistoric site reportedly is a continuation of a prehistoric site found on an adjacent property (Marsh) to the west. No other historic or prehistoric resources were found on the property.

2. Local Government Action

- June 19, 2002 Application submitted. Project involved a new residence, agricultural barn, and native plant nursery.
- August 22, 2002 Letter received from Coastal Commission staff concerning issues raised by the proposed development with LCP policies related to biological resources, visual impacts, site access and grading, and conversion of agricultural lands.
- November 13, 2002 Public workshop required to discuss the project with neighbors and interested parties because the project involved over 10,000 sq. ft. of new structural floor area.
- April 22, 2003 Initial Study and Negative Declaration posted for public review and comment. County Staff received telephone call from Coastal Commission staff regarding a concern over impacts to coastal terrace prairie.
- May 12, 2003 Meeting at the subject site between Coastal Commission staff, County staff, applicant, and applicant consultants to discuss Coastal Commission concerns regarding impacts to coastal terrace prairie, visual impacts, and alternative development locations.
- November 3, 2003 Agricultural Advisory Committee reviews the proposed project and finds no issues with the proposed development. Applicant also submits revised plans. New plans eliminate the native plant nursery, move the access road and agricultural barn location. New road location has two issues: impacts to the existing agricultural pond surrounded by riparian vegetation as well as the road is steeper than the Fire Department would allow.
- January 15, 2004 Applicant submits revised plans showing a revised access road. The revised access road is in alignment with an existing unpaved path and relocated away from the existing agricultural pond. Fire Department reviewed but requested a fire truck turnaround be installed near the house and barn.
- February 26, 2004 Applicant submits revised plans showing fire truck turnaround.
- May 3, 2004 Initial Study and Negative Declaration re-circulated for public review and comment.
- June 9, 2004 Project approved by Planning Commission.

3. Coastal Commission Appeal

The Coastal Commission received the Notice of Final Action for the County's approval of the subject development on June 30, 2004. In accordance with the Commission's regulations, the

10-working-day appeal period ran from July 1 through July 15, 2004 (14 CCR Section 13110). On July 15, 2004, Commissioners Meg Caldwell and Mike Reilly filed an appeal of the County of San Mateo's decision to approve the project. On August 11, 2004, the Commission found that the appeal raised substantial issues under the sensitive habitat and agricultural protection policies of the San Mateo County LCP. The de novo hearing on the proposed development was postponed to a future meeting at the applicant's request.

Pursuant to a letter from Commission staff dated August 31, 2004, the applicant developed and evaluated a number of alternative locations for the proposed development and road alignments, and provided additional information on the constraints analysis. In response, the applicant evaluated five alternative development sites and several different road alignments in a report titled *Site Alternatives Analysis*, dated October 25, 2004. Following discussions and a November 15, 2004 site meeting with Staff, a sixth development site located in the western portion of the property was also evaluated. Further analyses were prepared by the applicant and provided in submittals dated December 23, 2004 and March 10, 2005. An additional Staff visit, including Commission staff biologist Dr. John Dixon, was conducted on January 6, 2005 to review environmental constraints associated with proposed development alternatives. Staff was also accompanied on the January 6, 2005 site visit by a biologist from the California Department of Fish and Game.

All of the alternative locations and road alignments were evaluated for compliance with the applicable polices of the San Mateo County LCP and other site constraints on the property. These alternatives are summarized below in Section 3.5.6, and described in detail in Exhibit 6.

4. Project Description

The project approved by the County included the construction of a new 7,650-sq.-ft. residence, a 3,000-sq.-ft. agricultural barn, installation of two septic systems, conversion of an agricultural well to both agricultural and domestic purposes, installation of a water tank for fire suppression, and approximately 5,280 cubic yards of grading to create an approximately 3,000-ft.-long access road, and building pads for the residence and agricultural barn. A part of the approved grading includes the repair of some of the existing eroded gullies on the property.

Since the project was initially approved by San Mateo County and appealed to the Commission, the applicant has made changes to the project. The applicant was advised through the appeal notice and during meetings with Coastal Commission staff that the primary objectives in making the project consistent with the LCP would be to site the development outside of sensitive habitat areas, avoiding or minimizing impacts to agricultural resources and in the least visible location on the 153-acre parcel, in a manner compatible with all other LCP requirements. In response to this, the applicant developed and evaluated a number of alternative locations for the proposed development and road alignments, and provided additional information on the constraints analysis. These alternative development locations and road alignments are described below in Section 3.5.6.

The County approved Project (the proposed project) located the house in the northeastern portion of the project site primarily within coyote scrub brush habitat, but included a portion of the development within coastal terrace prairie (see Exhibit 3). The barn was located within coyote scrub approximately 800 feet south of the house. The road alignment for an approximately

3,000 ft. long access road from Highway One was routed across the property through coastal terrace prairie and coyote brush scrub.

B. Issues Identification and Analysis

1. Sensitive Habitat

Applicable LCP Policies

7.1 Definition of Sensitive Habitats

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

7.3 Protection of Sensitive Habitats

- a. *Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*

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.

7.4 Permitted Uses in Sensitive Habitat

Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.

In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

Rare and Endangered Species

7.33 Permitted Uses

- a. *Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its*

habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

Discussion

The county-approved development, with which the Commission found substantial issue, included the construction of an access road and a single-family home within areas of the site delineated as coastal terrace prairie in the applicant's biological report. Coastal terrace prairie is a sensitive habitat as defined under LUP Policy 7.1. The county-approved development would have resulted in the destruction of approximately 0.7 acres of coastal terrace prairie in conflict with LUP Policies 7.3 and 7.4 that prohibit development that would have significant adverse impact to sensitive habitat and restrict development to only resource dependent uses in sensitive habitat areas. Residential development is not defined as a resource dependent use under the LCP and is therefore prohibited within sensitive habitat areas.

Coastal terrace prairie is dense, tall grassland dominated by both sod and tussock forming perennial grasses. The distribution of coastal terrace prairie is discontinuous from Santa Cruz County north into Oregon, and may include different combinations of associated plant communities depending on the conditions at a particular location. The diversity of plant species in coastal terrace prairie is among the highest in grasslands of North America (Stohlgren et al. 1999). Coastal terrace prairie contains more plant species per square meter than any other grassland in North America. In addition, there are numerous rare, threatened, and endangered species associated with this habitat type (Exhibit 7). The California Native Plant Society (CNPS) reports:

"...prairie habitats support as many as 250 species of native wildflowers. For Santa Cruz County, the CNPS lists 13 species of concern in their Inventory of Rare and Endangered Plants of California (1995). The diversity of these prairie wildflower species, in turn, supports an even greater diversity of insect species, many of which are severely reduced in numbers (e.g., Schinia sp.- a genus of colorful diurnal noctuid moths; and solitary bees such as in the families Andrenidae and Anthophoridae) and some of which teeter on the verge of extinction (e.g., Cicindela Ohlone, Ohlone Tiger Beetle and Adela oplerella, Opler's long horned moth). Some known species have already been lost (e.g., Lytta molesta, molestan blister beetle) and, undoubtedly, others have disappeared before even being described. The reduction in numbers of plant species and numbers of populations of insects leads to a collapse in the prey base for many other species- birds, shrews, and bats, for instance." (CNPS)

As such, coastal terrace prairie is an especially valuable habitat because of its special nature and role in the ecosystem.

A recently completed study by Defenders of Wildlife ranked twenty-one United States ecosystems as the nation's most endangered; California's native grasslands ranked as the fifth most endangered ecosystem (Noss and Peters, 1995). Other studies have found that California has lost over 99% of its native grasslands, including 90 percent of the north coastal bunchgrass (Sierra Club, 2004, Noss and Peters, 1995). The loss of coastal terrace prairie has continued over the years due to development, conversion of habitat to agricultural uses, exotic weed invasion, habitat fragmentation, and erosion. The loss of coastal terrace prairie habitat over time has not been quantified, but is considered significant by researchers in the field. Thus, the available evidence demonstrates that coastal terrace prairie is a rare habitat.

The California Department of Fish and Game has identified coastal terrace prairie as rare habitat. Additionally, other local governments in the Central Coast area of California have recognized the

need to protect remaining coastal terrace prairie habitat. The City of Carmel-by-the-Sea has included coastal terrace prairie as an Environmentally Sensitive Habitat Area (ESHA) under the City's General Plan/Coastal Land Use Plan that includes policies for protection of the City's coastal environmental resources.

Furthermore, The County of Monterey, in their General Plan Draft Coastal Element, has currently proposed listing coastal terrace prairie as an Environmentally Sensitive Habitat Area:

"...protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas."

Coastal terrace prairie on the project site is characterized by the presence of California oatgrass (*Danthonia californica*), a perennial native grass. Coastal terrace prairie on the site also includes other grass species such as purple needlegrass, rattail fescue, quaking grass, tall fescue and rattlesnake grass, as well as non-grass species such as western rush, sun cups, soap plant, annual lupine, California poppy, among others. Field surveys of the site during did not confirm the presence of the plant species Gairdner's yampah (*Perideridia gairdneri*), during a Rare Plant Survey conducted during the summer of 2002. (Biotic Resources Group, 2003).

As discussed above, coastal terrace prairie is a rare and especially valuable native grassland habitat that supports several rare and endangered species and plays an important role in the ecosystem. The importance of coastal terrace prairie habitat is widely recognized by both government and non-government organizations, including the California Department of Fish and Game. As such coastal terrace prairie is a sensitive habitat as defined in LUP Policy 7.1, which states:

"Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission..."

Therefore, the coastal terrace prairie located onsite meets the definition of sensitive habitat under Policy 7.1.

In the March 10, 2005 submittal, Rick Zbur of Latham & Watkins, the Waddell's agent, disagreed with the Commission finding that coastal terrace prairie meets the definition of sensitive habitat under Policy 7.1 of the LCP as follows:

The Staff Report indicates that CTP on the site qualifies as ESHA based on the association of threatened, endangered or rare plant species that generally may occur within CTP, as well as conclusory statements regarding CTP's rarity and value. However, the LCP, which lists several different species and habitats as ESHA, does not list CTP as ESHA. Moreover, the CTP on the Waddell's property, including the trail to be used as the access road to the home under Alternative 4, does not contain any rare or listed species. (See Glen Lukos Associates Letter Report, March 8, 2005, Exhibit C at 3 ("no special status plant species have been observed with coastal terrace prairie habitat with the proposed project site during biological surveys").) Furthermore, the minimal CTP that would be impacted by the access road for the home already is highly degraded from agricultural maintenance activities on the site.

The Staff Report also provides scant evidence that CTP is either rare or especially

valuable in general, and no evidence that CTP on the Waddell's property in particular, including most specifically the CTP to be impacted by the road under alternative 4, is either rare or especially valuable. Staff appears to rely solely on the California Natural Diversity Database's inclusion of CTP on a list of hundreds of other plant communities that are "known or believed to be of high priority for inventory in CNDDDB" as support for its rarity. Based on this loose standard, however, all coastal land in and of itself could be considered rare or especially valuable and therefore ESHA under the County's LCP. This application of the County's LCP policies is consistent neither with the spirit nor the intent of the Coastal Act.

Furthermore, Patrick McIntyre, of Glen Lukos Associates, the biological consultant for the applicant, states in the *Glen Lukos Associates Letter Report, March 8, 2005*, that:

Status of Coastal Terrace Prairie

Coastal terrace prairie is identified as a sensitive natural community (S2.1 ranking) in the California Natural Diversity database,¹ but it is not identified as sensitive habitat type by the San Mateo County LCP. Commission staff nevertheless treated CTP as sensitive habitat in the staff report pertaining to the appeal of the Waddell's CD, relying on other LCPs that have considered CTP as sensitive habitat in other parts of the California coastal area.² At the request of Commission staff, potential impacts to CTP have been explicitly identified in previous impact analyses pertaining to the proposed project.

Coastal terrace prairie is characterized by the presence of stands of native grasses such as California oatgrass, Pacific reed grass or California hairgrass, with a low cover of shrubby coastal scrub species and often with a diverse mix of forbs such as Douglas iris, sea-thrift, blue-eyed grass and numerous other species. Coastal terrace prairie occurs in discontinuous areas from the central California coast north into Oregon.

*Within the proposed project site, CTP may qualify as sensitive habitat if it supports rare or endangered species (i.e., in accordance with LCP criteria 1) or if it is either rare or especially valuable. No special status plant species have been observed with coastal terrace prairie habitat with the proposed project site during biological surveys.³ Rather CTP within the project site is characterized by the presence of stands of native grasses and rushes such as California oatgrass (*Danthonia californica*), purple needlegrass (*Nasella pulchra*) and western rush (*Juncus occidentalis*), amidst extensive patches of non-native grasses such as tall fescue (*Festuca arundinaceae*), Italian ryegrass (*Lolium multiflorum*), velvet grass (*Holcus lanatus*), wild oat (*Avena fatua*), rattlesnake grass (*Briza maxima*), and foxtail fescue (*Vulpia myuros*). Occasional shrubs such as coyote brush (*Baccharis pilularis*) and California blackberry (*Rubus ursinus*) are scattered throughout this vegetation type. For species observed within this habitat type include native species such as Douglas iris (*Iris douglasiana*), sea thrift (*Armeria maritime*),*

¹ California Department of Fish and Game, September 2004, Natural Diversity Database: Rarefind 2 Database, California Department of Fish and Game, Sacramento, California.

² California Coastal Commission, Staff Report July 29, 2004, Appeal Staff Report Substantial Issue Determination and De Novo Review, Appeal no. A-2-SMC-04-009.

³ Biotic Resources Group, June 13, 2002. Biological Assessment, Waddell Residence, Tunitas Creek Road, San Mateo County, California; Biotic Resources Group, April 20, 2003, Waddell Residence, Tunitas Creek Road; Results of 2002 Directed Survey for Gairdner's Yampah

California poppy (Escholzia californica), blue-eyed grass (Sisyrinchium bellum), and non-native species such as English plantain (Plantago lanceolata), red-stemmed fiaree (Erodium cicutarium), rough cat's ear (Hypochaeris radicata) and Italian thistle (Carduus pycnocephalus).

Therefore, CTP habitat within the proposed project site would not qualify as sensitive habitat under Criteria 1 in LCP Section 7.1, and none of the remaining 7 criteria listed in the LCP Section 7.1 pertain to the site.

Furthermore, many areas of CTP on the project site have been identified and mapped as disturbed or eroded. These disturbed areas include an existing unpaved track that traverses the property from Highway 1 east to an existing access road off Tunitas Creek Road. This track is utilized as a road to support agricultural grazing operations on the property and is characterized by areas of unvegetated ground as well as areas that exhibit a high density of non-native annual plants associated with the on-going vehicular disturbance. Although the road and eroded gullies support some elements of CTP, they are disturbed areas within a matrix of less disturbed CTP, were mapped as distinct from surrounding CTP and coastal scrub, and do not meet County LCP criteria for sensitive habitats. Specifically, because the CTP within this existing unpaved track to used for the proposed access road is disturbed and degraded, it does not contain plant or animal life or their habitats that are either rare or especially valuable.

In previous analyses of the proposed project site (October 2004 Glen Lukos Associates Analysis), impacts to CTP were explicitly identified based on the potential for CTP to qualify as sensitive habitat under the LCP criteria. Several project alternatives (Alternatives 1A&B, 4 and 5) included proposed roads that traversed areas mapped as CTP, resulting in impacts to CTP. Potential impacts to CTP could be eliminated or reduced under these alternatives by utilizing the disturbed track as the access road to the proposed residence locations. The existing track currently provides direct access to proposed residence locations. The existing track currently provides direct access to proposed residence locations under Alternatives 4 and 5. The existing track does not provide direct access to the residence location under Alternative 1, but utilizing this track would substantially reduce the length of roadway that would cross less disturbed CTP.

In sum, the CTP within the disturbed existing track traversing the project site east of Highway 1 would not be consistent with sensitive habitat under the LCP's standards and therefore, should not constrain use of the area as a driveway access Alternative Sites 1, 4 and 5.

A copy of this letter is provided in Exhibit 8.

The Commission disagrees with the assertions of the applicants representatives that coastal terrace prairie does not qualify as sensitive habitat under Criteria 1 in LCP Section 7.1. The California Department of Fish and Game has identified coastal terrace prairie as rare habitat, through the specific listing of the Coastal Terrace Prairie habitat in the California Natural Diversity Database which states:

The primary purpose of the California Natural Diversity Database (CNDDDB) classification is to assist in the location and determinations of significance and rarity of various vegetation types. Thus, ranking of natural communities by their rarity and threat is an important facet of the classification. In this document, as in previous CNDDDB

community lists, asterisks () denote communities that are either known or believed to be of high priority for inventory in CNDDB. If an alliance is starred, this means that all of the associations within it will also be considered of high inventory priority.*

The CNDDB further identifies the classification scheme as follows:

*VEGETATION CLASSIFICATION: TERRESTRIAL SECTION (*indicates a series or association considered rare and worthy of consideration by CNDDB) September 2003*

**41.270.00 Coastal Terrace Prairie{41100}⁴*

A plain reading of LUP Policy 7.1 indicates the CNDDB listing process has clearly identified the coastal terrace prairie as rare, thus meeting the definition within LUP policy 7.1, which states:

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission...(emphasis added)

Thus, under the LCP there are two categories of sensitive habitat: 1) Areas in which species or habitats (e.g., CTP) are rare or especially valuable and, 2) Additional areas that meet specific other criteria. Additionally, the County staff report and CEQA Initial Study identified coastal terrace prairie as sensitive habitat relying on the previously described listing by the Department of Fish and Game.

Also, the applicant's representatives further assert that:

Commission staff nevertheless treated CTP as sensitive habitat in the staff report pertaining to the appeal of the Waddell's CD, relying on other LCPs that have considered CTP as sensitive habitat in other parts of the California coastal area.⁵

The Commission believes that this statement misrepresents the previous description of recent actions by local governments to protect coastal terrace prairie. To clarify, the Commission did not rely on the consideration of coastal terrace prairie as sensitive habitat under other LCPs to determine whether coastal terrace prairie meets the definition of sensitive habitat under LUP policy 7.1 of the San Mateo County LCP. The previously described actions by local governments were presented simply to illustrate that other local governments in the area consider CTP to be sufficiently rare habitat to meet definitions of ESHA that are similar to that in the San Mateo County LCP.

The property also contains a small agricultural pond located in the southeast portion of the property that contains willow riparian woodland, alder riparian woodland, and freshwater marsh areas. Biological surveys identified this area as providing suitable habitat for several rare species, including the California red-legged frog, and the San Francisco garter snake, and the

⁴ Department of Fish and Game, Wildlife and Habitat Data Analysis Branch, *The Vegetation Classification and Mapping Program*, List of California Terrestrial Natural Communities Recognized by The California Natural Diversity Database, September 2003 Edition

⁵ California Coastal Commission, Staff Report July 29, 2004, Appeal Staff Report Substantial Issue Determination and De Novo Review, Appeal no. A-2-SMC-04-009.

southwestern pond turtle. The red-legged frog is a California species of special concern, and is also a federally Threatened species. Both the state and federal governments list the San Francisco garter snake as Endangered. The southwestern pond turtle is a state and federal species of concern. The pond area was confirmed as a breeding site for California red-legged frogs by a California Department of Fish and Game biologist during a site visit on January 6, 2005 (see Exhibit 9). Directed surveys for the San Francisco garter snake and southwestern pond turtle have not been conducted to date. The area surrounding the pond and wetland provides important habitat for cover and foraging for the red-legged frog and potentially the San Francisco garter snake. The grasslands located south and east between the pond and a riparian area adjacent to Tunitas Creek are also believed to provide an important dispersal corridor for these species.

The property is also thought to provide suitable habitat for the loggerhead shrike, white-tailed kite and Cooper's hawk. Potential nesting habitat for the loggerhead shrike is found within the coastal scrub and coyote brush scrub habitat within the site. No observations of the loggerhead shrikes were reported during the biological surveys conducted at the property. Potential nesting habitat for the white-tailed kite is present in the stands of Monterey cypress, Monterey pine and eucalyptus located along the western perimeter of the site. A white-tailed kite was observed foraging during vegetation mapping surveys of the property. Although the Cooper's hawk was not observed at the site during biological surveys, potential nesting habitat is also found among the Monterey cypress, Monterey pine and eucalyptus located on the site. One raptor nest was observed in October 2004 in the southwestern portion of the property with a stand of Monterey cypress trees. The nest is thought to be used by red-shouldered hawks based on the woodland habitat and presence of a juvenile red-shouldered hawk observed in the nest tree, although this observation occurred outside of the breeding season.

The stands of Monterey cypress and pine provide roosting habitat for great-horned and barn owls, based on the presence of numerous pellets from these species observed during biological surveys of the western area of the property. The Monterey cypress and pine may also provide nesting habitat for great horned and barn owls.

LCP policy 7.3, Protection of Sensitive Habitats, prohibits land uses and development that would have a significant adverse impact on sensitive habitat areas. Pursuant to LUP Policy 7.4, only resource dependent uses are permitted in areas meeting the LUP definition of sensitive habitat. LUP Policy 7.33 identifies permitted uses in sensitive habitats with rare and endangered species. These permitted uses are limited to: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species. Residential development is not allowable within any sensitive habitat under the County's LCP.

Special Condition 1 requiring the adoption of project location Alternate 1C for the residence in the northeastern corner of the property, and ~~the accompanying road alignment as required by~~ **Special condition 6** ensures that sensitive habitats on the property are not impacted by development. The development envelope ~~and road alignment~~ for the project ~~are~~ is located in coyote bush scrub habitat and avoids all coastal terrace prairie. The Commission finds that it would be infeasible to construct the proposed access road in the location shown in Alternative 1C (Exhibit 3). Therefore, the Commission approves the access road Alternative 1B (Exhibit 3).

Special condition 6 prohibits grading or construction activities other than for the access road

within areas of coastal terrace prairie and requires the project plans to be revised to clearly identify work zones. Additionally, the applicant must install and maintain plastic, protective fencing adjacent to areas of coastal terrace prairie prior to any grading or construction activities. The condition further prohibits grading or construction activities within 300 feet⁶ of nesting loggerhead shrikes or raptors. If grading or construction takes place between March 1 and September 30, a qualified biologist is required to conduct a survey of: (1) the coastal scrub habitat within 300 feet of each work area to determine if loggerhead shrikes are nesting in the scrub habitat and; (2) the Monterey cypress and pine woodlands and eucalyptus habitats within 300 feet of each work area to determine if special status raptor species (e.g. Cooper's hawk, sharp-shinned hawk) are nesting there. If active nests are found, no grading or construction work shall occur until all young have fledged. Also, prior to the roadway and residential development, the applicant's biologist shall conduct a survey for Gairdner's yampah and coastal marsh-milk vetch (*Astragalus pycnostachyus* var. *pycnostachyus*). If these species are found nearby, impacting development shall be relocated to avoid impacts.

~~**Special Condition 6** also requires that the stretch of roadway which bisects the identified dispersal corridor for California red-legged frog and San Francisco garter snake, located between the agricultural pond and Tunitas Creek, must be elevated a minimum of two feet above ground surface to allow passage of these species and minimize potential impacts to these species. This mitigation measure was recommended by the Department of Fish and Game in order to allow the use of the access road and provide protection for these species (see Exhibit 9). Department of Fish and Game staff has confirmed that the requirements of Condition 6 are sufficient to allow the use of this access road and ensure adequate protection of these species⁷~~

~~The applicant has proposed to convert an existing agricultural water supply well in the northern portion of the site to domestic use. However, this existing well is located within coastal terrace prairie approximately 400 feet from the proposed house location Alternative 1C. Neither the well if used for domestic purposes nor the installation of a pipeline to connect the well to the proposed water storage tank may be permitted within the coastal terrace prairie sensitive habitat area under LUP policy 7.4. Therefore, Special Condition 6 also requires the applicant, prior to issuance of this CDP, to demonstrate to the Executive Director that it is feasible to install a new domestic water supply well and related piping outside of the coastal terrace prairie and other sensitive habitat areas on the site.~~

Special Condition 7 requires that fencing in the vicinity of the agricultural pond shall be maintained to prevent cattle from entering the sensitive habitat areas surrounding the pond.

Special Conditions 8 and 9 require the preparation and implementation of construction phase and post construction phase Erosion Control and Stormwater Pollution Prevention Plans. The Erosion Control plan is designed to reduce erosion and retain sediment on-site during construction. The Stormwater Pollution Prevention Plan provides that the permanent drainage system, including any necessary structural BMPs, are maintained in a functional condition to prevent runoff from the project entering any riparian or wetland area throughout the life of the approved development.

⁶ Personal Communication, Alfred Wanger, California Coastal Commission and Dave Johnson, California Department of Fish and Game, April 25, 2005.

Special Condition 10 requires that the applicant submit a final proposed grading plan for review and approval by the Executive Director. The plan must conform to the requirements of the San Mateo County Grading Ordinance, and incorporate the recommendations to protect sensitive habitat under **Special Condition 6**.

These conditions are necessary to ensure that the proposed development does not adversely impact sensitive habitat inconsistent with LUP polices 7.1, 7.3, 7.4 and 7.33. Therefore, the Commission finds that, as conditioned, the proposed development is consistent with the sensitive habitat policies of the LCP.

2. Agricultural Resources

Applicable LCP 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.*

5.3 Definition of Lands Suitable for Agriculture

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture

- a. Permit agriculture and agriculturally related development on land suitable for agriculture. Specifically allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and grazing growing, or pasturing livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, 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) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single family residences.*
- b. Conditionally permit the following uses: (1) single family residences, (2) farm labor housing, (3) multiple family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production and storage, (12) facilities for the processing, storing, packaging, and*

shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

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

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.

B. On Lands Suitable for Agriculture and Other 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.*

F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands

All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:

1. *all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
2. *continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*
3. *clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and*

For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.

Policy Discussion

Note: Please see Exhibit 10 for Coastal Act Sections 30113, 30241, 30242, and 30108; Exhibit 11 for the certified San Mateo County Land Use Plan Agricultural policies and Locating and Planning New Development Policies and the certified PAD (Planned Agricultural District) zoning regulations.

2.1 Applicable Policy

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, nearly 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 \$632,173,500.⁷ 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 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.⁸

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 7,650 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, 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. 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

⁷ *San Mateo County 2003 Agricultural Report*. San Mateo County Department of Agriculture/Weights & Measures.

⁸ *San Mateo County Agricultural Industry Profile & Strategic Farmland Maps, Final Report*. American Farmland Trust, 2004.

protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to 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.⁹

⁹ 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

The Coastal Act also contemplates that both the identification and protection of agricultural land, and its 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); that is, “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, Section 30241 and 30241.5 apply to all agricultural lands on the urban periphery proposed to be converted. 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, which 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 below 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 11 for full policy text).

The LUP agricultural policies also are implemented by the PAD zoning regulations, which provide detailed regulations for new development proposed on PAD lands. Consistent with the Coastal Act, LUP Policy 1.8a, 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 5.6(a) states:

5.6(a) *Permit agriculture and agriculturally related development on land suitable for agriculture. Specifically allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and grazing growing, or pasturing livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, 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) dairies; (4) greenhouses and nurseries; and (5) 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 use on an agricultural 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.¹⁰

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 development, though, is a conditionally permitted use in the PAD zone, in

¹⁰ 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.

recognition of the fact that residential development has the potential to undermine the protection of agricultural land by taking land out of agricultural production, and creating conflicts with agricultural uses, 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 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 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 pose 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 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.

2.2 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.¹¹

And:

¹¹ Ranchettes: The subtle Sprawl, A study of Rural Residential Development in California's Central Valley, AFT 2000.

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.¹²

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 needs to be addressed.¹³

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.

¹² Suggestions for an Agricultural Component of Governor Arnold Schwarzenegger's Smart Growth Initiative, AFT, May 2004.

¹³ Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.

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 Policy 1.8, 5.8, 5.11 and Zoning Code Section 6350 to, 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.”¹⁴

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 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.

AFT 2004 San Mateo County Agricultural Industry Study

The American Farmland Trust (AFT) conducted a study in 2004 of San Mateo County agriculture under contract with the Peninsula Open Space Trust (POST), which reviewed among other things the economic and development pressures affecting agriculture in the County.¹⁵ This study shows that over the past 25 years the county’s land in farms decreased 45 percent from

¹⁴ Using Income Criteria to Protect Commercial Farmland in the State of Oregon, Oregon Dept. of Land Conservation and Development.

¹⁵ San Mateo County Agricultural Industry Profile & Strategic Farmland Maps - Final Report. July 30, 2004. American Farmland Trust.

75,110 acres to 41,530 acres. Although the AFT Study does not differentiate between agricultural lands lost inside and outside of the coastal zone, much of the agricultural lands in San Mateo County are in the coastal zone and, according to POST, AFT's findings are representative of the trends for San Mateo coastal agricultural lands.¹⁶ These data suggest that implementation of the Coastal Act and LCP agricultural protection policies has not necessarily been effective in keeping the maximum amount of agricultural land in production.

The AFT Study also shows that the rate of decline in farmland acreage is increasing with a 28 percent reduction in both land in farms and average farm size during the period between 1992 and 2002. AFT attributes the loss of farmland in part to increased land costs, and states:

“Not surprisingly, as land in farms declined, land values increased dramatically.”

In addition to analyzing data from the U.S. Census of Agriculture and San Mateo County Agricultural Commission Crop Reports, AFT interviewed local farmers to gain insight about how farmers perceive these issues. According to AFT, the main challenges facing San Mateo County agriculture include: “(1) increased input costs; (2) shrinking markets; (3) stiff environmental regulations; and (4) decreasing land available for agriculture.”

Other findings of the AFT study include:

“The farmer’s perception that land is too expensive to rent or purchase was born out by the data. Between 1978 and 2002, the estimated average value of land and buildings rose 290 percent to just over \$1.5 million.”

“Some farmers pointed to ranchette and urban development to explain the loss of farms and farmland.”

“The main challenges the farmers identified were environmental and economic. Farmers also pointed to the problems related to the shrinking agricultural land base—especially the fact that land is too expensive to rent. While some farmers blame public and private conservation organizations for reducing the amount of rental land, the problem is more likely driven by new development than open space protection.”

Thus, according to the AFT Study, substantial San Mateo County farmland has been lost notwithstanding the Coastal Act and LCP agricultural protection policies that require the protection of the maximum amount of agricultural land in production. The study also shows that increased land cost is one of the main factors contributing to this loss of farmland and that increased land costs are due primarily to new development. However, although the AFT Study cites farmers' concerns regarding ranchette and urban development and contends that new development is likely the chief factor driving high land costs, it does not specifically examine how high value residential development such as the proposed project affect land costs and related viability of agriculture.

Strong Associates 2003 Marin County Agricultural Economics Analysis

The impacts of high value residential development on the viability of agriculture and the ability to keep agricultural lands in production is specifically addressed in a 2003 study prepared for the Marin County Community Development Agency (Strong Associates Study)¹⁷. This study “analyzes the economic issues facing agriculture in Marin County with the primary focus on the impact of estate development on agricultural lands.” The study reviews an earlier study of Marin's agricultural economy from 1973, analyzes current data regarding Marin agricultural production, costs, land values, etc., and evaluates five case studies identified by the Marin Planning Department where new homes are either proposed or have been recently constructed on agricultural parcels to determine to what extent the County's efforts to preserve agricultural

¹⁶ Pers. Comm Paul Ringgold, POST, May 9, 2005.

¹⁷ Marin County Agricultural Economic Analysis, Final Report, Strong Associates November 2003

lands over the past 30 years have been successful and whether prior strategies for farmland protection remain effective.

There is little doubt that the same basic market forces and other factors analyzed in the Strong Associates Study of high value residential development in Marin County are relevant to understanding agricultural trends in San Mateo County. The study's author states that residential estate development impacts agricultural viability in San Mateo County in the same way as it does in Marin County and that there is no reason not to apply the study's findings and recommendations to San Mateo County.¹⁸

The key findings and recommendations of the Strong Associates Study include:

"The major problem in 1973 was that agricultural lands were subject to speculation for subdivision into suburban housing. Today, the major issue is high value estate development. The concern, however, is similar—that land costs can be driven up beyond agriculture's ability to pay, thus discouraging maintaining agricultural use."

"What was not anticipated 30 years ago was that some landowners or buyers would use large agriculturally-zoned parcels essentially for estate development. High-value residential development keeps the large acreage intact, but it undermines the economics and the "will" to maintain agricultural use."

"Today, the speculation is not so much for subdivision into suburban housing but is for high value estate development. The concerns are the same, however:

- *Land costs can be driven up beyond agriculture's ability to pay for the taxes, insurance and maintenance costs associated with the land;*
- *New estate owners may not be interested in making long-term investments in agricultural improvements, or even accommodating agricultural use; and*
- *There can be land-use conflicts between non-agricultural residents and commercial agricultural operations."*

"Keeping land values (and thus costs) in balance with agricultural income is critical to maintaining long-term agricultural viability. Fortunately, this problem is being addressed at an early stage. Just as the County was able, through zoning and other policies and support efforts, to reduce land speculation for subdivision of agricultural lands, it is timely to develop approaches that will again protect and stabilize agricultural use from "gentrification" into non-productive estates.

County policy-makers should explore approaches to maintaining an "agriculturally friendly" ratio of land costs to lease income. Such approaches may include:

1. *Define a reasonable ratio of lease income to land related costs, including placing a ceiling on the value of non-agricultural improvements. The economic analysis above could be applied on an area-specific basis to determine income and cost factors in order to limit the impact of proposed new development, or an overall ceiling could be placed on the size of farm residences. The acceptable level is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence on a ranch.*
2. *Other measures to enhance long-term agricultural viability could include installing agricultural improvements, such as water development... The landowner could also finance annual agriculture-related costs such as weed control, access roads, and fence maintenance."*

¹⁸ Pers. comm. David Strong May 6, 2005.

2.3 Rural House Size Limit

As shown in the Strong Associates study, the speculative value of agricultural land for residential development is driven in large part by the demand for new high-value residential development. The homes associated with this type of development are typically much larger than most existing farm dwellings. 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 the PAD zoning district. As demonstrated by the Strong Associates Study, development of these high value homes contributes to the speculation for the use of other agricultural parcels on the San Mateo coast for similarly large homes, potentially resulting in significant adverse cumulative/indirect impacts on the continued economic viability of agriculture throughout the County.

To the extent that these impacts are a concern in this case, Special conditions #1 and #2, respectively, mitigate these impacts by restricting the development envelope to 10,000 square feet and requiring that the remainder of the property be subject to an affirmative conservation easement. The question remains, though, whether it is necessary to reduce the size of the house to further mitigate the proposed development's impact on agricultural production.

The Strong Associates Study found that the effect of estate development on agricultural land values directly corresponds with house size, with the largest, most expensive homes having the greatest impact on land cost. Smaller homes have less impact on land costs and therefore on the viability of the land for agricultural use (i.e. potentially more feasible to farm). In 2002, in response to public concern about an increase in large estate developments in the rural areas of the County's coast, 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 in 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.*¹⁹

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. 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 the average and median house sizes in the PAD zone, 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. Parcels in PAD/CD Zone	1,108
Total No. of Residentially Developed Parcels	165
Median House Size	2,271 sq. ft.
Average House Size	2,677 sq. ft.
Minimum House Size	390 sq. ft.
Maximum House 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 (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). Furthermore, the County's records show that to date residential development has occurred on approximately 15 percent of the 1,108 parcels zoned PAD within the County's coastal zone and that only a small fraction of these developments involve larger estate homes. 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 recent trend. As such, these data validate the concerns expressed by the County of increasing pressure to build large non-farm related

¹⁹ County of San Mateo, Environmental Services Agency Planning and Building Division, memo from Planning staff to Planning commission, June 25, 2002, County File Number PLN 2002-00327.

residences on coastal 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 are generally consistent with these national data. The concern for non-agricultural development on PAD lands is mirrored in a recent amendment to the California Land Conservation Act (Williamson Act). The Williamson Act was established in 1965 to preserve the state's agricultural lands in recognition of the following findings (GC §51220):

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

...

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest...

The Williamson Act provides for the protection of agricultural lands by allowing landowners to substantially reduce their property tax assessments by entering into a contract restricting the use of their property to agriculture and other uses compatible with agriculture. While the Williamson Act established an incentive program to encourage the voluntary preservation of farmland, the Coastal Act takes a regulatory approach to achieve the same goal. Although the basic approaches differ, both Acts share the overall policy objective of limiting the conversion of agricultural lands to non-agricultural development. In addition to their shared policy objectives, the relationship between the two laws is evident through the Coastal Act's reference to the definition of "prime agricultural land" contained in the Williamson Act, as well as similarities between Coastal Act Sections 30241, 30242, and 30250 with language contained in various policies of the Williamson Act.

Residential development on agricultural land that is under a Williamson Act contract 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. In response to an increased concern about violations related to the use of agricultural lands under Williamson Act contracts for non-agricultural development projects, the Williamson Act was amended in 2003 to provide enhanced penalties and enforcement remedies (AB1492- Laird; See Exhibit 16). A Fact Sheet prepared by the California Department of Conservation describes the changes under this bill 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 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.

Under AB 1492, Williamson Act contract violations involving non-agricultural development over 2,500 square feet in floor area that are not required for or part of the agricultural use, are subject to substantially higher penalties. This amendment reflects the concerns of the Department of Conservation that non-agricultural development on protected farmlands is undermining both the intent and integrity of the Williamson Act throughout the state.²⁰ 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.²¹

As stated in the Strong Associates Report, setting a limitation on the size of residential development on agricultural lands “is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence.” In this case, the Commission finds that the certified LCP does not provide specific guidance or requirements regarding residential size limitations in the PAD zone. Given the above findings, the Commission strongly encourages the County to complete the analysis necessary in order to develop an appropriate rural house size limit and to submit this as an amendment to the certified LCP. Additionally, the Commission finds that potential significant adverse cumulative impacts to agriculture due to the size of this proposed residence are adequately mitigated by Special Conditions #1 and #2, which respectively reduce the development envelope to 10,000 square feet and impose an affirmative agricultural conservation easement on the remainder of the parcel. The Commission further finds that these conditions provide consistency with the agricultural policies and zoning regulations of the certified LCP and that it is not necessary to reduce the size of this proposed house to further mitigate the proposed development’s impact on agriculture.

²⁰ Pers. Comm. Dennis O’Bryant, California Department of Conservation, May 9, 2005.

²¹ Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.

Farm Infrastructure

Agricultural production requires related improvements and support facilities such as irrigation systems and water supply facilities, fences for both pasture management and pest control, equipment storage barns, etc. The development and maintenance of such facilities is a critical factor in maintaining the viability of agricultural lands and ensuring that agricultural lands remain in production. Such improvements can be very costly. For example, a new fence costs between \$3 and \$4 per linear foot, or \$261 to \$327 per acre in the case of the project site. Because of the high cost of developing and maintaining farm infrastructure, such improvements may only be feasible as long-term investments that are amortized over the life of the facility. Estate development where the property value is based principally on the residential use rather than agricultural use may discourage long-term investment in farm infrastructure and support facilities. Property owners who do not rely on or are not actively engaged in commercial agriculture as their primary means of income do not have the same economic incentive as a farmer to make costly long-term investments necessary to support agricultural use of their property, and lessee farm operators are often reluctant to make such investments in land they do not own.²²

In this case, the applicant has made a substantial investment in a new cattle fence and proposes to construct an agricultural barn. These investments will support the continued use of the property as grazing land consistent with the requirements of the LCP. However, there is no guarantee that either the applicant or a future property owner would maintain these facilities or ensure the availability of other necessary farm infrastructure improvements. Therefore, to ensure that the proposed development does not diminish the agricultural viability of the project site and to maintain the maximum amount of agricultural land in agricultural production, the Commission finds that the applicant and any successors in interest in the property must be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property. Special Condition 2B requires such. The Commission finds that Special Condition 2B is required in order for the proposed development to meet the requirements of LUP Policies.

2.4 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 is 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. 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 accommodate the residence, turnarounds, and other appurtenant development, and still achieve the LCP requirement to minimize the encroachment of development on agricultural lands. This

²² Marin County Agricultural Economic Analysis, Final Report, Strong Associates November 2003. Pers. Comm. Larry Jacobs, San Mateo County Farm Commission Chair, May 6, 2005.

10,000-square-foot development envelope is slightly larger than the approximately 0.18 acre (7,840 square feet) residential building footprint proposed by the applicant. Therefore, **Special Condition 1** requires the proposed residential development (including residence, water tanks, propane storage tanks, all impermeable pathways, turnarounds, courtyards, garages, and retaining walls) be confined to a 10,000-square-foot development envelope. Pursuant to this condition, the 10,000-square-foot limit would not include either the access road/driveway or the proposed agricultural barn.

While not included in the 10,000-square-foot development envelope calculation, in order to meet other requirements of the LCP the agricultural barn must be clustered as close as possible to other development and sited outside of the coastal terrace prairie and other sensitive habitat areas on the site. Accordingly, **Special Condition 6** requires the proposed agricultural barn to be sited outside of the coastal terrace prairie and other sensitive habitat areas on the site and clustered with other development on or adjacent to the project site. Also, Special Condition 2 requires that the proposed 3,000 sq. ft. agricultural barn may only be used for purposes accessory to agricultural activities on the property, and may not be used for any other uses including residentially related uses or facilities.

2.5 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, the applicant proposes to enter into an agricultural conservation easement to ensure that the area of the property outside of the development envelope will remain in agricultural use. Consistent with the applicant's proposal, **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 elsewhere in the state. FarmLink advocates the inclusion of 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.

2.6 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 establishes 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.”

Special Condition 3 provides notice consistent with LUP Policy 5.15 and Zoning Code Section 6361.D. 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 4** requires the applicant to record a deed restriction meeting the requirements of above cited LCP policies.

2.7 Zoning Code Section 6355 and LUP Policy 5.10(a) Criteria Analysis

Zoning Code Section 6355 requires that the conversion of lands suitable for agriculture be approved only if found consistent with the following criteria:

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

A. *General Criteria*

1. *The encroachment of all development upon land which is suitable for agricultural use shall be minimized.*

Zoning Code Section 6355A.1 requires that the encroachment of all development upon land which is suitable for agricultural use be minimized. To meet this 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 do not diminish the ability to keep the agricultural land in production, while still allowing a reasonable residential development.

As previously discussed, the Commission finds that given the total size of the development site relative to the development envelope, a development envelope of 10,000 square feet would accommodate the residence, turnarounds, and other appurtenant development, and still achieve the LCP requirement to minimize the encroachment of development on agricultural lands. Therefore, Special Condition 1 requires the proposed residential development (including residence, water tank, propane storage tanks, all impermeable pathways, turnarounds, courtyards, garages, and retaining walls) be confined to a 10,000-square-foot development envelope located in the northeast portion of the site within an area mapped as coyote brush scrub habitat. Pursuant to this condition, the 10,000-square-foot limit would not include either the access road/driveway or the proposed agricultural barn.

~~Additionally, the proposed access road (Alternate 1C) for the project is would be located in an areas containing coyote brush scrub and transects several areas of steep slopes (see Exhibits 3 and 13). This road alignment is located in areas generally not considered prime areas is minimally suitable for cattle grazing, due to the presence of steep slopes and poor quality forage provided by the coyote brush scrub,²³ and thus minimizes encroachment into land which is suitable for agricultural use.~~

2. *All development permitted on a site shall be clustered.*

6355.A.2 requires non-agricultural development on PAD zoned lands to be clustered to minimize the conversion of lands suitable for agriculture. To meet this 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

²³ Personal Communication, Alfred Wanger, California Coastal Commission and Richard Casale, Natural Resources Conservation Service, April 21, 2005

amount of agricultural land necessary and do not diminish the ability to keep the agricultural land in production, while still allowing a reasonable residential development. The project as conditioned by **Special Condition 1**, selects project Alternate 1C, which generally clusters the residential development close to adjacent residential development near the northeast portion of the property. **Special Condition 1** also restricts the development envelope to 10,000 square feet, ensuring that the development is clustered together on the project site. Additionally, project as conditioned, clusters the development within approximately 450 feet of residential development on the neighboring property to the east. The presence of steep slopes along the northeastern property boundary between the development site and the adjacent residential development precludes the possibility of clustering the developments any further.

3. *Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.*

The criteria established in this chapter are reiterated as policies within the General Plan and Local Coastal Program. The project as conditioned conforms to the applicable development review criteria contained in the San Mateo County General Plan and certified LCP.

Under policy 5.10 of the certified LCP, the conversion of land suitable for agriculture within a parcel to a conditionally permitted use is prohibited unless all of the following criteria have been met:

- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*
- (2) continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*
- (3) clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
- (4) the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
- (5) public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

This limitation on the conversion of land suitable for agriculture contained in LIP Policy 5.10 can be considered inapplicable to the proposed development because the conversion of land suitable for agriculture to another use is not occurring. That is, the parcel is currently used for rotational cattle grazing and will continue to do so at the same intensity of cattle grazing currently being undertaken on the property. Accordingly, even though a house will displace some of the soils, as conditioned, the house will not result in a change in the agricultural use of the property. In addition, as is required by LUP Policies 1.8 and 5.11 and Zoning Code Sections 6530 and 6355 as discussed above, the house, as conditioned, will minimize encroachment onto lands suitable for agriculture and will not diminish the productivity or viability of agriculture, or the ability to keep the parcel in agricultural production.

To the extent the proposed development can be construed as a conversion of land suitable for agriculture because the house will displace soils suitable for agriculture, the proposed

development as conditioned, satisfies the standards for converting lands suitable for agriculture as discussed further below.

First, in order to convert lands suitable for agriculture to uses permitted by a Planned Agricultural Permit, the project must ensure that:

- (1) *All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;*

The entire site is designated as lands suitable for agriculture. Therefore, there are no agriculturally unsuitable lands on the parcel. Therefore, the proposed conversion of agricultural lands to residential use meets the first criteria of Zoning Code Section 6355F(1) and LUP Policy 5.10a.(1).

Second, in order to convert lands suitable for agriculture to uses permitted by a Planned Agricultural Permit, the project must ensure that:

- (2) *Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;*

The parcel is currently used for rotational cattle grazing and, as conditioned, would continue to do so at the same level of cattle grazing that is and has been undertaken on this property. Therefore, the continued or renewed agricultural use of the soils is not here at issue.

More specifically, according to the U.S. Department of Agriculture 1961 National Soil Conservation Service (NRCS):

“No ‘Prime’, ‘Unique’, or ‘Statewide Important Soils’ are mapped on the property. According to the current criteria used by the United States Department of Agriculture (USDA) to classify Important Farmland, and the 2000 California Department of Conservation Important Farmland Inventory (that used the USDA criteria), the entire Waddell property was mapped as “Grazing Lands” (“Lands suitable for grazing”).

“The relative suitability (carrying capacity) of the property for use by livestock is fair with the potential of only 1-2 animal unit months (AUM) per acre under unfertilized range conditions over the entire 6-month grazing period between March and August. Note: 1 AUM =1000 lb cow or cow with calf, 1 steer, 1 horse, 6 goats or 5 sheep. Example: 50 grazable acres x 1 ½ AUM (average) divided by 6-month grazing period = 12-13 cows over the entire grazing period.”²⁴

Using the above criteria developed by the NRCS, the 153- acre property is estimated to be capable of supporting approximately 36 to 39 cows over the 6-month grazing period between March and August.

A recent analysis prepared by Lawrence D. Ford, PH.D., a Certified Rangeland Manger hired by the applicant, evaluated the carrying capacity of the subject site as approximately one head of cattle per four acres, equivalent to a maximum of 38 cattle for the 153 acres (see Exhibit 14). The

²⁴ Natural Resources Conservation Service, Letter to Kerry Burke, Report on Site Visit to Waddell Property, May 16, 2002.

carrying capacity for this number of cattle was confirmed by representatives of the Natural Resources Conservation Service²⁵ and U.C. Cooperative Extension County Farm Advisor²⁶ programs as a reasonable estimate for coastal grazing lands such as found on the project site.

Accordingly, the proposed development, as conditioned, would not prevent continued agricultural use of the soils in support of rotational cattle grazing. In addition, **Special Condition 7** requires that an amended grazing plan be developed to show where pastures are located, how cattle would be rotated on a yearly and/or seasonal basis, and how the pasturing would be used to restore the native grasslands. **Special Condition 2** also requires the establishment of an Agricultural Easement to ensure that the agricultural resources of the property are kept in agricultural production. Therefore, the proposed development meets the second criteria of Zoning Code Section 6355F and LUP Policy 5.10a.

Third, in order to convert lands suitable for agriculture to uses permitted by a Planned Agricultural Permit, the project must ensure that:

- (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;

Clearly defined buffer areas between agricultural and non-agricultural uses are necessary because of 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 pose a threat to the non-agricultural uses.

As conditioned, the project will cluster development within a single area of the northeast portion of the site. This clustering will allow for the creation and maintenance of a clear buffer between the agricultural and non-agricultural uses of the site. Additionally, the location of the development within approximately 450 feet of the neighboring residential development will help to minimize impacts from agricultural operations to residential areas by clustering development in the same vicinity, making it easier to control dust noise and odors to surrounding residential areas. **Special Condition 1**, selects project Alternate 1C, clusters the residential development close to adjacent residential development near the northeast portion of the property. **Special Condition 1** also restricts the residential development envelope to 10,000 square feet, ensuring that the development is clustered together on the project site. **Special Condition 5** requires that the perimeter of the landscaped area surrounding the residential area be adequately fenced to maintain an adequate buffer between the proposed development and agricultural operations.

²⁵ Personal Communication, Alfred Wanger, California Coastal Commission and Richard Casale, Natural Resources Conservation Service, April 21, 2005.

²⁶ Personal Communication, Alfred Wanger, California Coastal Commission and Sergio Garcia, U.C. Cooperative Extension County Farm Advisor, San Benito County, April 21, 2005.

Fourth, in order to convert lands suitable for agriculture to uses permitted by a Planned Agricultural Permit, the project must ensure that:

- (4) *The productivity of any adjacent agricultural lands is not diminished;*

As previously discussed, there are considerable economic and development pressures affecting agriculture in San Mateo County, contributing to a decline of farmland acreage in agricultural production. This decline of farmland acreage within the County reflects significant statewide and national trends in the decline of farmland acreage due to economic and development pressures. The AFT Study shows that increased land cost is one of the main factors contributing to this loss of farmland and that increased land costs are due primarily to new residential development. As shown in the Strong Associates study, the speculative value of agricultural land for residential development is driven in large part by the demand for new high value residential development. The homes associated with this type of development are typically much larger than most existing farm dwellings. As discussed above, most of the recently constructed homes in the PAD zone are, like the proposed development, several times larger than the typical house size in the PAD zoning district. As demonstrated by the Strong Associates Study, development of these high value homes contributes to the speculation for the use of other agricultural parcels on the San Mateo coast for similarly large homes, resulting in significant adverse cumulative/indirect impacts on the continued economic viability of agriculture throughout the County.

The Strong Associates Study found that the effect of estate development on agricultural land values directly corresponds with house size, with the largest, most expensive homes having the greatest impact on land cost. Smaller homes with a value more in line with the agricultural value of farm properties have less impact on land cost. Special Condition 1 would reduce the individual and cumulative adverse impacts of the proposed development on the productivity and viability of agricultural land and the ability to keep agricultural land in production on the San Mateo County coast.

Therefore, the project as conditioned will not diminish the productivity of adjacent agricultural lands. Furthermore, the owner intends to continue to use the property for agricultural production (cattle grazing) and is reportedly currently leasing land to the neighboring landowner to the north for cattle grazing. **Special Conditions 2** requires the development of agricultural easement designed to ensure that the property remains in agricultural production.

Fifth, in order to convert lands suitable for agriculture to uses permitted by a Planned Agricultural Permit, the project must ensure that:

- (5) *Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*

The project will not cause any expansion of public services or facilities. Furthermore, the project as conditioned by **Special Condition 1**, minimizes the encroachment of non-agricultural development on to agricultural lands, thereby ensuring that residential development is incidental to the agricultural uses of the property, and preserves the viability of agriculture on agricultural parcels. **Special Condition 2** imposes an agricultural easement designed to ensure that the property remains in agricultural production. **Special Conditions 8 and 9** requiring the

preparation and implementation of construction phase and post construction phase Erosion Control and Stormwater Pollution Prevention Plans will protect water quality from degradation.

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

There is an existing agricultural well on the parcel, which is proposed for conversion to domestic use. San Mateo County Environmental Health has certified that the well pumps 7.3 gallons per minute, meeting the minimum flow base standard of 2.5 gallons per minute for residential use. The well produces approximately 10512 gallons per day at a flow rate of 7.3 gallons per minute.

Furthermore, the well production rate also provides adequate and sufficient water supply needed for expected agricultural use of the property for cattle grazing. As previously discussed, the expected carrying capacity of the property is approximately 38 cattle, which according to the Natural Resources Conservation Service and U.C. Cooperative Extension County Farm Advisor require approximately 10-12 gallons of water per day each (approximately 380-456 gallons per day total).

~~However, as discussed in the Sensitive Habitat findings above, the existing agricultural well is located within coastal terrace prairie approximately 400 feet from the proposed house location Alternative 1C. The use of this well for domestic purposes and the installation of a pipeline to connect this well to the proposed water tank would not be permitted with coastal terrace prairie sensitive habitat under LUP policy 7.4. Therefore, Special Condition 6 also requires that the applicant, prior to issuance of this CDP, demonstrate to the Executive Director that it is feasible to install a new domestic water supply well and related piping outside of the coastal terrace prairie and other sensitive habitat areas on the site.~~

In their submittal *Briefing Materials, Waddell Farm Residence, May 2005*, the applicant asserts:

In addition, designating CTP as sensitive habitat would effectively prohibit a home of any size on the property and therefore would result in a taking, since any water, sewer and power connections would have to cross CTP, given that all of the feasible home sites are essentially islands surrounded by CTP. Moreover, it is not even clear that there is water that can be drawn from anywhere on the site other than from the existing agricultural well.²⁷

The Commission does not concur with these statements. The staff recommendation to select the applicants proposed Alternative 1C house site ~~and road alignment (providing access from Tunitas Creek Road)~~ avoids all impacts to coastal terrace prairie. This coyote brush scrub area represents approximately 10-15 acres of area contiguous to the proposed Alternative 1C house site ~~and road alignment~~ suitable for placement of septic and utility systems. As shown on Exhibit 3, there is ample area within this 10-15 acre coyote brush scrub area to locate septic systems, power connections or water supply systems. The Commission finds that it is feasible to locate power supply and other required utilities in areas ~~adjacent to the access road alignment~~, within coyote brush scrub, thereby avoiding all impacts to coastal terrace prairie.

²⁷ Latham & Watkins, Briefing Materials, Waddell Farm Residence, May 2005, page 7.

Furthermore, the applicant further asserts that:

Designating CTP as sensitive habitat also would be harmful to and inconsistent with agricultural production. The LCP allows only resource dependent uses within sensitive habitat and does not list grazing barns, roads, fences agricultural wells or other agricultural activities as resource dependent uses that would be permitted in these areas. Indeed, the Staff recommendation would prevent use of the existing agricultural well for the cattle on the site, since the water lines would need to cross CTP to connect to the well, and therefore would conflict with the Staff's recommended Special Condition 2B requiring that adequate water supply be provided for agricultural uses on the property. For these reasons, the California Farm Bureau Federation and California Cattlemen's Association oppose the designation of CTP as sensitive habitat (See Exhibit D).²⁸

The applicant is mistaken in asserting that agricultural uses are not allowed under the Sensitive Habitat policies of the LCP. Categorical Exclusion Order E-81-1 specifically exempts agriculturally related development from CDP requirements within the PAD zone (see Exhibit 15). These agricultural uses include, among other things, the construction, improvement or expansion of barns, storage buildings, equipment buildings and other buildings necessary for agricultural support purposes, pursuant to certain restrictions; fences for farm and ranching purposes; and water wells, well covers, pump houses water storage tanks of less than 10,000 gallons capacity, and water distribution lines provided that such water facilities are used for on-site agriculturally related purposes. Therefore, designating coastal terrace prairie as sensitive habitat will not impede continued agricultural uses on this property.

~~Therefore, for all of the above reasons, the Commission finds that the installation of a second well for domestic water supply outside of the coastal terrace prairie habitat generally depicted on Exhibit 3 will ensure that there are adequate and sufficient water supplies available for domestic supply, and that sensitive habitat will not be disrupted inconsistent with LUP Policy 5.22.~~

Conclusion

These conditions described above are necessary to ensure that the proposed development does not cause significant adverse impacts to agricultural resources inconsistent with LUP Policies 5.6 and 5.10. Therefore, as conditioned, the Commission finds that the proposed development is consistent with the agricultural resource policies of the LCP.

3. Visual Resources

Applicable LCP Policies

8.5 Location of New Development

- a. *Require that new development be located in a portion of a parcel where the development is (1) 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*

²⁸ Latham & Watkins, Briefing Materials, Waddell Farm Residence, May 2005, page 6.

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.

8.17 Alteration of Landforms; Roads and Grading

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

Discussion

The project site is located adjacent to Highway 1 within a State and County designated scenic corridor. The rural portion of the San Mateo Coast contains outstanding scenic qualities, with extensive open space views of the coast, agricultural lands, and the slopes of the Santa Cruz Mountains.

The project site is located on a south and west-facing hillside within a LCP designated scenic corridor just inland of Highway 1 (a State and County designated Scenic Road) (Exhibits 1 and 2). The site is surrounded by extensive scenic open space and agricultural land. The project site includes significant areas of open space, which are currently used for grazing activities. As mentioned above, the site also contains a cellular facility, located along the western boundary of the site near Highway 1. The cellular facility was installed pursuant to a conditional use permit, approved by the County in June 2001. The facility occupies an approximately 10-foot by 20-foot area, at the end of a small access road from the highway. As shown on Exhibit 2, the cell facility is located approximately 100 feet east of Highway 1, and is effectively screened from view from Highway 1 by stands of Monterey Cypress and Eucalyptus trees.

The proposed development must comply with the requirements of LUP Policies 8.5 and 8.17, which protect the scenic quality of the site as viewed from Highway 1. As discussed above, these policies 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) consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall.

Furthermore, LCP Policy 8.17, Alteration of Landforms; Roads and Grading, requires that development be located and designed to conform with, rather than change landforms and minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development. This policy further requires that development be controlled to avoid the need to construct access roads visible from state and County Scenic Roads and require the shared use of existing private roads whenever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall also be located and designed to minimize visibility from State and County Scenic Roads, and built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

Special Condition 1 requires the adoption of project location Alternate 1C in the northeastern corner of the property. According to the County staff report, and analysis of visual impacts prepared by the applicant, the residence itself will not be visible from either Highway 1 or Tunitas Creek Road to the southeast of the property. Development at this location is not visible from public viewpoints or state and County Scenic Roads and best preserves the visual and open space qualities of the parcel. However, **Special Condition 5** requires the use of vegetative screening, to screen 100 percent of the main residence from Highway 1 and Tunitas Creek Road, and require that the plantings be designed to appear part of the existing topography.

Additionally, **Special Condition 6** requires that the new access road be located and designed to minimize visibility from State and County Scenic Roads, and built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics, to the maximum extent feasible. **Special Condition 10** further requires that all road surfaces be colored to blend in with the grassland, and requires that road cuts be revegetated and visually screened as appropriate to minimize to visual impacts to the maximum extent feasible.

Special Condition 1 requires that all exterior material and lighting for the life of the project shall be as unobtrusive as possible and not visible from Highway 1.

These conditions are necessary to ensure that the proposed development does not cause significant adverse visual impacts inconsistent with LUP Policies 8.5 and 8.17. Therefore, as conditioned, the Commission finds that the proposed development is consistent with the visual resource policies of the LCP.

4. ~~Archaeological Resources~~

Applicable LCP Policies

~~1.24 — Protection of Archaeological/Paleontological Resources~~

~~Based on County Archaeology/Paleontology Sensitivity Maps, determine whether or not sites proposed for new development are located within areas containing potential archaeological/paleontological resources. Prior to approval of development proposed in sensitive areas, require that a mitigation plan, adequate to protect the resource and prepared by a qualified archaeologist/ paleontologist be submitted for review and approval and implemented as part of the project.~~

Discussion

~~During an archaeological survey of the property, evidence of prehistoric cultural resources was~~

~~found in the southeast area of the site, near Tunitas Creek Road (Clark, 2002). This prehistoric site reportedly is a continuation of a prehistoric site found on an adjacent property (Marsh) to the west. No other historic or prehistoric resources were found on the property.~~

~~Therefore, **Special Condition 11** requires that a qualified archaeologist conduct a review of available information regarding archaeological resources in the area, conduct a survey of the project site prior to commencement of grading work for the access road, and conduct on site monitoring during grading activities to ensure that archaeological resources are adequately protected. If an area of cultural deposits is discovered during the course of the project, all construction shall stop and the District shall submit a supplementary archaeological plan for the review and approval prior to the recommencement of work~~

~~The Commission finds that these measures are necessary to mitigate potential impacts of the proposed development to archaeological resources in conformity with the requirements of the archaeological resources polices of the LUP.~~

5. Summary of Alternatives Analysis

In a letter dated August 31, 2004, staff requested an analysis of siting alternatives for the project approved by the County. In response, the applicant evaluated five alternative development sites and several different road alignments in a report titled *Site Alternatives Analysis*, dated October 25, 2004. Following discussions and a November 15, 2004 site meeting with Staff, a sixth development site located in the western portion of the property was also evaluated. Further analyses were prepared by the applicant and provided in submittals dated December 23, 2004 and March All of the alternative locations and road alignments were evaluated for compliance with the applicable polices of the San Mateo County LCP and other site constraints on the property.

These alternatives are summarized below and described in detail in Exhibit 6.

Alternative 1A Original House Location (County Approved), Original Barn Location and Original Highway One Approach Road Alignment

The original proposal sited the house in the northeastern portion of the project site primarily within coyote scrub brush but included a portion of the development within coastal terrace prairie (see Exhibit 3). The barn was located near the existing cell phone tower in the western portion of the property within coastal terrace prairie. The proposal included a road alignment from Highway One routed through coastal terrace prairie and coyote brush scrub habitat.

The County rejected the location of the barn and required the alignment of the road to be modified.

Alternative 1B – County Approved Project

The County approved Project located the house in the northeastern portion of the project site primarily within coyote scrub brush but included a portion of the development within coastal terrace prairie (see Exhibit 3). The barn was located within coyote brush scrub approximately 800 feet south of the house. The road alignment from Highway One is routed through coastal terrace prairie and coyote brush scrub.

The Coastal Commission appealed the County of San Mateo's decision to approve the project, and found that the project did not conform to the requirements of the sensitive resource, agricultural and visual resource policies of the County's certified LCP.

Alternative 1C – Slightly Altered House Location, Revised Barn Location and Tunitas Creek Road Alignment

Alternative 1C moves the footprint of the house slightly to the east from the County approved location in the northeastern portion of the property and locates all of the development within coyote brush scrub and avoids all impacts to coastal terrace prairie habitat (see Exhibit 3). In addition, the barn is relocated from the County approved location approximately 800 feet from the house to approximately 60 feet from the house. The approach road alignment is changed to provide access from an existing road near Tunitas Creek Road, and extends generally near the eastern perimeter of the property through coyote brush scrub and avoids all impacts to coastal terrace prairie habitat. This proposed road alignment would necessitate grading and construction of portion of the road on slopes greater than 30% (see Exhibit 13).

This alternative minimizes encroachment of development upon land which is suitable for agricultural, and maximizes the agricultural use of the property. The location of the development envelope and road alignment also avoids or minimizes impacts to visual resources. This alternative is the preferred alternative and the project as conditioned complies with all applicable policies of the LCP.

Alternative 2 – House and Barn Location in the Southwestern Portion of the Property and Highway One Road Alignment

Alternative 2 sites the house and barn in the southwestern portion of the property near the existing cellular facility, and uses a portion of an existing road alignment from Highway One (see Exhibit 3). The house and barn would be located within non-native woodland, in an area that supports coastal terrace prairie in the woodland understory. The road would be routed through coastal terrace prairie and non-native woodland habitats. The alternative would require berming to screen the house from Highway One.

This alternative would result in the destruction of coastal terrace prairie in conflict with LUP Policies 7.3 and 7.4, which prohibit development that would have significant adverse impact to sensitive habitat and permit only resource dependent uses in sensitive habitat areas.

Alternative 3 – House and Barn in the Southeastern Portion of the Property and Tunitas Creek Road Alignment

Alternative 3 sites the house and barn in the non-native grassland in the southeastern portion of the site between the agricultural pond and Tunitas Creek Road (see Exhibits 3 and 4). An existing road from Tunitas Creek Road would provide access to the house. This alternative also includes berming to screen the house from Tunitas Creek Road.

This alternative would locate the proposed development near sensitive resources associated with an existing agricultural pond located in the southeast portion of the property. Biological surveys identified this area including the agricultural pond and surrounding grassland as providing suitable habitat for several species of special concern including the California red-legged frog,

and the San Francisco Garter Snake, and the Southwestern Pond Turtle. The pond area was confirmed as a breeding site for red-legged frogs by California Department of Fish and Game biologists during a site visit on January 6, 2005. The area surrounding the pond and wetland provides important habitat for cover and foraging for both the red-legged frog and San Francisco Garter Snake. The grasslands located south and east between the pond and a riparian area adjacent to Tunitas creek are also believed to provide an important dispersal corridor for these species.

This alternative would locate the proposed development in close proximity to this important habitat and foraging areas and directly within the dispersal corridor for these species and would result in adverse impacts to these species and this important sensitive habitat. This alternative would conflict with LUP Policies 7.3 and 7.4, which prohibit development that would have significant adverse impact to sensitive habitat and permit only resource dependent uses in sensitive habitat areas. This alternative was rejected from further consideration.

Alternative 4 – House and Barn Location in Western Portion of Central Coyote Brush Scrub and Highway One Road Alignment

Alternative 4 sites the house and barn in the western portion of the coyote brush scrub in the center of the property (see Exhibit 3). The access road would extend from an existing access road from Highway One and would extend through coastal terrace prairie and coyote brush scrub. This alternative also includes berming within the coyote brush scrub to screen the house from Highway One.

This alternative was rejected from further consideration because of impacts to coastal terrace prairie resulting from construction of the access road. This alternative would result in the destruction of coastal terrace prairie in conflict with LUP Policies 7.3 and 7.4, which prohibit development that would have significant adverse impact to sensitive habitat and permit only resource dependent uses in sensitive habitat areas.

Alternative 5 – House and Barn Location in Eastern Portion of Central Coyote Brush Scrub and Highway One Alignment

Alternative 5 sites the house and barn in the eastern portion of the coyote brush scrub in the center of the property (see Exhibit 3). The access road would extend from an existing access road from Highway One and would extend through coastal terrace prairie and coyote brush scrub. This alternative also includes berming within the coyote brush scrub to screen the house from Highway One.

As with Alternative 4, this alternative was rejected from further consideration because of impacts to coastal terrace prairie resulting from construction of the access road. This alternative would result in the destruction of coastal terrace prairie in conflict with LUP Policies 7.3 and 7.4, which prohibit development that would have significant adverse impact to sensitive habitat and permit only resource dependent uses in sensitive habitat areas.

Alternative 6 – House and Barn Located in the Western Portion of the Property near Monterey Pine Woodland and Highway One Alignment

This alternative sites the house and barn in the western portion of the property within the fringes

of a small Monterey Pine woodland within coastal terrace prairie, and near a gulley with significant erosion (see Exhibit 4). The access road would extend from an existing access road from Highway one, and extend through coastal terrace prairie.

This alternative was rejected from further consideration because of impacts to coastal terrace prairie habitat. This alternative would result in the destruction of coastal terrace prairie in conflict with LUP Policies 7.3 and 7.4, which prohibit development that would have significant adverse impact to sensitive habitat and permit only resource dependent uses in sensitive habitat areas.

C. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. The proposed project has been conditioned to be found consistent with the policies of the Coastal Act and to minimize or eliminate all significant adverse environmental effects. Mitigation measures have been imposed to (1) ensure that development occurs outside of any sensitive habitat areas, (2) avoid adverse impacts to the scenic qualities of the area, (3) minimize and restrict encroachment of development into agricultural areas, and (4) protect and preserve the agricultural resources of the property. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts, which the development may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with Coastal Act requirements to conform to CEQA.

Appendix A

Substantive File Documents

Biotic Resources Group, Waddell Residence, Tunitas Creek Road, San Mateo County, Biological Assessment, June 13, 2002.

Biotic Resources Group, Waddell Residence, Tunitas Creek Road, San Mateo County, Rare Plant Survey for Gairdner's Yampah, April 10, 2003.

California Department of Fish and Game, September 2004, Natural Diversity Database: Rarefind 2 Database, California Department of Fish and Game, Sacramento, California.

California Native Plant Society, Santa Cruz Chapter, Plant Communities of Santa Cruz County, Coastal Terrace Prairie, <http://www.cruzcnp.org/CoastalTerracePrairie.html>.

Clark, Mathew R., An Archaeological Reconnaissance of the Waddell Property, 21960 South Cabrillo Highway, Tunitas, San Mateo County, California, April 2002.

Hayes, Grey. 2003. Conservation Strategy for Coastal Prairie Conservation

Holland, Robert F., Ph. D., California Department of Fish and Game, October 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California.

Latham & Watkins, Waddell Property, Appeal No. A-2-SMC-04-009, Site Alternatives Analysis, October 25, 2004

Latham & Watkins, Waddell Property, Appeal No. A-2-SMC-04-009, Supplemental Biological Survey and Impact Analysis by Glenn Lukos Associates, December 23, 2004.

Latham & Watkins, Waddell Property, Appeal No. A-2-SMC-04-009, March 10, 2005

Natural Resources Conservation Service, Letter to Kerry Burke, Report on Site Visit to Waddell Property, May 16, 2002.

Reed Noss and Robert L. Peters, Endangered Ecosystems: A Status Report on America's Vanishing Habitat and Wildlife, (Washington, D.C.: Defenders of Wildlife, 1995.

Stohlgren, T. J., D. Binkley, G. W. Chong, M. A. Kalkhan, L. D. Schell, K. A. Bull, Y. Otsuki, G. Newman, M. Bashkin, and Y. Son. 1999. Exotic plant species invade hot spots of native plant diversity. *Ecological Monographs* **69**:25-46.

“The State of Disappearing Species and Habitat: A Sierra Club Report.” Sierra Club. 19 May 2004.

**APPENDIX B: SITE PLANS, FLOOR PLANS AND
ELEVATIONS**

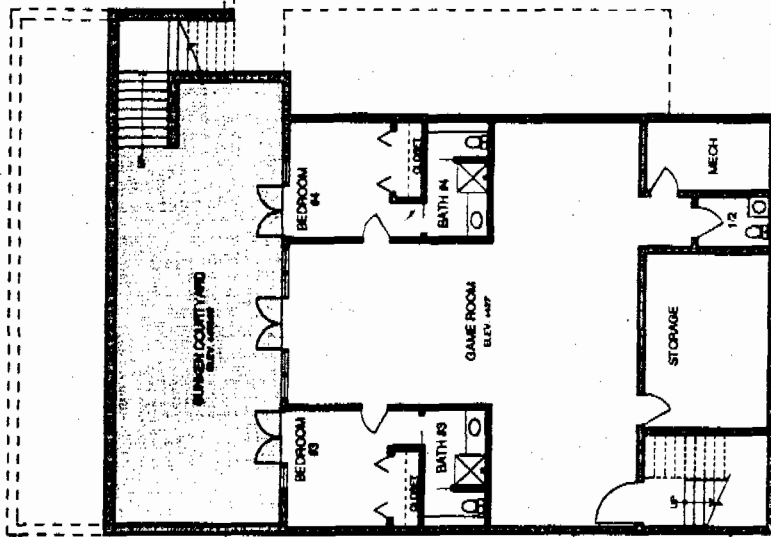


San Mateo County Planning Commission Meeting

Applicant: **Piechota**
 File Numbers: **PLN 2002-00375**

Attachment: C. 2

RESIDENTIAL SITE PLAN
 Scale: 1/8" = 1'-0"



OUTLINE OF BUILDING
AT GROUND LEVEL

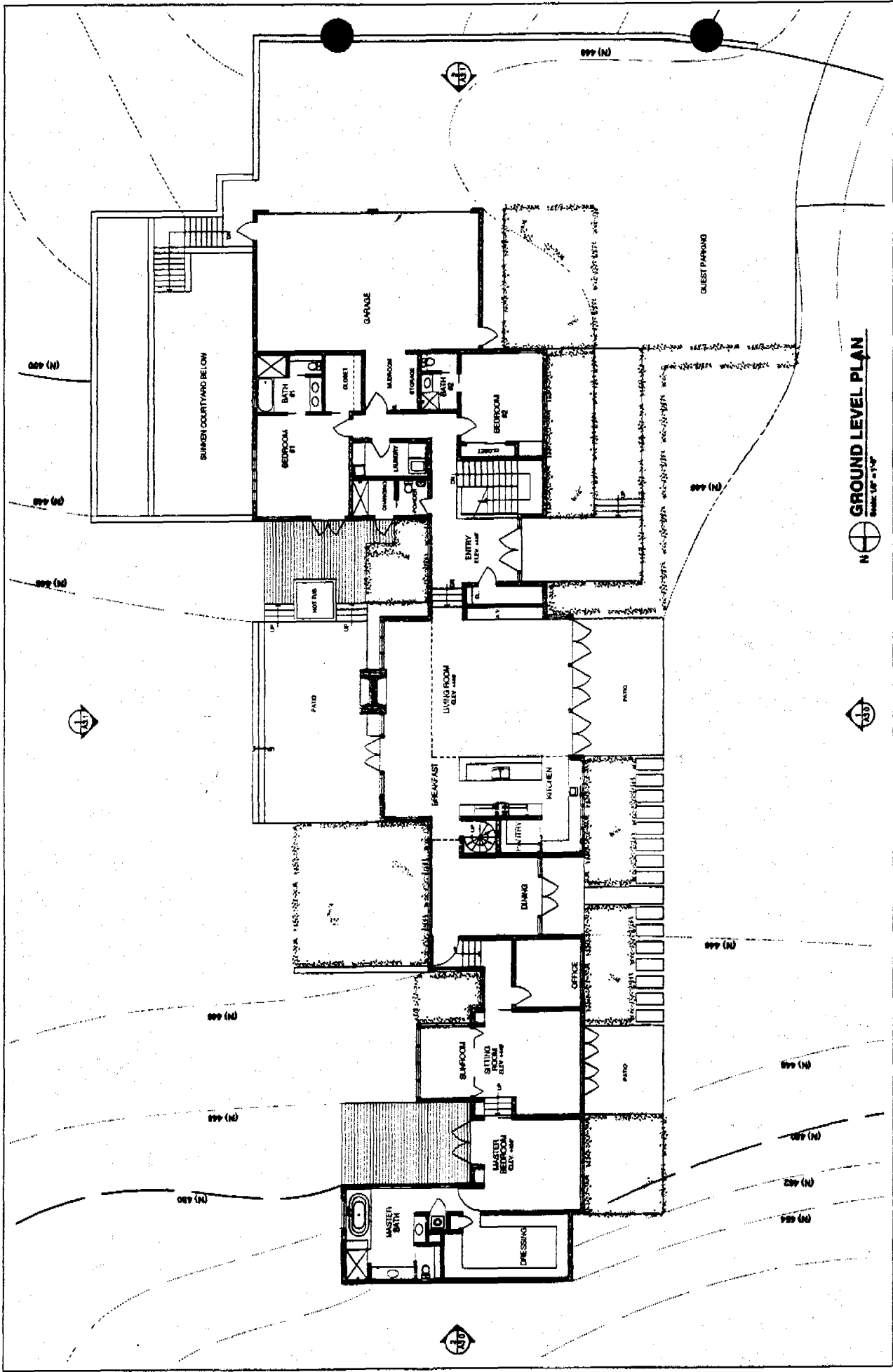
LOWER LEVEL PLAN
Scale: 1/8" = 1'-0"

San Mateo County Planning Commission Meeting

Applicant: **Piechota**

File Numbers: **PLN 2002-00375**

Attachment: D.1



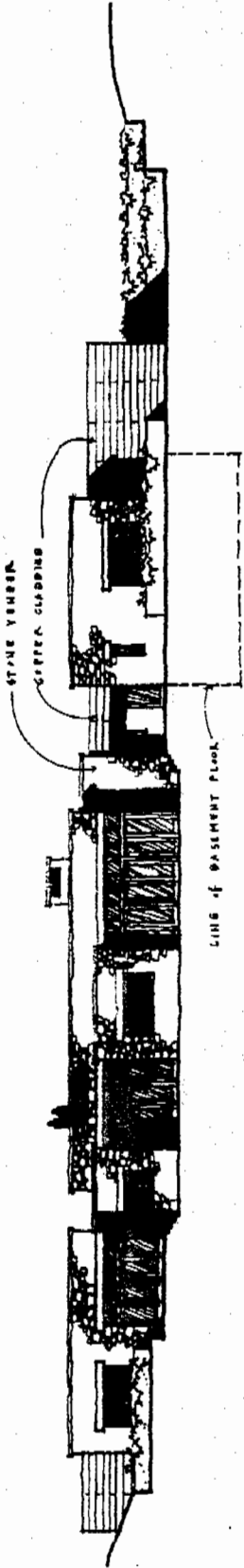
GROUND LEVEL PLAN
Scale: 1/8" = 1'-0"

San Mateo County Planning Commission Meeting

Attachment: D. 2

Applicant: **Piechota**

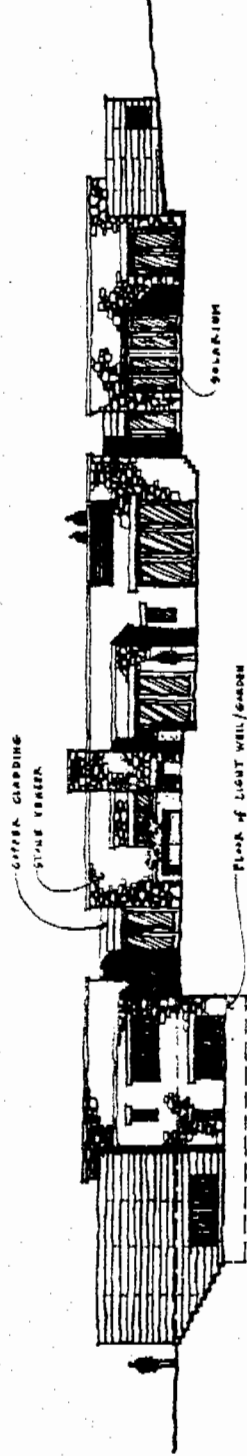
File Numbers: **PLN 2002-00375**



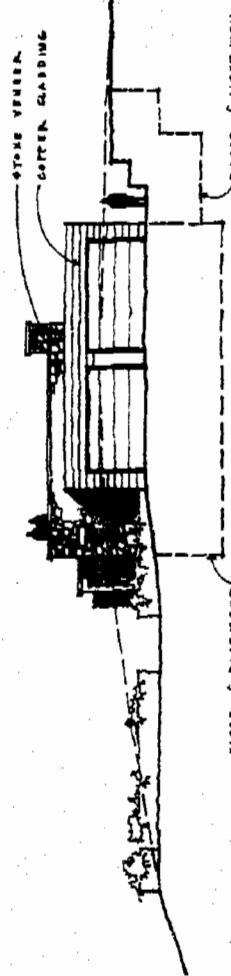
1 WEST ELEVATION
SCALE 1/8"=1'-0"



2 NORTH ELEVATION
SCALE 1/8"=1'-0"



3 EAST ELEVATION
SCALE 1/8"=1'-0"



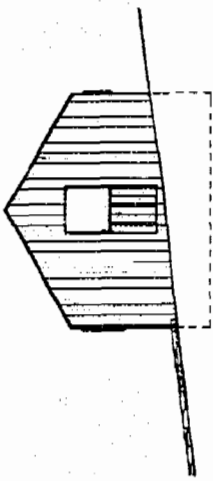
4 SOUTH ELEVATION
SCALE 1/8"=1'-0"

San Mateo County Planning Commission Meeting

Applicant: **Piechota**

File Numbers: **PLN 2002-00375**

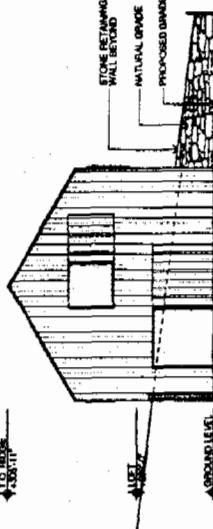
Attachment: **F**



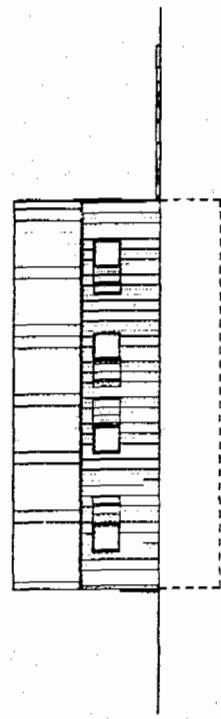
4 EAST ELEVATION
Scale: 1/8"=1'-0"



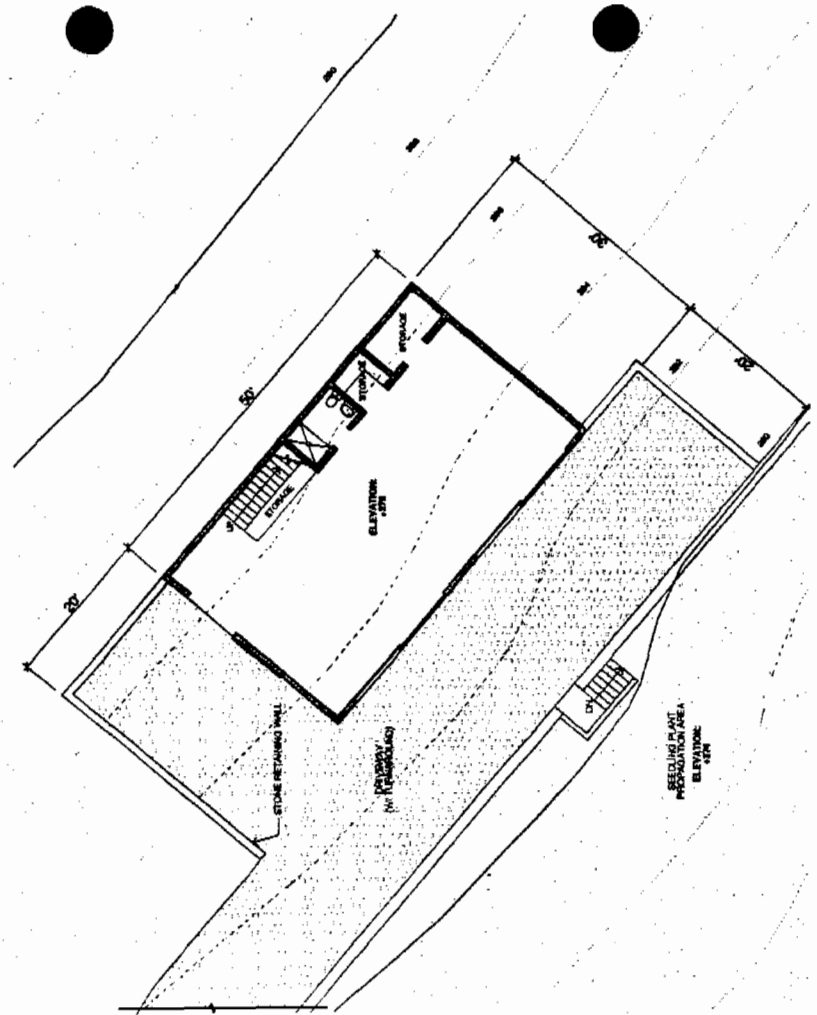
3 SOUTH ELEVATION
Scale: 1/8"=1'-0"



2 WEST ELEVATION
Scale: 1/8"=1'-0"



5 NORTH ELEVATION
Scale: 1/8"=1'-0"



1 BARN PLAN
Scale: 1/8"=1'-0"

San Mateo County Planning Commission Meeting

Applicant: **Piechota**

Attachment: **4**

File Numbers: **PLN 2002-00375**

66-33

TAX CODE AREA

PROJECT PARCEL

PARCEL MAP VOL 49/94-95

Attachment: B

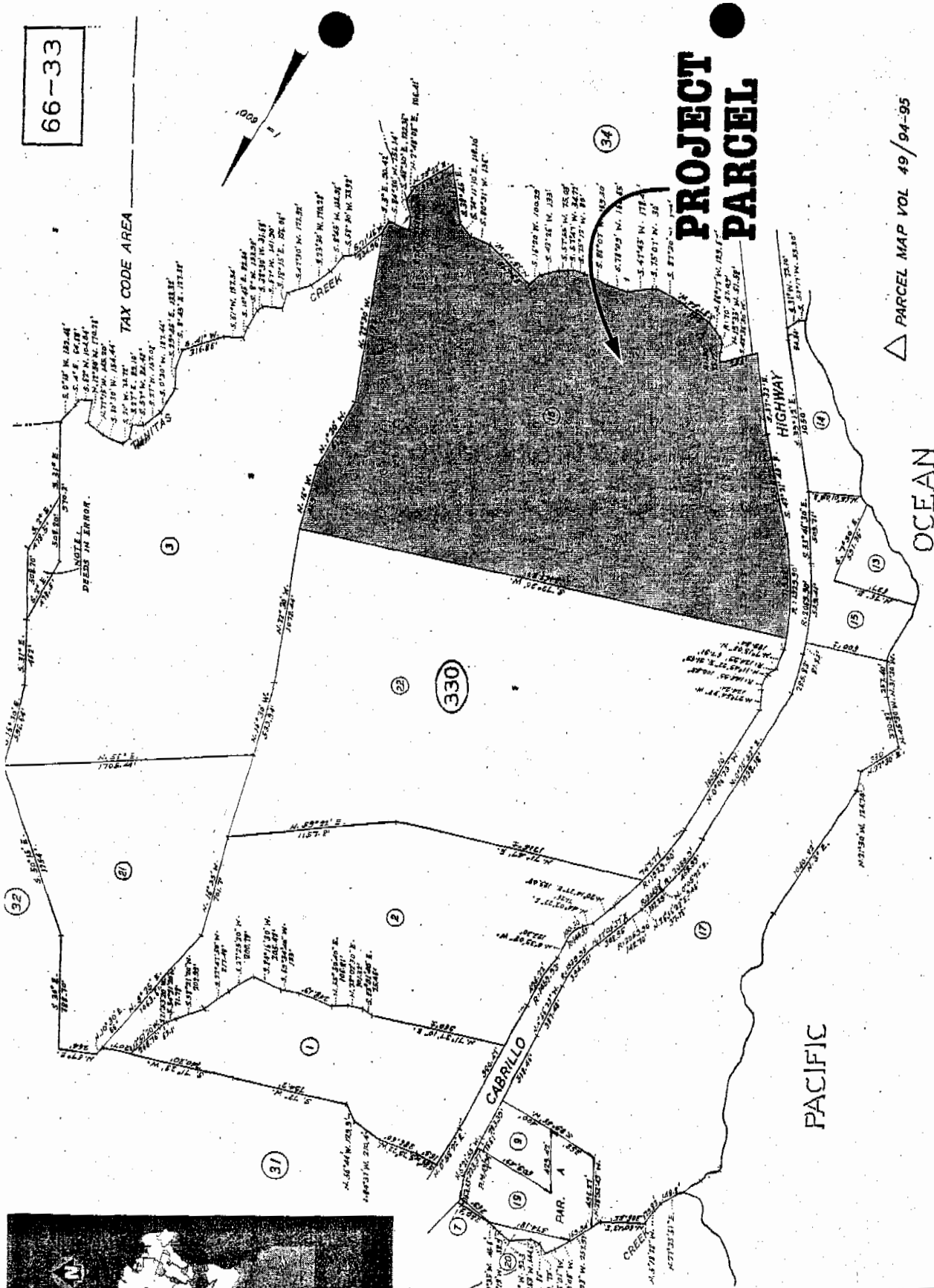
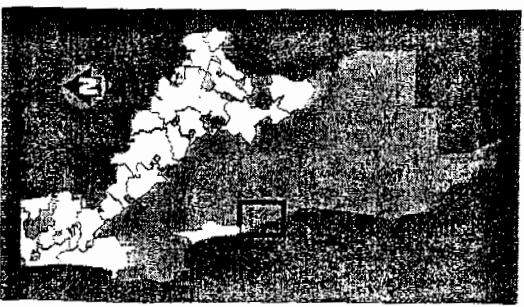
County Planning Commission Meeting

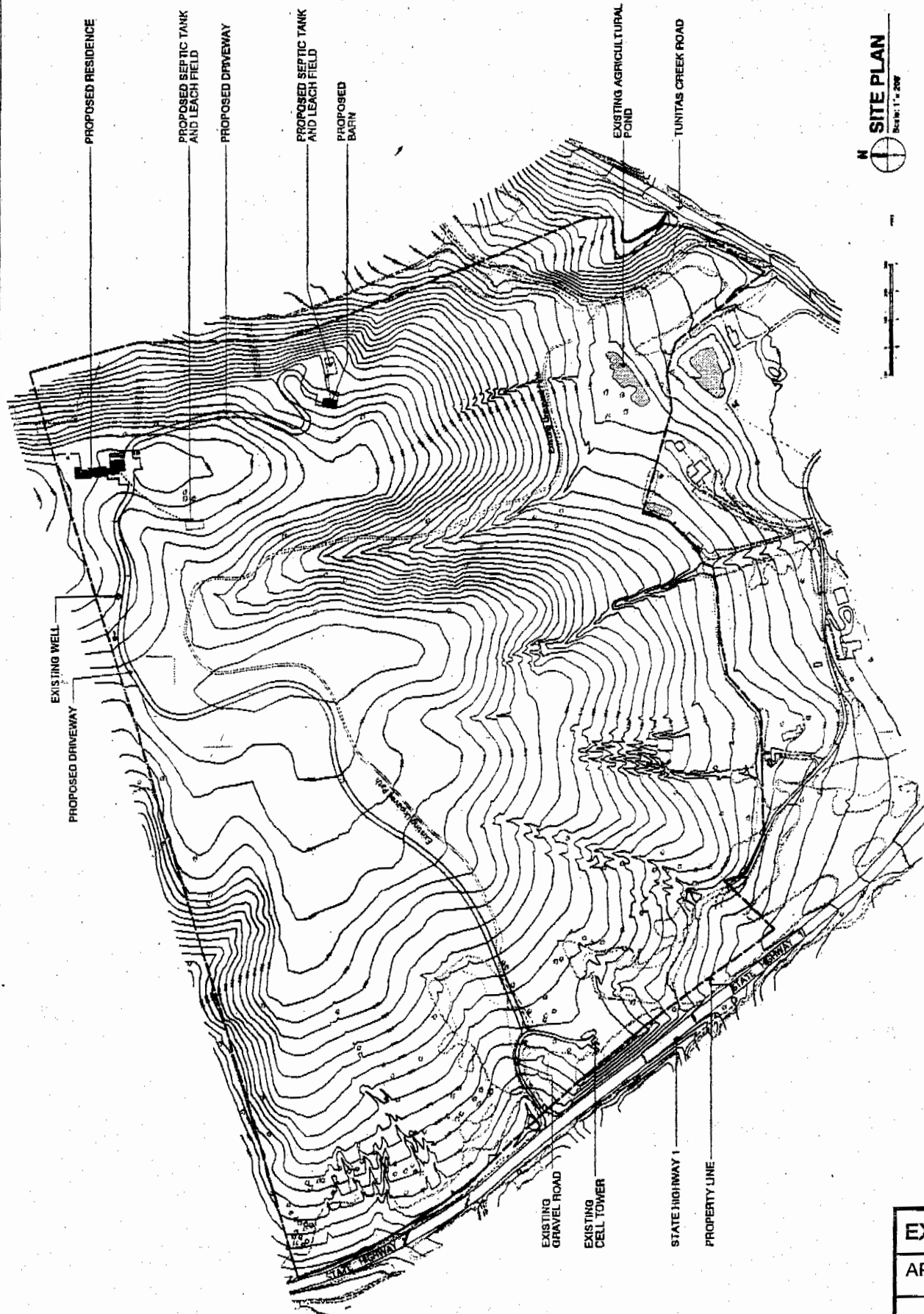
Piechota

PLN 2002-00375

RS:

EXHIBIT NO.	1
APPLICATION NO.	A-2-SMC-04-009
WADDELL	





SITE PLAN
Scale: 1" = 200'



County Planning Commission Meeting

Piechota

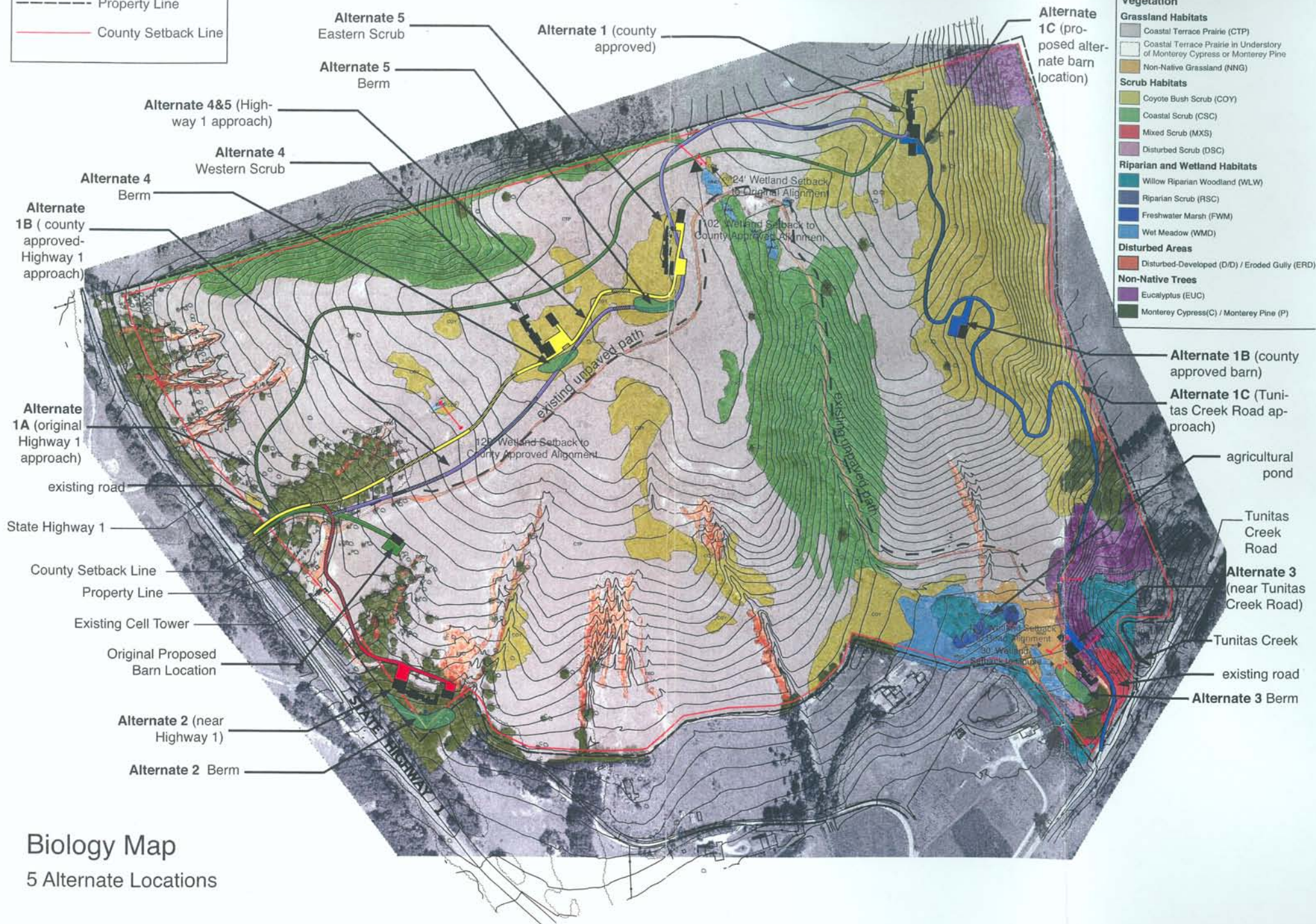
PLN 2002-00375

Attachment: C.1

EXHIBIT NO.	2
APPLICATION NO.	A-2-SMC-04-009
WADDELL	

----- Property Line
 --- County Setback Line

- Vegetation**
- Grassland Habitats**
- Coastal Terrace Prairie (CTP)
 - Coastal Terrace Prairie in Understory of Monterey Cypress or Monterey Pine
 - Non-Native Grassland (NNG)
- Scrub Habitats**
- Coyote Bush Scrub (COY)
 - Coastal Scrub (CSC)
 - Mixed Scrub (MXS)
 - Disturbed Scrub (DSC)
- Riparian and Wetland Habitats**
- Willow Riparian Woodland (WLW)
 - Riparian Scrub (RSC)
 - Freshwater Marsh (FWM)
 - Wet Meadow (WMD)
- Disturbed Areas**
- Disturbed-Developed (D/D) / Eroded Gully (ERD)
- Non-Native Trees**
- Eucalyptus (EUC)
 - Monterey Cypress (C) / Monterey Pine (P)



Biology Map
 5 Alternate Locations

Waddell Property

0 300 600 Feet

Alternate 1C
(County Approved Residence Location)

Vegetation	
Grassland Habitats	
	Coastal Terrace Prairie (CTP)
	Coastal Terrace Prairie in Understory of Monterey Cypress or Monterey Pine
	Non-Native Grassland (NNG)
Scrub Habitats	
	Coyote Bush Scrub (COY)
	Coastal Scrub (CSC)
	Mixed Scrub (MXS)
	Disturbed Scrub (DSC)
Riparian and Wetland Habitats	
	Willow Riparian Woodland (WLW)
	Riparian Scrub (RSC)
	Freshwater Marsh (FWM)
	Wet Meadow (WMD)
Disturbed Areas	
	Disturbed-Developed (D/D) / Eroded Gully (ERD)
Non-Native Trees	
	Eucalyptus (EUC)
	Monterey Cypress (C) / Monterey Pine (P)

Eroded Gullies in Vicinity of Alternate 6

Alternate 6 (Central Western Location)

Existing Road

State Highway 1

Property Line

Existing Cell Tower

Identified Raptor Nest

Existing Unpaved Path

Proposed Roadway Access for Alternate 1C

Alternate 3 (near Tunitas Creek Road)


Tunitas Creek

Tunitas Creek Road

Alternate 3- Berm

agricultural pond



GLENN LUKOS ASSOCIATES 

Waddell Residence Property
Exhibit 3
Vegetation Map and Alternatives



Please reply to:

Sara Bortolussi
(650) 363-1839

June 14, 2004

PROJECT FILE

ENVIRONMENTAL SERVICES AGENCY

Daniel Piechota
Sagan Piechota Architecture
315 Linden Street
San Francisco, CA 94102

Dear Mr. Piechota:

Subject: File Number PLN2002-00375
Location: Cabrillo Highway, Half Moon Bay
APN: 066-330-160

On June 9, 2004, the San Mateo County Planning Commission considered your request for a Planned Agricultural District Permit and Coastal Development Permit, pursuant to Sections 6353 and 6328.4, respectively of the San Mateo County Zoning regulations, and Architectural Review pursuant to the State Streets and Highways Code, to construct a new 7,650 sq. ft. residence, a 3,000 sq. ft. agricultural barn, location of two septic systems, conversion of an agricultural well to a well suited for both agricultural and domestic purposes, installation of a water tank for fire suppression, as well as a Grading Permit, pursuant to Section 8600 of the San Mateo County Ordinance Code for the new access road which involves approximately 5,280 cubic yards of cut and fill and to allow for gully repair on a 153 acre parcel located off Cabrillo Highway near Tunitas Creek Road in the unincorporated Half Moon Bay area of San Mateo County. This permit is appealable to the California Coastal Commission.

Based on information provided by staff and evidence presented at the hearing, the Planning Commission certified the Negative Declaration, approved the Planned Agricultural District Permit, Architectural Review and Grading Permit, made the findings and adopted conditions of approval as attached.

Any interested party aggrieved by the determination of the Planning Commission has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at 7:00 p.m. on Monday, June 28, 2004.

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

Agricultural
Commissioner/ Sealer of
Weights & Measures

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

Parks & Recreation

Planning & Building

Commissioners:

David Bomberger

Steve Dworetzky

Ralph Nobles

Jon Silver

William Wong

PLANNING COMMISSION

455 County Center, 2nd Floor • Redwood City, CA 94063 • Phone (650) 363-416

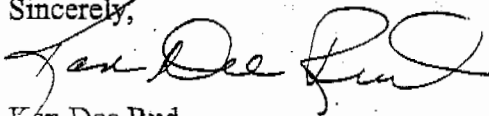
Exhibit No. 5
A-2-SMC-04-009
WADDELL

Daniel Piechota
June 14, 2004
Page 2

California Coastal Commission within 10 working days following the Coastal Commission's receipt of this notice. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods run consecutively, not concurrently, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

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

Sincerely,



Kan Dee Rud
Planning Commission Secretary
Pcd0609o_7krwaddell.doc

cc: Department of Public Works
Building Inspection
Environmental Health
CDF
Assessor
California Coastal Commission
Keith and Cynthia Waddell
Kerry Burke
Jack Olsen, San Mateo County Farm Bureau
Lennie Roberts, Committee for Green Foothills

County of San Mateo
Environmental Services Agency
Planning and Building Division

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN2002-00375

Hearing Date: June 9, 2004

Prepared By: Sara Bortolussi, AICP, Project Planner

Adopted By: Planning Commission

FINDINGS

Regarding the Environmental Review. 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, comments received hereto, and testimony presented and considered at the public hearing, there is no substantial evidence that the project, if 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 into the Mitigation Monitoring and Reporting Plan in conformance with California Public Resources Code Section 21081.6.

Regarding the Coastal Development Permit. Found:

5. 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.

6. That the project conforms to the specific findings required by policies of the San Mateo County Local Coastal Program.

Regarding the Planned Agricultural District Permit. Found:

7. 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 Architectural Review. Found:

8. That the proposed project is in compliance with the architectural design standards for the Cabrillo Highway State Scenic Corridor.

Regarding the Grading Permit. Found:

9. That the granting of the permit will not have a significant adverse impact on the environment.
10. That the project conforms to the criteria of the chapter including the standards referenced in Section 8605.
11. That the project is consistent with the General Plan.

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 June 9, 2004. Minor revisions or modifications to the project may be approved by the Planning Director if they are consistent with the intent of and in substantial conformance with this approval.
2. The Coastal Development Permit and Planned Agricultural District Permit are valid for one year from the date of approval, until June 28, 2005, at or before which the applicant shall be issued a building permit. Any extension requests shall be submitted in writing at least sixty (60) days prior to the expiration date, with the applicable extension fee paid.

Daniel Piechota

June 14, 2004

Page 5

3. The applicant shall apply for and be issued a building permit prior to the start of construction and develop in accordance with the approved plans as well as install all structures to current building codes.
4. The applicant is required to monitor the noise level at the site so that the proposed construction activity will not exceed levels and hours established by the County Noise Ordinance.
5. The applicant shall submit color and material samples for the proposed residence and barn, as approved, to the Planning Division prior to the issuance of a building permit. All colors and materials shall blend with the vegetative colors of the site.
6. A building inspector will check the approved colors in the field prior to a final on the building permit.
7. The applicant shall adhere to all recommendations in the geological reports prepared by Sigma Prime Geosciences regarding roadway alignment and gully repair. These reports shall be submitted to the Building Inspection Section in conjunction with any applications for building permits to be reviewed and approved by the County Geotechnical Section.
8. The applicant shall prepare an erosion and sediment control plan for review and approval by the Planning Division prior to the issuance of any grading permits or building permits for construction. The plan shall comply with all recommendations in the geological reports prepared by Sigma Prime Geosciences. At a minimum, the use of fiber rolls, straw mats, silt fences and hay bales shall be used. The erosion control plan shall clearly delineate the types of measures to be used and the location of where the measures will be placed, as well as a sectional drawing showing how the measures will be installed. All erosion control devices shall be installed prior to any grading activities on site.
9. The applicant shall adhere to all recommendations presented in the *Gully Assessment and Stabilization Plan Phase I* as prepared by Sigma Prime Geosciences. The applicant's engineer of record shall oversee and confirm to the Planning Division, in writing, that all such measures have been implemented as recommended. Any revisions shall be subject to staff approval.
10. Prior to roadway and residential development, conduct a summer survey for Gairdner's yampah. If the species is found nearby, impacting development shall be relocated to avoid impacts. If redesign is not feasible, a salvage and relocation program shall be implemented,

moving the plants to another suitable location on the property. Salvage shall occur when plants are in their winter dormancy (i.e., December-January), and shall be carried out or overseen by the applicant's biologist.

11. Prior to driveway improvements, the biologist shall identify prairie areas of high native plant diversity and design driveway improvements to minimize impacts to these areas.
12. The applicant shall install, and staff shall confirm such installation, plastic, protective fencing adjacent to high quality prairie areas prior to residential and driveway construction and other grading activities. The applicant shall ensure that protective fencing is maintained until driveway and residential construction work is complete.
13. As compensation for unavoidable impacts to *0.7 acres* of coastal terrace prairie, the applicant shall continue to implement a rotational grazing program that maintains the remaining prairie habitat on the property and encourages the growth of native perennial grasses, particularly California oatgrass (*Danthonia californica*) and purple needlegrass (*Nassella pulchra*). Implement the program in a manner compatible with gully and erosion repair work, such as restricting domesticated grazing animals (e.g., cattle and/or horses) from erosion treatment areas.
14. Six trees must be replanted on site to mitigate for the six removed during the driveway alignment. The replacement trees shall be a minimum 10-gallon size stock, clearly delineated on a landscape plan which shall also include the trees and vegetation required to screen the barn, and must be replanted on site prior to a building permit final.
15. Implement erosion control measures during and following construction to avoid deposition of sediment into the pond. Measures should include installation and maintenance of perimeter silt fencing and post-construction erosion control seeding. Native grasses such as the purple needlegrass shall be used for the native grass seeding applied to all disturbed areas. Utilize plugs of California oatgrass, a deep-rooted perennial plant species, in the erosion repair/revegetation program. If erosion control matting is used, choose the larger size mesh (e.g., 0.75" x 1.5"), single-layer type mats to reduce potential for snake entanglement. The applicant's biologist shall oversee and confirm to staff, in writing, that these measures have been implemented.
16. Schedule construction to take place between August 1 and February 1, outside the breeding season of the shrike or have a qualified biologist conduct pre-construction surveys no more than thirty (30) days prior to construction to determine if shrikes are nesting within 300 feet of the work areas. If shrikes are nesting in this area, postpone construction until all young are fledged, as determined by a qualified biologist.

Daniel Piechota

June 14, 2004

Page 7

17. The applicant shall conduct the gully repair program construction during the dry season, generally May to October, when the California red-legged frog and the San Francisco garter snake are unlikely to be in the gullies.
18. The applicant shall consult with the U.S. Fish and Wildlife Service for technical advice on concurrence that the project is not likely to adversely affect the San Francisco garter snake and California red-legged frog.
19. The applicant shall submit copies of the geotechnical investigation prior to the issuance of a grading or building permit for review and approval by the San Mateo County Geotechnical Section. The geotechnical consultant shall observe and approve all grading work on site.
20. The applicant shall submit a stormwater management plan at the time of application for a building permit, which delineates permanent stormwater controls showing how the additional runoff due to increased impervious surfaces will be controlled on site to be in place throughout the grading, construction and life of the project. The plan shall show how additional runoff will be controlled on site and shall be installed prior to any grading or construction on site.
21. The applicant shall apply for septic system permits with the Environmental Health Division prior to the issuance of building permits. The application shall include a site plan showing the location of all structures, existing well and proposed leachfields.
22. The applicant shall submit a landscape plan for review and approval by the Planning Division prior to the issuance of a building permit. The landscape plan shall include vegetation that will be planted in the vicinity of the proposed agricultural barn and help screen it from view along Tunitas Creek Road.
23. If during the proposed construction project any such evidence of historic or prehistoric resources is uncovered or encountered, all excavations within 10 meters/30 feet should be halted long enough to: (1) call in a qualified archaeologist to assess the situation and propose appropriate measures and (2) to contact the San Mateo County Planning Division for guidance on how to proceed.
24. If plans change such that the southeast corner of the Waddell property will be impacted by development that may affect the prehistoric archaeological site, the site should be recorded and plans reviewed to assess whether the site will be adversely affected.

Daniel Piechota

June 14, 2004

Page 8

25. All new utility lines to the proposed project shall be installed underground from the nearest existing utility pole.
26. There shall be no residential occupancy of the barn.

Building Inspection Section

27. Two separate permits shall be required: one for the house and one for the barn.
28. Both structures shall be provided with automatic fire sprinklers. These permits must be issued prior to or in conjunction with the building permit.
29. A site drainage plan will be required which can demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
30. A driveway plan and profile will be required.
31. Sediment and erosion control measures shall be installed prior to beginning any earthwork. These controls shall be maintained through the entire project and permanent measures shall be installed prior to finalizing the permit.
32. Water tanks need to be shown on the plans.

Department of Public Works

33. For the building permit: The applicant shall submit a driveway "plan and profile" to the Department of Public Works, showing the driveway access to the residence and barn (garage slab/parking area) complying with County standards for driveway slopes (not to exceed 20%). 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 and shall terminate in a turnaround acceptable to the applicable Fire District.
34. For the building permit: Should any work be required in the Highway 1 right-of-way, a CalTrans encroachment permit will be required prior to beginning work. A copy of the issued permit shall be provided to the County Building Inspection Section prior to the issuance of the building permit.

Daniel Piechota

June 14, 2004

Page 9

35. For the building permit: 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 building per Ordinance #3277.
36. For the grading permit: At the completion of work, the engineer who prepared the approved grading plan shall certify, in writing, that all grading, lot drainage, and drainage facilities have been completed in conformance with the approved plans, as conditioned, and the Grading Ordinance.
37. For the grading permit: It shall be the responsibility of the applicant's engineer 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.
38. For the grading permit: Erosion and sediment control during the course of this grading work shall be according to a plan prepared and signed by the engineer of record, and approved by the Department of Public Works and the Planning Division. Revisions to the approved erosion and sediment control plan shall be prepared and signed by the engineer.
39. For the grading permit: The engineer who prepared the approved grading plan shall be responsible for the inspection and certification of the grading as required by Section 8606.2 of the Grading Ordinance. The engineer's responsibilities shall include those relating to non-compliance detailed in Section 8606.5 of the Grading Ordinance.
40. For the grading permit: No grading shall commence until the applicant has applied for and been issued a grading permit by the Planning Division of the County of San Mateo.
41. For the grading permit: All grading shall be according to an approved plan prepared by the applicant's registered civil engineer. Revisions to the approved grading plan shall be prepared and signed by the engineer, and shall be submitted to the Department of Public Works and the Planning Division for concurrence "prior" to commencing any work pursuant to the proposed revision.
42. For the grading permit: No grading shall commence until a schedule of all grading operations has been submitted to and reviewed and approved by the Department of Public Works and the Planning Division. The submitted schedule shall include a schedule for winterizing the site. If the schedule of grading operations calls for the grading to be completed in one grading season, then the winterizing plan shall be considered a contingent plan to be implemented if work falls behind schedule. The applicant shall submit monthly

Daniel Piechota

June 14, 2004

Page 10

updates of the schedule to the Department of Public Works and the Planning Division. All submitted schedules shall represent the work in detail and shall project the grading operations through completion.

43. For the grading permit: Prior to the issuance of the grading permit, the applicant shall submit, to the Department of Public Works for review and approval, a plan for any off-site hauling operations. This plan shall include, but not be limited to, the following information: size of trucks, haul route, disposal site, dust and debris control measures, and time and frequency of haul trips. As part of the review of the submitted plan, the County may place such restrictions on the hauling operation as it deems necessary.
44. For the grading permit: No grading shall be allowed during the winter season (October 15 to April 15) to avoid potential soil erosion unless approved, in writing, by the Planning Administrator. The applicant shall submit a letter to the Planning Division, at least, two (2) weeks prior to commencement of grading stating the date when grading will begin.

San Mateo County Fire

45. Access roads will conform to the standards of the San Mateo County Department of Public Works.
46. All buildings that have a street address shall have the number of that address on the building, mailbox, or other type of sign at the driveway entrance in such a manner that the number is easily and clearly visible from either direction of travel from the street. An address sign shall be placed at each break of the road where deemed applicable by the San Mateo County Fire Department. Numerals shall be contrasting in color to their background and shall be no less than 4 inches in height, and have a minimum 1/2-inch stroke.
47. Maintain around and adjacent to such buildings or structures a fuelbreak/firebreak made by removing and clearing away flammable vegetation for a distance of not less than 30 feet and up to 100 feet around the perimeter of all structures, or to the property line, if the property line is less than 30 feet from any structure.
48. All dead-end roadways shall be appropriately marked to standards of the Department of Public Works.
49. 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) being the same elevation as the center of the access roadway. When

Daniel Piechota

June 14, 2004

Page 11

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 both the existing and the proposed drainage patterns and drainage facilities.

50. Because of limited access into your property, the San Mateo County Fire Department is requiring the installation of a Knox Box or Knox Padlock to allow rapid response of emergency vehicles onto your property in case of a fire or medical emergency. For an application or further information, please contact the Fire Protection and Planning Office at 650/573-3846.
51. All propane storage tanks shall be located with respect to buildings or adjoining property lines. The placement and orientation of tanks shall be so that the ends of the tank do not point in the direction of surrounding structures. Minimum setback distances from property lines or structures will be determined by the size of tank(s) that are being installed: less than 125 gallons - 5 feet; 125 gallons to less than 500 gallons - 10 feet; 500 gallons to less than 2,000 gallons - 25 feet; 2,000 gallons or more - 50 feet). The minimum distance a LPG tank may be installed from a flammable liquid fuel tank is 20 feet.
52. The applicant shall submit, for review by the Department of Public Works and the Fire Department having jurisdiction, a plan and profile of both the existing and the proposed access from the nearest "publicly" maintained roadway to the proposed building site.
53. No dead-end road or cul-de-sac shall exceed 1,000 feet in length.
54. All roof assemblies shall have a minimum CLASS B fire resistive rating and be installed in accordance with the manufacturer's specifications and current Uniform Building Code.
55. Smoke detectors are required to be installed in accordance with Section 310.9 of the Uniform Building Code. This includes the requirement for hardwired, interconnected detectors equipped with battery backup and placed in each sleeping room in addition to the corridors and on each level of the residence.
56. Any chimney shall have installed onto the opening thereof a galvanized, approved spark arrester of a mesh not larger than one-half of an inch.
57. An approved automatic fire sprinkler system meeting the requirements of NFPA-13D is required to be installed in your project. Plans shall include attached garages and detached garages at or above 1,000 sq. ft. Plans shall be designed by a licensed sprinkler system designer and submitted to the San Mateo County Building Inspection Section for review

Daniel Piechota

June 14, 2004

Page 12

and approval by the San Mateo County Fire Department. Building plans will not be reviewed until the required sprinkler plans are received by the County Building Inspection Section.

58. An iron standpipe/hydrant with a 2 1/2" National Hose Thread outlet with a valve shall be mounted not less than 2 feet aboveground level and within 5 feet of the main access road or driveway, and not less than 30 feet from any portion of any building, nor more than 150 feet from the main residence or building.
59. Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe or any portion of the tree which overhangs the roof assembly or is within 5 feet of any portion of the structure.
60. All dead-end roadways shall be terminated by a turnaround bulb of not less than 80 feet in diameter.
61. Because of the fire flow and automatic sprinkler requirements for your project, an on-site water storage tank is required. Based upon building plans submitted to the San Mateo County Building Inspection Section, the San Mateo County Fire Department has determined that a minimum of 7,409 gallons of fire protection water will be required for the main residence and 2,200 gallons of fire protection water for the barn, in addition to the required domestic water storage. Plans showing the tank(s) type, size, location and elevation are to be submitted to the San Mateo County Fire Department for review and approval.
62. The water storage tank(s) shall be so located as to provide gravity flow to a standpipe/hydrant, or an approved pump/pressure system shall be provided to produce a minimum of 20 pounds per square inch (psi) residual pressure. Plans and specifications shall be submitted to the San Mateo County Building Inspection Section for review and approval by the San Mateo County Fire Department.

Environmental Health Division

63. As part of the planning approval, the applicant shall obtain approval to convert the existing agricultural well to a domestic water source.
64. Prior to the building permit, the applicant shall submit septic design plans, application and fees to Environmental Health. Subject plans shall include the location of the soil percolation test locations, percolation rate for each of the test locations, design of the drainfield and its expansion area.

Daniel Piechota

June 14, 2004

Page 13

65. Prior to the house final, the applicant shall obtain a permit to operate the well as a domestic water source. A storage tank of 1,250 gallons, water meter, filtration equipment (if required) and resample of the water supply will be required prior to the house final.
66. Applicant shall submit a health review fee of \$174.00.

pcd0609o_7krwaddell.doc.

WADDELL PROPERTY

California Coastal Commission

APPEAL NO. A-2-SMC-04-009

**Site Alternatives
Analysis**

October 25, 2004

By:

Sagan Piechota & Latham & Watkins LLP

**Exhibit No. 6
A-2-SMC-04-009
WADDELL**

TABLE OF CONTENTS

I.	Introduction.....	1
II.	Summary	1
	A. Planned Agricultural District Permit	1
	B. Constraints / Impacts & LCP Consistency Analysis	2
III.	Project Location / Site Description.....	3
IV.	Project Description.....	4
V.	PAD Analysis For County Approved Project.....	5
	A. Applicable LCP Policies and Zoning Code Requirements	5
	B. Consistency with LCP Policy 5.10 and Zoning Code Section 6355.....	7
VI.	Constraints / Impacts & LCP Consistency Analysis	10
	A. Methodology.....	10
	B. Alternative 1A – Original House Location (County-Approved), Original Barn Location and Original Highway One Approach Road Alignment.....	12
	C. Alternative 1B – County-Approved Project	13
	D. Alternative 1C – Slightly Altered House Location, Revised Barn Location and Tunitas Creek Road Alignment.....	15
	E. Alternative 2 – House and Barn Location in Southwestern Portion of Property and Highway One Road Alignment.....	17
	F. Alternative 3 – House and Barn Location in Southeastern Portion of Property and Tunitas Creek Road Alignment.....	20
	G. Alternative 4 – House and Barn Location in Western Portion of Central Coyote Brush Scrub and Highway One Road Alignment	22
	H. Alternative 5 – House and Barn Location in Eastern Portion of Central Coyote Brush Scrub and Highway One Road Alignment	23
VII.	Comparison of Alternatives	25
VIII.	Exhibits	26
	A. Constraints Maps and Impact Summary	26
	B. Biological Impacts Alternatives Analysis and Refined Vegetation Map	26
	C. Geologic Hazards Assessment.....	26
	D. Agricultural Land Management Plan.....	26
	E. Letter from Lawrence D. Ford, Ph.D. regarding Impact of Project on Grazing.....	26
	F. Letter from BGT Land Surveying regarding Western Property Line.....	26
	G. Letter from San Mateo County Fire Department regarding Brush Clearance.....	26

I. INTRODUCTION

On June 9, 2004, the County of San Mateo (the "County") Planning Commission adopted a Negative Declaration and conditionally approved the applications by Keith and Cindy Waddell (the "Applicant") for a Planned Agricultural District ("PAD") permit and Coastal Development Permit ("CDP") for the construction of a barn, septic system, farmhouse and access road on a 153-acre parcel at 21960 Highway One, near Tunitas Creek Road in the unincorporated area of San Mateo County south of the City of Half Moon Bay. The County approval followed two years of site planning analysis and environmental review, a site visit by the Coastal Commission staff (the "Staff"), and discussions with the County and Coastal Commission staffs regarding the location of development that best protected coastal resources. On July 15, 2004, two Coastal Commissioners, Mike Reilly and Meg Caldwell, filed an appeal of the County's approval of the CDP, raising issues regarding the compliance of the location of development with the sensitive habit, visual and agricultural resources policies of the San Mateo County Local Coastal Program ("LCP").

The Coastal Commission Staff Report for the appeal recommended that the Coastal Commission find that the appellants' contentions raised a substantial issue with respect to the conformance of the project with the LCP and further recommended the granting of the appeal and the denial of the project. On August 11, 2004 the Coastal Commission found that the project raised a substantial issue with respect to conformance with the LCP. The Coastal Commission did not, however, conduct the de novo hearing on the appeal at that meeting, since the Applicants exercised their right under Section 13073(a) of the Coastal Commission's Regulations to postpone the August hearing to a subsequent meeting. In an August 31, 2004 letter to the Applicant's representative, the Staff agreed to postpone the de novo hearing to the Coastal Commission's December 2004 meeting to allow the Applicant additional time to respond to the Staff Report and to provide additional analysis in support of the County's approval of the PAD permit.

The purpose of this report is to provide the analysis requested by the Staff. The first part of the report provides an analysis addressing the required findings for approving an accessory residential use in the Planned Agricultural District. The balance of the report analyzes the feasibility of siting the proposed barn and farmhouse in five different locations on the site, including the County-approved location, two locations requested for analysis by the Staff, and two additional locations, with the goal of defining the location that both minimizes impacts to coastal resources and maximizes consistency with the LCP.

II. SUMMARY

A. Planned Agricultural District Permit

The subject property is located in the Planned Agricultural District within the Coastal Zone. Accessory residential uses are permitted on the property, subject to the issuance of a PAD permit and a CDP. The issuance of a PAD permit requires compliance with the substantive criteria of Section 6355 of the County Zoning Code. The issuance of a CDP requires, among other things, a finding of consistency with the agricultural resources policies of

the LCP, including Policy 5.10a. Below is a summary of the findings provided in Section V of this report regarding how the County-approved project (identified as "Alternative 1B" in Section VI of this report) is consistent with the requirements of LCP Policy 5.10a and Zoning Code Section 6355.

First, the Project minimizes encroachment of development on land that is suitable for agricultural use. The proposed farmhouse would occupy only approximately 0.1% of the 153-acre site. According to Lawrence D. Ford, PH.D, Certified Rangeland Manager and Certified Senior Ecologist, the use of a small area of the property for the proposed farmhouse and access road would not adversely affect cattle grazing on the property. (See October 21, 2004 letter attached at Exhibit E.) Moreover, adding a farmhouse to this property is consistent with the longstanding policy and tradition of allowing residential uses accessory to agriculture to allow people to live on the land they farm and where their livestock graze. Although sites suggested by the Staff in the southwestern and southeastern portions of the property would require a shorter access road and therefore less site disturbance, each of these sites are constrained due to other agricultural, habitat and visual impacts. Development on the southwestern site (Alternative 2) would remove woodlands in low terrain that provide the only natural shelter on the site for cattle from sun and cold winds. Development on the southeastern site (Alternative 3) would be in close proximity to an agricultural pond, which provides water for livestock. Second, the Project clusters the house and barn in the northeastern portion of the site. The Applicant is proposing to further modify the County-approved project to cluster development further by moving the barn only approximately 60 feet from the house. Because there are residential uses close to the property line on adjacent parcels, the Project clusters development with neighboring residential uses to the east (an average of approximately 450 feet away) to essentially the same degree as the alternate locations suggested by the Staff in the southwestern and southeastern locations.

Third, the Project is consistent with the policy requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land because there are no developable lands on the site that are unsuitable for grazing, according to the USDA. Fourth, the Project provides clearly defined buffer areas between development in the northeastern portion of the site and the remaining 99.9% of the property that would continue to remain available for grazing. The house also is located near neighboring residential uses, thereby avoiding conflict between the residential and grazing uses on this and the adjacent parcels. Fifth, the Project would be compatible with and would not diminish the agricultural productivity of the adjacent agriculturally zoned parcels that contain residences and generally are used as family farms and/or for grazing. Moreover, the Project was reviewed and recommended for approval by the County's Agricultural Advisory Committee, which is composed of farmers, agricultural experts and members of the general public, and has a mission of preserving agricultural production in the County.

B. Constraints / Impacts & LCP Consistency Analysis

Based on the Coastal Commission Staff's desire to avoid disturbance to coastal terrace prairie, Alternative 1C (Slightly Altered House Location, Revised Barn Location and Tunitas Creek Road Alignment) and Alternative 4 (House and Barn Location in Western Portion of Central Coyote Brush Scrub and Highway One Road Alignment) best minimize impacts to coastal resources and maximize consistency with the County LCP.

Alternative 1C is the only alternative that completely avoids impacts to coastal terrace prairie and where the house and barn are not visible from Highway One or Tunitas Creek Road without berming. Alternative 4 impacts only approximately 0.27 acres of coastal terrace prairie and requires only moderate screening to shield the house and barn from view of Highway One. Each of these alternatives complies with the Zoning Code requirements and LCP policies related to approving a residential use in the PAD. Although Alternative 2 and Alternative 3 result in slightly less impact to coastal terrace prairie compared to Alternative 4 and Alternative 5, Alternative 2 and Alternative 3 significantly conflict with other LCP policies, Zoning Code requirements and site constraints.¹

Alternative 2 would impact 0.10 acres of coastal terrace prairie. In addition, this alternative would remove the only location on the site that provides necessary refuge for cattle to protect against cold winds and sun exposure; could impact potential raptor nesting habitat; would not respect the 100-foot scenic corridor setback from Highway One; would require significant tree removal in conflict with the LCP's visual resources policies; would be visible from Highway One requiring a significant amount of berming (which itself would be visible) and landform alteration; would not respect the 50-foot front yard setback from Highway One required for non-agricultural uses in the PAD; and may likely not be able to provide the required 100-foot setback required by the County Fire Department from flammable vegetation.

Alternative 3 would conflict with the LCP's sensitive habitat policies by not respecting the 100-foot buffer zone for potential wetland habitat and 50-foot buffer zone for potential riparian corridor habitat; could impact sensitive species that may use the southeastern portion of the site as a dispersal corridor; could impact potential raptor nesting habitat; would be visible from Highway One, requiring a significant amount of berming and landform alteration; and would not provide clearly defined buffer areas between agricultural and non-agricultural uses, since it sites the house within 200 feet of an existing agricultural pond, which provides water for livestock.

Since Alternative 1C and Alternative 4 impact coastal resources to a lesser degree and comply with LCP policies to a greater degree than Alternative 1B (the County-approved Project) and the other alternatives analyzed, Alternative 1C and Alternative 4 are the preferred alternatives.

III. PROJECT LOCATION / SITE DESCRIPTION

The subject property (APN 066-330-160) is an approximately 153-acre parcel bordering on the inland side of Highway One and the north side of Tunitas Creek Road in the rural unincorporated area of the San Mateo Coast south of Half Moon Bay. The project site is zoned Planned Agricultural District/Coastal Development Permit (PAD/CD). The site contains a cellular facility, located along the western boundary of the site near Highway One.

¹ Note that Alternative 2 has greater impact to coastal terrace prairie compared to Alternative 1C, and Alternative 3 results in no impact to coastal terrace prairie equal to Alternative 1C.

The property slopes up from Highway One and contains a number of habitat types, including coastal terrace prairie; coastal scrub; coyote brush scrub; non-native grassland; native and non-native woodlands, including Monterey pines, eucalyptus, and Monterey cypress; and willow riparian woodland, riparian scrub, freshwater marsh areas and wet meadows primarily near the existing agricultural pond in the southeastern portion of the property. (See Coastal Commission Staff Report, July 29, 2004.) The site contains several severe eroded gullies and slopes in excess of 30%. (See Constraints Maps attached at Exhibit A and Geologic Hazards Assessment, dated June 14, 2002, prepared by Sigma Prime Geosciences attached at Exhibit C.)

The site does not contain any prime agricultural soils. It is considered as "other lands suitable for agriculture" as defined by the LCP because it is capable of supporting animal grazing. (See Coastal Commission Staff Report, July 29, 2004.) The site has historically and currently is used for rotational cattle grazing, although according to the USDA Resources Conservation Service, the carrying capacity of the property for use by livestock is only fair. Apart from steep slopes, the site generally is of uniform grazing value. (See Waddell Agricultural Land Management Plan, attached at Exhibit D.) However, the woodlands in the southwestern portion of the site provide a unique refuge on the site for cattle from sun and winds, which is necessary to the optimal health and production of the cattle. (See October 21, 2004 letter from Lawrence D. Ford, PH.D, Certified Rangeland Manager and Certified Senior Ecologist attached at Exhibit E.)

IV. PROJECT DESCRIPTION

The project approved by the County (the "Project") includes the construction of a 3,000 square foot agricultural barn, a one-story 7,650 square foot accessory farmhouse, installation of two septic systems, conversion of an agricultural well to a well suited both for agricultural and domestic purposes, installation of a water tank for fire suppression, and approximately 5,280 cubic yards of grading to create an approximately 3,000 foot long access road and building pads for the farmhouse and agricultural barn. The location approved for the farmhouse is in the northeastern portion of the site near the residences of adjacent properties, almost entirely within coyote brush scrub, although a small portion would be in coastal terrace prairie. The approved location for the barn is 800 feet south of the farmhouse, also in coyote brush scrub. The project also includes repair of some of the existing gullies on the property both to prevent erosion of soils from the site and to revegetate areas that can be used for continuous cattle grazing on the site.

The County's approval of the Project contains a number of stringent mitigation measures and conditions of approval imposed to minimize impacts to coastal resources, including: use of a driveway alignment that avoids impacts to sensitive animal species; use of protective fencing during construction to protect sensitive species; implementation of rotational grazing to preserve coastal terrace prairie habitat; and the use of colors and materials for the house and barn that blend with the vegetative colors of the site.

In addition to assessing various alternatives for siting the Project, since the filing of the Coastal Commission appeal, the Applicant has considered and is proposing modifications to the approved house and barn location to reduce further impacts to coastal resources. As part of this analysis, the Applicant is proposing to shift the location of the farmhouse slightly to the

east to locate it entirely within the coyote brush scrub to avoid any impact to coastal terrace prairie. In addition, the Applicant is proposing an alternative location for the barn adjacent to the house (approximately 60 feet away). This location would cluster the barn more with the house, would eliminate any visual impacts of the barn from Tunitas Creek Road, and would significantly reduce the length of and grading for an access road approach from Highway One.

V. PAD ANALYSIS FOR COUNTY APPROVED PROJECT

Residential uses are permitted in the PAD, subject to the issuance of a PAD permit, and, where the parcel is located in the Coastal Zone, subject to the issuance of a CDP. The issuance of a PAD permit requires compliance with the substantive criteria of Section 6355 of the County Zoning Code. The issuance of a CDP requires, among other things, a finding of consistency with the agricultural resources policies of the LCP, including Policy 5.10a. The LCP and Zoning Code contemplate a minimum of one density per agricultural parcel, subject to the issuance of a PAD. (See LCP Policy 5.11.) In granting the PAD permit for the Project, the County found that the Project complied both with LCP Policy 5.10a and with the criteria required under Zoning Code Section 6355. Although the PAD permit is not appealable to the Coastal Commission, the Coastal Commission Staff has asked that the Applicant provide additional findings in support of the issuance of the PAD permit.

A. Applicable LCP Policies and Zoning Code Requirements

Approval of a residential use in a PAD requires a finding of consistency with LCP Policy 5.10a and conformance with the substantive criteria of Zoning Code Section 6355, which respectively provide as follows:

5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

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

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

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:

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.*

F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands

All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:

- 1. All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
- 2. Continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*
- 3. Clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
- 4. The productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*

5. Public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

6. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.

B. Consistency with LCP Policy 5.10 and Zoning Code Section 6355.

There is a longstanding policy and tradition in California and in San Mateo County to allow residential uses accessory to agriculture to allow people to live on the land they farm and where their livestock graze. This policy helps avoid the consolidation of smaller agricultural parcels into larger commercial operations. The San Mateo County Code and LCP carry out this policy of promoting family farming by allowing a minimum of one density per agricultural parcel, subject to the issuance of a PAD. (See LCP Policy 5.11.) The subject property has historically been used for rotational grazing, and the Applicant is proposing to continue that use. The adjacent agricultural parcels generally contain residential uses accessory to farms and/or grazing uses. A farmhouse on the subject property would be consistent with, and no greater in intensity than, the development in the surrounding vicinity, and would be consistent with this longstanding policy of allowing accessory residential uses on agricultural parcels.

For these reasons, those reasons set forth in the County's PAD findings, and the additional reasons set forth below, the County-approved Project (identified as "Alternative 1B" in Section VI of this report) is consistent with the requirements of LCP Policy 5.10a and Zoning Code Section 6355.

First, the Project minimizes encroachment of development on land that is suitable for agricultural use. None of the soils on the property are prime soils. According to the current criteria used by the United States Department of Conservation Important Farmland Inventory, the entire property has been mapped as "Grazing Lands" ("Lands suitable for grazing"), which is the historical and proposed continued use of the property. (See May 16, 2002 letter from Richard Casale of USDA Natural Resources Conservation Service to Kerry Burke, attached to the Waddell Agricultural Land Management Plan, attached at Exhibit D). The farmhouse (i.e., the house and driveway) would occupy only approximately 0.1% of the site. The remaining 99.9% of the site would remain available as open space and for cattle grazing and other agricultural uses, including the barn. In addition, as approved, the access road would occupy only approximately 0.7% of the site. According to Lawrence D. Ford, PH.D, Certified Rangeland Manager and Certified Senior Ecologist, who visited the site and reviewed the grazing uses, cattle grazing would not be adversely affected by the proposed farmhouse and access road. (See October 21, 2004 letter attached at Exhibit E.)

Although the alternate sites suggested for the house by the Staff in the southwestern and southeastern portions of the site would reduce the amount of agricultural land used for the access road, as discussed in Section VI.E, the southwestern location (Alternative 2) in the non-native woodlands provides unique benefits to livestock by providing shading from the sun and natural shelter from the cold winds, which are less intense on the lower elevations of the site. The southeastern location (Alternative 3) would not provide a buffer between agricultural and non-agricultural uses, since it would locate the house in close proximity to the agricultural pond. These sites also would conflict with other LCP policies and Zoning Code requirements related to protection of sensitive habit and visual resources, as discussed in Sections VI.E and F below.

Second, the Project clusters the house and the equipment barn (approximately 800 feet apart) in the northeastern portion of the site. Moreover, the Project clusters development with residential uses on neighboring parcels. Based on a review of aerial photographs, the farmhouse would be located only approximately 450 feet from the residence on the parcel to the east. For comparison, the house location suggested by the Staff in the southwestern portion of the site (Alternative 2) is approximately 1,300 feet from the closest neighboring residence. The house location suggested by the Staff in the southeastern portion of the site (Alternative 3) is approximately 600 feet from one neighboring residence and approximately 225 feet from another neighboring residence – an average of approximately 400 feet from neighboring residences. The County-approved location therefore clusters development with the neighboring residential uses to essentially the same degree as Alternative 2 and better than Alternative 3.

Third, the Project is consistent with the policy requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land because there are no developable lands on the site that are unsuitable for agriculture. As stated above, the USDA classifies the entire property as lands suitable for grazing. The Staff stated in its staff report that the non-native woodlands along Highway One (Alternative 2) do not support grazing and therefore present a more viable location for the house than the County-approved location. However, the May 2002 letter from the USDA indicates that the property is generally suitable for grazing, except for on the steeper slopes, and does not identify these non-native woodlands as an unsuitable grazing site. Moreover, as discussed in Section VI.E, these non-native woodlands provides unique benefits to livestock by providing the only shading from the sun and natural shelter from the cold winds, which are less intense on the lower elevations of the site. (See October 21, 2004 letter attached at Exhibit E.) As discussed in Section VI.E, development in this portion of the site also is infeasible or in conflict with LCP and Zoning Code requirements for several other reasons, including potential impacts to raptor nesting habitat and the failure to meet required setbacks. The Staff also has suggested siting the house and barn in the southeastern portion of the site near Tunitas Creek Road (Alternative 3). However, as discussed in Section VI.F, locating the house and barn in this portion of the site is not feasible, given the proximity to wetlands and setbacks required by the LCP from riparian and wetland habitat and proximity to the agricultural pond. These locations therefore would be considered undevelopable for the purposes of this policy.

In its staff report, the Staff also expressed concern that the proposed use of 0.1% of the site for a residential use on a 153-acre parcel, which provides marginal grazing lands, would effectively convert the entire site from agricultural use to residential use. However, adding

a farmhouse to this property is consistent with the longstanding policy and tradition of allowing residential uses accessory to agriculture to allow people to live on the land they farm and to avoid the consolidation of smaller agricultural parcels into larger commercial operations. This property has not been used historically for commercial agricultural, but rather for rotational grazing, which use the Applicant is proposing to continue. Towards this end, the Applicant completely replaced the site's perimeter barbed wire fencing, which was in a state of disrepair, at significant cost to maintain the agricultural use of the site. According to Lawrence D. Ford, PH.D, Certified Rangeland Manager and Certified Senior Ecologist, the proposed farmhouse and access road would not adversely affect cattle grazing on the property, and these uses can coexist. (See October 21, 2004 letter attached at Exhibit E.) This conclusion is supported by the County's Agricultural Advisory Committee, which recommended the approval of the project to the County Planning Commission. The Agricultural Advisory Committee is composed of farmers, agricultural experts and members of the general public, and has a mission of preserving agricultural production in the County. Approving a house and barn on this property also would be entirely consistent with the adjacent parcels, each of which generally contain homes and are used for family farming and/or grazing.

Fourth, the Project provides for clearly defined buffer areas between agricultural and nonagricultural uses. The project provides clearly defined buffer areas between the farmhouse and barn and other agricultural uses. The house and barn are clustered in the northeastern portion of the site. The balance of the site (approximately 99.9%) would continue to be available for grazing. The house also is located in close proximity to neighboring residential uses on the adjacent agricultural parcels to the north and east. Therefore, no conflict would occur between the proposed residential use on this site and the historic use of the site and neighboring parcels for rotational grazing.

Fifth, the Project would not diminish the productivity of any adjacent agricultural lands, including the ability of the land to sustain dry farming or animal grazing. The adjacent agricultural parcels contain residences and generally are used as family farms and/or for grazing. The existing residential uses on these adjacent parcels not only has not diminished the productivity of the subject property for agricultural uses, but has supported the continuation of farming activities and avoided the conversion to other non-agricultural uses. Given the nature of the agricultural uses on these parcels (i.e., family farming and grazing), the Project would be compatible with and would not conflict or otherwise interfere with these agricultural uses. The Waddell Agricultural Land Management Plan prepared in connection with Zoning Code Section 6361C and approved by the County concluded that "[t]he proposed use, as designed, has no potential conflicts with the surrounding land uses since the grazing animals will be closely monitored and confined to smaller areas on the property." Moreover, as discussed above, the County's Agricultural Advisory Committee, which has a mission of preserving agricultural production in the County, reviewed and approved the Project.

For each of these reasons and the reasons set forth in the County's findings in its approval of the Project, the Project satisfies the requirements of LCP Policy 5.10 and Zoning Code Section 6355, and the issuance of a PAD permit is appropriate for the Project.

VI. CONSTRAINTS / IMPACTS & LCP CONSISTENCY ANALYSIS

At the request of the Coastal Commission staff, the following discussion analyzes the feasibility of siting the proposed barn and farmhouse in five different locations on the site, with the goal of defining a feasible location that both minimizes impacts to coastal resources and maximizes consistency with the County LCP. The five locations analyzed include: (i) the County-approved location in the northeastern portion of the site and three different road alignments (i.e., the original proposed alignment, the County-approved alignment, and an alternative alignment from Tunitas Creek Road); (ii) a location requested for analysis by the Staff in the southwestern portion of the site; (iii) a location requested for analysis by the Staff in the southeastern portion of the site; and (iv) two different locations in the center of the site.

A. Methodology

This alternative siting / constraints analysis expands upon the comprehensive analysis undertaken in connection with the Applicant's applications before the County. The development constraints identified on the site include avoidance of sensitive habitat, protection of viewsheds from Scenic Corridors (i.e., Highway One and Tunitas Creek Road), protection of existing agricultural uses on and adjacent to the property, and the avoidance of geotechnical hazards, such as severe erosion gullies and greater than 30% slopes. Development that avoids these constraints also is intended to result in a project that complies with the policies of the San Mateo County LCP.

A series of maps were prepared for each of these constraints, which are attached at Exhibit A. Also attached at Exhibit A is a matrix that summarizes the impact of the various alternatives to sensitive habitat and viewsheds from Highway One and Tunitas Creek Road.

Refined Vegetation Map

A refined vegetation map was prepared by Glenn Lukos Associates, as part of the Biological Impacts Alternatives Analyses attached at Exhibit B, to identify the distribution of habitat types on the property with greater precision than previously identified in the 2002 Biological Assessment prepared in connection with the project. Coastal terrace prairie, which the California Natural Diversity Database identifies as a sensitive natural community, has been the focus of the Coastal Commission staff's review of the Project, and comprises much of the property. Although coastal terrace prairie is not identified as a sensitive habitat in the San Mateo County LCP and was not observed to support species recognized as rare or endangered on the subject property, at the request of the Coastal Commission staff, this analysis identifies impacts to this habitat type. Potential wetland and riparian habitat occurs in much of the southeastern portion of the property. In addition, this portion of the site may support potential habitat for the San Francisco garter snake, a listed endangered species, the California red-legged frog, a listed threatened species, and the Southwestern pond turtle, a species of concern, although none have been observed on the site. A white-tailed kite, a California Department of Fish and Game fully protected species, was observed on the subject property during vegetation mapping. Potential nesting habitat for this species is present within the stands of Monterey cypress, Monterey pine and eucalyptus.

Scenic Corridors Map

A scenic corridors map was prepared, which depicts locations on the site and portions of the proposed access roads that are visible from Highway One and Tunitas Creek Road, each identified as Scenic Corridors in the LCP. This map was generated through extensive site observations from several different vantage points from the subject property and from Highway One and Tunitas Creek Road. Portions of the site that were visible from Highway One and Tunitas Creek Road were identified. As shown in the Scenic Corridor Map in Exhibit A, only one house site in the northeastern portion of the property was identified that was not visible from either Highway One or Tunitas Creek Road. A flag pole was then placed at different portions of this house site and observed from these roads to identify the extent of the vertical invisibility envelope.

Gully Map and Slopes Map

Maps identifying severe erosion gullies and slopes greater than 30% on the property were generated from the density of contour lines on aerial photographs, site observations and the Geologic Hazards Assessment, dated June 14, 2002, prepared by Sigma Prime Geosciences, which is attached at Exhibit C.

Agricultural Uses

Since none of the site contains prime soils, no constraints map was necessary with respect to preservation of soils on the site. However, since the property is zoned PAD, this report addresses in Section V the requirements under LCP Policy 5.10a and Zoning Code Section 6355 related to the use of agricultural land for a conditionally permitted use.

Western Property Line

While analyzing the feasibility of various siting options, it was discovered that the western property line shown on the site maps for the property was not accurate. Since the house site approved by the County is located in the northeastern portion of the property, it was not necessary to scrutinize this western property line. However, based on a surveyor's review of the existing fence line, assessor parcel maps and Caltrans right-of-way maps, it was determined that the western property line actually is located farther to the east than shown on the site maps provided in connection with the Applicant's entitlement applications. Attached at Exhibit F is a memorandum from BGT Land Surveying explaining the methodology for identifying this western property line. The constraints maps attached at Exhibit A use this more accurate depiction of the property line in the southwestern portion of the site, which eliminates some of this area for development.

When overlaid, the four constraints maps eliminated most of the property for development. The recommendation in the Coastal Commission staff report to designate the coastal terrace prairie on the site as environmentally sensitive habitat area, and therefore to prohibit non-resource dependent uses within these areas, significantly constraints the site further, given that over half of the site is comprised of coastal terrace prairie. The site is further constrained by the presence of wetland and riparian habitat on the southeastern portion of the site

and potential nesting raptor habitat in the non-native woodlands on the southwestern portion of the site and in the eucalyptus on the southeastern portion of the site.

Below is an analysis of different alternate house, barn and road locations, based on these and other applicable constraints and LCP policies related to sensitive habitat, visual resources and agricultural resources.

B. Alternative 1A – Original House Location (County-Approved), Original Barn Location and Original Highway One Approach Road Alignment

1. Location

Alternative 1A includes the originally proposed and County-approved location for the house in the northeastern portion of the site almost entirely in coyote brush scrub; the original proposed barn location in coastal terrace prairie on the western portion of the site near the cell tower, which the County rejected; and the original proposed road alignment approach from Highway One, which the County also required to be modified. After an extensive siting analysis, including the review of several locations, the County Planning Department located the house in the northeastern portion of the site to avoid visual impacts from Highway One and to avoid impacts to wetland and riparian habitat in the southeastern portion of the site. The purpose of discussing Alternative 1A is to put the siting and planning process in context and to allow comparison between the original proposal, the County-approved Project and other alternatives.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 1A would impact the greatest amount of coastal terrace prairie (approximately 1.17 acres) of the alternatives analyzed, as set forth in the Summary of Project Impacts attached at Exhibit B. In addition, the original road alignment would not be outside the required setback from potential wetland in the northern portion of the site, as depicted on the Refined Vegetation Map attached at Exhibits A and B. For these reasons, the County rejected the original road alignment. This alternative would not result in any impacts to potential habitat for sensitive species, including the California red-legged frog, San Francisco garter snake or Southwestern pond turtle. See Exhibit B.

b. Visual Resources

The originally proposed and County-approved location for the house and the original proposed location for the barn each are not visible from Highway One or Tunitas Creek Road and therefore are consistent with LCP Policy 8.5, which requires that new development be located so as to be least visible from State and County Scenic Roads. Each also is beyond 100 feet of the right-of-way line of Highway One, in compliance with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. In addition, in compliance with LCP Policy 8.18, the house will maintain a low profile and use colors and materials that will blend with the surrounding vegetative cover of the site. The County-approved house location and original proposed road alignment follow the natural topography of the site where possible thereby minimizing the amount of grading required, consistent with LCP Policy 8.17. The

original proposed access road utilizes an existing access road from Highway 1 to the extent possible, consistent with LCP Policy 8.17c, before extending further across the site to access the farmhouse. A portion of this road would be visible from scenic corridors, as shown in Scenic Corridor Map in Exhibit A.

c. Agricultural Resources

Like the approved Project (Alternative 1B), Alternative 1A would be consistent with the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land, since there are no developable lands on the site that are unsuitable for agriculture. In addition, like the approved Project, this alternative proposes to add a farmhouse to property historically used for rotational grazing, which is consistent with the uses on neighboring parcels, and therefore would not diminish the productivity of these adjacent agricultural lands. (See Section V for a discussion of these findings.) However, Alternative 1A would not cluster development on the site and would not minimize encroachment of development on land suitable for agricultural use to the same degree as the County-approved Project, since the house and barn would be located on opposite sides of the property. Therefore, although Alternative 1A would meet some of the requirements under LCP Policy 5.10 and Zoning Code Section 6355, it would not meet all of the necessary requirements or to the same degree as the Project (Alternative 1B).

d. Conclusion

Since Alternative 1A impacts more coastal terrace prairie than Alternative 1B (the County-approved Project), it would result in greater impacts to sensitive habitat. Alternative 1A would result in less visual resources impacts than Alternative 1B because the barn would not be visible, whereas the County-approved barn location would require screening to shield it from view from scenic corridors. Alternative 1A would not meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD to the same degree as Alternative 1B because the barn and farmhouse would not be clustered. Because Alternative 1A results in greater impacts to sensitive habitat and agricultural resources than Alternative 1B, it is not preferred to Alternative 1B.

C. Alternative 1B – County-Approved Project

1. Location

Alternative 1B includes the County-approved location for the house almost entirely within coastal terrace prairie, with a small portion of the patio within coyote brush scrub; the County-approved barn location (approximately 800 feet south of the house) on the northeastern portion of the site within coyote brush scrub; and the County-approved road alignment, which extends from an existing unpaved access road from Highway One and then crosses the site across both coyote brush scrub and coastal terrace prairie.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 1B would impact the second greatest amount of coastal terrace prairie (approximately 0.49 acres) of the alternatives analyzed, as shown on the Summary of Project Impacts attached at Exhibit B. This alternative would not result in any impacts to wetland or riparian habitat or to potential habitat for sensitive species, including the California red-legged frog, San Francisco garter snake or Southwestern pond turtle. See Exhibit B.

b. Visual Resources

The County-approved location for the house is not visible from Highway One or Tunitas Creek Road and therefore is consistent with LCP Policy 8.5, which requires that new development be located so as to be least visible from State and County Scenic Roads. The house also is beyond 100 feet of the right-of-way line of Highway One, in compliance with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. In addition, in compliance with LCP Policy 8.18, the house will maintain a low profile and use colors and materials that will blend with the surrounding vegetative cover of the site. The County-approved location for the barn would be visible from Tunitas Creek Road. The County therefore required as a condition of approval that vegetative screening be provided for the barn to minimize visual impacts. As stated above, in Alternative 1C, the Applicant is proposing to relocate the barn adjacent to the house. In addition to increasing the clustering of development, this modification would result in the barn generally not being visible from Tunitas Creek Road or Highway One without the need for landform alteration. For this reason, the County-approved Project is not the preferred alternative from a visual resources perspective.

The County-approved house location and road alignment follow the natural topography of the site where possible, thereby minimizing the amount of grading required, consistent with LCP Policy 8.17. The County-approved access road utilizes an existing access road from Highway 1 to the extent possible, consistent with LCP Policy 8.17c, before extending further across the site to access the farmhouse. A portion of this road would be visible from scenic corridors, as shown in Scenic Corridor Map in Exhibit A. Although a shorter access road could be provided if the house were located in closer proximity to Highway One or Tunitas Creek Road, a house in either of these locations would require berming to be consistent with LCP Policy 8.5. Moreover, access roads to these locations likewise would be visible from scenic corridors, as depicted in Scenic Corridor Map in Exhibit A.

c. Agricultural Resources

See Section V.B of this report, which concludes that Alternative 1B is consistent with the agricultural resources policies of the County LCP and satisfies the requirements of Section 6355 of the County Zoning Code related to the issuance of a Planned Agricultural District permit.

d. Conclusion

Alternative 1B (the County-approved Project) impacts more coastal terrace prairie than all of the alternatives, except for Alternative 1A, and therefore is not superior in terms of impacts to sensitive habitat. Alternative 1B results in greater visual impacts than Alternative 1A and Alternative 1C (where the barn is not visible from scenic corridors) because the County-approved barn location would require screening to shield it from view from scenic corridors. Alternative 1B meets the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD, but not to the same degree as Alternative 1C, which clusters the barn closer to the farmhouse. Because Alternative 1B results in greater impacts to sensitive habitat than other alternatives and greater impacts to visual resources than Alternative 1C, Alternative 1B is not the preferred alternative.

D. Alternative 1C – Slightly Altered House Location, Revised Barn Location and Tunitas Creek Road Alignment

1. Location

Alternative 1C shifts the footprint of the house slightly to the east from the County-approved location in the northeastern portion of the site to move the patio outside of coastal terrace prairie and entirely within coyote brush scrub. In addition, Alternative 1C relocates the barn from the County-approved location approximately 800 feet from the house to approximately 60 feet from the house. Rather than using an access road approach from Highway One, Alternative 1C uses an existing unpaved access road from Tunitas Creek Road, which then extends up the eastern perimeter of the site, entirely outside of coastal terrace prairie. The existing access road is used daily by the residents and farm workers of the adjacent property to the east, which is the sole access route to and from this adjacent property. Minor improvements to the existing portion of the road would be required.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 1C avoids all impacts to coastal terrace prairie. The proposed road alignment utilizes an existing access road in the southeastern portion of the site, which is in the vicinity of wet meadow and freshwater marsh that may qualify as wetland under LCP Policy 7.14 and riparian woodland and scrub that may qualify as riparian corridor under LCP Policy 7.7. However, this existing road is located outside of the 100-foot buffer zone for wetland and 50-foot buffer zone for riparian corridor required by the LCP and therefore would not result in any impacts to these potentially sensitive habitat areas. Moreover, the residents and farm-labor workers on the neighboring property already use this portion of the road on a daily basis. Use of the road by the Applicant would result in only a minor increase in the intensity of use of this road. According to the Biological Impact Analyses, this minor increase in use would not be expected to result in impacts to sensitive species, such as the California red-legged frog, San Francisco garter snake or Southwestern pond turtle, should these species use this area as a dispersal corridor. See Exhibit B.

b. Visual Resources

The County-approved location for the house is not visible from Highway One or Tunitas Creek Road and therefore is consistent with LCP Policy 8.5, which requires that new development be located so as to be least visible from State and County Scenic Roads. The house also is beyond 100 feet of the right-of-way line of Highway One, in compliance with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. In addition, in compliance with LCP Policy 8.18, the house will maintain a low profile and use colors and materials that will blend with the surrounding vegetative cover of the site. The Applicant is proposing under Alternative 1C to relocate the barn adjacent to the house. In addition to increasing the clustering of development, this modification would result in the barn generally not being visible from Tunitas Creek Road or Highway One without the need for landform alteration, in compliance with LCP Policy 8.5. Therefore Alternative 1C is preferable to the County-approved project in terms of visual resources.

The house location and road alignment follow the natural topography of the site where possible, thereby minimizing the amount of grading required, consistent with LCP Policy 8.17. This access road utilizes an existing access road from Tunitas Creek Road to the extent possible, consistent with LCP Policy 8.17c, before extending further across the site to access the farmhouse. Due to the steepness of the slopes in this area and in order to avoid coastal terrace prairie, this road alignment would require more grading than the other alternatives. Portions of this road would be visible from scenic corridors, as shown in Scenic Corridor Map in Exhibit A, however some of the visible portions occur on the existing road currently in use. Although a shorter access road could be provided if the house were located in closer proximity to Highway One or Tunitas Creek Road, a house in either of these locations would be visible from these Scenic Corridors and therefore would conflict with LCP Policy 8.5. Moreover, access roads to these locations likewise would be visible from scenic corridors, as depicted in Scenic Corridor Map in Exhibit A.

c. Agricultural Resources

Like the approved Project, Alternative 1C proposes to add a farmhouse to property historically used for rotational grazing, which is consistent with the uses on neighboring parcels also used for family farming, and therefore would not diminish the productivity of these adjacent agricultural lands. Like the approved Project, Alternative 1C would be consistent with the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land, since there are no developable lands on the site that are unsuitable for agriculture. Also like the approved Project, this alternative would minimize encroachment of development on land suitable for agricultural uses, since only approximately 0.1% of the site would be used for residential uses. Alternative 1C differs from the approved Project (Alternative 1B) with respect to the barn location and the proposed access road alignment. Since Alternative 1C relocates the barn adjacent to the house, Alternative 1C would cluster development and provide clearly defined buffer areas more so than the approved Project. (See Section V for a discussion of these findings.) Therefore, Alternative 1C meets the requirements of LCP Policy 5.10 and Zoning Code Section 6355 better than Alternative 1B.

d. Conclusion

Since Alternative 1C impacts no coastal terrace prairie and no other sensitive habitat, it would result in less impact to sensitive habitat than Alternative 1B and all other alternatives. Alternative 1C also would result in less visual resources impacts than Alternative 1B and all other alternatives because the barn would not generally be visible, whereas the County-approved barn location would require screening to shield it from view from scenic corridors. Alternative 1C would meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD better than Alternative 1B because it would cluster the barn closer with the farmhouse and would provide clearer buffers between agricultural and non-agricultural uses than the other alternatives. Because Alternative 1C results in less impact to sensitive habitat, visual resources and agricultural resources than Alternative 1B, it is preferred to Alternative 1B.

E. Alternative 2 – House and Barn Location in Southwestern Portion of Property and Highway One Road Alignment

1. Location

Alternative 2 sites the house and the barn in the southwestern portion of the property near the existing cellular facility, utilizing a portion of an existing road alignment from Highway One. The house and the barn would be located within non-native woodland, in an area that supports coastal terrace prairie in portions of the woodland's understory. The road would be routed through coastal terrace prairie and non-native woodland. This alternative also includes berming to screen the house from Highway One. A portion of the berm would be located in coastal terrace prairie.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 2 would impact the second least amount of coastal terrace prairie (approximately 0.10 acres) of the alternatives analyzed, as shown on the Summary of Project Impacts attached at Exhibit B. This alternative would not result in any impacts to wetland or riparian habitat or to potential habitat for the California red-legged frog, San Francisco garter snake or Southwestern pond turtle. However, according to the Biological Impact Analysis, construction of the house and berm within Monterey pine and Monterey cypress woodland would require the removal of a significant number of trees and has the potential to result in permanent impacts to raptor nesting habitat, including potential nesting habitat for the white-tailed kite, a California Department of Fish and Game fully protected species. See Exhibit B.

b. Visual Resources

Alternative 2 is located within 100 feet of the right-of-way line of Highway One, which is inconsistent with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. (Although LCP Policy 8.31 allows a 50-foot setback where sufficient screening is provided to shield the structure from public view, a large portion of the house would be within 50 feet of the right-of-way line. In addition, the required berming would

also be within this 50-foot setback and would represent a visual impact itself, given the size, as discussed below.) Alternative 2 is visible from Highway One and therefore is inconsistent with LCP Policy 8.5, which requires that new development be located so as to be least visible from State and County Scenic Roads. Although this location currently is partially screened from Highway One by the existing Monterey cypress, construction of a house and barn in this location would result in the removal of much of this natural screening. As a result, an approximately 16-foot high vegetated berm of approximately 3,700 cubic yards would be required to shield the house and barn from view from Highway One. A berm of this size would require extensive fill and landform alteration, which would be inconsistent with LCP Policy 8.17a. Development of a berm this size also may be infeasible, given the proximity of the Applicant's property line. Such extensive tree removal also would be inconsistent with LCP Policy 8.9, which requires that development be located and designed to minimize tree removal.

The house location and road alignment under Alternative 2 follow the natural topography of the site where possible, thereby minimizing the amount of grading required, consistent with LCP Policy 8.17. Although the access road is second shortest of the alternatives analyzed and utilizes a portion of an existing access road from Highway One, this road would be largely visible from scenic corridors. Moreover, construction of the berm would alter the topography of this portion of the site, and, given the close proximity of this site to Highway One, and the size of the berm, it would not be feasible to construct the berm so as to resemble a natural landform. Therefore, the berm itself would represent a visual impact and would be further inconsistent with these LCP policies. See Exhibit A.

c. Agricultural Resources

Like the approved Project, this alternative proposes to add a farmhouse to property historically used for rotational grazing, which is consistent with the uses on neighboring parcels, and therefore would not diminish the productivity of these adjacent agricultural lands. (See Section V for a discussion of these findings.) Also like the approved Project, this alternative would provide clearly defined buffer areas between agricultural and non-agricultural uses. However, Alternative 2 would not cluster development on the site with development on adjacent parcels as well as the approved Project, since the nearest residential use to this location is approximately 1,300 feet away. In addition, this alternative would not comply with the development standards of the PAD. Zoning Code Section 6359B requires a 50-foot setback for non-agricultural uses from the front yard of the site, which in this case is the Highway One frontage. As shown in Exhibit A, locating the house in this portion of the site entirely outside of coastal terrace prairie would not provide a 50-foot setback from Highway One.

Alternative 2 also would impact a portion of the site that presents unique grazing benefits. As stated in the October 21, 2004 letter from Lawrence D. Ford, PH.D, Certified Rangeland Manager and Certified Senior Ecologist, attached at Exhibit E, the southwestern portion of the site is unique on the site from a grazing perspective by combining a lower elevation, flat terrain and woodlands to provide natural shelter for cattle to protect against cold winds and sun exposure. As stated in Dr. Ford's letter, it is necessary to maintaining the optimal health and production of the cattle to have such a refuge, and no other portion of the subject property provides these benefits. The extensive removal of the trees that would be required to construct the house and the barn would significantly and irreparably eliminate this important

cattle refuge. Because of the unique agricultural benefits provided by this portion of the site, compliance with LCP Policy 5.10 and Zoning Code Section 6355 would require that other portions of the site be developed before allowing development in this area. Furthermore, although Alternative 2 would provide for a shorter access road and therefore encroach upon less agricultural land than the approved Project, the house and the barn under this alternative would encroach upon uniquely beneficial land from a grazing perspective. Therefore, Alternative 2 would not meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 to the same degree as the approved Project or other alternatives.

d. Hazardous Areas

According to San Mateo County Fire Department, the subject property is located in a hazardous fire area, which requires, pursuant to California Public Resources Code Section 4291, that development be sited outside of 100 feet of flammable vegetation and combustible growth. (See October 20, 2004 letter from Marc Colbert, San Mateo County Deputy Fire Marshall, attached at Exhibit G.) As a result, development in the woodlands within the southwestern portion of the site must adhere to this buffer requirement. Since this area is narrowly bounded by the western and southern property lines and coastal terrace prairie, adherence to this requirement either would require the removal of a significant amount of trees to create this buffer or locating development outside of these woodlands within coastal terrace prairie. However, County Zoning Code Section 6324.6 prohibits development in areas that are severely hazardous to life and property due to fire factors, where the elimination of such hazards would require significant removal of established trees. The County therefore may not permit development in these woodlands, since the Zoning Code may likely prohibit the brush clearance that would be required to comply with County Fire Department requirements.

In addition, the Applicants remain concerned about the health risks of locating their home in such close proximity to the existing cell tower on the site.

e. Conclusion

Since Alternative 2 impacts less coastal terrace prairie than Alternative 1B (the County-approved Project), but could result in impacts to potential raptor nesting habitat, Alternative 2 does not appear more protective of sensitive habitat than Alternative 1B. Alternative 2 would result in greater visual resources impacts than Alternative 1B because of the extensive berming and resulting landform alteration that would be required to shield the house and barn from view from scenic corridors. Alternative 2 would not meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD to the same degree as Alternative 1B, since it would remove a unique and necessary refuge for livestock, would not meet the required setback from Highway One, and would not cluster development as well with neighboring properties. Moreover, Alternative 2 would require extensive tree removal to comply with County Fire Department requirements, which tree removal would conflict with LCP policies. Because Alternative 2 does not result in less impact to sensitive habitat, but does result in greater impacts to visual and agricultural resources than Alternative 1B, it is not preferred to Alternative 1B.

F. Alternative 3 – House and Barn Location in Southeastern Portion of Property and Tunitas Creek Road Alignment

1. Location

Alternative 3 sites the house and barn in the non-native grassland and eucalyptus in the southeastern portion of the site between the agricultural pond and Tunitas Creek Road. Access to the house would be provided via an existing access road from Tunitas Creek Road. This alternative also includes berming to screen the house from Tunitas Creek Road.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 2 avoids all impacts to coastal terrace prairie. However, this alternative would site the house, the barn and the required berming all within the required 100-foot buffer zone for the potential wetland habitat and 50-foot buffer zone for riparian corridor habitat that may occur on the subject property. The berm itself would be located partially within wet meadow. Moreover, according to the Biological Impact Analysis, due to the permanent increase in human activity in this portion of the site that would result from the house and barn, impacts may occur to sensitive species, such as the California red-legged frog, San Francisco garter snake and Southwestern pond turtle, should these species use this area as a dispersal corridor. In addition, construction of the house and berm within eucalyptus woodland would require the removal of a significant number of trees and has the potential to result in permanent impacts to raptor nesting habitat. See Exhibit B.

b. Visual Resources

Alternative 3 is beyond 100 feet of the right-of-way line of Highway One, in compliance with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. The house location and road alignment under Alternative 3 follow the natural topography of the site where possible and do not involve a significant amount of grading, consistent with LCP Policy 8.17. The access road is the shortest of the alternatives analyzed and utilizes an existing access road from Tunitas Creek to the extent possible, consistent with LCP Policy 8.17c. However, Alternative 3 is visible from Highway One and Tunitas Creek Road and therefore is inconsistent with LCP Policy 8.5, which requires that new development be located so as to be least visible from State and County Scenic Roads. As a result, an approximately 18-foot high vegetated berm of approximately 3,000 cubic yards would be required to shield the house and barn from view from these Scenic Corridors. A berm of this size would require extensive fill and landform alteration, which would be inconsistent with LCP Policy 8.17a. Construction of the berm would alter the topography of this portion of the site, and, given the close proximity of this site to Tunitas Creek Road, and the size of the berm, it would not be feasible to construct the berm so as to resemble a natural landform. Therefore, the berm itself would represent a visual impact and would be further inconsistent with these LCP policies. See Exhibit A.

c. Agricultural Resources

Like the approved Project, Alternative 3 would be consistent with the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land, since there are no developable lands on the site that are unsuitable for agriculture. In addition, like the approved Project, this alternative proposes to add a farmhouse to property historically used for rotational grazing, which is consistent with the uses on neighboring parcels, and therefore would not diminish the productivity of these adjacent agricultural lands. (See Section V for a discussion of these findings.) Alternative 3 would minimize encroachment of development on land suitable for agriculture more so than the approved Project, since the access road to the house and barn under this alternative would be shorter. Alternative 3 would cluster development on the site with development on adjacent parcels about as well as the approved Project – each on average about 400 feet away from adjacent residential uses.

However, unlike County-approved Project, this alternative would not provide clearly defined buffer areas between agricultural and non-agricultural uses, since this alternative sites the house within 200 feet of an existing agricultural pond, which provides water for livestock. Therefore, although Alternative 3 would meet most of the requirements under LCP Policy 5.10 and Zoning Code Section 6355, it would not provide a clearly defined buffer area between agricultural and non-agricultural uses and therefore would not meet these requirements to the same degree as the Project.

3. Archaeological Resources

The Mitigated Negative Declaration adopted by the County for the Project identified scattered prehistoric archeological materials that were found in the southeast corner of the property near Tunitas Creek Road during a reconnaissance study conducted in April 2002. LCP Policy 1.24 could require adoption of a mitigation plan to protect these archeological resources, if development were permitted in this portion of the site.

a. Conclusion

Since Alternative 3 impacts less coastal terrace prairie than Alternative 1B (the County-approved Project), but could result in impacts to potential wetland and riparian corridor habitat potential raptor nesting habitat, Alternative 3 does not appear more protective of sensitive habitat than Alternative 1B. Alternative 3 would result in greater visual resources impacts than Alternative 1B because of the extensive berming and resulting landform alteration that would be required to shield the house and barn from view from scenic corridors. Alternative 3 would not meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD to the same degree as Alternative 1B, since it would not provide a clear buffer between agricultural and non-agricultural uses, given the close proximity to the agricultural pond. Because Alternative 3 does not result in less impact to sensitive habitat, but

does result in greater impacts to visual and agricultural resources than Alternative 1B, it is not preferred to Alternative 1B.

G. Alternative 4 – House and Barn Location in Western Portion of Central Coyote Brush Scrub and Highway One Road Alignment

1. Location

Alternative 4 sites the house and barn in the western portion of coyote brush scrub in the center of the site. Access would stem from an existing access road from Highway One and continue through coastal terrace prairie and coyote brush scrub. This alternative also includes berming within the coyote brush scrub to screen the house from Highway One.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 4 would impact the third least amount of coastal terrace prairie (approximately 0.27 acres) of the alternatives analyzed. This alternative would not result in any impacts to wetland or riparian habitat or to potential habitat for sensitive species, including the California red-legged frog, San Francisco garter snake or Southwestern Pond turtle. See Exhibit B.

b. Visual Resources

Alternative 4 is beyond 100 feet of the right-of-way line of Highway One, in compliance with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. However, Alternative 4 is visible from Highway One and therefore is inconsistent with LCP Policy 8.5, which requires that new development be located so as to be least visible from State and County Scenic Roads. As a result, an approximately 12-foot high vegetated berm of approximately 1,100 cubic yards would be required to shield the house and barn from view from Highway One. This moderate amount of berming would require minimal landform alteration, in compliance with LCP Policy 8.17 and, given the distance of this site from Highway One, would not represent a visual impact. This alternative would not be visible from Tunitas Creek Road. The house location and road alignment under Alternative 4 follow the natural topography of the site where possible and do not involve a significant amount of grading, consistent with LCP Policy 8.17. The access road is the third shortest of the alternatives analyzed and utilizes an existing access road from Highway One to the extent possible, consistent with LCP Policy 8.17c, before extending further across the site to access the farmhouse. A portion of this road would be visible from scenic corridors, as shown in Scenic Corridor Map in Exhibit A. See Exhibit A.

c. Agricultural Resources

Like the approved Project, Alternative 4 would be consistent with the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land, since there are no developable lands on the

site that are unsuitable for agriculture. In addition, like the approved Project, this alternative proposes to add a farmhouse to property historically used for rotational grazing, which is consistent with the uses on neighboring parcels, and therefore would not diminish the productivity of these adjacent agricultural lands. (See Section V for a discussion of these findings.) Like the approved Project, this alternative would provide clearly defined buffer areas between agricultural and non-agricultural uses. Alternative 4 would minimize encroachment of development on land suitable for agriculture more so than the approved Project, since the access road to the house and barn under this alternative would be shorter. Because Alternative 4 is located in the center of the site, it would not cluster development on the site with development on adjacent parcels as well as the approved Project. However, on balance, Alternative 4 would meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 to the same degree as the approved Project.

d. Conclusion

Since Alternative 4 impacts less coastal terrace prairie than Alternative 1B (the County-approved Project) and does not impact other sensitive habitat, it would result in less impact to sensitive habitat than Alternative 1B. Alternative 4 would result in greater visual resources impacts than Alternative 1B because of the moderate berming that would be required to shield the house and barn from view from scenic corridors, but these impacts would be less than Alternative 2 and Alternative 3. Alternative 4 would meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD approximately to the same degree as Alternative 1B. Because Alternative 4 results in less impact to sensitive habitat, but does result in greater impacts to agricultural resources than Alternative 1B, it is preferred to Alternative 1B, notwithstanding the minor increase in visual impact.

H. Alternative 5 – House and Barn Location in Eastern Portion of Central Coyote Brush Scrub and Highway One Road Alignment

1. Location

Alternative 5 sites the house and barn in the eastern portion of coyote brush scrub in the center of the site. Access would stem from an existing access road from Highway One and continue through coastal terrace prairie and coyote brush scrub. This alternative also includes berming within the coyote brush scrub to screen the house from Highway One.

2. Impacts / LCP Analysis

a. Sensitive Habitat

Alternative 5 would impact the third least amount of coastal terrace prairie (approximately 0.27 acres) of the alternatives analyzed. Although a longer access road would be required for this alternative than Alternative 4, the additional length of access road would be located entirely within coyote brush scrub. This alternative would not result in any impacts to wetland or riparian habitat or to potential habitat for sensitive species, including the California red-legged frog, San Francisco garter snake or Southwestern pond turtle. See Exhibit B.

b. Visual Resources

Alternative 5 is beyond 100 feet of the right-of-way line of Highway One, in compliance with LCP Policy 8.31 that requires a minimum 100-foot setback from scenic corridors in rural areas. However, Alternative 5 is visible from Highway One. An approximately 7-foot high vegetated berm of approximately only 360 cubic yards would be required to shield the house and barn from view from Highway One. This moderate amount of berming would require minimal landform alteration, in compliance with LCP Policy 8.17 and, given the distance of this site from Highway One, would not represent a visual impact. The house location and road alignment under Alternative 5 follow the natural topography of the site where possible and do not involve a significant amount of grading, consistent with LCP Policy 8.17. The access road is the fourth shortest of the alternatives analyzed and utilizes an existing access road from Highway 1 to the extent possible, consistent with LCP Policy 8.17c, before extending further across the site to access the farmhouse. A portion of this road would be visible from scenic corridors, as shown in Scenic Corridor Map in Exhibit A. See Exhibit A.

c. Agricultural Resources

Like the approved Project, Alternative 5 would be consistent with the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to requiring that all agriculturally unsuitable lands on the parcel be developed or determined to be undevelopable before allowing development on agricultural land, since there are no developable lands on the site that are unsuitable for agriculture. In addition, like the approved Project, this alternative proposes to add a farmhouse to property historically used for rotational grazing, which is consistent with the uses on neighboring parcels, and therefore would not diminish the productivity of these adjacent agricultural lands. (See Section V for a discussion of these findings.) Like the approved Project, this alternative would provide clearly defined buffer areas between agricultural and non-agricultural uses. Alternative 4 would minimize encroachment of development on land suitable for agriculture more so than the approved Project, since the access road to the house and barn under this alternative would be shorter. Since Alternative 5 is located in the center of the property, it would not cluster development on the site with development on adjacent parcels as well as the approved Project. However, on balance, Alternative 5 would meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 to the same degree as the approved Project.

d. Conclusion

Alternative 5 has the same impacts as Alternative 4, except it requires less berming and a longer road alignment. Since Alternative 5 impacts less coastal terrace prairie than Alternative 1B (the County-approved Project) and does not impact other sensitive habitat, it would result in less impact to sensitive habitat. Alternative 5 would result in greater visual resources impacts than Alternative 1B because of the minimal berming that would be required to shield the house and barn from view from scenic corridors, but these impacts would be less than Alternative 2 and Alternative 3. Alternative 5 would meet the requirements of LCP Policy 5.10 and Zoning Code Section 6355 related to approving a residential use in the PAD approximately to the same degree as Alternative 1B. Because Alternative 5 results in less impact to sensitive habitat, but does result in greater impacts to agricultural resources than Alternative 1B, it is preferred to Alternative 1B, notwithstanding the minor increase in visual impact.

VII. COMPARISON OF ALTERNATIVES

Based upon a full analysis of all constraints, LCP policies and Zoning Code requirements, two alternatives (Alternatives 1C and Alternative 4²) appear to be preferable to the County-approved Project (Alternative 1B) and three alternatives (Alternative 1A, Alternative 2 and Alternative 3) appear to be worse.

Alternative 1C completely avoids impacts to coastal terrace prairie, which has been the focus of the Staff's review of the Project. Alternative 1C also is the only alternative where the house and barn are not visible from Highway One or Tunitas Creek Road without berming. This alternative meets LCP's agricultural resources policies and PAD requirements better than the County-approved Project by clustering the barn more closely with the farmhouse. It also is superior to Alternative 2 by avoiding any impacts to the southwestern woodlands that provide the important and unique natural shelter for livestock from the elements. It also is superior to Alternative 3, which does not provide a buffer between agricultural and non-agricultural uses, given its proximity to the agricultural pond. Much of the road alignment for Alternative 2 follows an existing access road that is used daily by the resident and farm labor workers of the adjacent parcel. However, in order to avoid any impacts to coastal terrace prairie, the remainder of the road to the farmhouse is located in the steeper eastern portion of the site that requires more grading than alternative road alignments. The existing portion of this road respects the required setbacks from potential wetlands and riparian corridors, and the minor increase in use of the road would not be expected to impact potential dispersal corridors for sensitive species.

Alternative 4 impacts the third least amount of coastal terrace prairie (approximately 0.27 acres) and has the third shortest access road of the alternatives analyzed. Unlike Alternatives 2 and 3, this alternative avoids all other impacts to sensitive species. Apart from Alternative 5, which also is located in this central scrub area, Alternative 4 would require the least amount of berming of the visible house locations. Moreover, much of the access road is comprised of an existing road and is only intermittently visible from Highway One. This alternative meets LCP's agricultural resources policies and PAD requirements to approximately the same degree as the County-approved Project. It is superior to Alternative 2 by avoiding any grazing impacts to the southwestern woodlands. It also is superior to Alternative 3, which does not provide a buffer between agricultural and non-agricultural uses, given its proximity to the agricultural pond. Alternative 4, however, does not cluster development with development on neighboring properties as well as some of the other alternatives. Although Alternatives 4 and 5 are very similar in terms of impacts and consistency with LCP Policies and Zoning Code requirements, Alternative 4 is considered superior because it is located closer to Highway One and requires a shorter access road.

Alternative 2 impacts approximately 0.10 acres of coastal terrace prairie as a result of the access road. While this alternative minimizes impacts to coastal terrace prairie, it significantly conflicts with other LCP policies, Zoning Code requirements and site constraints. First, development of this southwestern area would remove the only location on the site that

² Alternative 5 is generally considered to have the same impacts as Alternative 4, except for the slightly longer access road and slightly less berming.

provides a low elevation, flat terrain and woodlands that provide the necessary natural refuge for cattle to protect against cold winds and sun exposure. Second, locating the house and barn within these woodlands and the removal of the trees necessitated by construction could impact potential raptor nesting habitat. Third, the house and barn would be located well inside of the 100-foot scenic corridor setback from Highway One, would require significant tree removal in conflict with the LCP's visual resources policies, and would be visible from Highway One requiring a significant amount of berming and landform alteration. Fourth, the house and barn would not respect the 50-foot front yard setback from Highway One required for non-agricultural uses in the PAD. Fifth, according to the County Fire Department, development in this area must provide a 100-foot setback from flammable vegetation (i.e., these woodlands). Meeting this requirement would mean either removing trees, which is inconsistent with Zoning Code Section 6324.6(c), or siting the house within coastal terrace prairie.

Alternative 3 would not impact coastal terrace prairie, but, like Alternative 2, it significantly conflicts with other LCP policies, Zoning Code requirements and site constraints. First, this alternative would conflict with the LCP's sensitive habitat policies by siting development inside the required 100-foot buffer zone for potential wetland habitat and 50-foot buffer zone for potential riparian corridor habitat that may occur in the southeastern portion of the site. In addition, according to the Biological Impact Analysis, the permanent increase in human activity in this area that would result from the house and barn could impact sensitive species, should these species use this area as a dispersal corridor. Construction of the house and berm within eucalyptus woodland also has the potential to result in permanent impacts to raptor nesting habitat. Second, the house and the barn would be visible from Highway One and Tunitas Creek Road, requiring a significant amount of berming and landform alteration. Third, this alternative would not provide clearly defined buffer areas between agricultural and non-agricultural uses, since it sites the house within 200 feet of an existing agricultural pond, which provides water for livestock.

Therefore, based on the foregoing and the Coastal Commission Staff's desire to avoid disturbance to coastal terrace prairie, of the five house locations and seven road alignments analyzed, Alternative 1C and Alternative 4 are preferable to the County-approved Project and best minimize impacts to coastal resources and maximize consistency with the County LCP.

VIII. EXHIBITS

- A.** Constraints Maps and Impact Summary
- B.** Biological Impacts Alternatives Analysis and Refined Vegetation Map
- C.** Geologic Hazards Assessment
- D.** Agricultural Land Management Plan
- E.** Letter from Lawrence D. Ford, Ph.D. regarding Impact of Project on Grazing
- F.** Letter from BGT Land Surveying regarding Western Property Line
- G.** Letter from San Mateo County Fire Department regarding Brush Clearance

LATHAM & WATKINS LLP

December 23, 2004

VIA FEDERAL EXPRESS

Mr. Alfred Wanger
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

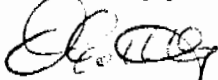
Re: Appeal No. A-2-SMC-04-009

Dear Mr. Wanger:

On behalf of our clients, Keith and Cindy Waddell, we are enclosing a Supplemental Biological Survey and Impact Analysis dated December 23, 2004, prepared by Glenn Lukos Associates for the Waddell property. In response to questions raised by the Coastal Commission staff during its November 15 site visit, the enclosed report includes a wetlands delineation analysis for the southeastern portion of the site and analyzes potential impacts to biological resources, including coastal terrace prairie, of siting the house in the woodlands in the central western portion of the site.

We look forward to discussing this report with you and to scheduling a site visit with the Coastal Commission staff's biologist. Please feel free to contact Rick Zbur or me at (213) 485-1234 with any questions.

Sincerely yours,



David A. Goldberg
of LATHAM & WATKINS LLP

cc: Chris Kern
Keith and Cindy Waddell
Rick Zbur, Esq.

633 West Fifth Street, Suite 4000
Los Angeles, California 90071-2007
Tel: (213) 485-1234 Fax: (213) 891-8763
www.lw.com

FIRM / AFFILIATE OFFICES

Boston	New Jersey
Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Silicon Valley
Milan	Singapore
Moscow	Tokyo
	Washington, D.C.

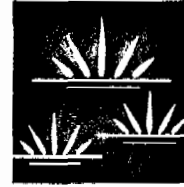
RECEIVED

DEC 28 2004

CALIFORNIA
COASTAL COMMISSION

GLENN LUKOS ASSOCIATES

Regulatory Services



December 23, 2004

David Goldberg
Latham & Watkins LLP
633 West 5th Street
Suite 4000
Los Angeles, California 90071

SUBJECT: Results of Supplemental Biological Surveys and Impact Analysis for Three Alternative Residence Locations, Waddell Property, Tunitas Creek Road, San Mateo County.

Dear Mr. Goldberg:

This letter report summarizes the findings of supplemental biological survey activities conducted to prepare an impact analysis for two alternative residence locations and one alternative road alignment within the Waddell Property. These findings will be used in support of an application for a Coastal Development Permit under the San Mateo County Local Coastal Program. The proposed project consists of the construction of one single-family home, a barn, and a driveway alignment to access the barn and home. The project site is an approximately 153 acre parcel located approximately 5 miles south of the city of Half Moon Bay, San Mateo County, California (Exhibit 1- Regional Map). The project is bordered by California Highway 1 to the west and Tunitas Creek Road to the southeast (Exhibit 2- Vicinity Map).

PROJECT DESCRIPTION

The proposed project consists of construction of a single family house with an impact footprint of approximately 0.18 acres, an approximately 0.03 acre barn and a driveway to access the house and barn. The original and five alternative project proposals for the construction of a single-family house, a barn and a driveway approach were analyzed for biological impacts according to the guidelines of the San Mateo County Local Coastal Program in a report prepared by Glenn Lukos Associates (GLA) on October 22, 2004¹.

¹ Glenn Lukos Associates, Inc. October 22, 2004, Biological Impacts Alternatives Analysis and Refined Vegetation Map, Waddell Residence Property, Tunitas Creek Road, San Mateo County, California.

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 2

At the request of the project applicant, biologists from Glenn Lukos Associates visited the project site on December 7, 2004 to conduct additional biological analysis for two alternative residence locations and one alternative road alignment within the Waddell property (Exhibit 3. Vegetation Map and Project Alternatives). Additional biological analysis was requested within the southeastern portion of the project site to analyze the distribution of wetland habitat in relation to an alternative residence location and an alternative road alignment, and within the western portion of the project site to analyze the occurrence of coastal terrace prairie habitat within Monterey pine woodland in relation to an alternative residence location.

The residence location subject to analysis within the southeastern portion of the project site is referred to as "*Alternative 3 (House and Barn Location in Southeastern Portion of Property and Tunitas Creek Road Alignment)*" in our October 22, 2004 report. The road alignment within the southeastern portion of the project site subject to additional analysis provides roadway access extending from Tunitas Creek Road to a residence location in the northeastern portion of the project site. This alternative is referred to as "*Alternative 1C (Slightly Altered House Location, New Barn Location and Tunitas Creek Road Alignment)*" in our October 22, 2004 report. Within the western portion of the project site, the residence location subject to additional analysis represents a new alternative requested for analysis by the California Coastal Commission (CCC) staff. This location is referred to as Alternative 6 (Location in Central Western Portion of Property).

IMPACTS ANALYSIS AND RESULTS OF SUPPLEMENTAL SURVEYS

Southeastern Area

Within the southeastern portion of the project site, the roadway alignment for Alternative 1C and the house, barn and berm locations for Alternative 3 were identified in our October 22, 2004 impact analysis as occurring in the vicinity of areas mapped as wet meadow habitat. Although a formal wetland delineation had not been performed on the property, all areas within the project site identified as wet-meadow were treated as potential wetland habitat under the San Mateo Local Coastal Program due to the presence of facultative wetland plants, which suggested the potential for wetland function. Project alternatives were analyzed for compliance with the San Mateo Local Coastal Program requirement for a 100 foot setback for project development from wetland habitat². Our October 22, 2004 impact analysis found that Alternative 3 sited project developments within 100 feet of wetland habitat, while the roadway utilized by Alternative 1C met the 100 foot setback. In order to more accurately analyze project impacts in relation to wetland habitat, GLA conducted a wetland delineation within the southeastern portion of the project site in the vicinity of proposed development from Alternative 3 and Alternative 1C. For

² Section 7.18 of the Local Coastal Program, 1998 Update. Environmental Services Agency, Planning and Building Division, San Mateo County, California.

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 3

the purposes of this report, the only impacts analyzed for these alternatives are impacts involving wetland habitat. Impacts to other biological resources are presented in the original impact analysis prepared on October 22, 2004.

Methodology

On December 7, 2004, biologists from Glenn Lukos Associates visited the site to conduct a wetland delineation in the vicinity of Alternative 3 and the road alignment for Alternative 1C. Prior to beginning the field delineation, a 100-scale base map and 100-scale aerial photograph of the property were examined to determine the locations of potential areas of resource agency jurisdiction. Suspected jurisdictional areas were field checked for the presence of definable channels and/or wetland vegetation, soils and hydrology. Suspected wetland habitats on the site were evaluated using the methodology set forth in the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual³ (Wetland Manual), and assessed for wetland status based upon California Coastal Commission (CCC) wetland definitions and the 1981 CCC Statewide Interpretive Guidelines. While in the field suspected jurisdictional areas were recorded using a Trimble ProXr Global Position System. Other data were recorded onto wetland data sheets.

Regulatory Framework

San Mateo Local Coastal Program

The San Mateo Local Coastal Program defines wetlands as follows:

Define 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. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and manmade impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernal wet areas where the soils are not hydric.

³ Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experimental Station, Vicksburg, Mississippi.

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 4

In San Mateo County, wetlands typically contain the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bullrush, narrow-leaf cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush. To qualify, a wetland must contain at least a 50% cover of some combination of these plants, unless it is a mudflat.⁴

California Coastal Commission

Pursuant to the California Coastal Act (California Public Resources Code Section 30233), the CCC regulates the diking, filling, or dredging of wetlands within the coastal zone. Coastal Act Section 30121 defines "wetlands" as land "*which may be covered periodically or permanently with shallow water.*" The 1981 CCC Statewide Interpretive Guidelines state that hydric soils and hydrophytic vegetation "*are useful indicators of wetland conditions, but the presence or absence of hydric soils and/or hydrophytes alone are not necessarily determinative when the Commission identifies wetlands under the Coastal Act. In the past, the Commission has considered all relevant information in making such determinations and relied upon the advice and judgment of experts before reaching its own independent conclusion as to whether a particular area will be considered wetland under the Coastal Act. The Commission intends to continue to follow this policy.*"

In the Statewide Interpretive Guidelines, the CCC notes the similarities between the Coastal Act wetland definition and the definition used by the United States Fish and Wildlife Service (USFWS). The Guidelines state that the CCC will use the USFWS classification system "*as a guide in wetland identification*" [emphasis in source]. The USFWS uses the following definition of wetlands:

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes, (2) the substrate is predominantly undrained hydric soil, and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.⁵

Results

⁴ Section 7.14 of the Local Coastal Program, 1998 Update. Environmental Services Agency, Planning and Building Division, San Mateo County, California.

⁵ Cowardin, L.M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. FWS/OBS-79/31. U.S. Fish and Wildlife Service, Washington D.C.

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 5

Wetlands as defined by the CCC were identified in three portions of the project site in the vicinity of Alternative 3 and the roadway alignment for Alternative 1C. These were associated, respectively, with 1) the existing agricultural pond formed by an impoundment of an intermittent drainage, 2) an overflow channel draining the agricultural impoundment, and 3) portions of the bank of the intermittent drainage that supports a predominance of hydrophytic vegetation. The bed of the intermittent drainage within this area was not observed to support jurisdictional wetlands as the bed did not support a predominance of hydrophytic vegetation.

The portion of the site previously mapped as wet-meadow habitat within non-native grassland in our October 22, 2004 report was examined for wetland characteristics (Exhibit 4, Wetland Delineation). This area supports a mix of facultative wetland species and upland species; however, based on the Fac-Neutral Test⁶, the meadow is clearly an upland vegetation community (see data sheets 3-9, Appendix A). This area did not exhibit wetland hydrology within 24 hours of approximately one inch of rain. Because of the strong upland vegetation characteristics and lack of wetland hydrology, the meadow was determined to be non-wetland. Results from surveys within this area are discussed in more detail below, along with descriptions from the three identified wetland areas. Representative photos are included as Exhibit 5 (Photographs 1-4). Wetland data sheets are included as Appendix A of this report.

Wetland Associated with Agricultural Impoundment

Freshwater marsh vegetation associated with the agricultural impoundment was dominated by California tule (*Scirpus californica*, OBL) and broad-leaved cattail (*Typhya latifolia*, OBL). The presence of hydric soils was indicated by the presence of standing water in excess of seven days and the presence of wetland hydrology was indicated by inundation and saturation in the upper 12 inches.

Wetland Associated with Overflow Channel

Vegetation within this area was dominated almost entirely by spreading rush (*Juncus patens*, FAC), punctuated with occasional facultative wet and obligate wetland species, such as California tule (*Scirpus californica*, OBL), California blackberry (*Rubus ursinus*, FACW), and willowherb (*Epilobium ciliatum*, FACW) with other hydrophytic species occurring in very low densities such as California loosestrife (*Lythrum californicum*, OBL), tall nutsedge (*Cyperus eragrostis*, FACW), annual bulrush (*Scirpus cernuus*, OBL), and clustered field sedge (*Carex praegracilis*). The presence of hydric soils was indicated by low chroma matrix (10 YR 3/1 with few large prominent redoxymorphic features (7.5YR 5/8). The presence of hydric soils was indicated by drainage patterns in wetlands.

⁶ The Fac-Neutral test is based on the proportion of the dominant species observed which are wetland indicators [Obligate (OBL) and Facultative-wetland (FACW)] out of the total number of species observed excluding species classified as Facultative (FAC).

Wetland Associated with Bank of Intermittent Drainage

Vegetation associated with the wetland area along the bank of the intermittent drainage was dominated primarily by spreading rush (*Juncus patens*, FAC), with occasional toadrush (*Juncus bufonius* FACW+), common galium (*Galium aparine*, FACU), and hyssop loosestrife (*Lythrum hyssopifolium*, FACW). The presence of hydric soils was indicated by low chroma matrix (10YR 3/2 with few faint and redoxymorphic features (10YR 5/6). Wetland hydrology was indicated by saturation in a narrow zone at seven inches above clay layer.⁷

Area Mapped as Wet Meadow within Non-Native Grassland

Vegetation within the area mapped as wet meadow and the adjacent non-native grassland exhibited a complex mix of facultative wetland species and upland species; however, as noted above, application of the Fac-Neutral Test indicates the presence of an upland vegetation community. Within the area previously mapped as wet meadow, no single species dominated throughout, but species determined to be locally dominant (i.e., as determined at data collection points/soil pits) included western rush (*Juncus occidentalis* [= *J. tenuis* var. *congestus*], FACW), spreading rush (*Juncus patens*, FAC), soft chess (*Bromus hordeaceus*, FACU-), common galium (*Galium aparine*, FACU), hyssop loosestrife (*Lythrum hyssopifolium*, FACW), Italian ryegrass (*Lolium multiflorum*, UPL), toadrush (*Juncus buffonius* FACW+), Carolina geranium (*Geranium carolinianum*, UPL), hare barley (*Hordeum leporinum*, NI), nitgrass (*Gastridium ventricosum*, FACU), (tall fescue (*Festuca arundinacea*, FAC-).

While the areas mapped as wet meadow habitat within the non-native grassland matrix support higher cover of facultative wetland vegetation when compared with adjacent areas mapped as non-native grassland; based on the Fac-Neutral Test, the meadow was determined to be an upland community. Soils in the meadow exhibit clear upland characteristics in the upper 7 to 11 inches (i.e., high chroma and the characteristic odor of "garden dirt") with limited hydric characteristics between 7 and 11 inches associated with a clay lens (chroma of 2 with irregular and faint redox). Nevertheless, because of the absence of hydrological indicators and the generally strong upland character of the vegetation this area was determined to be non-wetland. As noted, a portion of the bank of the intermittent drainage adjacent to the area mapped as wet meadow was dominated by hydrophytic vegetation and exhibited minimal hydric characteristics (i.e., a limited zone saturation immediately above the clay layer). These minimal hydric characteristics were not detected in the other soil pits evaluated in the meadow area.

⁷ The determination of wetland hydrology is marginal due to the recent rainfall and very weak hydrological indicator.

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 7

Impact Analysis

Alternative 3 (House and Barn Location in Southeastern Portion of Property and Tunitas Creek Road Alignment)

This alternative sites the house and barn in non-native grassland in the southeastern portion of the property near Tunitas Creek Road (Exhibit 3: Vegetation Map and Project Alternatives). This proposal utilizes an existing unpaved road from Tunitas Creek Road and would require construction of a vegetated berm to reduce visual impacts from Highway 1 and Tunitas Creek Road.

Our initial impact analysis found that this alternative sited the house, barn and vegetated berm within 100 feet of an area mapped as wet-meadow habitat. As a result of the wetland delineation, the distribution of wetland habitat within the vicinity of Alternative 3 was altered to include the overflow channel and the bank of the intermittent stream noted above and to exclude non-wetland areas previously mapped as wet-meadow and assumed to have wetland status. The presence of these wetland areas associated with the agricultural impoundment, overflow channel, and the bank of the intermittent stream would make it difficult to situate project developments within the vicinity of Alternative 3 without falling within the 100-foot setback required from wetlands under the San Mateo Local Coastal Program. As currently depicted, Alternative 3 would place the residence within 70 feet of identified wetland habitat and the berm directly within identified wetland habitat (Exhibit 4). This would be inconsistent with LCP guidelines requiring a 100 foot setback for project development from wetland habitat.

Alternative 1C (Slightly Altered House Location, New Barn Location and Tunitas Creek Road Alignment)

This alternative sites the house and barn within coyote bush scrub along the eastern portion of the property (Exhibit 3: Vegetation Map and Project Alternatives) and utilizes an existing unpaved road from Tunitas Creek Road to route the driveway alignment through coyote brush scrub along the eastern portion of the project site and avoid impacts to coastal terrace prairie. This existing road is currently used daily by the residents and farm-workers of the adjacent property to the east. Minor improvements to this road would be required.

The aspect of Alternative 1C subject to additional analysis is the proposed utilization and improvement of the existing roadway approach from Tunitas Creek Road in the southeastern portion of the project site. The road comes into proximity with the previously identified wet meadow habitat in the southeastern portion of the project site. The initial impact analysis found

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 8

that the road met county setbacks of 100 feet from the identified wet-meadow habitat. As a result of the wetland delineation and changes to boundaries of identified wetland habitat, the location of the road in relation to updated wetland boundaries was analyzed. The roadway was found to be over 100 feet from identified wetland habitat, reaching a minimum setback distance of 110 feet from the wetland associated with the overflow channel of the agricultural impoundment (Exhibit 4). Thus, Alternative 1C is consistent with LCP guidelines as it continues to meet the required wetland setback of 100 feet.

Western Area

At the request of the Coastal Commission staff, an analysis of biological impacts from a new project alternative within the western portion of the property, referred to as Alternative 6 was undertaken. This alternative sites the residence within an area identified as supporting coastal terrace prairie within the understory of Monterey pine woodland (Exhibit 3, Vegetation Map and Project Alternatives). This area is also characterized by the presence of a large, deeply eroded gully which traverses the woodland and currently requires placement of the residence within the area of overlap between coastal terrace prairie and Monterey pine woodland. For the purposes of this report, all previously identified biological constraints within the project site are analyzed in relation to project developments associated with this alternative. These include:

- Coastal terrace prairie
- Wetland and riparian habitat
- Nesting birds, including loggerhead shrike and raptors
- Southwestern pond turtle
- California red legged frog and San Francisco garter snake

Biological surveys of Alternative 6

On December 7, 2004, biologists from Glenn Lukos Associates conducted a walk-through of areas in the vicinity of Alternative 6 to verify the results of vegetation mapping for this location, based upon our October 22, 2004 impact analysis report. As depicted on the vegetation map for the project site (Exhibit 3, Vegetation Map and Project Alternatives), Alternative 6 would site the project within an area mapped as supporting coastal terrace prairie within the understory of Monterey pine woodland.

Examination of areas which would be impacted under Alternative 6 revealed that these areas supported Monterey pine woodland with an understory of coastal terrace prairie vegetation. Representative photographs of this area are included as Exhibit 5 (Photographs 5 and 6). Although the survey was conducted at a time of year when many species are dormant or difficult to identify, species identified within the pine understory and within openings in the woodland

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 9

were similar to those found in adjacent coastal terrace prairie, and included native grasses such as California oat grass (*Danthonia californica*), and blue wild rye (*Elymus glaucus*), non-native grasses such as velvet grass (*Holcus lanatus*), wild oat (*Avena fatua*), bromes (*Bromus* spp.) and Italian rye-grass (*Lolium multiflorum*), native forbs such as blue-eyed grass (*Sysirinchium bellum*) and widespread non-native forbs such as red-stemmed filaree (*Erodium cicutarium*) and English plantain (*Plantago lanceolata*). Occasional shrubs of coyote brush (*Bacharis pilularis*) were found throughout this area.

The pine woodlands provide potential raptor nesting habitat, although no raptor nests were observed within the vicinity of Alternative 6.

The area was characterized by the presence of coastal terrace prairie within canopy openings amidst mature stands of Monterey pine, as well as by the presence of smaller Monterey pines recruiting throughout adjacent open prairie. A gradient in similarity of the pine understory to adjacent coastal terrace prairie was observed within the woodland, with areas on the edge of the pine woodland supporting communities nearly identical to adjacent prairie, and areas further into the woodland supporting fewer grasses and shade tolerant species such as California blackberry (*Rubus ursinus*).

Impact analysis

Coastal Terrace Prairie. Coastal terrace prairie is recognized as a sensitive natural community in the California Natural Diversity Database and has been a focus of concern in the California Coastal Commission staff report pertaining to the appeal of the applicant's Coastal Development Permit⁸. Although it is not identified as sensitive habitat in the LCP, at the request of the Coastal Commission staff, potential impacts to this habitat type are identified in the impacts analysis

This alternative would result in approximately 0.37 acres of impact to coastal terrace prairie found in the understory of Monterey pine woodland from construction of the house, barn, and driveway alignment. This exceeds impacts to coastal terrace prairie under Alternatives 1C, 2, 3, 4, and 5, as reported in our October 22, 2004 impact analysis.

Wetlands and Riparian Habitat: This alternative avoids impacts to wetlands and riparian corridors, and meets county LCP setbacks of 100 feet for wetlands and 50 feet for riparian corridors.

Nesting Birds, including Loggerhead Shrike and Raptors. This proposal has the potential to result in temporary impacts to nesting birds, including raptors and the loggerhead shrike, a California species of concern when nesting, from clearance of vegetation during project

⁸ California Coastal Commission, Staff Report July 29, 2004. Appeal Staff Report Substantial Issue Determination And De Novo Review. Appeal No. A-2-SMC-04-009.

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 10

construction. In addition, placing the house within Monterey pine woodland would require the removal of a significant number of trees and has the potential to result in permanent impacts to raptor nesting habitat. A breeding season raptor nesting survey is recommended prior to project implementation within this area in order to quantify impacts to raptors. To avoid potential impacts to other nesting birds from impacts to woodland and prairie habitat, and avoid violations of the Migratory Bird Treaty Act (MBTA), it is recommended that construction activities associated with project implementation be conducted outside of the breeding season, which extends from February 15 to August 31, or that a qualified biologist conduct a nesting birds survey prior to clearance of vegetation and establish a 300 foot buffer around any nests. The nest and associated buffer would be avoided until the nesting event is complete and juvenile birds can survive away from the nest.

Southwestern Pond Turtle. This alternative is not expected to result in impacts to the Southwestern pond turtle, as project developments are over 500 feet from the agricultural pond and associated wetland areas identified as potential habitat.

California Red Legged Frog and San Francisco Garter Snake. This alternative is not expected to result in impacts to the California red-legged frog and San Francisco garter snake, as project developments are over 500 feet from the agricultural pond and associated wetland areas identified as potential habitat.

CONCLUSIONS

Based on the results of a wetland delineation, Alternative 3 as currently proposed would result in project development within 100 feet of wetland habitat, which is not consistent with the County LCP wetland setbacks. In conjunction with our previous impact analysis conducted for Alternative 3, which identified potential impacts to the California red-legged frog and San Francisco garter snake, this alternative would not be considered the least environmentally damaging alternative in comparison with alternatives that meet County LCP wetland setbacks.

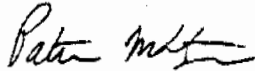
Biological constraints associated with the use of and improvements to the existing unpaved road from Tunitas Creek Road which would be used to access the residence location under Alternative 1C did not change as a result of the wetland delineation. The road exceeds County LCP wetland setbacks of 100 feet from the wetland areas identified as a result of the delineation. As described in the previous impact report, Alternative 1C also avoids impacts to coastal terrace prairie.

Based upon a site review, Alternative 6 was found to be sited in an area which supports coastal terrace prairie within the understory of Monterey pine woodland. Implementation of Alternative 6 would result in impacts to potential raptor nesting habitat and to coastal terrace prairie. This alternative would result in approximately 0.37 acres of impact to coastal terrace prairie found in the understory of Monterey pine woodland from construction of the house, barn, and driveway

Mr. David Goldberg
Latham & Watkins, LLP
December 23, 2004
Page 11

alignment. This exceeds impacts to coastal terrace prairie under Alternatives 1C, 2, 3, 4, and 5 as reported in our October 22, 2004 impact analysis. Based upon impacts to potential raptor habitat and coastal terrace prairie, Alternative 6 would not be considered the least environmentally damaging alternative in comparison to alternatives that avoid such impacts.

Should you have any questions concerning this report please call Tony Bomkamp or me at 949-837-0404.



Patrick McIntyre
Biologist

s:0476-4b.rpt.doc

Coastal Prairie Dependent Species of Santa Cruz County

From: Hayes, Grey. 2003. Conservation Strategy for Coastal Prairie Conservation

Scientific name	Common name
<u>Anagallis minima</u>	
<i>Brodiaea terrestris</i>	
<i>Brodiaea elegans</i>	Elegant Brodiaea
<i>Calandrinia ciliata</i>	Red maids
<i>Calochortus luteus</i>	Yellow mariposa lily
<i>Calochortus uniflorus</i>	
<i>Camissonia ovata</i>	Sun cups
<i>Carex brevicaulis</i>	
<i>Carex densa</i>	
<i>Castilleja castillejoides</i>	
<i>Castilleja densiflora</i> var <i>densiflora</i>	Purple owl's clover
<i>Castilleja densiflora</i> var <i>noctuinus</i>	
<i>Cicendia quadrangularis</i>	
<i>Cirsium quercetorum</i>	Brownie thistle
<i>Clarkia daveyi</i>	
<i>Clarkia purpurea purpurea</i>	Four spot
<i>Chorizanthe robusta</i>	Scotts Valley Spineflower
<i>hartwegiana</i>	
<i>Danthonia californica</i>	California oatgrass
<i>Deschampsia caespitosa</i>	Tufted hair grass
<i>Deschampsia danthonioides</i>	
<i>Dichondra donnelliana</i>	
<i>Dodecatheon clevelandii</i>	Cleveland's shooting star
<i>Hemizonia corymbosa</i>	
<i>Holocarpha macradenia</i>	Santa Cruz Tarplant
<i>Horkelia marinensis</i>	Pt. Reyes Horkelia
<i>Isoetes</i> spp.	Quillworts
<i>Juncus bufonius</i>	Toad rush
<i>Juncus occidentalis</i>	Western rush
<i>Lasthenia californica</i>	Goldfields
<i>Lilaea scilloides</i>	
<i>Linanthus parviflorus</i>	
<i>Lotus formosissimus</i>	Coast trefoil
<i>Lupinus nanus</i>	Sky lupine
<i>Microseris bigelovii</i>	Bigelow's Microseris
<i>Microseris paludosa</i>	
<i>Montia fontana</i>	

Coastal Prairie Dependent Species of Santa Cruz County

From: Hayes, Grey. 2003. Conservation Strategy for Coastal Prairie Conservation

Scientific name	Common name
<u>Anagallis minima</u>	
<i>Brodiaea terrestris</i>	
<i>Brodiaea elegans</i>	Elegant Brodiaea
<i>Calandrinia ciliata</i>	Red maids
<i>Calochortus luteus</i>	Yellow mariposa lily
<i>Calochortus uniflorus</i>	
<i>Camissonia ovata</i>	Sun cups
<i>Carex brevicaulis</i>	
<i>Carex densa</i>	
<i>Castilleja castillejoides</i>	
<i>Castilleja densiflora</i> var <i>densiflora</i>	Purple owl's clover
<i>Castilleja densiflora</i> var <i>noctuinus</i>	
<i>Cicendia quadrangularis</i>	
<i>Cirsium quercetorum</i>	Brownie thistle
<i>Clarkia daveyi</i>	
<i>Clarkia purpurea purpurea</i>	Four spot
<i>Chorizanthe robusta</i> <i>hartwegiana</i>	Scotts Valley Spineflower
<i>Danthonia californica</i>	California oatgrass
<i>Deschampsia caespitosa</i>	Tufted hair grass
<i>Deschampsia danthonioides</i>	
<i>Dichondra donnelliana</i>	
<i>Dodecatheon clevelandii</i>	Cleveland's shooting star
<i>Hemizonia corymbosa</i>	
<i>Holocarpha macradenia</i>	Santa Cruz Tarplant
<i>Horkelia marinensis</i>	Pt. Reyes Horkelia
<i>Isoetes</i> spp.	Quillworts
<i>Juncus bufonius</i>	Toad rush
<i>Juncus occidentalis</i>	Western rush
<i>Lasthenia californica</i>	Goldfields
<i>Lilaea scilloides</i>	
<i>Linanthus parviflorus</i>	
<i>Lotus formosissimus</i>	Coast trefoil
<i>Lupinus nanus</i>	Sky lupine
<i>Microseris bigelovii</i>	Bigelow's Microseris
<i>Microseris paludosa</i>	
<i>Montia fontana</i>	

Panicum pacificum
Perideridia gairdneri
Perideridia kelloggii
Plagiobothrys chorisianus
Plagiobothrys diffusus
Sanicula arctopoides
Scirpus cernuus
Scirpus koiolepis
Sidalcea malvaeiflora
Spiranthes romanzoffiana
Trifolium buckwestiorum
T. variegatum, T. barbigerum,
T. microdon, T. depauperatum,
T. appendiculatum, T. grayi, T.
truncatum
Triphysaria eriantha eriantha
Triphysaria eriantha rosea
Triphysaria faucibarbata
Triphysaria pusilla
Triteleia hyacinthina
Viola pedunculata
Zigadenus fontanus
Zigadenus fremontii minor

Pacific panic grass
 Gairdner's Yampah
 Kellogg's Yampah
 Artist's popcornflower
 San Francisco popcornflower
 Footsteps of spring

Checkerbloom
 Western ladies tresses
 Santa Cruz clover
 Many other clovers

Hyacinth flowered Brodiaea

Dwarf star lily

Non-native Plants

Scientific name

Common name

Avena barbata

Avena fatua
Bellardia trixago
Brachypodium distachyon
Bromus hordeaceus
Erodium botrys
Erodium cicutarium
Festuca arundinacea
Holcus lanatus
Hordeum murinum
Leontodon nudicaule
Lolium multiflorum
Phalaris arundinacea
Plantago lanceolata
Romulea spp.
T. angustifolium
T. dubium
Trifolium subterraneum

Slender oats
 Wild oats

 Soft chess
 Storks bill
 Red stemmed filaree
 Tall fescue
 Velvet grass
 Foxtail
 Hawk bit
 Italian rye grass
 Harding grass
 English plantain

GLENN LUKOS ASSOCIATES

Regulatory Services



March 8, 2005

David Goldberg, Esq.
Latham & Watkins, LLP
633 West 5th Street
Suite 4000
Los Angeles, California 90071

SUBJECT: Distribution of Sensitive Habitats Within the Waddell Property, Tunitas Creek Road, San Mateo County, California.

Dear Mr. Goldberg:

This letter report discusses the distribution of sensitive habitats within the Waddell Residence Property based on the San Mateo Local Coastal Program, 1998 Update, Environmental Services Agency Planning and Building Division, San Mateo County, California (LCP). The project site is a 153-acre parcel located approximately five miles south of the City of Half Moon Bay, San Mateo County, California (Exhibit 1- Regional Map). The property is bordered by California Highway 1 to the west and Tunitas Creek Road to the southeast (Exhibit 2- Vicinity Map). The proposed project consists of the construction of one single-family home, a barn, and a driveway alignment to access the barn and home. San Mateo County LCP policy restricts land use or development that would result in significant adverse impacts to sensitive habitat areas. The County LCP defines sensitive habitat under Section 7.1 as follows:

[A]ny area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting rare and endangered species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes. Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

Exhibit No. 8
A-2-SMC-04-009
WADDELL

Mr. David Goldberg
Latham & Watkins, LLP
March 8, 2005,
Page 2

This letter report discusses areas within the Waddell property that may meet the definition of sensitive habitat in the San Mateo LCP, based on biological surveys conducted by Glenn Lukos Associates¹² and Biotic Resources Group³. This report also discusses the status of coastal terrace prairie (CTP) within the proposed project site and analyzes whether CTP on-site meets the LCP standards under Section 7.1 for designation as sensitive habitat. CTP is not identified as sensitive habitat by the San Mateo County LCP, but California Coastal Commission (CCC) staff have contended in a report appealing issuance of a Coastal Development Permit (CDP) for the proposed project that CTP on the project site nevertheless should be treated as sensitive habitat.⁴

Habitats within the project site that appear to meet the County LCP definition of sensitive habitat include:

- Riparian habitat associated with Tunitas Creek and with an intermittent drainage located in the southeastern portion of the project site. This portion of the project site may qualify as sensitive habitat to the extent it is a riparian corridor.
- Wetland habitat associated with an agricultural impoundment and adjacent meadow located in the southeastern portion of the project site. This location may provide habitat for the federally endangered San Francisco garter snake, and appears to be occupied habitat for the federally threatened California red-legged frog⁵. This portion of the project site may qualify as sensitive habitat based on the presence of wetland habitat, and as habitat that supports rare or endangered species.
- Additional portions of the project site mapped as wet-meadow may qualify as wetlands under the LCP, but have not been formally delineated. Because these areas may qualify as wetlands, they have been treated as sensitive habitat and potential wetlands requiring a 100-foot setback under the LCP.
- The stand of Monterrey pine and Monterrey cypress in the vicinity of an identified raptor nest located within the southwestern portion of the property.

¹ Glenn Lukos Associates, Inc. October 22, 2004, Biological Impacts Alternatives Analysis and Refined Vegetation Map, Waddell Residence Property, Tunitas Creek Road, San Mateo County, California

² Glenn Lukos Associates, Inc. December 23, 2004. Results of Supplemental Biological Surveys and Impact Analysis for Three Alternative Residence Locations, Waddell Property, Tunitas Creek Road, San Mateo County

³ Biotic Resources Group. June 13, 2002. Biological Assessment, Waddell Residence, Tunitas Creek Road, San Mateo County, California

⁴ California Coastal Commission, Staff Report July 29, 2004. Appeal Staff Report Substantial Issue Determination And De Novo Review. Appeal No. A-2-SMC-04-009.

⁵ California red-legged frogs were heard calling from the agricultural impoundment by Dave Johnston of the California Department of Fish and Game during a site visit on January 6, 2005 with participants from the CCC, GLA, Latham and Watkins LLP, and California State Parks.

Mr. David Goldberg
Latham & Watkins, LLP
March 8, 2005,
Page 3

Status of Coastal Terrace Prairie

Coastal terrace prairie is identified as a sensitive natural community (S2.1 ranking) in the California Natural Diversity Database,⁶ but is not specifically identified as sensitive habitat type by the San Mateo County LCP. Commission staff nevertheless treated CTP as sensitive habitat in the staff report pertaining to the appeal of the Waddell's CDP, relying on other LCPs that have considered CTP as sensitive habitat in other parts of the California coastal area.⁷ At the request of Commission staff, potential impacts to CTP have been explicitly identified in previous impact analyses pertaining to the proposed project.

Coastal terrace prairie is characterized by the presence of stands of native grasses such as California oatgrass, pacific reed grass or California hairgrass, with a low cover of shrubby coastal scrub species and often with a diverse mix of forbs such as Douglas iris, sea-thrift, blue-eyed grass and numerous other species. Coastal terrace prairie occurs in discontinuous areas from the central California coast north into Oregon.

Within the proposed project site, CTP may qualify as sensitive habitat if it supports rare or endangered species (i.e., in accordance with LCP Criteria 1) or if it is either rare or especially valuable. No special-status plant species have been observed within CTP habitat within the proposed project site during biological surveys.⁸ Rather, CTP within the project site is characterized by the presence of stands of native grasses and rushes such as California oatgrass (*Danthonia californica*), purple needlegrass (*Nasella pulchra*) and western rush (*Juncus occidentalis*), amidst extensive patches of non-native grasses such as tall fescue (*Festuca arundinaceae*), Italian ryegrass (*Lolium multiflorum*), velvet grass (*Holcus lanatus*), wild oat (*Avena fatua*), rattlesnake grass (*Briza maxima*), and foxtail fescue (*Vulpia myuros*). Occasional shrubs such as coyote brush (*Baccharis pilularis*) and California blackberry (*Rubus ursinus*) are scattered throughout this vegetation type. Forb species observed within this habitat type include native species such as Douglas iris (*Iris douglasiana*), sea-thrift (*Armeria maritima*), California poppy (*Escholzia californica*), blue-eyed grass (*Sisyrinchium bellum*), and non-native species such as English plantain (*Plantago lanceolata*), red-stemmed filaree (*Erodium cicutarium*), rough cat's ear (*Hypochaeris radicata*) and Italian thistle (*Carduus pycnocephalus*).

⁶ California Department of Fish and Game. September 2004. Natural Diversity Database: RareFind 2 Database. California Department of Fish and Game, Sacramento, California

⁷ California Coastal Commission, Staff Report July 29, 2004. Appeal Staff Report Substantial Issue Determination And De Novo Review. Appeal No. A-2-SMC-04-009.

⁸ Biotic Resources Group. June 13, 2002. Biological Assessment, Waddell Residence, Tunitas Creek Road, San Mateo County, California; Biotic Resources Group, April 2003. Waddell Residence, Tunitas Creek Road: Results of 2002 Directed Survey for Gairdner's Yampah

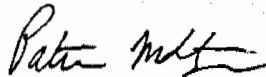
Mr. David Goldberg
Latham & Watkins, LLP
March 8, 2005,
Page 4

Therefore, CTP habitat within the proposed project site would not qualify as sensitive habitat under Criteria 1 in LCP Section 7.1, and none of the remaining 7 criteria listed in LCP Section 7.1 pertain to the site.

Furthermore, many areas of CTP on the project site have been identified and mapped as disturbed or eroded. These disturbed areas include an existing unpaved track that traverses the property from Highway 1 east to an existing access road off Tunitas Creek Road. This track is utilized as a road to support agricultural grazing operations on the property and is characterized by areas of unvegetated ground as well as areas that exhibit a high density of non-native annual plants associated with the on-going vehicular disturbance. Although the road and eroded gullies support some elements of CTP, they are disturbed areas within a matrix of less disturbed CTP, were mapped as distinct from surrounding CTP and coastal scrub, and do not meet County LCP criteria for sensitive habitats. Specifically, because the CTP within this existing unpaved track to be used for the proposed access road is disturbed and degraded, it does not contain plant or animal life or their habitats that are either rare or especially valuable.

In previous analyses of the proposed project site (October 2004 Glenn Lukos Associates Analysis), impacts to CTP were explicitly identified based on the potential for CTP to qualify as sensitive habitat under the LCP criteria. Several project alternatives (Alternatives 1A&B, 4 and 5) included proposed roads that traversed areas mapped as CTP, resulting in impacts to CTP. Potential impacts to CTP could be eliminated or reduced under these alternatives by utilizing the disturbed track as the access road to the proposed residence locations. The existing track currently provides direct access to proposed residence locations under Alternatives 4 and 5. The existing track does not provide direct access to the residence location under Alternative 1, but utilizing this track would substantially reduce the length of roadway that would cross less disturbed CTP.

In sum, the CTP within the disturbed existing track traversing the project site east of Highway 1 would not be consistent with sensitive habitat under the LCP's standards and therefore should not constrain use of the area as a driveway to access Alternative Sites 1, 4 and 5. Should you have any questions concerning this report please call Tony Bomkamp or me at 949-837-0404.



Patrick McIntyre
Biologist



Memorandum

To: Mr. Al Wanger
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Date: January 25, 2005

From: Robert W. Floerke, Regional Manager 
Department of Fish and Game - Central Coast Region, Post Office Box 47, Yountville, California 94599

Subject: Waddell Residence, Tunitas Creek Road, San Mateo County

RECEIVED
JAN 26 2005
CALIFORNIA
COASTAL COMMISSION

The purpose of this memorandum is to communicate to you Department of Fish and Game (DFG) conclusions from a joint site visit on January 6, 2005.

The property visited is located just north of the intersections of Highway 1 and Tunitas Creek Road in San Mateo County. The parcel is approximately 150 acres in size and is predominantly coastal grassland and scrub. An irrigation pond is located in the southeasterly portion of the site. The pond contains emergent vegetation and is a confirmed breeding site for California red-legged frogs (*Rana aurora draytonii*) (CRLF), a California species of special concern and also listed as Threatened at the Federal level. Adjacent grassland, stream and riparian habitat provide excellent cover and foraging areas for the frogs. Also potentially in the area are San Francisco garter snakes (*Thamnophis sirtalis tetrataenia*) (SFGS), a species known to feed on CRLF and which could hibernate in the adjacent grasslands. SFGS are listed as Endangered by both the State and Federal governments, and are considered "fully protected" pursuant to Fish and Game Code Section 5050. Under that Section, a take of SFGS is not allowed for any reasons other than recovery actions or scientific study. Under State law, take means hunt, pursue, catch, capture or kill, or to attempt to do so.

It is our understanding that the project proposed for this property is construction of a single family dwelling and barn. The project was previously approved by the County of San Mateo at a location in the northern corner of the lot. The driveway to this site originated at Highway 1 and stretched to the northeast to reach the proposed building location. The approval was subsequently appealed on the grounds that this configuration would cause harm to coastal terrace prairie, a plant community recognized as rare by the State. An alternative analysis resulted in five additional possible locations, most of which were evaluated by DFG personnel during the site visit. The sites reviewed were:

Exhibit No. 9
A-2-SMC-04-009
WADDELL

- Alternative 1c, the originally approved location. In addition to the originally proposed driveway, an option to use an existing road from Tunitas Creek Road was also examined.
- Alternative 3, located in the southeastern portion of the property, approximately 200 feet from the irrigation pond. This location is also within 200 feet of a second irrigation pond on an adjoining property and within 100 feet of wetland and riparian habitats.
- Alternatives 4 and 5, located along the course of the originally proposed driveway, but significantly closer to Highway 1 than the original site.
- Alternative 6, a site very close to Highway 1, inside a Monterey pine grove with a coastal terrace prairie understory.

After reviewing the site and relevant databases, it is our conclusion that the property provides habitat for CRLF, may provide habitat for SFGS and should be surveyed for coastal marsh milk-vetch (*Astragalus pycnostachyus* var. *pycnostachyus*), a California Native Plant Species 1B plant species. As a result of these conclusions, we recommend that Alternative 3 be dropped from consideration and that the driveway from Tunitas Creek Road to site 1c also be removed from the list. From a biological perspective only, our conclusion is that 6 is the site with the least biological impacts, followed by 4 and 5 and then by 1c, the originally proposed location.

The primary concern with Alternative 3 and the use of the road in this location to access Alternative 1c, is that both the building site itself and the road behind it are well within the distance which CRLF and SFGS can be expected to move from the pond. Construction on and long-term use of the site or road, can reasonably be expected to cause a take of either or both of the animals. While we understand the road itself experiences some historic use, it is clear that traffic from a new dwelling will increase the probability of a take over time. Since the SFGS is "fully protected" under State law and there are alternatives to this location, DFG cannot recommend this site. Use of the driveway could be considered, as long as the roadway was elevated a minimum of two feet above the ground surface and a maintenance agreement was in place to ensure plants and debris were kept cleaned from the edge of the elevated structure, so they did not act as "bridges" from the ground to the road surface.

Alternative 6, while it is superior from a biological perspective, may have geotechnical constraints that limit its use. A dwelling in this location would have the least biological impacts of any of the alternatives, due to a very short (comparatively)

driveway and a possibly degraded coastal terrace community under the Monterey pine canopy. This location has the greatest probability of a milk-vetch colony, although the habitat is marginal due to shading.

Alternatives 4 and 5 may be the best compromises, having a much reduced chance of impacting CRLF or SFGS and impacting a lesser amount of coastal terrace prairie than the original proposal.

Alternative 1c is the least desirable of the "good" alternatives, due to the length of the driveway.

Our recommendations for project conditions are:

1. Follow all recommendations of the existing biological reports as they relate to special status plant and animal species on the property.
2. Survey any building site and access drive for coastal marsh milk-vetch prior to ground disturbance. If the plant is found, contact DFG and the Coastal Commission to prepare an avoidance and mitigation plan prior to disturbing any plants.
3. A qualified botanist should map and stake the routing of the access drive and building sites to ensure that impacts to coastal terrace prairie are minimized. Where impacts are unavoidable, lower quality habitat should be impacted and higher quality prairie avoided.
4. The construction disturbance area, including storage, turning and lay-down sites, should be enclosed by a high visibility fence to limit impacts to coastal terrace prairie.
5. Any contractors and workers should be educated by a qualified biologist as to the appearance, habits and legal status of CRLF and SFGS. The training should include a discussion of what to do if any SFGS or CRLF are seen. Each individual on the site should sign a statement that they have received the training and understand it. Under no circumstances are any CRLF or SFGS to be moved or captured by anyone other than certified biologists.
6. An individual that will be present throughout the construction should be designated as a point of contact for these issues and act as monitor. The name and contact information for this individual should be provided to DFG and U. S. Fish and

Wildlife Service (USFWS) prior to beginning work. This individual should have the names and contact information for DFG (Mr. Dave Johnston, Environmental Scientist, at [831] 475-9065); USFWS (Ms. Mary Hammer [916] 414-6626), and the project biologist in the event any CRLF or SFGS are seen.

7. All food items, including trash and wrappers, are to be removed from the site daily.
8. Any vehicle parked for more than fifteen minutes must be checked before being moved to ensure CRLF or SFGS have not taken cover under it.
9. To offset construction impacts to coastal terrace prairie, a conservation easement or declaration of restrictions should be recorded to ensure that the remaining coastal terrace prairie is not converted to some other use. The easement/declaration should be supported by a grazing management plan that describes how the prairie will be managed to retain its habitat value.
10. To offset any future low grade impacts to the pond and stream, the easement/declaration should include those areas as well. The document should indicate the owner's willingness to work with DFG and USFWS to modify and repair the pond area to control the existing siltation problem and maintain the habitat in perpetuity.

Questions regarding this memorandum and further coordination on these issues should be directed to Mr. Johnston or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

cc: Ms. Mary Hammer
U. S. Fish and Wildlife Service
2800 Cottage Way, W-2605
Sacramento, CA 95825

Ms. Kimberly M. McCormick
Latham & Watkins
8363 Sumanee Place NE
Bainbridge Island, WA 98110

Coastal Act Policies Related to Agriculture

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. (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.)

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.

APPLICABLE COUNTY OF SAN MATEO LOCAL COASTAL PLAN POLICIES AND ZONING CODES

LOCATING AND PLANNING NEW DEVELOPMENT POLICIES

1.3 Definition of Urban Areas

- a. Define urban areas as those lands suitable for urban development because the area is either: (1) developed, (2) subdivided and zoned for development at densities greater than one dwelling unit/5 acres, (3) served by sewer and water utilities, and/or (4) designated as an affordable housing site in the Housing Component.
- b. Recognize, however, that in order to make a logical urban/rural boundary, some land has been included within the urban boundary which should be restricted to open space uses and not developed at relatively high densities (e.g., prime agricultural soils, and sensitive habitats).

1.4 Designation of Urban Areas

Designate as urban those lands shown inside the urban/rural boundary on the Land Use Plan Maps. Such areas include Montara, Moss Beach, El Granada, Princeton and Miramar.

1.5 Land Uses and Development Densities in Urban Areas

- a. Incorporate the adopted Montara-Moss Beach-El Granada Community Plan into the land use plan for the Mid-Coast, but amend it where necessary to meet Local Coastal Program objectives.
- b. Permit in urban areas land uses designated on the Land Use Plan Maps and conditional uses up to the densities specified in Tables 1.2 and 1.3. The use and amount of development allowed on a parcel, including parcels in areas designated "General Open Space," "Agriculture," or "Public Recreation-Community Park" on the General Plan Land Use Map within the urban boundary in the Coastal Zone, shall be limited to the uses and to the amount, density and size of development permitted by the Local Coastal Program, including the density credit requirements of Policy 1.8c. and Table 1.3.

1.6 Definition of Rural Areas

Define rural areas as those lands suitable for a variety of residential, commercial, agricultural and recreational land uses which are consistent with maintaining open

space (as defined in Section 65560 of the Government Code (as of January 1, 1970)) in order to: (1) preserve natural resources, (2) manage the production of resources, (3) provide outdoor recreation, and (4) protect public health and safety.

1.7 Designation of Rural Areas

Designate as rural those lands shown outside the urban/rural boundary on the Local Coastal Program Land Use Maps, in effect on March 25, 1986, that were designated Agriculture, General Open Space, Timber Preserve, or Public Recreation on that date.

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.
- b. Permit in rural areas land uses designated on the Local Coastal Program Land Use Plan Maps, and conditional uses up to the densities specified in Tables 1.2 and 1.3.
- c. (1) Require Density Credits for Non-Agricultural Uses
Require density credits for all new or expanded non-agricultural land uses in rural areas, including all residential uses, except affordable housing (to the extent provided in Local Coastal Program Policy 3.23) and farm labor housing, as defined in Local Coastal Program Policy 3.28, mining in accordance with General Plan Policies 3.11 and 3.12, and solid waste facilities under the policies in General Plan Chapter 13. The existence and number of density credits on a parcel shall be determined by applying Table 1.3.
Expanded or additional non-agricultural uses shall only be permitted on a parcel when there are enough density credits available to that parcel to meet the density credit requirements of this policy for both (a) existing uses, and (b) any expanded or additional uses, and only where such development meets all other applicable policies of the Local Coastal Program.

(2) Amount of Development Allowed for Non-Agricultural Uses, Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For new or expanded non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, one density credit shall be required for each 315 gallons, or fraction thereof, of average daily water use during the two months of highest water use in a year. This requirement applies to water use by or resulting

from the non-agricultural use, including landscaping, swimming pools and all other appurtenant uses.

(a) Residential Uses

For new or expanded residential uses, a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses).

(b) Non-Agricultural Uses Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, the amount of development allowed for each density credit in accordance with the requirements of this policy shall be the amount stated in Table 1.5 in the column headed "Number of Measuring Units Per Density Credit Based on Peak Daily Water Use With Conservation Fixtures."

1.16 Definition and Establishment of Urban/Rural Boundary

Define urban/rural boundary as a stable line separating urban areas and rural service centers from rural areas in the Coastal Zone and establish this line on the LCP Land Use Maps.

ARCHAEOLOGICAL RESOURCES POLICY

1.24 Protection of Archaeological/Paleontological Resources

Based on County Archaeology/Paleontology Sensitivity Maps, determine whether or not sites proposed for new development are located within areas containing potential archaeological/paleontological resources. Prior to approval of development proposed in sensitive areas, require that a mitigation plan, adequate to protect the resource and prepared by a qualified archaeologist/ paleontologist be submitted for review and approval and implemented as part of the project.

AGRICULTURAL RESOURCES POLICIES

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

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) non-residential 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.

5.6

Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture

- a. Permit agricultural and agriculturally related development on land suitable for agriculture. 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) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.
- b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, pack-

aging and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

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.

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.
- b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency:
 - (1) To execute 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, and
 - (2) Whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

5.9 Division of Land Suitable for Agriculture Designated as Agriculture

Prohibit the division of lands suitable for agriculture unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be reduced.

5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

- a. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:
- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;
 - (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;
 - (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;
 - (4) The productivity of any adjacent agricultural lands is not diminished;
 - (5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality. b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.
- b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.

5.16 Easements on Agricultural Parcels

As a condition of approval of a Master Land Division Plan, require the applicant to grant to the County (and the County to 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, and farm labor housing. The easement shall specify that, anytime after three (3) 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 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 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 natural landforms.

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.

Applicable Zoning Ordinances for Agriculture

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 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.

B. On Lands Suitable for Agriculture and Other Lands

- 1. Single-family residences.
- 2. Farm labor housing.
- 3. Multi-family residences if for affordable housing.
- 4. Public recreation/shoreline access trail (see Section 6355D.3 and
- 5. Schools.
- 6. Fire stations.
- 7. Commercial recreation.
- 8. Aquacultural activities.

9. Wineries, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.
10. Timber harvesting, commercial woodlots and log storage, providing that no commercial timber harvesting shall occur within 1,000 feet of any legal dwelling in existence on June 18, 1991, except under the following circumstances:
 - a. Timber harvesting operations for which all permits had been received on or before June 18, 1991, may complete operations in accordance with the terms and conditions of such permits.
 - b. Timber harvesting operations may occur within the 1,000-foot buffer zone with prior written approval of the owner of the affected dwelling, subject to the prior recordation of the statement specified in Section 6401.5.
 - c. Normal forest maintenance may be conducted within the 1,000-foot buffer zone, but shall be limited to: (a) removing dead, dying, or diseased trees and snags; (b) salvaging downed wood; (c) cutting trees for the purposes of developing viewsheds or landscape aesthetics in accordance with other applicable provisions of this Part and of Division VII, San Mateo County Ordinance Code; or (d) clearing for firebreaks, in accordance with requirements of the County Fire Marshal or other applicable fire authority having jurisdiction.

Notwithstanding the above, access roads to the site of timber harvesting operations may be constructed, improved, and used within the 1,000-foot buffer zone. The limitation on harvesting within 1,000 feet of an existing dwelling shall not apply to a dwelling located on the parcel which is proposed for timber harvesting.

For the purpose of this section, the distance from a dwelling shall be measured along the surface of the ground.

11. Onshore oil and gas exploration, production, and storage subject to the issuance of an oil well permit.
12. Facilities for the processing, storing, packaging, and shipping of agricultural products.
13. Uses ancillary to agriculture.
14. Kennels or catteries, subject to a kennel/cattery permit.
15. Scientific/technical research and test facilities, provided a Planned Agricultural Permit shall only be issued for this use upon the following findings:
 - a. That the use is of a low-intensity nature with minimum of permanent construction required, no permanent on-site personnel or permanent on-site vehicles.

- b. That the nature of the operation requires an open, isolated, and radio frequency interference-free environment.
- c. That no manufacturing or industrial activities are involved.

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.

F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands

All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:

- 1. all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and
- 2. continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and
- 3. clearly defined buffer areas are developed between agricultural and nonagricultural uses, and
- 4. the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and
- 5. public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the

conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.

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.

SENSITIVE HABITATS POLICIES

7.1 Definition of Sensitive Habitats

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and

marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

7.3 Protection of Sensitive Habitats

- 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.

7.4 Permitted Uses in Sensitive Habitats

- a. Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.
- b. In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

7.9 Permitted Uses in Riparian Corridors

- a. Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.
- b. When no feasible or practicable alternative exists, permit the following uses: (1) stream dependent aquaculture, provided that non-stream dependent facilities locate outside of corridor, (2) flood control projects, including selective removal of riparian vegetation, where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor

resources, (4) pipelines, (5) repair or maintenance of roadways or road crossings, (6) logging operations which are limited to temporary skid trails, stream crossings, roads and landings in accordance with State and County timber harvesting regulations, and (7) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels.

7.16 Permitted Uses in Wetlands

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.

7.23 Permitted Uses in Marine and Estuarine Habitats

In marine and estuarine habitats, permit only the following uses: (1) nature education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fishing and (4) fish and wildlife management.

7.26 Permitted Uses

In dune areas, permit only the following uses: (1) education and research, and (2) trails.

7.30 Permitted Uses

- a. Where nesting or roosting exists, permit only education and research activities.
- b. Where nesting or roosting does not exist, permit only the following uses: (1) education and research, (2) limited foot paths, (3) limited recreational rock climbing, (4) road and underground utility construction where no

feasible alternative exists, and (5) intake or outfall lines provided that the habitat is not threatened.

7.33 Permitted Uses

- a. Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.
- b. If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U.S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

7.44 Permitted Uses

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

VISUAL RESOURCES POLICIES

8.5 Location of Development

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

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

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

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

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

8.17 Alteration of Landforms; Roads and Grading

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

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

COMMISSION PERMIT HISTORY ON PAD-ZONED LAND

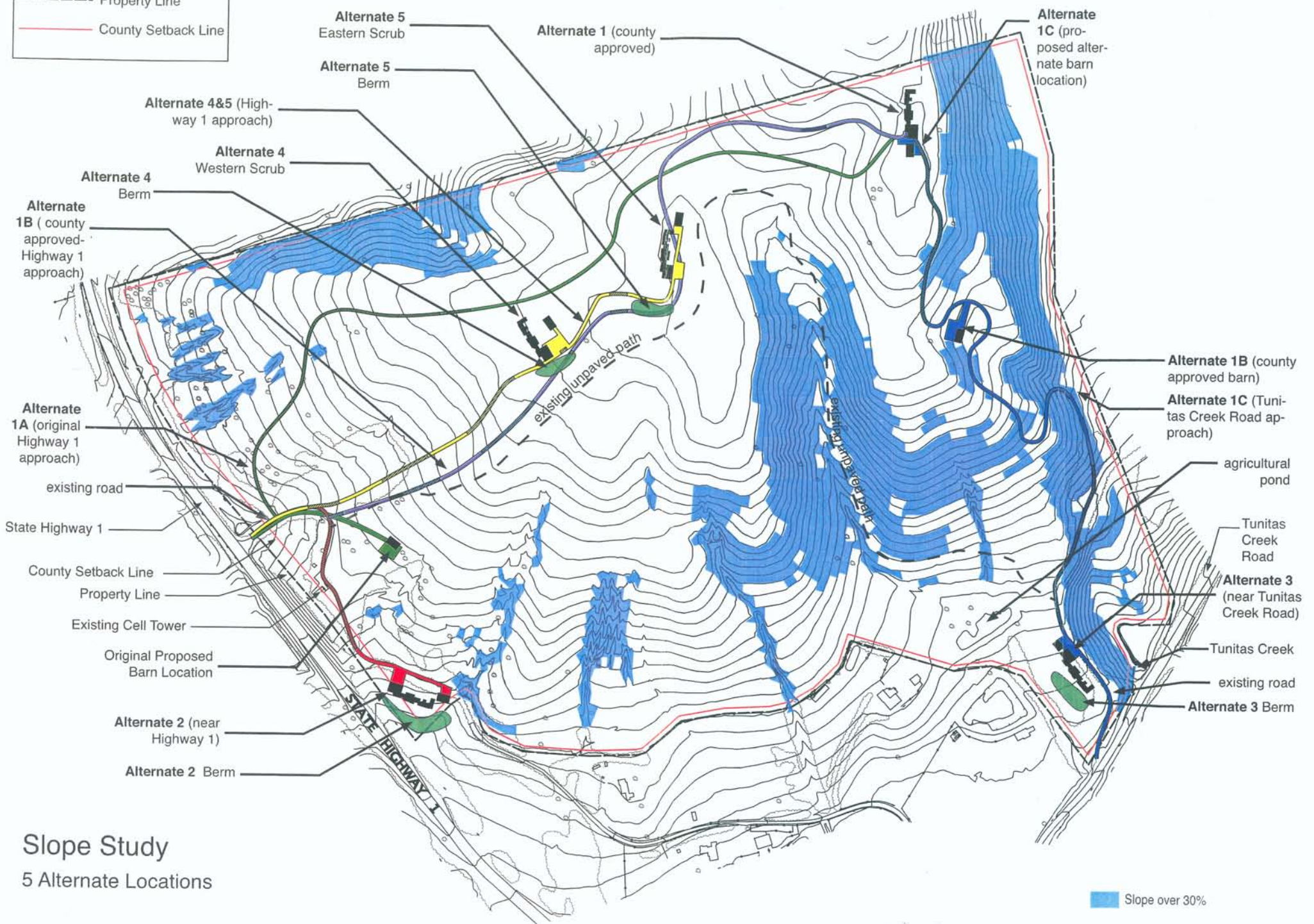
In reviewing the proposed project, Commission staff has reviewed past permit history on agricultural land in San Mateo County. This review is not comprehensive, i.e., it does not include a complete analysis of all previously allowed (or denied) development on agricultural land in San Mateo County, but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



Slope Study
 5 Alternate Locations

Waddell Property



Slope over 30%

LAWRENCE D. FORD, PH.D.
Rangelands Planning and Conservation Science
Certified Rangeland Manager and Certified Senior Ecologist¹
5984 Plateau Drive
Felton, California 95018-9253
phone/fax: 831.335.3959 email: fordld@sbcglobal.net

April 14, 2005

Keith Waddell
2221 Bay Hill Court
Half Moon Bay, California 94019

Re: Coastal Terrace Prairie and Livestock Grazing at 21960 Cabrillo Highway, Half Moon Bay

Dear Mr. Waddell:

I understand that the California Coastal Commission staff has raised concerns regarding impacts to coastal terrace prairie and livestock grazing associated with the proposed residential development on your 153-acre property (21960 Cabrillo Highway) near Half Moon Bay. You have asked that I analyze: (1) whether certain management practices and a conservation-oriented livestock grazing operation that would be associated with your use of the property would benefit the coastal terrace prairie; and (2) the potential income from leasing the land for livestock grazing and whether your use of the property would impact the agricultural production generated by the property. This letter provides the requested analyses, based upon on-site observations and review of the relevant scientific literature.

In addition, I have attached my October 21, 2004 letter, which includes analysis concluding that your proposed agricultural residence would not impact, but rather would enhance, the livestock grazing use on your property. As stated in that letter, given that the house and road would occupy a very small (0.1%) portion of the 153-acre site and would be located in an area of mature scrub, the project would not reduce the amount of herbaceous forage available, and cattle grazing could continue unaffected.

1. *The area of coastal terrace prairie habitat can be expanded by removing coyote brush scrub that has invaded it.* The manual clearing of coyote brush scrub and the resultant re-colonization of coastal terrace prairie would more than compensate for the de minimis impact to prairie that would result from your project. The scrub invades the prairie through natural succession in the absence of fire, grazing, and drought. On coastal sites, such as yours, scrub

¹ Certified Rangeland Manager (License #70), California Board of Forestry and Fire Protection; Certified Professional in Rangeland Management (#CP99-07) and Certified Range Management Consultant (pending), Society for Range Management; Technical Service Provider, U.S.D.A. Natural Resources Conservation Service (TSP-03-1600 for grazing/forages services); Certified Senior Ecologist, Ecological Society of America.

has invaded and covered much prairie due to the prevention of fire and de minimis livestock grazing. In the past, the Indians and early ranchers burned their prairie and scrub lands to maintain open prairie, and the scrub was probably limited to ravines, rocky hillsides, and stream banks.² Livestock grazing maintained the scrub-prairie boundaries. In the absence of these ecological forces, natural succession leads to invasion and replacement by coastal scrub, then oak-bay woodland.³ The scrub can be expected to gradually fill in and replace much of the remaining open prairie on your property and elsewhere in the region, particularly at lower elevations where moist marine air is common. On some parts of your property and farther inland on other properties, this succession is limited by shallow soils. Active management, such as brush clearing or livestock grazing is needed to avoid the eventual loss of most of your prairie.

It would be feasible to simply dig up enough coyote brush (*Baccharis pilularis*) plants to open up new prairie, and to offset the prairie impact of your project. Much of your land has patchy scrub that has recently (in the last 1-2 decades) invaded the prairie. If such sites were cleared, native and non-native grasses and forbs would very likely re-colonize from adjacent seed-sources and the soil seed bank. Some of the denser older stands of scrub would take longer to be re-colonized by prairie after clearing than the more open younger stands. Native grasses need not be seeded or planted when the scrub is removed because the existing prairie can be expected to simply expand. Artificial establishment is possible, but very costly, sometimes associated with weed introduction, and often is not effective. I would recommend gradual manual clearing and natural re-colonization as the best strategy to reduce scrub and expand prairie on your property.

2. Properly managed cattle grazing benefits the coastal terrace prairie. Properly managed livestock grazing is important, and is the most feasible alternative to maintain the open characteristics of the prairie. Although your property currently is grazed by cattle, management practices that favor the prairie, which I understand you would be interested in pursuing in connection with your accessory residential use of the property, could have significant restorative benefits to the prairie.

Livestock trampling and selective herbivory of the coyote brush (particularly the young seedlings during the dry seasons when herbaceous forage loses nutritional value), plus soil cracking and native animal herbivory, limits the spread of the scrub into the prairie.⁴ Alternatives to livestock grazing to achieve conservation goals are generally impractical. Grazing by native ungulates would be very costly and not feasible. Prescribed burning has become impractical due to strict air pollution regulations. Burning of the forage would also eliminate the opportunity for the agricultural economy based on grazing of the land. Livestock grazing can also benefit biological diversity of coastal terrace prairie. A study of coastal terrace prairie in California found that areas of coastal terrace prairie grazed by

² Ford, L.D. and G. Hayes. (In Press). Northern Coastal Scrub and Coastal Prairie. In: M.G. Barbour, T. Keeler-Wolf, and A. Schoenherr (Eds.). Terrestrial vegetation of California, Third Edition. Berkeley: University of California Press.

³ McBride, J.R. and H.F. Heady. 1968. Invasion of grassland by *Baccharis pilularis* DC. *Journal of Range Management* 21:106-108; McBride, J.R. 1974. Plant succession in the Berkeley Hills, California. *Madrono* 22(7):317-329.

⁴ Ibid.

livestock had a higher number of species and cover of native annual forbs than similar ungrazed areas.⁵ The researchers speculated that a heterogeneous grazing pattern would result in a greater number of native grasses and perennial forbs as well.

"Properly managed grazing" in this case involves a specialized prescription to favor the native prairie species and other conservation purposes. Timing of grazing is important, including concentration of grazing during the late winter and spring, and removing the livestock in late spring before the flowering of native grasses to disfavor the non-natives and allow a greater seed set of the natives.⁶ This differs from the "proper grazing" plans of a conventional livestock production operation.

Cattle grazing services for conservation purposes, such as to maintain or improve coastal terrace prairie habitat, are gaining recognition and value to owners of conservation properties throughout California. The benefit of maintenance of coastal terrace prairie on your property that would result from a prescribed livestock grazing program (and expansion of prairie by manual clearing of scrub) should more than compensate for the affected coastal terrace prairie associated with development of an access road on your property.

3. The potential annual gross income from leasing the property for cattle grazing would be \$2,280 - \$3,420. It is clear from the historical data for the county that livestock grazing use of your property alone is insufficient to provide a positive rate of return on your investment. The grazing capacity of your property as a whole is no more than one head of cattle per four acres.⁷ This would be equivalent to a maximum of 38 cattle (Animal Units) for the property's 153-acres.⁸ This works out to 228 Animal Unit Months (AUMs) for a six-month grazing period. The annual income potential from leasing the property for cattle grazing would likely be from \$10 to \$15 per AUM in your region;⁹ therefore 228 AUMs would yield \$2,280 to \$3,420 lease income annually. As the lessor, you might have costs for insurance, property taxes, utilities, hired labor, fencing, roads, water development, services, and maintenance each year that would be deducted from this income, depending upon terms in the lease.

⁵ Hayes, G.F. and K.D. Holl. 2003. Cattle grazing impacts on annual forbs and vegetation composition of mesic grasslands in California. *Conservation Biology* 17(6):1694-1702.

⁶ Menke, J.W. 1992. Grazing and fire management for native perennial grass restoration in California grasslands. *Fremontia* 20(2):22-25.

⁷ If the grazeable grassland is distinguished from woodland and scrubland and grasslands too steep or erodable (about 50%), then the capacity is one head per two acres. An assessment by the USDA Natural Resources Conservation Service recommended 1.5 AUMs per acre for a six-month grazing period (letter from Mr. Rich Casale, District Conservationist, to Kerry Burke May 16, 2002). The average grazing capacity of San Mateo County rangelands is 7-8 acres per cow-calf pair year-long or 3-5 acres per stocker for an 8-month grazing period (University of California Cooperative Extension, 1989. "The San Mateo County Agricultural Economic Viability Project." Produced for the San Mateo County Board of Supervisors). It is lower (acres/AUM) on the more-productive coastal rangelands.

⁸ $153 \text{ acres} \times 1 \text{ AU} / 4 \text{ acres} = 38 \text{ AUs}$ (an Animal Unit or AU is the standard of one mature 1000 lbs. cow with or without her calf and the amount of forage consumed).

⁹ The 2003 County Agricultural Commissioner's Data (California Agricultural Statistics Service) indicate the average income for range pasture in San Mateo County was \$9 / acre (at 1.5 AUMs / acre = \$6 / AUM); in Santa Cruz County, which is comparable to coastal San Mateo County, it was \$15 / acre (at 1.5 AUMs / acre = \$10 / AUM. Dr. James Bartolome, Professor of Rangeland Ecology at the University of California, Berkeley estimated \$15 / AUM for this area in a personal conversation April 7, 2005.

Since the accessory residence would be located in mature scrub, which the cattle do not use for grazing, the proposed residential use would not impact the grazing productivity of the site. Even if the house were located in grasslands where cattle do graze, given the carrying capacity of the property, your residential use would not diminish its agricultural production.

Cattle ranching in San Mateo County and elsewhere in coastal California has been a low- or no-profit activity for several decades, and supplementary enterprises or income sources are commonly required to support the ranches. According to a 1986 study of cattle ranchers in the county (with land and capital costs at 1986 levels and at simulated future increased levels), returns on equity and capital for grazing lands were negative.¹⁰ Even with reduced costs, most livestock enterprises in this region would lose money. It therefore is not at all clear that any increase in the value of your property associated with a residential use would preclude future acquisition or lease by a rancher seeking to establish a livestock operation, since even based on the current value of the property, that enterprise alone would not be profitable. Consequently, the economic viability of private lands on the coast used for livestock grazing is very likely to be dependent upon other values of the land (including residential use), the incorporation of non-livestock enterprises, and/or external inputs of capital through conservation easements.

Sincerely,



Lawrence D. Ford, Ph.D.

¹⁰ In 1986, the average return on equity for cattle ranches in San Mateo County was -3.1 to -2.3% (University of California Cooperative Extension, 1989. "The San Mateo County Agricultural Economic Viability Project." Produced for the San Mateo County Board of Supervisors).

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.

* * * * *

Exhibit No. 15
A-2-SMC-04-009
WADDELL

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 Subdivision (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

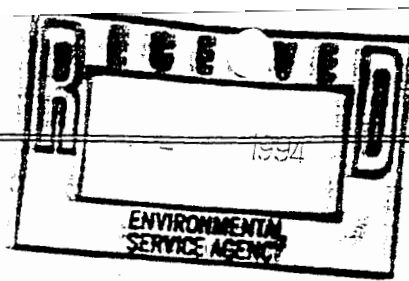
CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

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

- 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.

CHAPTER 694
FILED WITH SECRETARY OF STATE OCTOBER 9, 2003
APPROVED BY GOVERNOR OCTOBER 8, 2003
PASSED THE ASSEMBLY SEPTEMBER 11, 2003
PASSED THE SENATE SEPTEMBER 9, 2003
AMENDED IN SENATE SEPTEMBER 8, 2003
AMENDED IN SENATE SEPTEMBER 3, 2003
AMENDED IN SENATE JULY 15, 2003
AMENDED IN SENATE JULY 3, 2003
AMENDED IN SENATE JUNE 26, 2003
AMENDED IN ASSEMBLY MAY 13, 2003
AMENDED IN ASSEMBLY MAY 1, 2003

INTRODUCED BY Assembly Member Laird
(Coauthors: Assembly Members Berg, Hancock, Jackson, Koretz,
Lowenthal, and Wolk)

FEBRUARY 21, 2003

An act to amend Section 51257 of, and to add Section 51250 to, the Government Code, relating to agricultural land conservation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, Laird. Agricultural land conservation.

The Williamson Act, until January 1, 2004, in order to facilitate a lot line adjustment, authorizes parties to mutually agree to rescind a land conservation contract or contracts and simultaneously enter into a new contract or contracts covering the adjustment if the board of supervisors or city council makes specified findings.

This bill would extend that authorization to January 1, 2009.

Existing law authorizes the cancellation of an agricultural land conservation contract upon request of the landowner if the board of supervisors or city council makes specified findings and upon the payment of a cancellation fee. Existing law also provides principles of compatibility by which a board or council may approve compatible uses on contracted lands.

This bill would provide, with certain exceptions, that any commercial, industrial, or residential building constructed on a parcel subject to an agricultural land conservation contract that is not permitted by the contract or by local uniform rules or ordinances and is not related to an agricultural use or compatible use is a material breach of contract. This bill would require the Department of Conservation to notify the city or county administering the contract of a possible breach. The bill would require the city or county upon notification by the department, or upon its discovery of a possible breach, to determine the validity of the contract and whether the breach is material. The bill would require the city or county to notify the landowner and the department of its determination. The bill would permit the landowner to eliminate the conditions that resulted in the material breach. If the condition is not eliminated the city or county shall schedule the hearing and give notice of the hearing to the landowner and the department. The bill would require the city or county, upon its determination, after a public hearing, that a material breach exists, to order the

landowner to eliminate the condition that resulted in the material breach or to assess a monetary penalty and to cause to be recorded a certificate of contract termination by breach. The bill would also require the recording of a lien against the property, based on the value of the construction or improvements, that would be payable to the county treasurer. By imposing these duties on local government officers this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 51250 is added to the Government Code, to read:

51250. (a) The purpose of this section is to identify certain structures that constitute material breaches of contract under this chapter and to provide an alternate remedy to a contract cancellation petition by the landowner. Accordingly, this remedy is in addition to any other available remedies for breach of contract. Except as expressly provided in this section, this section is not intended to change the existing land use decisionmaking and enforcement authority of cities and counties including the authority conferred upon them by this chapter to administer agricultural preserves and contracts.

(b) For purposes of this section, a breach is material if, on a parcel under contract, both of the following conditions are met:

(1) A commercial, industrial, or residential building is constructed that is not allowed by this chapter or the contract, local uniform rules or ordinances consistent with the provisions of this chapter, and that is not related to an agricultural use or compatible use.

(2) The total area of all of the building or buildings likely causing the breach exceeds 2,500 square feet for either of the following:

(A) All property subject to any contract or all contiguous property subject to a contract or contracts owned by the same landowner or landowners on January 1, 2004.

(B) All property subject to a contract entered into after January 1, 2004, covering property not subject to a contract on January 1, 2004.

For purposes of this subdivision any additional parcels not specified in the legal description that accompanied the contract, as it existed prior to January 1, 2003, including any parcel created or recognized within an existing contract by subdivision, deed, partition, or, pursuant to Section 66499.35, by certificate of compliance, shall not increase the limitation of this subdivision.

(c) The department shall notify the city or county if the department discovers a possible breach.

(d) The city or county shall, upon notification by the department or upon discovery by the city or county of a possible material

breach, determine if there is a valid contract and if it is likely that the breach is material. In its investigation, the city or county shall endeavor to contact the landowner or his or her representative to learn the landowner's explanation of the facts and circumstances related to the possible material breach.

(e) Within 10 days of determining that it is likely that a material breach exists, the city or county shall notify the landowner and the department by certified mail, return receipt requested. This notice shall include the reasons for the determination and a copy of the contract.

(f) Within 60 days of receiving the notice, the landowner or his or her representative may notify the city or the county that the landowner intends to eliminate the conditions that resulted in the material breach within 60 days. If the landowner eliminates the conditions that resulted in the material breach within 60 days, the city or county shall take no further action under this section with respect to the building at issue. If the landowner notifies the city or county of the intention to eliminate the conditions but fails to do so, the city or county shall proceed with the hearing required in subdivision (g).

(g) The city or county shall schedule a hearing no more than 120 days after the notice is provided to the landowner as required in subdivision (e). The city or county shall give notice of the public hearing by certified mail, return receipt requested to the landowner and the department at least 30 days prior to the hearing. The city or county shall give notice of the public hearing by first-class mail to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the contracted parcel on which the likely material breach exists. The city or county shall also give published notice pursuant to Section 5061. The notice shall include the date, time, and place of the public hearing. Not less than five days before the hearing, the department may request that the city or county provide the department, at the department's expense, a recorded transcript of the hearing not more than 30 days after the hearing.

(h) At the public hearing, the city or county shall consider any oral or written testimony and then determine if a material breach exists.

(i) If the city or county determines that a material breach exists, the city or county shall do one of the following:

(1) Order the landowner to eliminate the conditions that resulted in the material breach within 60 days.

(2) Assess the monetary penalty pursuant to subdivision (j) and terminate the contract on that portion of the contracted parcel that has been made incompatible by the material breach.

If the landowner disagrees with the determination, he or she may pursue any other legal remedy that is available.

(j) The monetary penalty shall be 25 percent of the unrestricted fair market value of the land rendered incompatible by the breach, plus 25 percent of the value of the incompatible building and any related improvements on the contracted land. The basis for the valuation of the penalty shall be an independent appraisal of the current unrestricted fair market value of the property that is subject to the contract and affected by the incompatible use or uses, and a valuation of any buildings and any related improvements within the area affected by the incompatible use or uses. If the city or county determines that equity would permit a lesser penalty, the city or county, the landowner, and the department may negotiate a reduction in the penalty based on the factors specified in subdivision (k), but a reduction in the penalty may not exceed

one-half of the penalty. If negotiations are to be held, the city or county shall provide the department 15 days' notice before the first negotiation. If the department chooses not to be a negotiator or fails to send a negotiator, the city or county and the landowner may negotiate the penalty.

(k) In determining the amount of a lesser penalty, the negotiators shall consider:

(1) The nature, circumstances, extent, and gravity of the material breach.

(2) Whether the landowner's actions were willful, knowing, or negligent with respect to the material breach.

(3) The landowner's culpability in contributing to the material breach and whether the actions of prior landowners subject to the contract contributed to the material breach.

(4) Whether the actions of the city or county contributed to the material breach.

(5) Whether the landowner notified the city or county that the landowner would eliminate the conditions that resulted in the material breach within 30 days, but failed to do so.

(6) The willingness of the landowner to rapidly resolve the issue of the material breach.

(7) Any other mitigating or aggravating factors that justice may require.

(l) If the landowner is ordered to eliminate the conditions that resulted in the material breach pursuant to paragraph (1) of subdivision (i) but the landowner fails to do so within the time specified by the city or county, the city or county may abate the material breach as a public nuisance pursuant to any applicable provisions of law.

(m) If the city or county terminates the contract pursuant to paragraph (2) of subdivision (i), the city or county shall record a notice of termination following the procedures of Section 51283.4.

(n) The assessment of a monetary penalty pursuant to subdivision (i) shall be secured by a lien payable to the county treasurer of the county within which the property is located, in the amount assessed pursuant to subdivision (j) or (k). Once properly recorded and indexed, the lien shall have the force, effect, and priority of a judgment lien. The lien document shall provide both of the following:

(1) The name of the real property owner of record and shall contain either the legal description or the assessor's parcel number of the real property to which the lien attaches.

(2) A direct telephone number and address that interested parties may contact to determine the final amount of any applicable assessments and penalties owing on the lien pursuant to this section.

(o) If the lien is not paid within 60 days of recording, simple interest shall accrue on the unpaid penalty at the rate of 10 percent per year, and shall continue to accrue until the penalty is paid, prior to all other claims except those with superior status under federal or state law.

(p) Upon payment of the lien, the city or county shall record a release of lien and a certificate of contract termination by breach with the county recorder for the land rendered incompatible by the breach.

(q) The city or county may deduct from any funds received pursuant to this chapter the amount of the actual costs of administering this section and shall transmit the balance of the funds by the county treasurer to the Controller for deposit in the Soil Conservation Fund.

(r) (1) The department may carry out the responsibilities of a city or county under this section if either of the following occurs:

(A) The city or county fails to determine whether there is a material breach within 210 days of the discovery of the breach.

(B) The city or county fails to complete the requirements of this section within 180 days of the determination that a material breach exists.

(2) The city or county may request in writing to the department, the department's approval for an extension of time for the city or county to act and the reasons for the extension. Approval may not be unreasonably withheld by the department.

(3) The department shall notify the city or county 30 days prior to its exercise of any responsibility under this subdivision.

(4) This section shall not be construed to limit the authority of the Secretary of the Resources Agency under Section 16146 or 16147.

(s) (1) This section does not apply to any of the following:

(A) A building constructed prior to January 1, 2004, or permitted by a city or county prior to January 1, 2004.

(B) A building that was not a material breach at the time of construction but became a material breach because of a change in law or ordinance.

(C) A building owned by the state.

(2) Subject to paragraphs (4) and (5), this section does not apply when a board or council cancels a contract pursuant to Article 5 (commencing with Section 51280) or terminates a contract pursuant to Section 51243.5 or when a public agency, as defined by subdivision (a) of Section 51291, acquires land subject to contract by, or in lieu of, eminent domain pursuant to Article 6 (commencing with Section 51290) unless either of the following occurs:

(A) The action canceling or terminating the contract is rescinded.

(B) A court determines that the cancellation or termination was not properly executed pursuant to this chapter, or that the land continues to be subject to the contract.

(3) On the motion of any party with standing to bring an action for breach, any court hearing an action challenging the termination of a contract entered into under this chapter shall consolidate any action for breach, including the remedies for material breach available pursuant to this section.

(4) Paragraph (2) shall not be applicable for a cancellation or termination occurring after January 1, 2004, unless the affected landowner provides to the administering board or council and to the department, within 30 days after the cancellation or termination, a notarized statement, in a form acceptable to the department, signed under penalty of perjury and filed with the county recorder, acknowledging that the breach provisions of this section may apply if any of the following conditions are met:

(A) The action by the local government is rescinded.

(B) A court permanently enjoins, voids, or rescinds the cancellation or termination.

(C) For any other reason, the land continues to be subject to the contract.

(5) Paragraph (2) does not apply for a cancellation or termination occurring before January 1, 2004, unless the landowner provides the statement required in paragraph (4) prior to the approval of a building permit necessary for the construction of a commercial, industrial, or residential building.

(t) It is the intent of the Legislature to encourage cities and counties, in consultation with contracting landowners and the

department, to review existing Williamson Act enforcement programs and consider any additions or improvements that would make local enforcement more effective, equitable, or widely acceptable to the affected landowners. Cities and counties are also encouraged to include enforcement provisions within the terms of the contracts, with the consent of contracting landowners.

SEC. 2. Section 51257 of the Government Code is amended to read:

51257. (a) To facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:

(1) The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

(2) There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

(3) At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

(4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

(5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

(6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

(7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

(b) Nothing in this section shall limit the authority of the board or council to enact additional conditions or restrictions on lot line adjustments.

(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.

(d) In the year 2008, the department's Williamson Act Status Report, prepared pursuant to Section 51207, shall include a review of the performance of this section.

(e) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2009, deletes or extends that date.

SEC. 3. In enacting Section 2 of this bill, the Legislature finds and declares that the extension of the sunset provisions of Section 51257 of the Government Code shall not be construed as making any other change in the meaning or interpretation of Section 51257 of the Government Code.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000),

reimbursement shall be made from the State Mandates Claims Fund.