

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 585-1800

Appeal Filed: 3/12/04
 Substantial Issue Found: 4/15/04
 Staff: SLG-V
 Staff Report: 6/21/06
 Hearing Date: 7/12/06



STAFF REPORT: APPEAL
DE NOVO REVIEW

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LOCAL GOVERNMENT: County of Santa Barbara

LOCAL DECISION: Approval with Conditions

CDP/APPEAL NO.: A-4-STB-06-054 (Parcel 22) (Substantial Issue Appeal No. A-4-STB-04-035)

CDP/APPEAL NO.: A-4-STB-06-055 (Parcel 23) (Substantial Issue Appeal No. A-4-STB-04-035)

APPLICANTS: Christopher and Kathryn Chase

APPELLANTS: Commissioners Wan and Woolley; Bruce Murdock; Rick and Janet Stich; Edward Maguire; and Chris and Kathryn Chase

PROJECT LOCATION: 6800 Block of Del Playa Drive, Isla Vista, Santa Barbara County (APNs 075-181-022 and -023)

PROJECT DESCRIPTION: Construction of three-level single-family residences on adjacent bluff top lots, with parking for two to three cars on each lot. The applicants submitted revised project plans dated January 3, 2006, more specifically described as follows:

CDP A-4-STB-06-054 (Parcel 22): Construction of a three-level 1,798 sq. ft., maximum 28 ft. 10-inch high, single family residence with 419 sq. ft. garage and carport, and 567 sq. ft. of decks.

CDP A-4-STB-06-055 (Parcel 23): Construction of a three-level 1,998 sq. ft., maximum 28 ft. 10-inch high, single family residence with 610 sq. ft. garage-carport-laundry, and 828 sq. ft. of decks.

SUMMARY OF STAFF RECOMMENDATION: On April 15, 2004, the Commission determined that a substantial issue exists with respect to the appellants' assertions that the proposed residences are not consistent with the wetlands, environmentally sensitive habitat, water quality, and visual resource standards of the certified Local Coastal Program (LCP). The de novo review occurred at the January 12, 2005 Commission

hearing and was continued in order to address additional alternatives. Since the last hearing, the applicants have submitted revised plans which are analyzed in this staff report.

Staff recommends approval of the proposed project in Coastal Development Permit No. A-4-STB-06-054 with fifteen (15) special conditions, regarding revised plans, assumption of risk, no future shoreline protective device, future development deed restriction, wetland mitigation, long-term wetland management measures, lighting restriction, construction monitoring, drainage and polluted runoff control plan, interim erosion control plans, signage program, operational responsibilities, general deed restriction, conditions imposed by the local government, and open space development restrictions.

Staff recommends approval of the proposed project in Coastal Development Permit No. A-4-STB-06-055 with fifteen (15) special conditions, regarding revised plans, assumption of risk, no future shoreline protective device, future development deed restriction, wetland mitigation, long-term wetland management measures, lighting restriction, construction monitoring, drainage and polluted runoff control plan, interim erosion control plans, signage program, operational responsibilities, general deed restriction, conditions imposed by the local government, and open space development restrictions.

The standard of review for the project is the Santa Barbara County LCP and the Chapter Three Policies of the Coastal Act, as incorporated in their entirety into the LCP. As conditioned, the proposed project is consistent with all applicable policies of the LCP and the Chapter Three policies of the Coastal Act. The motions and resolutions to approve these projects pursuant to the staff recommendation begin on **Page 8**.

The two approximately 5,600 sq. ft. project sites are located on adjacent bluff top lots in Isla Vista on parcels designated as Environmentally Sensitive Habitat (ESH) in the County of Santa Barbara's certified Local Coastal Program. Both lots are zoned for single-family residential, minimum 10,000 sq. ft. lot size (10-R-1). The subject lots are undeveloped, relatively flat and surrounded by four publicly-owned open space parcels to the east and one publicly-owned open space lot to the west. Wetlands are present over most of the site (Exhibit 3). A wetland delineation was conducted on the subject parcels in 1997, indicating wetland coverage of 61% on Parcel 22 and 48% on Parcel 23. The wetlands are vernal swales and flats. The County's analysis indicated that single family residences in the vicinity ranged from 1,300 to 2,100 sq. ft.

LCP Policy 9-9 requires a 100-foot buffer to be maintained in a natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer except structures of a minor nature. Because of the size of the parcels, there is no part of the subject sites that would be outside of the required 100-foot wetland buffer. Therefore, application of LCP 9-9, by itself, would require denial of any development on the subject lots because the 100-foot wetland buffer is not feasible under any circumstances.

However, Coastal Act Section 30010 provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Consequently, development must necessarily be approved within the 100-foot wetland buffer in order to provide an economically viable use. Therefore, siting and design alternatives must be considered in order to identify the alternative that can avoid and minimize impacts to the wetland to the greatest extent feasible. In this case, the County-approved project is located on the northern end of the parcels, as close as the edge of the delineated wetland boundary, effectively eliminating the wetland buffer requirement (Exhibit 6). In reliance of this option, to provide a level of development that would not constitute a taking, the County granted variances from setback standards on both parcels to avoid impacts to wetlands.

At the January 12, 2005 de novo hearing, staff recommended approval of a development footprint on Parcels 22 and 23 that would setback all development five feet from the boundary of the delineated wetlands. The five-foot setback was intended to create a margin of separation between the wetlands and the residential development in order to allow routine maintenance of the outside of the house. However, at the hearing, Commissioners were concerned that the residence on Parcel 22 could not be designed within a first floor footprint of 772 sq. ft. in a configuration that would accommodate parking and a reasonable living space. The hearing was continued to determine alternatives, among other reasons.

The applicants have submitted three iterations of plans since the January 12, 2005 hearing (see Tables 1 and 2 below). The most recent project plans, dated January 3, 2006, would locate development outside of the identified wetland areas, with the exception of a 3-ft. wide raised boardwalk on Parcel 22. The walkway would allow access around a portion of the house for maintenance purposes.

Table 1. Summary of four iterations of project plans submitted by the applicants for Parcel 22.

	Original	7/31/2005	12/14/2005	1/3/2006
Ground Coverage		1,431	1,039	1,039
Bldg Footprint	1,362	1088	959	959
Total Deck		906	517	567
Lower Deck Footprint	391	343	80	80
Upper Deck		376	300	300
Roof Deck		187	137	187
Parking		478 (incl/laundry)	419	419
Driveway/Entry	163			
Total Habitable Area	1,797	1796	1798	1798
Lower Floor (sq. ft.)	775	610	540	540
Upper Floor (sq. ft.)	1040	912	824	824
Loft (sq. ft.)	N/A	274	434	434
Max Roof Height		25 ft.	28.8 ft,	28.8 ft.

*Note, Lot size = 5,600 sq. ft.

Table 2. Summary of four iterations of project plans submitted by the applicants for Parcel 23.

	Original	7/31/2005	12/14/2005	1/3/2006
Ground Coverage	2300	1555	1665	1665
Bldg Footprint	1,362	1300	1300	1300
Total Deck		718	828	828
Lower Deck Footprint	391	255	365	365
Upper Deck		304	304	304
Roof Deck		159	159	159
Parking		610 (incl/laundry)	610 (incl/laundry)	610 (incl/laundry)
Driveway/Entry	163			
Total Habitable Area	1,797	1998	1998	1998
Lower Floor (sq. ft.)	775	690	690	690
Upper Floor (sq. ft.)	1040	970	970	970
Loft (sq. ft.)	N/A	338	338	338
Max Roof Height		28.8ft.	28.8 ft.	28.8 ft.

*Note, Lot size = 5,600 sq. ft.

The Commission must protect wetlands to the maximum extent feasible while at the same time providing reasonable economic use of the property. To ensure that the applicants receive an economically viable use of their property, staff is recommending conditional approval of the January 3, 2006 plans, with some design changes. The most notable design change is the requirement to construct a *continuous* 3-ft. wide raised wood plank boardwalk (Exhibit 6) to connect with the proposed deck and patio areas to allow maintenance along the *entire* rear of the structure(s). The walkway would be configured to provide a continuous means of access along the south side of the structures and delineate the southern boundary of the developed area. The purpose of this walkway configuration would be to avoid residentially-related intrusion into the wetland. The boardwalks, decks, and patios would be required to have a continuous five-foot high barrier railing on the southernmost portion of the decks/boardwalks/patios, spanning from the western property boundary to the eastern property boundary. (Exhibit 6) The barrier railing would be designed to hinder passage of humans and pets, and may consist, all or in part, of plexiglass or other visually permeable barriers. Gates would be allowed only on each end of the property boundaries and gates would not be allowed to open toward the wetland.

Another modification to the January 3, 2006 plans, pursuant to Special Condition One, requires a reduction in the upper story deck on Parcel 22 which extends over the wetland. Though the support beams of this deck are not within the delineated wetland area, the deck would extend over a portion of the wetland. The proximity of the deck over the wetland would have potential adverse impacts as a result of household pollutants or runoff introduced directly into the wetland and/or human and equipment intrusion directly into the wetland to conduct routine maintenance. Additionally, the presence of structures over wetlands may have long-term adverse impacts due to shading of the wetlands and the resulting effects to soil moisture, hydrology, and vegetation. As a result of these long-term changes, the shaded areas beneath the deck are unlikely to contain the full range of habitat that would be expected in an area that is

not impacted by shading. For these reasons, Special Condition One limits the upper story decks to extend only as far as the approved first floor decks/boardwalk.

The January 3, 2006 project design requires variances from front and side yard setbacks and height requirements, to allow the development to be located outside of the wetland areas. Both parcels would have a 3½ -foot setback from the road right-of-way along the north property line. Additionally, there would be no side yard setback requirements for either property. Under the project site's 10-R-1 zoning, structures can reach a maximum height of 25 feet. However, the January 3, 2006 project design includes a loft at a maximum height of 28 ft, 10 inches.

These variances would potentially have an adverse effect on protection of visual resources, such as views and community character. In this case, to provide reasonable economic use of property, the visual policies of the LCP cannot be fully applied. Where there is conflict between protection of wetlands and protection of visual resources, both the LCP and Coastal Act find that the protection of wetlands is of higher priority.

It is important to note that the majority of visual impacts will be to private views, rather than public views. Though the development will be visually imposing, the public will have the ability to bypass the development and access the open space and lateral bluff top path located between these parcels and the ocean. Additionally the lots are each 40 feet wide and ocean through-view corridors are present immediately east and west of the properties. The structures will briefly interrupt public views by automobile but are not substantially out of character with the existing built-out Del Playa bluff top.

Therefore, to allow reasonable economic use of property consistent with Section 30010 of the Coastal Act, there will be unavoidable adverse impacts to wetlands and visual resources. However, as conditioned, the proposed residential development is the minimum necessary to avoid a taking and the impacts to wetlands that cannot be avoided, are mitigated to the maximum extent feasible.

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 - Exhibit 3. Wetland Delineation
 - Exhibit 4. Fencing & Signage
 - Exhibit 5. January 3, 2006 Project Plans
 - Exhibit 6. 3-ft Wide Raised Boardwalk
 - Exhibit 7. Applicants' Original Proposed Development
 - Exhibit 8. County-Approved Development Footprint
 - Exhibit 9. County Approval with Conditions
 - Exhibit 10. John Dixon Memo Regarding Chase Property Wetland Delineation
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SUBSTANTIVE FILE DOCUMENTS: County of Santa Barbara Coastal Development Permits (01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004, approved 2/24/04); Proposed Final Environmental Impact Report for the Chase Single-Family Dwellings, Santa Barbara County, California (September 2003); Office of County Counsel Memorandum Re: Takings Analysis on Appeal of Chase Single Family Dwellings and Variances (11/21/03); Survey of Chase Property on Del Playa Drive in Isla Vista (Rachel Tierney Consulting, 11/17/03); Plant Surveys and Wetland Delineations for Five Land Parcels, Del Playa Drive, Isla Vista, CA (FLx, May 1997);

I. STANDARD OF REVIEW

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project sites). In this case, the proposed development was appealed to the Commission, which found during a public hearing on April 15, 2004, that a substantial issue was raised.

As a "de novo" application, the standard of review for the proposed development is, in part, the policies and provisions of the County of Santa Barbara Local Coastal Program. In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, (such as the project sites), must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act with respect to public access and public recreation. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP.

II. STAFF RECOMMENDATIONS

A. APPROVAL WITH CONDITIONS CDP NO. A-4-STB-06-054 (PARCEL 22)

MOTION I: *I move that the Commission approve Coastal Development Permit No. A-4-STB-06-054 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMITS:

The Commission hereby approves a coastal development permit for the proposed development on the ground that the development is located between the sea and the first public road nearest the shoreline and will conform with the policies of the certified Local Coastal Program for the County of Santa Barbara and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act since feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

B. APPROVAL WITH CONDITIONS CDP NO. A-4-STB-06-055 (PARCEL 23)

MOTION II: *I move that the Commission approve Coastal Development Permit No. A-4-STB-06-055 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMITS:

The Commission hereby approves a coastal development permit for the proposed development on the ground that the development is located between the sea and the first public road nearest the shoreline and will conform with the policies of the certified Local Coastal Program for the County of Santa Barbara and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act since feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

III. STANDARD CONDITIONS

(Note: These Standard Conditions are applicable to both Coastal Development Permit Nos. A-4-STB-06-054 and A-4-STB-06-055.)

- 1. Notice of Receipt and Acknowledgment.** These permits are not valid and development shall not commence until copies of the permits, signed by the permittee or authorized agent, acknowledging receipt of the permits and acceptance of the terms and conditions, are returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permits will expire two years from the date on which the Commission voted on the de novo appeal of the permits. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application(s) for extension of the permit(s) must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.

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 properties to the terms and conditions.

IV. SPECIAL CONDITIONS

A. SPECIAL CONDITIONS FOR CDP A-4-STB-06-054 (PARCEL 22)

(Note: These Special Conditions are applicable to Coastal Development Permit No. A-4-STB-06-054)

1. Revised Plans

A. Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans shall be in conformance with the project plans dated January 3, 2006, except that the revised final project plans and project description shall reflect the following:

1. There shall be no fence between Parcel 22 and Parcel 23.
2. Upper story decks over the wetland shall be cantilevered only and shall not extend beyond the footprint of the ground floor decks and boardwalks.
3. A 3-ft wide raised, wood plank boardwalk shall be installed: (1) south of the carport in order to connect the proposed 3-foot boardwalk to the eastern property line and (2) south of the southernmost portion of the residence in order to connect the proposed ground floor deck with the western property line, as shown in Exhibit 6. The approved boardwalks and decks shall be configured in a manner to provide a non-obstructed access corridor between the east and west property boundaries along the south of the residence. The boardwalks and decks shall include a continuous five-foot high barrier railing on the southernmost portion of the decks/boardwalks, spanning from the western property boundary to the eastern property boundary. The barrier railing shall be sufficiently solid to hinder passage of humans and pets, and may consist, all or in part, of plexiglass or other visually permeable barriers. Gates shall not be installed to open toward the wetland. The 3-ft wide wood plank boardwalk and barrier railing shall be installed prior to occupancy.
4. A permanent split rail fence, maximum four feet in height, shall be installed to protect the onsite wetlands. The split rail fence may have two potential configurations, depending upon whether the development on adjoining Parcel 23 is constructed or in the process of construction by the time the Certificate of Occupancy is obtained for development on Parcel 22. If the development on Parcel 23 is constructed or in the process of construction, then the split rail fence shall be installed along the balance of the eastern property line south of the required barrier railing on Parcel 23, along the southern property line of

Parcels 22 and 23, and on the balance of the western property line south of the barrier railing on Parcel 22, as indicated in Exhibit 4. If the development on Parcel 23 is not constructed, or in the process of construction, then the split rail fence shall be installed along the balance of the east and west property lines south of the required barrier railing on Parcel 22 and along the southern property line of Parcel 22 (Exhibit 4). When the Certificate of Occupancy is obtained for both parcels, the split-rail fence, if constructed, shall be removed along the eastern property boundary on Parcel 22. The split-rail fence shall be installed prior to occupancy, however the Executive Director may grant additional time for good cause. The fence shall have signs posted, as described in **Special Condition Eleven**, to discourage entry into the wetland area. The minimum distance from ground level to the split-rail fence's first rung shall be 18 inches. Barbed-wire fencing or permanent chainlink fencing shall not be installed between lots or along property boundaries.

2. Assumption of Risk

- A. By acceptance of this permit, the applicants acknowledge and agree, on behalf of itself and all successors and assignees, to the following:
1. The applicants acknowledge and agree that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, and flooding.
 2. The applicants acknowledge and agree to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
 3. The applicants unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
 4. The applicants agree to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. No Future Shoreline Protective Device

- A. By acceptance of the permit, the applicants agree, on behalf of itself and all successors and assigns, that no shoreline or bluff protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit A-4-STB-06-054 including, but not limited to, the residence, garage or carport, driveways/patios, fencing, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of itself and all successors and

assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or the certified LCP.

- B. By acceptance of this permit, the applicants further agree, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence(s), garage(s) or carport(s), driveways/patio areas, fencing, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. A-4-STB-06-054. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) and Section 35-169.2 of the Santa Barbara County Coastal Zoning Ordinance shall not apply to the entire property. Accordingly, any future improvements to the entire property, including, but not limited to, landscaping, grading, clearing or other disturbance of vegetation and fencing, other than as provided for in this coastal development permit, shall require an amendment to Permit No. A-4-STB-06-054 from the Commission or shall require an additional coastal development permit from the applicable certified local government.

5. Wetland Mitigation

Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, an Onsite Wetland Enhancement Plan and an Offsite Restoration Plan subject to the following provisions. Said plans shall be prepared by a qualified biologist, ecologist, or resource specialist with experience in the field of restoration ecology, and with a background knowledge of vernal wetlands. The applicants shall provide the resource specialist's qualifications, for the review and approval of the Executive Director, prior to plan development. The Onsite Wetland Enhancement Plan and an Offsite Restoration Plan shall include, at a minimum, the following information:

A. Onsite Wetland Enhancement Plan. The Onsite Wetland Enhancement Plan shall include, at a minimum, the following information:

5. The onsite wetland enhancement shall include, at a minimum, the removal of any and all invasive plant species on the site; the removal of all non-native, non-wetland indicator plants within the boundary of the delineated wetland (FLx, 1997) and the adjacent open space area(s) on-site; revegetation of all disturbed areas with appropriate native species, including areas where invasive and non-native plants were removed within and adjacent to the delineated wetland;; and the installation of a permanent split-rail fence and educational and instructional

signage to protect the remaining wetland habitat against impacts from humans, vehicles and pets as required in **Special Condition One and Special Condition Eleven**. The wetland enhancement plan shall include implementation of procedures to provide formal written notice to all occupant(s) and future occupants of the dwelling describing the wetland protection goals and objectives and statement that any activities, with the exception of restoration maintenance activities listed below, within the wetland are strictly prohibited. The written notice shall be a separate notice given to each occupant 18 years of age or older at the time of lease signing.

6. A baseline assessment, including photographs, of the current physical and ecological condition of the onsite wetland boundaries delineated in the 1997 FLx report and the adjacent open space areas on site, including, a description and map of the delineated wetland showing the area and distribution of vegetation types, and a map showing the distribution and abundance of sensitive species.
7. A description of the goals and objectives of the enhancement plan, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage. Documentation of performance standards, which provide a mechanism for making adjustments to the mitigation site when it is determined, through monitoring, or other means that the restoration techniques are not working.
8. A planting palette (seed mix and container plants), planting design, source of plant material, and plant installation. The planting palette shall be made up exclusively of native plants that are appropriate to the vernal wetland habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. The main plant communities that may be included in the plan are vernal pool, vernal swales or flats, and native perennial grassland. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.
9. Sufficient technical detail on the enhancement activities including, at a minimum, a planting program including method and location of exotic species removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques.
10. A plan for documenting and reporting the physical and biological "as built" condition of the entire area south of the residence, within 30 days of completion of the initial enhancement activities. The report shall describe the field implementation of the approved restoration program in narrative and photographs, and report any problems in the implementation and their resolution.
11. Provisions for on-going wetland area maintenance and/or management for the life of the proposed residential development. At a minimum, semi-annual

maintenance and/or management activities shall include, as necessary, debris removal, periodic weeding of invasive and non-native vegetation and revegetation consistent with the approved enhancement plan. Onsite wetland maintenance and/or management activities shall occur within the onsite wetland boundaries delineated in the 1997 FLx report and the adjacent open space areas on the site.

12. The Onsite Wetland Enhancement Plan shall specify long-term maintenance of the onsite wetland and adjacent onsite open space areas. The applicants shall hire a qualified resource specialist, with qualifications acceptable to the Executive Director, to implement the ongoing wetland maintenance program required by this Condition. The applicants shall provide the resource specialist's qualifications, for the review and approval of the Executive Director, at least two weeks prior to the initial scheduled maintenance.

B. Offsite Restoration Plan. The Offsite Restoration Plan shall include, at a minimum, the following information:

1. Identification of the area(s) of disturbed or degraded wetland habitat of equivalent type in the Goleta vicinity that shall be restored sufficient to provide mitigation of the long-term wetland impacts at a ratio of 2:1 for the 3,422 sq. ft. of vernal pool wetland habitat on Parcel 22. The total area of created or restored vernal pool wetland habitat required is 6,844 sq. ft. for Parcel 22 impacts.
2. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed restoration site, including, a wetland delineation conducted according to the definitions in the Coastal Act and the Commission's Regulations, a description and map showing the area and distribution of vegetation types, and a map showing the distribution and abundance of sensitive species. Existing vegetation, wetlands, and sensitive species shall be depicted on a map that includes the footprint of the proposed restoration.
3. A description of the goals of the restoration plan, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage. Documentation of performance standards, which provide a mechanism for making adjustments to the mitigation site when it is determined, through monitoring, or other means that the restoration techniques are not working.
4. Documentation of the necessary management and maintenance requirements, and provisions for timely remediation should the need arise.
5. A planting palette (seed mix and container plants), planting design, source of plant material, and plant installation. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary,

shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.

6. Sufficient technical detail on the restoration design including, at a minimum, a planting program including a description of planned site preparation, method and location of exotic species removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques.
7. A plan for documenting and reporting the physical and biological “as built” condition of the site within 30 days of completion of the initial restoration activities. The report shall describe the field implementation of the approved restoration program in narrative and photographs, and report any problems in the implementation and their resolution.
8. Documentation that the project will continue to function as a viable restored wetland site, as applicable, over the long term.
9. Documentation that the applicants have obtained all necessary rights from the property owner to access, use and maintain the mitigation site in compliance with all requirements of the restoration plan.

C. Monitoring

1. A Monitoring Program to monitor the Onsite Wetland Enhancement and Offsite Wetland Restoration. Said monitoring program shall set forth the guidelines, criteria and performance standards by which the success of the enhancement and restoration shall be determined. The monitoring programs shall include but not be limited to the following:
 - (a) Interim and Final Success Criteria. Interim and final success criteria shall include, as appropriate: species diversity, total ground cover of vegetation, vegetative cover of dominant species and definition of dominants, wildlife usage, hydrology, and presence and abundance of sensitive species or other individual “target” species.
 - (b) Interim Monitoring Reports. The applicants shall submit, for the review and approval of the Executive Director, on an annual basis, for a period of five (5) years, a written monitoring report, prepared by a monitoring resource specialist indicating the progress and relative success or failure of the enhancement on the site. This report shall also include further recommendations and requirements for additional enhancement/restoration activities in order for the project to meet the criteria and performance standards. This report shall also include photographs taken from predesignated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. Each report shall be cumulative and shall summarize all previous results. Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the enhancement/restoration project in relation to the interim performance standards and final success criteria.

- (c) Final Report. At the end of the five-year period, a final detailed report on the restoration shall be submitted for the review and approval of the Executive Director. If this report indicates that the enhancement/restoration project has, in part, or in whole, been unsuccessful, based on the performance standards specified in the restoration plan, the applicant(s) shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved success criteria. The revised or supplemental program shall be processed as an amendment to this permit.
- (d) Monitoring Period and Mid-Course Corrections. During the five-year monitoring period, all artificial inputs (e.g., irrigation, soil amendments, plantings) shall be removed except for the purposes of providing mid-course corrections or maintenance to insure the survival of the enhancement/restoration site. If these inputs are required beyond the first two years, then the monitoring program shall be extended for every additional year that such inputs are required, so that the success and sustainability of the enhancement/restoration is insured. The enhancement/restoration site shall not be considered successful until it is able to survive without artificial inputs.

D. Implementation

- 1. The Onsite Wetland Enhancement and Offsite Restoration activities shall be implemented by qualified biologists, ecologists, or resource specialists who are experienced in the field of restoration ecology within 60 days after the completion of construction of each residence(s). The Executive Director may grant additional time for good cause. The monitoring plan shall be implemented immediately following the enhancement/restoration. The applicants shall provide the resource specialist's qualifications, for the review and approval of the Executive Director, at least two weeks prior to the start of such activities.
- 2. The Permittee shall undertake development in accordance with the final approved 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 the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Long-Term Wetland Management

- A. By acceptance of the permit, the applicants agree, on behalf of itself and all successors and assignees, to the following:
 - 1. The split-rail fence on the balance of the property lines, as shown in Exhibit 4, shall be installed prior to the start of construction and shall be maintained in good condition for the life of the project. The fences shall be repaired and/or

replaced when necessary, in a manner that complies with the Conditions of CDP No. A-4-STB-04-054.

2. No grass cutting shall be permitted within the delineated wetland areas except where required for wetland enhancement purposes and as approved in the Onsite Wetland Enhancement Plan.
3. No disking for fire control or any other use shall occur in or adjacent to the wetlands on the property as identified in the 1997 FLx report.
4. Mosquito abatement and/or other mosquito control activities shall not be conducted by anyone other than a public agency for health reasons. In such cases where a public agency determines that mosquito control is necessary for public health and safety reasons, non-chemical solutions such as mosquito fish or bacterium shall be considered as a first measure. This condition shall not be interpreted to prohibit personal mosquito traps placed outside of the wetlands in proximity to the residence.
5. Invasive plant species shall not be planted anywhere on the project site(s).
6. Pesticides, herbicides, and/or rodenticides shall not be used within the delineated wetland as identified in the 1997 FLx report. Pesticides, herbicides, and/or rodenticides shall not be placed, stored, or used in a manner that would be dispersed into the delineated wetland as identified in the 1997 FLx report.
7. Debris, waste, equipment or other materials shall not be placed or stored within the delineated wetland, nor placed or stored where they may be subject to dispersion to the delineated wetland as identified in the 1997 FLx report.
8. No one shall enter the wetland area south of the residence except to carry out the Onsite Wetland Enhancement Plan required by Condition 5 of CDP No. A-4-STB-04-054 or to maintain, repair or replace the fences required by this Condition.

7. Lighting Restriction

- A. Prior to issuance of the coastal development permit, the applicant(s) shall submit two (2) sets of Lighting Plans, for review and approval by the Executive Director, incorporating the following requirements:
 1. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel(s) and prevent spill-over onto adjacent parcels, including public open space areas, and into the wetland habitat. The only outdoor night lighting allowed on the subject parcels is limited to the minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. Security lighting attached to the residence and garage shall be controlled by motion detectors. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed. **All** exterior lighting, including but not limited to security lighting, shall be limited to fixtures that generate the same

or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

2. The lighting plan shall show the locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture, the lighting specifications, and the height of the fixtures. The plan shall be designed in particular to avoid lighting impacts to the wetland habitat. All outdoor lighting on the parcel shall comply with the approved Lighting Plans.

8. Construction Monitoring

The applicants shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director to serve as the biological monitor. The applicants shall provide the biological monitor's qualifications for the review and approval of the Executive Director at least two (2) weeks prior to commencement of development. The applicants shall ensure that the biological monitor: (1) oversees the installation of the decks and boardwalks and split-rail wetland protection fence at the edge of the permitted construction zone, prior to any construction activities; and (2) is present during and observes all excavation, exterior construction such as framing and foundation placement, exterior paint/stucco application, and any grading activities to prevent intrusion into the delineated wetland habitat. If the biological monitor concludes that any activity has adversely impacted wetland habitat, on or adjacent to the site, the applicants shall cease work. In such event, the applicants shall notify the Executive Director within 24 hours of the biological monitor's conclusion that there has been an adverse impact. Project activities shall resume only upon written approval of the Executive Director. If significant impacts or damage occur to sensitive habitat or species, the applicants shall be required to mitigate such impacts and shall submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be submitted as an amendment to this coastal development permit.

9. Drainage and Polluted Runoff Control Plan

- A. Prior to the issuance of the coastal development permit, the applicants shall submit for the review and approval of the Executive Director, two (2) sets of final drainage and runoff control plans, including supporting calculations. 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 stormwater leaving the developed site. The plan shall be reviewed and approved by a qualified geotechnical engineer to ensure that the design does not represent a threat to the site stability or safety and the consulting biologist preparing the Onsite Wetland Enhancement Plan to ensure that redirection of drainage does not adversely impact on-site or adjacent wetlands. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
2. Runoff shall be conveyed in a non-erosive manner.
3. Energy dissipating measures shall be installed at the terminus of outflow drains.
4. The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicants/landowners or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if amendment(s) or new Coastal Development Permit(s) are required to authorize such work.
5. There shall be no net reduction in stormwater runoff to the on-site and adjacent wetland complex as delineated in the 1997 FLx report.

10. Interim Erosion Control Plans

- A. Prior to the issuance of the coastal development permit, the applicants shall submit two (2) sets of interim erosion control plans, prepared by a qualified engineer or specialist, for review and approval by the Executive Director. The interim erosion control plans shall be reviewed and approved by a qualified geotechnical engineer to ensure that the design does not represent a threat to the site stability or safety. The plans shall incorporate the following criteria:
 1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the sites shall be clearly delineated on the project site. Prior to any construction activities, the applicants shall install perimeter construction fencing between the development area and the wetland to represent the edge of the permitted construction zone. No construction activities, including staging or storage, shall occur within the on-site or adjacent wetland complex as identified in the 1997 FLx report.
 2. The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and

swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site as approved in the final plans, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

3. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill and disturbed soils with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. Straw bales shall not be used. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
4. Storm drain inlets shall be protected from sediment-laden waters by the use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps.

11. Signage Program

Prior to issuance of the coastal development permit, the applicants shall submit two (2) sets of signage plans, for the review and approval of the Executive Director, indicating the location, size, design, and content of all signs to be installed. All signs shall be installed prior to the start of construction, concurrent with the installation of the split-rail wetland protection fence. A minimum of three signs shall be placed in conspicuous locations along the split-rail fence for Parcel 22, as shown in Exhibit 4. However, should the development on Parcel 22 and 23 be built in conjunction with each other, the sign at the southern end of parcels which intersects the property boundaries may overlap to require just one sign in that location for a total of six signs around the wetland as shown in Exhibit 4. The language shall notify the public that the area contains a sensitive wetland habitat and that activities or entrance into the fenced area is not allowed. These signs shall be maintained in good condition for the life of the development and, when necessary, shall be replaced with new signs that comply with the plans approved pursuant to this Condition.

12. Operational Responsibilities

- A. It shall be the applicants' responsibility to assure compliance with the following provisions during construction:
 1. No construction materials, debris, or waste shall be placed or stored where it may be subject to erosion and dispersion; nor shall such materials be placed or

stored within the on-site or adjacent wetland complex as identified in the 1997 FLx report.

2. Any and all debris resulting from construction activities shall be removed from the site by close of the same day.
3. Equipment shall not be operated or stored within the on-site or adjacent wetland complex as identified in the 1997 FLx report.
4. During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.

B. During the life of the development, the garage or carports shall be kept clear and available for parking for two cars.

13. General Deed Restriction

Prior to the issuance of the coastal development permit, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have 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.

14. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

15. Open Space Deed Restriction

- A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:
1. Drainage and polluted runoff control activities pursuant to **Special Condition Nine (9)**;
 2. Planting of native vegetation and other restoration activities, pursuant to **Special Condition Five (5)** or if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit;
 3. Construction and maintenance of public hiking trails, if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit; and
 4. Existing easements for roads, trails, and utilities.
- B. Prior to the issuance by the Executive Director of the NOI for this permit, the applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction, prepared by a licensed surveyor, of the portion of the subject property affected by this condition, as generally described on Exhibit 6a attached to the findings in support of approval of this permit.

B. SPECIAL CONDITIONS FOR CDP A-4-STB-06-055 (PARCEL 23)

(Note: These Special Conditions are applicable to Coastal Development Permit No. A-4-STB-06-055)

1. Revised Plans

- A. Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans shall be in conformance with the project plans dated January 3, 2006, except that the revised final project plans and project description shall reflect the following:
1. There shall be no fence between Parcel 22 and Parcel 23.
 2. A 3-ft wide raised, wood plank boardwalk shall be installed: (1) south of the carport and along the west side of the residence in order to connect the proposed 3-foot boardwalk from the western property line to the proposed deck; and (2) south of the southernmost portion of the residence in order to connect the proposed ground floor deck and patio with the eastern property line, as approximately shown in Exhibit 6. The approved boardwalks, deck, and patio

shall be configured in a manner to provide a non-obstructed access corridor between the east and west property boundaries along the south of the residence. The boardwalks, deck, and patio shall include a continuous five-foot high barrier railing on the southernmost portion of the decks/boardwalks/patio, spanning from the western property boundary to the eastern property boundary. The barrier railing shall be sufficiently solid to hinder passage of humans and pets, and may consist, all or in part, of plexiglass or other visually permeable barriers. Gates shall not be installed to open toward the wetland.

3. A permanent split rail fence, maximum four feet in height, shall be installed to protect the onsite wetlands. The split rail fence may have two potential configurations, depending upon whether the development on adjoining Parcel 22 is constructed or in the process of construction by the time the Certificate of Occupancy is obtained for development on Parcel 23. If the development on Parcel 22 is constructed or in the process of construction, then the split rail fence shall be installed along the balance of the eastern property line south of the required barrier railing on Parcel 23, along the southern property line of Parcels 22 and 23, and on the balance of the western property line south of the barrier railing on Parcel 22, as indicated in Exhibit 4. If the development on Parcel 22 is not constructed, or in the process of construction, then the split rail fence shall be installed along the balance of the east and west property lines south of the required barrier railing on Parcel 23 and along the southern property line of Parcel 23 (Exhibit 4). When the Certificate of Occupancy is obtained for both parcels, the split-rail fence, if constructed, shall be removed along the western property boundary of Parcel 23. The split-rail fence shall be installed prior to occupancy, however the Executive Director may grant additional time for good cause. The fence shall have signs posted, as described in **Special Condition Eleven**, to discourage entry into the wetland area. The minimum distance from ground level to the split-rail fence's first rung shall be 18 inches. Barbed-wire fencing or permanent chainlink fencing shall not be installed between lots or along property boundaries.

2. Assumption of Risk

- A. By acceptance of this permit, the applicants acknowledge and agree, on behalf of itself and all successors and assignees, to the following:
 1. The applicants acknowledge and agree that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, and flooding.
 2. The applicants acknowledge and agree to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
 3. The applicants unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.

4. The applicants agree to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. No Future Shoreline Protective Device

- A. By acceptance of the permit, the applicants agree, on behalf of itself and all successors and assigns, that no shoreline or bluff protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit A-4-STB-06-055 including, but not limited to, the residence, garage or carport, driveways/patios, fencing, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or the certified LCP.
- B. By acceptance of this permit, the applicants further agree, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence(s), garage(s) or carport(s), driveways/patio areas, fencing, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. A-4-STB-06-055. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) and Section 35-169.2 of the Santa Barbara County Coastal Zoning Ordinance shall not apply to the entire property. Accordingly, any future improvements to the entire property, including, but not limited to, landscaping, grading, clearing or other disturbance of vegetation and fencing, other than as provided for in this coastal development permit, shall require an amendment to Permit No. A-4-STB-06-055 from the Commission or shall require an additional coastal development permit from the applicable certified local government.

5. Wetland Mitigation

Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, an Onsite Wetland Enhancement Plan

and an Offsite Restoration Plan subject to the following provisions. Said plans shall be prepared by a qualified biologist, ecologist, or resource specialist with experience in the field of restoration ecology, and with a background knowledge of vernal wetlands. The applicants shall provide the resource specialist's qualifications, for the review and approval of the Executive Director, prior to plan development. The Onsite Wetland Enhancement Plan and an Offsite Restoration Plan shall include, at a minimum, the following information:

A. Onsite Wetland Enhancement Plan. The Onsite Wetland Enhancement Plan shall include, at a minimum, the following information:

1. The onsite wetland enhancement shall include, at a minimum, the removal of any and all invasive plant species on the site; the removal of all non-native, non-wetland indicator plants within the boundary of the delineated wetland (FLx, 1997) and the adjacent open space area(s) on-site; revegetation of all disturbed areas with appropriate native species, including areas where invasive and non-native plants were removed within and adjacent to the delineated wetland;; and the installation of a permanent split-rail fence and educational and instructional signage to protect the remaining wetland habitat against impacts from humans, vehicles and pets as required in **Special Condition One and Special Condition Eleven**. The wetland enhancement plan shall include implementation of procedures to provide formal written notice to all occupant(s) and future occupants of the dwelling describing the wetland protection goals and objectives and statement that any activities, with the exception of restoration maintenance activities listed below, within the wetland are strictly prohibited. The written notice shall be a separate notice given to each occupant 18 years of age or older at the time of lease signing.
2. A baseline assessment, including photographs, of the current physical and ecological condition of the onsite wetland boundaries delineated in the 1997 FLx report and the adjacent open space areas on site, including, a description and map of the delineated wetland showing the area and distribution of vegetation types, and a map showing the distribution and abundance of sensitive species.
3. A description of the goals and objectives of the enhancement plan, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage. Documentation of performance standards, which provide a mechanism for making adjustments to the mitigation site when it is determined, through monitoring, or other means that the restoration techniques are not working.
4. A planting palette (seed mix and container plants), planting design, source of plant material, and plant installation. The planting palette shall be made up exclusively of native plants that are appropriate to the vernal wetland habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. The main plant communities that may be included in the plan are vernal pool, vernal swales or flats, and native perennial grassland. Plantings shall be maintained in good growing condition

throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.

5. Sufficient technical detail on the enhancement activities including, at a minimum, a planting program including method and location of exotic species removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques.
6. A plan for documenting and reporting the physical and biological “as built” condition of the entire area south of the residence, within 30 days of completion of the initial enhancement activities. The report shall describe the field implementation of the approved restoration program in narrative and photographs, and report any problems in the implementation and their resolution.
7. Provisions for on-going wetland area maintenance and/or management for the life of the proposed residential development. At a minimum, semi-annual maintenance and/or management activities shall include, as necessary, debris removal, periodic weeding of invasive and non-native vegetation and revegetation consistent with the approved enhancement plan. Onsite wetland maintenance and/or management activities shall occur within the onsite wetland boundaries delineated in the 1997 FLx report and the adjacent open space areas on the site.
8. The Onsite Wetland Enhancement Plan shall specify long-term maintenance of the onsite wetland and adjacent onsite open space areas. The applicants shall hire a qualified resource specialist, with qualifications acceptable the Executive Director, to implement the ongoing wetland maintenance program required by this Condition. The applicants shall provide the resource specialist’s qualifications, for the review and approval of the Executive Director, at least two weeks prior to the initial scheduled maintenance.

B. Offsite Restoration Plan. The Offsite Restoration Plan shall include, at a minimum, the following information:

1. Identification of the area(s) of disturbed or degraded wetland habitat of equivalent type in the Goleta vicinity that shall be restored sufficient to provide mitigation of the long-term wetland impacts at a ratio of 2:1 for the 2,690 sq. ft. of vernal pool wetland habitat on Parcel 23. The total area of created or restored vernal pool wetland habitat required is 5,380 sq. ft. for Parcel 23 impacts.
2. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed restoration site, including, a wetland delineation conducted according to the definitions in the Coastal Act and the Commission’s Regulations, a description and map showing the area and distribution of vegetation types, and a map showing the distribution and abundance of sensitive species. Existing vegetation, wetlands, and sensitive species shall be depicted on a map that includes the footprint of the proposed restoration.

3. A description of the goals of the restoration plan, including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage. Documentation of performance standards, which provide a mechanism for making adjustments to the mitigation site when it is determined, through monitoring, or other means that the restoration techniques are not working.
4. Documentation of the necessary management and maintenance requirements, and provisions for timely remediation should the need arise.
5. A planting palette (seed mix and container plants), planting design, source of plant material, and plant installation. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.
6. Sufficient technical detail on the restoration design including, at a minimum, a planting program including a description of planned site preparation, method and location of exotic species removal, timing of planting, plant locations and elevations on the baseline map, and maintenance timing and techniques.
7. A plan for documenting and reporting the physical and biological “as built” condition of the site within 30 days of completion of the initial restoration activities. The report shall describe the field implementation of the approved restoration program in narrative and photographs, and report any problems in the implementation and their resolution.
8. Documentation that the project will continue to function as a viable restored wetland site, as applicable, over the long term.
9. Documentation that the applicants have obtained all necessary rights from the property owner to access, use and maintain the mitigation site in compliance with all requirements of the restoration plan.

C. Monitoring

1. A Monitoring Program to monitor the Onsite Wetland Enhancement and Offsite Wetland Restoration. Said monitoring program shall set forth the guidelines, criteria and performance standards by which the success of the enhancement and restoration shall be determined. The monitoring programs shall include but not be limited to the following:
 - (a) Interim and Final Success Criteria. Interim and final success criteria shall include, as appropriate: species diversity, total ground cover of vegetation, vegetative cover of dominant species and definition of dominants, wildlife usage, hydrology, and presence and abundance of sensitive species or other individual “target” species.

- (b) Interim Monitoring Reports. The applicants shall submit, for the review and approval of the Executive Director, on an annual basis, for a period of five (5) years, a written monitoring report, prepared by a monitoring resource specialist indicating the progress and relative success or failure of the enhancement on the site. This report shall also include further recommendations and requirements for additional enhancement/restoration activities in order for the project to meet the criteria and performance standards. This report shall also include photographs taken from predesignated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. Each report shall be cumulative and shall summarize all previous results. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the enhancement/restoration project in relation to the interim performance standards and final success criteria.
- (c) Final Report. At the end of the five-year period, a final detailed report on the restoration shall be submitted for the review and approval of the Executive Director. If this report indicates that the enhancement/restoration project has, in part, or in whole, been unsuccessful, based on the performance standards specified in the restoration plan, the applicant(s) shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original program which did not meet the approved success criteria. The revised or supplemental program shall be processed as an amendment to this permit.
- (d) Monitoring Period and Mid-Course Corrections. During the five-year monitoring period, all artificial inputs (e.g., irrigation, soil amendments, plantings) shall be removed except for the purposes of providing mid-course corrections or maintenance to insure the survival of the enhancement/restoration site. If these inputs are required beyond the first two years, then the monitoring program shall be extended for every additional year that such inputs are required, so that the success and sustainability of the enhancement/restoration is insured. The enhancement/restoration site shall not be considered successful until it is able to survive without artificial inputs.

D. Implementation

1. The Onsite Wetland Enhancement and Offsite Restoration activities shall be implemented by qualified biologists, ecologists, or resource specialists who are experienced in the field of restoration ecology within 60 days after the completion of construction of each residence(s). The Executive Director may grant additional time for good cause. The monitoring plan shall be implemented immediately following the enhancement/restoration. The applicants shall provide the resource specialist's qualifications, for the review and approval of the Executive Director, at least two weeks prior to the start of such activities.

2. The Permittee shall undertake development in accordance with the final approved 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 the coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Long-Term Wetland Management

- A. By acceptance of the permit, the applicants agree, on behalf of itself and all successors and assignees, to the following:
 1. The split-rail fence on the balance of the property lines, as shown in Exhibit 4, shall be installed prior to the start of construction and shall be maintained in good condition for the life of the project. The fences shall be repaired and/or replaced when necessary, in a manner that complies with the Conditions of CDP No. A-4-STB-04-055.
 2. No grass cutting shall be permitted within the delineated wetland areas except where required for wetland enhancement purposes and as approved in the Onsite Wetland Enhancement Plan.
 3. No disking for fire control or any other use shall occur in or adjacent to the wetlands on the property as identified in the 1997 FLx report.
 4. Mosquito abatement and/or other mosquito control activities shall not be conducted by anyone other than a public agency for health reasons. In such cases where a public agency determines that mosquito control is necessary for public health and safety reasons, non-chemical solutions such as mosquito fish or bacterium shall be considered as a first measure. This condition shall not be interpreted to prohibit personal mosquito traps placed outside of the wetlands in proximity to the residence.
 5. Invasive plant species shall not be planted anywhere on the project site(s).
 6. Pesticides, herbicides, and/or rodenticides shall not be used within the delineated wetland as identified in the 1997 FLx report. Pesticides, herbicides, and/or rodenticides shall not be placed, stored, or used in a manner that would be dispersed into the delineated wetland as identified in the 1997 FLx report.
 7. Debris, waste, equipment or other materials shall not be placed or stored within the delineated wetland, nor placed or stored where they may be subject to dispersion to the delineated wetland as identified in the 1997 FLx report.
 8. No one shall enter the wetland area south of the residence except to carry out the Onsite Wetland Enhancement Plan required by Condition 5 of CDP No. A-4-STB-04-055 or to maintain, repair or replace the fences required by this Condition.

7. Lighting Restriction

- A. Prior to issuance of the coastal development permit, the applicant(s) shall submit two (2) sets of Lighting Plans, for review and approval by the Executive Director, incorporating the following requirements:
1. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be hooded to direct light downward onto the subject parcel(s) and prevent spill-over onto adjacent parcels, including public open space areas, and into the wetland habitat. The only outdoor night lighting allowed on the subject parcels is limited to the minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. Security lighting attached to the residence and garage shall be controlled by motion detectors. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed. **All** exterior lighting, including but not limited to security lighting, shall be limited to fixtures that generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
 2. The lighting plan shall show the locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture, the lighting specifications, and the height of the fixtures. The plan shall be designed in particular to avoid lighting impacts to the wetland habitat. All outdoor lighting on the parcel shall comply with the approved Lighting Plans.

8. Construction Monitoring

The applicants shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director to serve as the biological monitor. The applicants shall provide the biological monitor's qualifications for the review and approval of the Executive Director at least two (2) weeks prior to commencement of development. The applicants shall ensure that the biological monitor: (1) oversees the installation of the decks and boardwalks and split-rail wetland protection fence at the edge of the permitted construction zone, prior to any construction activities; and (2) is present during and observes all excavation, exterior construction such as framing and foundation placement, exterior paint/stucco application, and any grading activities to prevent intrusion into the delineated wetland habitat. If the biological monitor concludes that any activity has adversely impacted wetland habitat, on or adjacent to the site, the applicants shall cease work. In such event, the applicants shall notify the Executive Director within 24 hours of the biological monitor's conclusion that there has been an adverse impact. Project activities shall resume only upon written approval of the Executive Director. If significant impacts or damage occur to sensitive habitat or species, the applicants shall be required to mitigate such impacts and shall submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be submitted as an amendment to this coastal development permit.

9. Drainage and Polluted Runoff Control Plan

- A. Prior to the issuance of the coastal development permit, the applicants shall submit for the review and approval of the Executive Director, two (2) sets of final drainage and runoff control plans, including supporting calculations. 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 stormwater leaving the developed site. The plan shall be reviewed and approved by a qualified geotechnical engineer to ensure that the design does not represent a threat to the site stability or safety and the consulting biologist preparing the Onsite Wetland Enhancement Plan to ensure that redirection of drainage does not adversely impact on-site or adjacent wetlands. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:
1. Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
 2. Runoff shall be conveyed in a non-erosive manner.
 3. Energy dissipating measures shall be installed at the terminus of outflow drains.
 4. The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicants/landowners or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if amendment(s) or new Coastal Development Permit(s) are required to authorize such work.
 5. There shall be no net reduction in stormwater runoff to the on-site and adjacent wetland complex as delineated in the 1997 FLx report.

10. Interim Erosion Control Plans

- A. Prior to the issuance of the coastal development permit, the applicants shall submit two (2) sets of interim erosion control plans, prepared by a qualified engineer or specialist, for review and approval by the Executive Director. The interim erosion control plans shall be reviewed and approved by a qualified geotechnical engineer to ensure that the design does not represent a threat to the site stability or safety. The plans shall incorporate the following criteria:

1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the sites shall be clearly delineated on the project site. Prior to any construction activities, the applicants shall install perimeter construction fencing between the development area and the wetland to represent the edge of the permitted construction zone. No construction activities, including staging or storage, shall occur within the on-site or adjacent wetland complex as identified in the 1997 FLx report.
2. The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site as approved in the final plans, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
3. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill and disturbed soils with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. Straw bales shall not be used. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
4. Storm drain inlets shall be protected from sediment-laden waters by the use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps.

11. Signage Program

Prior to issuance of the coastal development permit, the applicants shall submit two (2) sets of signage plans, for the review and approval of the Executive Director, indicating the location, size, design, and content of all signs to be installed. All signs shall be installed prior to the start of construction, concurrent with the installation of the split-rail wetland protection fence. A minimum of four signs shall be placed in conspicuous locations along the split-rail fence for Parcel 23, as shown in Exhibit 4. However, should the development on Parcel 22 and 23 be built in conjunction with each other, the sign at

the southern end of parcels which intersects the property boundaries may overlap to require just one sign in that location for a total of six signs around the wetland as shown in Exhibit 4. The language shall notify the public that the area contains a sensitive wetland habitat and that activities or entrance into the fenced area is not allowed. These signs shall be maintained in good condition for the life of the development and, when necessary, shall be replaced with new signs that comply with the plans approved pursuant to this Condition.

12. Operational Responsibilities

A. It shall be the applicants' responsibility to assure compliance with the following provisions during construction:

1. No construction materials, debris, or waste shall be placed or stored where it may be subject to erosion and dispersion; nor shall such materials be placed or stored within the on-site or adjacent wetland complex as identified in the 1997 FLx report.
2. Any and all debris resulting from construction activities shall be removed from the site by close of the same day.
3. Equipment shall not be operated or stored within the on-site or adjacent wetland complex as identified in the 1997 FLx report.
4. During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.

B. During the life of the development, the garage or carports shall be kept clear and available for parking for two cars.

13. General Deed Restriction

Prior to the issuance of the coastal development permit, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have 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.

14. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

15. Open Space Deed Restriction

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

1. Drainage and polluted runoff control activities pursuant to **Special Condition Nine (9)**;
2. Planting of native vegetation and other restoration activities, pursuant to **Special Condition Five (5)** or if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit;
3. Construction and maintenance of public hiking trails, if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit; and
4. Existing easements for roads, trails, and utilities.

B. Prior to the issuance by the Executive Director of the NOI for this permit, the applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction, prepared by a licensed surveyor, of the portion of the subject property affected by this condition, as generally described on Exhibit 6a attached to the findings in support of approval of this permit.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. BACKGROUND

The project sites are located on two adjacent blufftop properties on the south side of the 6800 Block of Del Playa Drive in Isla Vista, a community of unincorporated Santa Barbara County (Exhibits 1 and 2). Each lot is approximately 5,600 sq. ft., 40 ft. in width

and 140 ft. in length. Both lots are zoned 10-R-1 (Single Family Residential 10,000 sq. ft. minimum lot size). The subject parcels are undeveloped, relatively flat and are covered with low-lying vegetation. Wetlands are present over most of the site(s) (Exhibit 3). The vernal wetlands have relatively flat topography with shallow depressions and low swales, and include native wetland vegetation.

Two public trails are adjacent to the sites: one running parallel to the easternmost project parcel (Parcel 23) from the street to the bluff top that connects to another trail that runs east-west along the bluff for some distance seaward of the subject parcels and extending beyond the subject parcels. Four parcels east and one parcel west of the subject sites are vacant open space parcels, also part of the vernal wetland complex, owned by either Isla Vista Recreation and Park District or the County of Santa Barbara.

The 75-year bluff setback required for the proposed development is approximately 42 feet. The County-approved footprint of each house would be setback approximately 94-105 feet from the property line nearest the ocean. That property line is approximately 47 feet from the bluff top for a total setback of 141-152 feet from the proposed structures to the bluff top. Recently, several nearby properties along Del Playa Drive suffered bluff failure and residential structures were determined to be uninhabitable (red-flagged) by the County forcing occupants to evacuate the structures.

On September 15, 2003 the Zoning Administrator approved the construction of two-story single-family residences on two adjacent parcels. The Zoning Administrator's action was appealed to the Board of Supervisors by four appellants. On February 24, 2004, the County Board of Supervisors approved two Coastal Development Permits and associated variances (01CDH-00000-00060, 01CDH-00000-00061, 02VAR-00000-00003, 02VAR-00000-00004) for the construction of two-story single-family residences on adjacent bluff top lots: construction of a 1,012 sq. ft. single-family dwelling & 400 sq. ft. carport on Parcel 22 and construction of a 1,220 sq. ft. single family dwelling, 400 sq. ft. carport, and 216 sq. ft. of first floor deck area on Parcel 23. Commission staff received the notice of final action for these projects on March 9, 2004. A 10 working day appeal period was set and notice provided beginning March 10, 2004 and extending to March 23, 2004.

An appeal of the County's action was filed by: (1) Commissioners Woolley and Wan on March 18, 2004; (2) Bruce Murdock on March 12, 2004; (3) Edward Maguire on March 18, 2004; (4) Rick and Janet Stich on March 22, 2004; and (5) Chris and Kathryn Chase on March 22, 2004, during the appeal period. The appeals are attached as Exhibit 11 to this report. Commission staff notified the County, the applicants, and all interested parties that were listed on the appeals and requested that the County provide its administrative record for the permit. The administrative record was received on March 19, 2004.

On April 15, 2004, the Commission found that the appellants' contentions raised substantial issue with regard to the consistency of the approved projects with the wetlands, environmentally sensitive habitat, water quality, and visual resources

standards of the certified Local Coastal Program. The Commission further found that the Chase's appeal did not raise substantial issue because the appellant's contentions did not meet the grounds for an appeal of a CDP to the Commission.

B. PROJECT DESCRIPTION

Original Projects Proposed By Applicants

As originally proposed in their application to the County of Santa Barbara, the project included a two-story, 1,797 sq. ft. residence on each of two legal non-conforming lots located on the coastal bluff along Del Playa Drive in Isla Vista. Each residence would have an approximately 500 sq. ft. garage and 1,300 sq. ft. of habitable space (800 sq. ft. on the first floor and 500 sq. ft. on the second floor). Each dwelling would include an approximately 390 sq. ft. raised wood deck, and approximately 2,920 sq. ft. of the southern portion of each lot would remain undisturbed. The applicants requested a variance from the County for each structure to extend into the 20 foot front yard setback. Under this scenario, approximately 1,100 sq. ft. of wetland resources would be filled.

Projects Approved by Zoning Administrator

The project approved by the Zoning Administrator included a revised project that reduced the footprint of the development on each parcel by 100 sq. ft., achieved by reducing the size of the garage. The Zoning Administrator approval included approximately 400 sq. ft. garage and approximately 1,400 sq. ft. of habitable space (800 sq. ft. on the first floor and 600 sq. ft. on the second floor). Both development footprints approved by the Zoning Administrator would reduce impacts to wetland resources, with Parcel 23 avoiding the delineated wetland altogether. As approved there would still be wetland fill on Parcel 22. The project included a side yard variance on Parcel 23 to permit design flexibility on that parcel, but without increasing the square footage of the development footprint or the maximum allowable square footage for the dwelling. The final development footprints for both parcels were to be determined in consultation with a County-approved biologist with expertise in wetland biology. This decision was appealed to the Board of Supervisors by Bruce Murdock; Edward Maguire; Rick and Janet Stich; and Chris & Kathryn Chase.

Board of Supervisors Appeal and Decision

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

Final County Approval Parcel 22

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

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

The Coastal Development Permit was approved subject to 22 project specific conditions (see Exhibit 9), including the following: conformance with final approved plans, construction timing and best management practices; location of development footprint and second story limitations; Board of Architectural Review approval; design standards such as building materials, landscaping plan, driveways, color, and fencing; exterior night lighting; offsite wetland mitigation; Onsite Wetland Protection Plan, requirement for caisson foundation; recordation of open space easement for the undeveloped remainder of the project parcel; long-term wetland protection measures; interim erosion control measures; permeable surfaces; runoff collection; water conservation; Revegetation and Restoration Plan for areas outside of the defined wetland/vernal pool complex; and fencing design for wildlife movement.

Final County Approval Parcel 23

On Parcel 23, the County approved construction of a 1,220 sq. ft., two-story single-family dwelling with 400 sq. ft. carport. The first floor development footprint would be 926 sq. ft., consisting of 526 sq. ft. of habitable space and a 400 sq. ft. carport. The County restricted the second story to a maximum of 75% of the first floor area, or 694 sq. ft. This would allow for 1,220 sq. ft. of total habitable area. A first floor deck of approximately 216 sq. ft. would also be permitted. The development footprint would be located at the northern end of the parcel, entirely outside of the delineated wetland area. A front and western side yard setback variance would also be granted allowing the

structure to be built with a 12-foot front yard setback, a 2-foot western side yard setback, and a standard 5-foot eastern side yard setback. While the County's final approval reduced the first floor habitable area from the 800 sq. ft. (as approved by the Zoning Administrator), to 526 sq. ft., it added authorization for a 216 sq. ft. first story deck.

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

The Coastal Development Permit was approved subject to 22 project specific conditions (see Exhibit 9), including the following: conformance with final approved plans, construction timing and best management practices; location of development footprint and second story limitations; Board of Architectural Review approval; design standards such as building materials, landscaping plan, driveways, color, and fencing; exterior night lighting; offsite wetland mitigation; Onsite Wetland Protection Plan, requirement for caisson foundation; recordation of open space easement for the undeveloped remainder of the project parcel; long-term wetland protection measures; interim erosion control measures; permeable surfaces; runoff collection; water conservation; Revegetation and Restoration Plan for areas outside of the defined wetland/vernal pool complex; and fencing design for wildlife movement.

January 3, 2006 Revised Plans

At the January 12, 2005 de novo hearing, staff recommended approval of a development footprint on Parcels 22 and 23 that would setback all development five feet from the boundary of the delineated wetlands. The five-foot setback was intended to create a margin of separation between the wetlands and the residential development in order to allow routine maintenance of the outside of the house. However, at the hearing, Commissioners were concerned that the residence on Parcel 22 could not be designed within a first floor footprint of 772 sq. ft. in a configuration that would accommodate parking and a reasonable habitable space. The hearing was continued to determine alternatives, among other reasons.

The applicants have submitted three iterations of plans since the January 12, 2005 hearing. The most recent plans submitted by the applicants, dated January 3, 2006 propose construction of three-level single-family residences on adjacent bluff top lots, with parking for two to three cars on each lot.

Specifically, on Parcel 22, the applicants propose construction of a three-level 1,798 sq. ft., maximum 28 ft. 10-inch high, single family residence with 419 sq. ft. garage and carport, and 567 sq. ft. of decks. The proposed project would result in ground coverage of 1,039 sq. ft., including the residence; garage and carports; and decks, patios and/or boardwalks. The development would be located outside of the identified wetland areas, with the exception of a 3-ft. raised boardwalk for maintenance and access purposes.

Specifically, on Parcel 23, the applicants propose construction of a three-level 1,998 sq. ft., maximum 28 ft. 10-inch high, single family residence with 610 sq. ft. garage-carport-laundry, and 828 sq. ft. of decks. The proposed project would result in ground coverage of 1,665 sq. ft., including the residence; garage and carports; and decks, and patios. The development would be located outside of the identified wetland areas.

In order to locate this development footprint outside of the wetlands, the January 3, 2006 project design requires variances from front and side yard setbacks, and a variance from the County's height requirements. Side yard setbacks would be eliminated on both parcels allowing development up to the property lines to the east and west. Additionally, both parcels would be allowed a 3½ -foot setback from the road right-of-way along the north property boundary. Under the project site's 10-R-1 zoning, structures can reach a maximum height of 25 feet. However, the January 3, 2006 project design requires a variance to the 25 ft. height requirement in order accommodate the proposed maximum height of 28 ft, 10 inches.

C. HAZARDS AND SHORELINE PROCESSES

LCP Policy 1-1, incorporating Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

LCP Policy 1-1, incorporating Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

LCP Policy 3-1 states, in part:

Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural

solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. . . .

LCP Policy 3-4 states:

In areas of new development, above-ground structures shall be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such a standard will make a lot unbuildable, in which case a standard of 50 years shall be used. The County shall determine the required setback. A geologic report shall be required by the County in order to make this determination. At a minimum, such geologic report shall be prepared in conformance with the Coastal Commission's adopted Statewide Interpretive Guidelines regarding "Geologic Stability of Blufftop Development". (See also Policy 4-5 regarding protection of visual resources.)

LCP Policy 3-5 states:

Within the required blufftop setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish proper drainage or to install landscaping, and minor improvements, i.e., patios and fences that do not impact bluff stability, may be permitted. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.

LCP Policy 3-6 states:

Development and activity of any kind beyond the required blufftop setback shall be constructed to insure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself.

LCP Policy 3-7 states:

No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.

LCP Policy 3-8 states:

Applications for grading and building permits, and applications for subdivision shall be reviewed for adjacency to threats from, and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, or other geologic hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report shall be required. Mitigation measures shall be required where necessary.

LCP Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent

feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

LCP Policy 3-16 states:

Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.

LCP Policy 3-17 states:

Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.

LCP Policy 3-18 states:

Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible to facilitate groundwater recharge.

LCP Policy GEO-GV-3 of the Goleta Community Plan states:

Where feasible and where consistent with Local Coastal Plan Policies relocation of structures threatened by bluff retreat shall be required for development on existing legal parcels, rather than installation of coastal protection structures.

As stated above, Policy 3-8 of the LCP requires that all proposed development located in or adjacent to areas subject to geologic hazards or beach erosion shall be reviewed to determine any potential impacts of such development. In addition, Section 30253 of the Coastal Act, which has been included in the certified LCP as a guiding policy, requires that new development minimize risks to life and property in areas of high geologic or flood hazards and assure structural stability and integrity. LCP Policy 3-4 requires new development to be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years. Furthermore, Policy 3-14 of the LCP requires development to preserve natural features, landforms to the maximum extent feasible. Policy 3-14 also states that those areas of the sites “which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.”

The proposed development in CDPs A-4-STB-06-054 and A-4-STB-06-055 includes the construction of two single-family residences on two adjacent 5,600 sq. ft. blufftop lots. The subject parcels have a relatively flat topography with shallow depressions and low swales. The County’s Initial Study (Santa Barbara County, No Date) indicated that the soils on the sites were sandy clay loams or clay loams present in the upper soil horizon above about 6 inches, and clay mostly occurred below that level. These soil conditions have lead to the relatively impermeable conditions at the site helping to form the

wetland and vernal pool habitats. These clay soils are considered stable and relatively non-expansive.

The Initial Study further states:

Because the project sites are on the coastal bluff, a sea cliff retreat setback line must be established. A setback retreat of 75 feet has been established as the standard. Based on a survey performed in 1926 when the property was subdivided, the general rate of retreat for the two subject parcels has been about 25-30 feet in the 70 years between 1926 and 1996 which is approximately 5 inches per year. For purposes of analysis, a conservative sea cliff retreat rate has been established at this site of 0.56 feet/year. A 75-year setback would be 42 feet.

The County-approved footprint of each house would be setback approximately 94-105 feet from the property line nearest the ocean. That property line is approximately 47 feet from the bluff top for a total setback of 141-152 feet from the proposed structures to the bluff top, well above the required 42 ft setback.

Though the proposed structures would be located a significant distance from the recognized 75-year bluff setback, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of qualified geotechnical engineers, may still involve the taking of some risk. Bluff top development, such as this, is inherently subject to risk due to the geologic instability of bluffs over time. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

Though the location of the proposed structures on the subject site may presently be feasible from a geologic point of view, it is not possible to completely predict what conditions the proposed residence may be subject to in the future. Because of the inherent risk due to the geologic instability of bluffs over time, further improvements such as protective structures, may eventually be deemed necessary to ensure stability in the future due to instability and erosion.

The proper application of the maximum feasible setback from the bluff edge is a primary means by which the construction of seawalls can be avoided for the protection of development on erodible bluff top slopes. Although no site-specific information regarding the geologic stability of the subject sites was submitted by the applicants, the Commission notes (based on available information in the "Hazards" section of the County's LCP and reports previously submitted for projects along this stretch of bluff in Isla Vista) that the proposed development is located in an area that has been historically subject to an unusually high amount of natural hazards including severe beach erosion from storm waves and general bluff erosion.

Development located along the shoreline, such as the proposed project, is subject to inherent potential hazard from storm generated wave damage. The El Nino storms recorded in 1982-1983 caused high tides of over seven feet, which were combined with storm waves of up to 15 feet. The severity of the 1982-1983 El Nino storm events is

often used to illustrate the extreme storm event potential of the California coast. The Commission notes that the Santa Barbara County coast has historically been subject to substantial damage as the result of storm and flood occurrences. In fact, for over 20 years, the County has administered a program of annual inspections and evaluations of bluff-top properties in Isla Vista due to the erosion rate of these bluffs and potential hazards posed to development situated on them and to members of the public using the beach below. As part of this program, the County has required that individual structures which are actually threatened by bluff erosion be either supported by caisson foundations, or cut-back or relocated away from the edge of the bluff-top, to avoid public safety hazards and extend the useful and safe life of the threatened structure. As of 1999, at least 28 structures had been modified to include caisson foundations and over six structures had been cut-back, relocated, or built with a 75-years bluff set-back. As previously described, several nearby properties along Del Playa Drive suffered bluff failure and structures were red-flagged by the County forcing occupants to evacuate.

In addition, due to the high rate of bluff erosion in Isla Vista, there was previously a permit approved by the County for the construction of a timber-pile seawall at the base of the coastal bluff fronting this unincorporated residential community of Isla Vista. Incidentally, although a majority of that project would have been situated seaward of the mean high tide line, which is generally located at the toe of the coastal bluff and would have, therefore, been located on state tidelands or public trust lands within the Coastal Commission's area of retained original permit jurisdiction under Section 30519(b) of the Coastal Act, no application was made to the Coastal Commission for the project. Although the County's approval of the permit was ultimately appealed to and then denied at the de novo review hearing in 1999 by the Commission, the timber seawall under that permit would have been comprised of four non-contiguous segments totaling approximately 2,200 linear feet, and would have extended seven feet above grade and seven feet below grade. Two of the eight ends of the four segments would have connected to existing seawalls. The seawall would have extended across all of the privately and publicly owned properties on the south (ocean) side of Del Playa Drive. This previously proposed seawall, which was not approved, was intended to reduce the rate of coastal bluff retreat caused by wave action at the base of the coastal bluff affecting approximately 114 residential units.

Thus, ample evidence exists that bluff top development located on the seaward side of Del Playa Drive in Isla Vista, including the project sites, is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, and erosion. As such, the Commission notes that any new development that is permitted on the subject sites must be designed and constructed in a manner that ensures geologic and structural stability and must minimize hazards consistent with Policy 3-1, 3-4, 3-5, 3-6, 3-7, 3-8, and 3-9 of the LCP and Section 30253 of the Coastal Act, which has been included in the certified LCP.

The County has submitted information supporting the adequacy of the bluff top setbacks required and implemented by the applicants for the proposed residences. Evidence submitted by the County to support the adequacy of an approximate 42 foot bluff top

setback for the proposed residences is adequate to meet the requirement under LCP Policy 3-4 that structures be “set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years.” Further, the standard set forth in LCP Policy 3-4 reduces the potential requirement for bluff stabilization measures or shoreline armoring to protect the bluff in the future and aids in reducing threats from geologic hazard, as required by LCP Policy 3-8 and Section 30253 of the Coastal Act, included in the certified LCP. The applicant has prepared revised plans, dated January 3, 2006, which situate the structures outside of the wetlands (see Section V.D) and increase the bluff setback. This serves as added protection against damage to the structures from future potential bluff failure. Conservative bluff setbacks are particularly warranted in this case given the history of recent bluff failures along Del Playa Drive. .

However Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and to assure stability and structural integrity. Coastal bluffs, such as the one located on the subject sites, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

Notwithstanding the projects’ consistency with the required setbacks and geologic policies of the County’s LCP, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff, particularly a bluff exposed to wave attack at the beach elevation, can be completely free of hazard. Therefore, the Commission finds it necessary to impose **Special Condition Two (2)** of CDPs A-4-STB-06-054 and A-4-STB-06-055, assumption of risk, to ensure that the applicants understand the hazards involved in undertaking development on parcels located along a bluff above a beach, and that the applicants agree on behalf of itself and all successors and assignees to assume the risk from such development and to indemnify the Commission, its employees, and agents from all liability associated with proceeding with such development despite such unmitigable hazards.

The Commission notes that while the location of the proposed structures on the subject sites may presently be feasible from a geologic point of view, in order to maintain these structures, further improvements such as concrete block walls and/or other protective structures, may eventually be necessary to ensure slope stability in the future due to instability and erosion. In the case of the proposed projects, the applicants do not propose the construction of any shoreline protective device to protect the proposed development. However, many beaches and bluffs in Santa Barbara County have experienced extreme erosion and scour during severe storm events, such as the El Nino storms. It is not possible to completely predict what conditions the proposed residences and accessory development may be subject to in the future.

Though no shoreline protective device is proposed as part of this project, the Commission notes that the construction of a shoreline protective device or devices on the proposed project sites would result in potential adverse effects to coastal processes, shoreline sand supply, the public's beach ownership interests, and public access. First, changes in the shoreline profile, particularly changes in the slope of the profile, which result from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of sand, as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore, where they are no longer available to nourish the beach. The effect of this on the public is, again, a loss of area between the mean high water line and the actual water. Third, shoreline protective devices, such as revetments and bulkheads, cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline, eventually affecting the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave' energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

In addition, the Commission notes that LCP Policy 3-1 allows for the construction of a shoreline protective device when necessary to protect existing principal structures when there are no other less environmentally damaging alternatives reasonably available. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed projects, would not be required by Section 30235 of the Coastal Act, incorporated into the County's LCP. The construction of a shoreline protective device to protect a new residential development would conflict with Section 30253 of the Coastal Act, incorporated into the County's LCP, which states that new development shall neither create nor contribute to erosion or geologic instability of the project sites or surrounding area.

If seawalls or shoreline protection devices were erected on these sites, there would be a direct impact on lateral public beach access opportunities due to the progressive narrowing of the beach resulting from the presence of a seawall. One seawall (Norris/Murphy) constructed in Isla Vista in 1979 has already resulted in the narrowing and almost complete disappearance of the beach directly in front of the seawall, as erosion on either side of the seawall has caused the bluff up and downcoast from the seawall to retreat, creating an artificial promontory which juts out into the active surf-zone. As the Commission found in the appeal and de novo denial of a permit for another Isla Vista seawall, mentioned previously, and as stated in the reports submitted pursuant to that project, the western end of Isla Vista Beach is generally narrower than

the eastern end, and currently there is limited access toward the western end during periods of high tide, particularly during the winter months when the sand beach exhibits a winter beach profile (i.e., lower and narrower accumulation of sand on the wave cut platform.) Furthermore, as noted above, the effects of the Norris/Murphy seawall provides confirmation of the effects of seawalls and shoreline protective devices on lateral public access in Isla Vista.

In approving the proposed development, the County did not condition the proposed development to avoid the construction of a seawall or shoreline protective device in the future should the proposed development become threatened by bluff erosion and retreat. As a result, in order to ensure that the proposed project is consistent with the policies of the County LCP, including Section 30235 and 30253 of the Coastal Act incorporated therein, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition Three (3)** of CDPs A-4-STB-06-054 and A-4-STB-06-055, in conjunction with **Special Condition Thirteen (13)** of CDPs A-4-STB-06-054 and A-4-STB-06-055 require the applicants to record a deed restriction that would prohibit the applicants, or future landowners, from constructing a shoreline or bluff protective device or devices for the purpose of protecting any of the development approved under these applications.

Additionally, the Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will minimize erosion and add to the geologic stability of the project sites. To ensure that adequate drainage and erosion control are included in the proposed developments the Commission requires the applicants to submit drainage and interim erosion control plans certified by a consulting geotechnical engineer, as specified in **Special Conditions Nine (9) and Ten (10)** of CDPs A-4-STB-06-054 and A-4-STB-06-055 in compliance LCP Policy 3-18. Special Condition 9 requires the applicants to maintain a functional drainage system at the subject sites to insure that run-off from the project sites is diverted in a non-erosive manner to minimize erosion at the sites for the life of the proposed developments. Should the drainage system of the project sites fail at any time, the applicants will be responsible for any repairs or restoration of eroded areas as consistent with the terms of Special Condition 9.

Finally, future developments or improvements to the property have the potential to create significant adverse geologic hazards and impacts on these bluff top lots. As a result, it is necessary to ensure that future developments or improvements normally associated with a single family residence or accessory development, which might otherwise be exempt, be reviewed by the Commission and/or the County of Santa Barbara or applicable local government, for compliance with the geologic and site stability policies of the LCP. As a result, **Special Condition Four (4)** of CDPs A-4-STB-06-054 and A-4-STB-06-055 in combination with **Special Condition Thirteen (13)** of CDPs A-4-STB-06-054 and A-4-STB-06-055 requires a future improvements deed restriction, to ensure that the Commission and/or County of Santa Barbara will have the opportunity to review future projects for compliance with the LCP and Coastal Act and to

ensure that any proposal is designed to minimize geologic hazards and impacts and/or that appropriate mitigation measures are included in the project.

Therefore, for reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of the policies and zoning ordinances of the County's LCP and with Section 30253 of the Coastal Act, as included within the LCP as a guidance policy.

D. ENVIRONMENTALLY SENSITIVE HABITAT AND WETLANDS

LCP Policy 1-1, incorporating Section 30231 of the Coastal Act states:

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

LCP Policy 1-1, incorporating Section 30233 of the Coastal Act states:

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

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

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

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

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

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

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

(7) Restoration purposes.

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

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

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

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

LCP Policy 1-1, incorporating Section 30240 of the Coastal Act states:

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

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

LCP Policy 1-2 states:

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

LCP Policy 2-11 states:

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

LCP Policy 3-19 states:

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

LCP Policy 9-9 states:

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

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

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

LCP Policy 9-10 states:

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

LCP Policy 9-11 states:

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

LCP Policy 9-13 states:

No unauthorized vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses.

LCP Policy 9-14 states:

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

LCP Policy 9-19 states:

No mosquito control activity shall be carried out in vernal pools unless it is required to avoid severe nuisance.

LCP Policy 9-20 states:

Grass cutting for fire prevention shall be conducted in such a manner as to protect vernal pools. No grass cutting shall be allowed within the vernal pool area or with a buffer zone of five feet or greater.

LCP Policy 9-21 states:

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

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

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

Sec. 35-53. Overlay District Designations and Applicability. (*in relevant part*)

...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.

Article II, Sec. 35-97.7, Conditions on Coastal Development Permits in ESH, states:

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

Sec. 35-71.7. R-1 Single-Family Residential Setbacks for Buildings and Structures (*in relevant part*):

1. Front: Fifty (50) feet from the centerline and twenty (20) feet from the right-of-way line of any street...

2. Side: On each side of the lot, ten percent of the width of the lot except:

a. for lots zoned 2-E-1 [minimum 2 acre] or less, in no case shall the required side yard be less than five (5) feet nor more than ten (10) feet...

3. Rear: Twenty-five (25) feet or fifteen (15) feet if the rear yard abuts a permanently dedicated open space or a street to which access has been denied as part of an approved subdivision or other approved development permit.

LCP Policy BIO-GV-2 of the Goleta Community Plan states:

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

LCP Policy BIO-GV-3 of the Goleta Community Plan states:

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

The project sites are located on two adjacent blufftop properties between the first public road and the sea (Exhibits 1 and 2). Each lot is approximately 5,600 sq. ft., 40 ft. in width and 140 ft. in length. The subject parcels are undeveloped, relatively flat and are covered with low-lying vegetation. The project EIR notes that the parcels have been somewhat degraded by disturbances such as the presence of trails well-used by humans and domesticated animals, and deep tire ruts worn into the soil near Del Playa Drive. Two public trails are adjacent to the sites: one running parallel to the easternmost project parcel (Parcel 23) from the street to the bluff top, where it connects to another trail that runs east-west along the bluff seaward of the subject parcels and extending beyond the subject parcels.

Wetlands are present over most of the site (Exhibit 3). Four parcels east and one parcel west of the subject sites are vacant open space parcels, also part of the vernal wetland complex, owned by Isla Vista Recreation and Park District and the County of Santa Barbara. The certified zoning maps designate the subject area as Environmentally Sensitive Habitat (ESH). Under the certified LCP, wetlands and vernal pools are specifically identified as unique, rare, and fragile habitats and specific policies are included in the LCP to provide protection of these resources. The existence of a vernal pool in this area was previously identified on the Coastal Commission's Coastal Resources Environmentally Sensitive Area maps prepared in the mid-1970s and are also listed on the County's zoning overlay maps as an ESHA area.

A wetland delineation was conducted by FLx in 1997 on the subject parcels (Exhibit 3). The wetlands were delineated based on positive evidence of at least one indicator (i.e., hydrophytic vegetation, hydric soils, or wetland hydrology). On the project parcels, the 1997 delineation concluded that wetland coverage was 61% on Parcel 22 and 48% on Parcel 23. The wetlands were vernal swales and flats which were classified in the FLx report as palustrine emergent-nonpersistent seasonally-saturated vernal drainage swale wetlands. In addition to wetlands, the Final EIR for this project reports that several small patches of native perennial grassland dominated by purple needlegrass were recorded in the southern parts of Parcels 22 and 23.

There are competing assertions regarding the adequacy of the 1997 FLx wetland delineation, on behalf of the applicants as well as the appellants. The appellants assert that the wetlands are more extensive than indicated in the 1997 FLx delineation, and the applicants assert that the wetlands are in fact less extensive than delineated in the 1997 report. The applicants engaged a consultant and had a separate report prepared regarding the location of the wetlands. The applicants' survey, prepared by Rachel

Tierney Consulting (2003), indicated a smaller wetland footprint on the subject parcels. However, the Tierney survey indicates in the methodology that the survey did not occur in the appropriate season to evaluate hydrology or vegetative indicators, and uses the Army Corps of Engineers (ACOE) methodology, rather than the test for determining presence of wetlands used by the Coastal Commission.

Testimony at County hearings presented by appellants Bruce Murdock & Ed Maguire included pictures and statements in support of their position that the extent of wetlands and vernal pools on the subject lots are more extensive than delineated by FLx. These appellants suggested that a new wetland delineation should be required. However, the FLx delineation already demonstrates that the entirety of the subject parcels fall within either delineated wetlands or buffer zones in which residential development would not be allowed under the LCP except when such approval would be necessary to avoid a taking. Thus, the County determined that the FLx report was sufficient in this case for the purposes of determining the extent of development that should be allowed to avoid a taking.

The Commission's biologist reviewed the FLx and Tierney reports and concluded that the wetland boundary established by FLx should be accepted (see Memo in Exhibit 10). The Commission's biologist concluded that the FLx wetland delineation appears accurate based on the available information. The FLx report properly utilized the U.S. FWS Cowardin Wetlands Classification System to delineate vernal and wetland habitat on the five subject properties. The FLx report identified wetlands based on evidence of hydrophytic vegetation, hydric soils and/or wetland hydrology on the project lots.

Therefore, for the reasons described above, the following discussion and analysis of onsite wetlands specifically refers to the 1997 FLx delineated wetlands, unless otherwise indicated.

As stated previously, the County's coastal development permits approved the construction of two-story, single-family residences a maximum of 25 feet in height. Approved development on Parcel 22 included construction of a 1,012 sq. ft. single-family dwelling & 400 sq. ft. carport. On Parcel 23, the approved development included construction of a 1,220 sq. ft. single-family dwelling, 400 sq. ft. carport, and 216 sq. ft. of first floor deck area. The County's approval allowed for development on Parcels 22 and 23 to be constructed as close as the edge of the delineated wetland, as discussed in the findings for the revised project (pg. A-22): "The revised project modifies the proposed mitigation to avoid encroachment of the delineated wetland areas on the site while providing design flexibility to allow for the construction of two single-family dwellings approximately 1,220 and 1,012 s.f. of habitable space on Parcels 23 and 22, respectively, with design standards subject to approval of the BAR."

1. Takings

In general, the LCP policies work together to require siting, design, and mitigation to protect wetland habitat. LCP Policies 2-11, 9-9, and 9-14; Section 30231, and 30240 as incorporated by LCP Policy 1-1; and Zoning Ordinance Sections 35-97.7 and 35.53

necessitate measures including siting the project with setbacks and buffers to prevent impacts which would degrade the ESHA and/or wetland resources. Specifically LCP Policy 9-9 requires a 100-foot buffer to be maintained in a natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer except structures of a minor nature. As stated previously, the subject development includes the construction of two residences on adjoining parcels. There is no dispute that the approved project is entirely within the required 100-foot wetland buffer. Therefore, application of LCP Policy 9-9, by itself, would require denial of the project because the 100-foot wetland buffer is not feasible on the site.

However, the Commission must also consider Coastal Act Section 30010, and the Supreme Court decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "taking" was addressed by the U.S. Supreme Court in *Lucas v. South Carolina Coastal Council*. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Coastal Act Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even where an LCP policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, certified LCP Policy 9-9 cannot be read to deny all economically beneficial or productive use of land because it cannot be interpreted to require the Commission to act in an unconstitutional manner.

In the subject case, the applicants purchased the properties in March 1988 for \$30,000 each. The Land Use Plan and Coastal Zoning Ordinance designated the parcels as zoned for single-family residential use at the time the applicants acquired them. Del Playa Drive was partially developed at that time, with residences to the east and to the west of the project site. The certified LCP also identified ESHA on the parcels at the time the applicants acquired them. The applicants' parents and in-laws, John and Barbara Chase, purchased one of the nearby vacant blufftop lots (Lot 27) on January 23, 1988. Before John and Barbara Chase purchased Lot 27, John Chase was aware of the presence of a vernal pool complex and discussed the implications of it with County

planning staff. The County's Findings indicate that John Chase was the principal family member who followed local development issues and had a great familiarity with the area and the events occurring in Isla Vista and the County regarding real estate development and that Chris and Kathryn Chase relied on the advice of John Chase before they purchased the subject parcels. John Chase had actual knowledge of the vernal pool overlay on and adjacent to the subject lots and the impediments to development the overlay imposed before Chris and Kathryn Chase acquired the subject parcels. The County findings also indicate that as a result of his discussions with County staff, John Chase understood that residential development on the vacant blufftop parcels containing the vernal pool complex would need to minimize the intrusion of structures into vernal pool areas and/or include measures to avoid any significant environmental damage.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a public park, are not feasible and would not provide the owner an economic return on the investment. Each parcel is approximately 5,600 sq. ft. in size, and there are other similarly sized parcels with residential development located further to the east and west along the Del Playa Drive bluff top. The County determined that single family residences in the vicinity ranged from 1,300 to 2,100 sq. ft. Some of the neighboring parcels have been acquired by the Isla Vista Recreation and Park District. There is currently no offer to purchase the property from any public agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission also finds that, when they purchased the subject parcels, Chris and Kathryn Chase reasonably expected that some residential development would be allowed, although it would need to be sited and designed to minimize impacts on the sensitive habitat on the parcels. The Commission finds, therefore, that outright denial of all residential use on the parcels would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to avoid application of the policies of the LCP, including LCP Policy 9-9, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to apply the requirements of the LCP. Therefore, in this situation, the Commission must still comply with the LCP Policy 9-9 as well as the other LCP wetland protection policies, by avoiding impacts that would disrupt and/or degrade wetlands, to the maximum extent that this can be achieved without taking the property.

The applicants submitted revised plans to staff, dated January 3, 2006 (Exhibit 5). The January 3, 2006 project plans allow for a development footprint of 1,039 sq. ft. on Parcel 22, including a garage, carport, decks and boardwalks. The total structural development, including first floor second-story, and loft development, would be approximately 1,798 sq. ft., of habitable space with 419 sq. ft. development for a one-

car garage and one-car carport. Under this scenario, there would be no development in the wetland, with the exception of a portion of the 3-foot wide raised boardwalk. The boardwalk would allow access around a portion of the house for maintenance purposes. Additionally, the project plans, dated January 3, 2006, show an upper story deck that would extend over the northernmost portion of the wetland with support beams on the south side of the wetland on Parcel 22 (Exhibit 5).

The January 3, 2006 project plans (Exhibit 5) allow for a development footprint of 1,665 sq. ft. on Parcel 23, including a garage and carport. The total structural development, including first floor second-story, and loft development, would be approximately 1,998 sq. ft., of habitable space with a 610 sq. ft. two-car garage/laundry and one-car carport. Under this scenario, there would be no development in or over the wetland habitat, including decks.

As discussed above, some development must be approved within the 100-foot wetland buffer in order to provide an economically viable use. Therefore, siting and design alternatives must be considered in order to identify the alternative that can avoid and minimize impacts to the wetland to the greatest extent feasible. The Commission finds that, with two exceptions, the January 3, 2006 project plans (Exhibit 5) would allow for reasonable residential use of the property while minimizing impacts to the wetlands to the extent feasible given the highly constrained nature of the parcel. The first exception is that the project plans do not adequately define the useable backyard area and the second exception is that the project plans allow for a second story deck to overhang a portion of the wetland on Parcel 22.

The design of any project on Parcel 22 or 23 is constrained by the location of the wetlands which cover a majority of each of the parcels. The northern extent of wetlands on Parcel 22 is particularly limiting with regard to designing a feasible configuration that would allow parking and habitable space on the ground floor. Staff has endeavored to reconcile the Coastal Act Section 30010 requirement to avoid taking of property, while protecting coastal resources to the maximum extent feasible. The applicants' January 3, 2006 configuration allows for reasonable economic use of the property while situating the residences outside of the wetlands. However as discussed above, staff is recommending a 3-ft wide boardwalk on the south side of the residences to provide a meaningful separation between the wetlands and the residential use. Portions of this boardwalk would cover the wetlands. Staff considered alternatives on Parcel 22 that would setback the residence *and* 3-ft. wide boardwalk entirely outside of the wetland but determined that it would not provide a reasonable size or shape to the ground floor footprint.

Because the January 3, 2006 project plans situate the residences immediately adjacent to the wetlands, there is a potential for human intrusion into the wetlands. In this case, the project design does not adequately define the useable backyard area in order to ensure that encroachment into the adjacent wetland by residents is minimized. Due to the location of residential structures at the edge of the wetland, the owners/occupants of the house would reasonably expect to access the rear of the structures for routine

maintenance such as repainting, clearing of gutters, windows cleaning, etc. Additionally, the lack of a setback encourages the use of the wetlands as a backyard since there would be no defined area where activities by residents and entry is excluded. As a result, the proposed development footprint, though set outside of the wetland boundary, could inadvertently result in the direct use of the wetland by residents to: access the bluffs/beach, utilize for recreation, and/or access for maintenance purposes.

The Commission finds, however, that there is a feasible alternative that would reduce the potential impacts to the wetlands as a result of routine maintenance activities or other residential use of the wetland, by defining the ground floor outdoor space through a continuous corridor of boardwalks and decks (or patios) with an established barrier railing (Exhibit 6). The 3-ft wide boardwalk corridor and barrier measures are intended to establish a logical separation between the wetland and the residential development so that future owners or occupants would not intrude into the wetlands while accessing the rear yard patio/deck areas. Therefore to avoid direct loss of wetlands as a result of the proposed residential development, **Special Condition One (1)** of CDPs A-4-STB-06-054 and -055 requires the applicants to revise the January 3, 2006 project plans to include 3-ft wide, raised wood plank boardwalks to connect up to the proposed ground floor decks and patios in a manner that would provide a non-obstructed access corridor between the east and west property boundaries along the south of the residence. The boardwalks, decks, and patios must have a continuous five-foot high barrier railing on the southernmost portion of the decks/boardwalks/patios, spanning from the western property boundary to the eastern property boundary. The barrier railing must be designed to hinder passage of humans and pets, and may consist, all or in part, of plexiglass or other visually permeable barriers. Gates are allowed only on each end of the property boundaries and gates are not allowed to open toward the wetland.

Application of Special Condition One of CDPs A-4-STB-06-054 and -055 would modify the development footprint by allowing a portion of the raised boardwalk to be placed over a small portion of the wetland on Parcel 22 and a limited area on Parcel 23. Though this alternative will allow for some intrusion into the wetland area, the benefit of having a physical boundary to delineate the usable lot area will have long-term benefits to the overall protection of the wetland area. As discussed above, the Commission must protect wetlands to the maximum extent feasible while at the same time providing reasonable economic use of the property. The subject properties are zoned for residential use and the applicants have some expectation to pursue economically viable residential use of the parcels. However, the applicants are only entitled to the level of residential development that would provide the minimum economically viable use not the maximum economic use. The Commission finds that the residences as proposed in the January 3, 2006 plans with the limitations on development and use of the wetland area does provide a reasonable use while protecting the wetlands to the maximum extent feasible.

The project plans, dated January 3, 2006, include construction of an upper story deck that would extend over the northernmost portion of the wetland with support beams on the south side of the wetland on Parcel 22 (Exhibit 5). Though the support beams of this

deck are not within the delineated wetland area, the deck would extend over a portion of the wetland. The proximity of the deck over the wetland would have potential adverse impacts as a result of household pollutants or runoff introduced directly into the wetland and/or human and equipment intrusion directly into the wetland in order to conduct routine maintenance. Additionally, the presence of structures over wetlands may have long-term adverse impacts due to shading of the wetlands and the resulting effects to soil moisture, hydrology, and vegetation. As a result of these impacts, the shaded areas beneath the deck are unlikely to contain the full range of habitat that would be expected in an area that is not impacted by shading. For these reasons, **Special Condition One (1)** of CDPs A-4-STB-06-054 limits the upper story decks to extend only as far as the approved first floor decks/boardwalk.

The LCP-required setbacks on the subject parcels are: 20 feet from the street right-of-way; a minimum of 5 feet from the side of each lot; and 15 to 25 feet from the rear yard depending on whether the rear yard abuts a permanently dedicated open space or street. The certified LCP includes provisions for setback and height variances in Section 35-173 of the Coastal Zoning Ordinance. In order to locate the development outside of the wetlands, the January 3, 2006 project design requires variances from front and side yard setbacks, and a variance from the County's height requirements. Side yard setbacks would be eliminated on both parcels allowing development up to the property lines to the east and west. Additionally, both parcels would be allowed a 3½ -foot setback from the road right-of-way along the north property boundary. Under the project site's 10-R-1 zoning, structures can reach a maximum height of 25 feet. However, the January 3, 2006 plans include a loft at a maximum height of 28 ft, 10 inches. In this instance, the Commission finds, as it has found in past actions, that variances to other required development standards such as street setbacks, are appropriate where it is necessary in order to avoid or minimize impacts to sensitive resource areas, such as wetlands.

Consistent with the need to ensure that the applicants receive reasonable economic use of their property while minimizing impacts to the sensitive resources on the property to the maximum extent feasible consistent with Section 30010 of the Coastal Act, the Commission finds that the proposed variances to the County's setback and height requirements are necessary. The Commission finds that to provide a reasonable economic use of the property and maximum feasible protection of wetlands, the front yard setbacks may be reduced to three feet on both parcels and the side yard setbacks may be eliminated as provided in the January 3, 2006 project plans. Staff notes that a three-foot front yard setback would still allow for a sidewalk along Del Playa Drive.

In addition to the setback and height requirements, the LCP requires new single-family residences to provide off street parking for two cars. This is provided on these parcels by the garages and carports. However, approval of variances to reduce the front yard setbacks makes it infeasible to have an extended driveway, for additional parking purposes. If the garage or carport is used for storage, the residents will be forced to park on the street. Therefore to ensure that the projects will not have adverse impacts on the availability of parking for residents, guests, and visitors to the bluff top trail, the

Commission requires the applicants to maintain the garage or carport clear and available for parking for two cars, as required by **Special Condition Twelve (12)** of CDPs A-4-STB-06-054 and –055.

Approval of a variance to eliminate the setback between the structures, allows the structures to more closely resemble a duplex. The LCP base zone district allows only one single-family dwelling per lot, and not duplexes. A duplex at this location might be considered inconsistent with the “community character” of the single-family residential zone district.

However, as described above, there are special circumstances in this case which warrant the balancing of LCP policies in order to provide reasonable economic use of property, and minimize impacts to the wetlands. Strict application of visual and wetland protection policies would not allow for reasonable economic use. Where LCP policies conflict, the alternative that is most protective of coastal resources shall apply. Section 35-53 of the Zoning Code specifically assigns a higher priority to implement ESHA protection standards over other resources, such as visual resources. As detailed in Section E *Public Access and Visual Resources*, to avoid taking of private property while implementing the wetland protection policies of the LCP to the maximum extent feasible, the policies associated with visual resources (such as zone district setbacks) cannot be fully implemented.

Because the lots are zoned for one single family dwelling (SFD) per lot and, even with no setback between the structures, *only* one SFD would be permitted on each parcel, the Commission finds that the lack of a setback is limited to a community character issue and is not inconsistent with the requirements of the base zone district. Furthermore, the elimination of side yard setbacks between separately owned structures has been feasibly implemented under similar circumstances further downcoast on the Isla Vista blufftop. In December 2000, the County approved the construction of two single family residences on two adjacent 7,000 square foot bluff top lots on Del Playa Drive that are zoned for multiple residential (99-CDP-046 and 99-CDP-047). The County approved two structures that were each 25 feet in height and 2,093 square feet in size, with a 293 square foot attached garage. A side yard setback variance was granted for each structure, creating a zero side yard setback between the structures. Although the variances resulted in the appearance of a duplex development, the approved structures are two individual single-family residences on separate parcels.

Under the LCP, variances from the provisions of the LCP are allowed when exceptional conditions such as the size, shape, unusual topography, or other extraordinary situation or condition property would impose practical difficulties or would cause undue hardship unnecessary to carryout the intent and purpose of the zoning ordinance. In this case, there are exceptional conditions due to the large area of wetlands on the property. Further the Commission finds that the strict application of the LCP policies would deprive the property of single-family residential privileges, enjoyed by other property in the vicinity also zoned for single-family residential. The granting of the above-described variances will not constitute a grant of special privileges that are inconsistent with other

properties in the vicinity and base zone district. The approved variances do not constitute a grant of special privilege because the total allowable development is roughly equivalent to other residential uses in the immediate vicinity, and the reduction of front setbacks and elimination of side yard setbacks are necessary to allow a reasonable economic use of the property. Further, the variances are not in conflict with the intent and purpose of the LCP because development must be sited and designed to avoid destruction of wetlands.

As explained above, the Commission finds that the January 3, 2006 project design would allow for reasonable economic use of the property while minimizing impacts to the wetlands to the extent feasible given the highly constrained nature of the parcel. The January 3, 2006 project design will provide similar outdoor/indoor habitable space similar to nearby single-family residential development, which according to the County's findings, "ranges from 1,300 to 2,100 square feet of living space."

2. Wetland Mitigation

The existing certified LCP provides LUP Policy 1-1 and Section 30240 of the Coastal Act as incorporated into the LCP; LUP Policies 1-2, 2-11; certified policies of the Goleta Valley Community Plan BIO-GV-2 and BIO-GV-3; and Zoning Ordinance Sections 35-97.7 which require development adjacent to sensitive resource areas, to be regulated to avoid adverse impacts on habitat resources, including application of measures such as setbacks, buffers, grading and water quality controls. Section 30240 of the Coastal Act requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly degrade ESHA and be compatible with the continuance of the habitat areas. Section 35-97.7 specifically sets forth the types of conditions that may be necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit. The Commission has determined that in conjunction with siting new development, additional actions can be taken to minimize adverse impacts to ESHA.

In the design and review of any new development, alternative projects must be identified and analyzed. If there is no feasible alternative that can avoid or eliminate all significant impacts to resources, then the alternative that results in the fewest or least significant impacts must be selected. Any impacts that cannot be avoided through the implementation of siting or design alternatives must be mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on the project site. However, mitigation cannot be substituted for implementation of the project alternative that would avoid impacts to the resources, to the maximum extent feasible in this case.

As noted above, the LCP requires a 100-foot natural buffer area to setback development from wetlands. New residential development contributes to an increase in pollutants and/or adverse impacts from light, noise, thermal, and household-related chemicals, which may have direct adverse impacts to the health of the wetland and associated plant and animal species. Buffers move the source of disturbance away from sensitive areas to attenuate these effects. Additionally, providing a significant distance between new development and the wetland will provide a natural barrier from effects of runoff, by allowing for infiltration of runoff, minimizing erosion and sedimentation. Furthermore, siting new development such that an adequate buffer is provided between the sensitive resource area and development ensures that removal or thinning of native vegetation for fuel modification is not necessary. Finally, natural vegetation buffers minimize the spread of invasive exotic vegetation that tends to supplant native species, from developed areas into sensitive resource areas. The presence of surface or subsurface water makes wetland areas especially susceptible to invasion by non-native species that can in many instances out compete native plants. Invasive plant species do not provide the same habitat values as natural riparian areas. Therefore, the inability to provide a buffer on the site is a significant adverse impact to the wetland resource.

The Commission has found in past actions that such minimum buffer standards are necessary to ensure the protection of environmentally sensitive resources, such as wetlands, and any subsequent reduction to the buffer may adversely impact resources. In this case, there would be no effective buffer between the residential development and the wetlands.

The project EIR reported the following potential impacts as a result of residential development on the subject parcels (page 31):

...the adjacent vernal pool could be indirectly affected by impacts to wetlands if sufficient plant numbers are lost and/or if drainage patterns are affected due to construction of the residential structures. Indirect impacts are also likely due to site development, not only from the long-term presence of the residential development but from the grading during site preparation. Grading and increased impermeable surfaces on the project parcels do have the potential to result in potentially significant impacts to the sensitive wetland habitat by altering the established drainage patterns that helped create the habitat. If soils were left exposed during the rainy season, additional erosion and offsite sedimentation could occur. In addition, the soils within the development footprint may need to be dried to conduct the foundation work which could lead to additional impacts. Because of the relatively small development footprint, the runoff and erosion created by the proposed development is expected to be minimal. However, because the development would occur within a wetland habitat, any changes in drainage patterns are considered a potentially significant impact (Class I) due to potential changes to the wetland which is hydrologically linked to the adjacent vernal pool.

The proposed residential development would also introduce permanent lighting, fencing, noise, human presence, and/or domestic animals as well as use of normal household paints and chemicals which could adversely impact the adjacent wetland without a sufficient buffer. The project EIR found that the project would considerably contribute to

the cumulative significant impacts on biological resources of the Goleta Valley and specifically in the Isla Vista community due to the tremendous adverse pressure on the limited remaining wetland resources.

Therefore, to help offset the unavoidable impacts to wetland resources due to the proximity of the residential development, consistent with the LCP's wetland and ESHA protection policies, the Commission requires the applicants to submit an onsite wetland enhancement plan pursuant to **Special Condition Five (5)** of CDPs A-4-STB-06-054 and -055. The Onsite Wetland Enhancement Plan must be prepared by a qualified biologist, ecologist, or resource specialist with experience, acceptable to the Executive Director, in the field of restoration ecology, and with a background knowledge of vernal wetlands. The Onsite Wetland Enhancement shall include, at a minimum, the removal of any and all invasive plant species on the site; the removal of non-native plants within the boundary of the delineated wetland (FLx, 1997) and the adjacent open space area(s) on-site; revegetation of disturbed areas with appropriate native species, including areas where invasive and non-native plants were removed; a program to provide formal written notice to the occupant(s) of the wetland protection goals and objectives and statement that any activities (with the exception of certain wetland maintenance activities implemented by approved personnel), within the wetland are strictly prohibited; and the installation of a permanent split-rail fence and educational and instructional signage to protect the remaining wetland habitat against impacts from humans as required in Special Condition One of CDPs A-4-STB-06-054 and -055.

Special Condition 5 of CDPs A-4-STB-06-054 and -055 requires the Onsite Wetland Enhancement Plan to include a baseline assessment of the resource, performance standards, and provisions for on-going wetland area maintenance/management for the life of the project. At a minimum, semi-annual maintenance/management activities shall include, as necessary, debris removal, periodic weeding of invasive and non-native vegetation, revegetation consistent with the approved enhancement plan, and inspection and necessary repairs to the required fencing and signage. Maintenance/management activities shall occur within the onsite wetland boundaries delineated in the 1997 FLx report and the adjacent open space areas on the site. The Enhancement Plan shall contain detailed information regarding the implementation of enhancement activities, such as timing, methods, and location of removal, planting and maintenance.

The Enhancement Plan shall designate qualified personnel to implement the maintenance/management activities. Prior to implementing the monitoring and management activities, the applicants must hire a qualified resource specialist to implement the wetland maintenance program. The applicants shall provide the resource specialist's qualifications, for the review and approval of the Executive Director, at least two weeks prior to scheduled maintenance.

Furthermore, **Special Condition Six (6)** of CDPs A-4-STB-06-054 and -055, outlines long-term maintenance/management responsibilities that would be implemented under the Enhancement Plan. No grass cutting shall be permitted within the delineated

wetland areas except where required for wetland enhancement purposes and as approved in the Onsite Wetland Enhancement Plan. No disking for fire control or any other use shall occur in the wetland or buffer areas. Mosquito control shall not be conducted by anyone other than a public agency for health reasons. Invasive plant species shall not be planted anywhere on the project site(s).

Though the onsite enhancement activities will protect the wetland to the maximum extent feasible, the lack of a natural buffer, impact to existing hydrology, and impacts associated with human presence will have lasting cumulative effects on the wetland. As stated previously, given the site constraints, it is simply not feasible to approve residential development that will avoid indirect impacts to wetlands. As a result, in addition to the restoration/enhancement of the onsite wetlands, the County also required the applicants to provide offsite wetland mitigation at a ratio of 2:1 for each square foot lost indirectly.

Therefore, the Commission finds that offsite mitigation is necessary to fully mitigate the impacts of the proposed residential development. Pursuant to **Special Condition Five (5)** of CDPs A-4-STB-06-054 and -055, the applicants shall provide mitigation through the creation or enhancement of an area of degraded wetland habitat at an off-site location in the Goleta vicinity that is of equivalent type and acreage to the area of habitat impacted by the development. The extent of wetlands on the subject parcels, as identified in the 1997 FLx report, is 6,112 sq. ft. The area(s) of disturbed or degraded wetland habitat shall be restored sufficient to provide mitigation of the long-term wetland impacts at a ratio of 2:1 for the 6,112 sq. ft. of vernal pool wetland habitat. The total area of created or restored vernal pool wetland habitat required is 12,224 sq. ft.

A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring as detailed in Special Condition 5 of CDPs A-4-STB-06-054 and -055.

3. Wetland Protection Measures

LUP Policies 1-2, 2-11, 3-19, 9-9, 9-13, 9-14, 9-19, 9-20 and 9-21; certified Goleta Community Plan policies BIO-GV-2 and BIO-GV-3; and the certified Zoning Ordinance (Article II) Sections 35.53 and 35-97.7 regulate potential direct and indirect impacts to wetland, ESHA, and water quality. Where development is unavoidable in constrained areas, the siting and design of development should avoid, where feasible, and minimize individual and cumulative impacts to coastal resources. Coastal Act Section 240, incorporated by reference in LUP Policy 1-1 provides a framework for new development in areas adjacent to ESHAs to be sited and designed to prevent impacts which would degrade those areas.

As stated above, there will be no effective buffer between development and the wetland resource. Given the site constraints and the unavoidable proximity of the wetland, there is a potential for human intrusion into the wetlands. In this case, the project design does not adequately define the useable backyard area in order to ensure that encroachment

into the adjacent wetland by residents is minimized. Due to the location of residential structures at the edge of the wetland, the owners/occupants of the house would reasonably expect to access the rear of the structures for routine maintenance such as repainting, clearing of gutters, windows cleaning, etc. Additionally, the lack of a setback encourages the use of the wetlands as a backyard since there would be no defined area where activities by residents and entry is excluded. As a result, the proposed development footprint, though set outside of the wetland boundary, could inadvertently result in the direct use of the wetland by residents to: access the bluffs/beach, utilize for recreation, and/or access for maintenance purposes.

The Commission finds, however, that there is a feasible alternative that would reduce the potential impacts to the wetlands as a result of routine maintenance activities or other residential use of the wetland, by defining the ground floor outdoor space through a continuous corridor of boardwalks and decks (or patios) with an established barrier railing (Exhibit 6). The 3-ft wide boardwalk corridor and barrier measures are intended to establish a logical separation between the wetland and the residential development so that future owners or occupants would not intrude into the wetlands while accessing the rear yard patio/deck areas. Therefore to avoid direct loss of wetlands as a result of the proposed residential development, **Special Condition One (1)** of CDPs A-4-STB-06-054 and -055 requires the applicants to revise the January 3, 2006 project plans to include 3-ft wide, raised wood plank boardwalks to connect up to the proposed ground floor decks and patios in a manner that would provide a non-obstructed access corridor between the east and west property boundaries along the south of the residence. The boardwalks, decks, and patios would be required to have a continuous five-foot high barrier railing on the southernmost portion of the decks/boardwalks/patios, spanning from the western property boundary to the eastern property boundary. The barrier railing would be designed to hinder passage of humans and pets, and may consist, all or in part, of plexiglass or other visually permeable barriers. Gates would be allowed only on each end of the property boundaries and gates would not be allowed to open toward the wetland.

The terms of the approval of this CDP shall be recorded as a deed restriction on each property as specified in **Special Condition Thirteen (13)** of CDPs A-4-STB-06-054 and -055. This shall ensure that the requirement for the 5-ft. barrier railing and wetland fencing is permanent. Furthermore, to ensure that the wetland area is not interpreted as an extension of the backyard or as parkland available for active recreational uses, Special Condition 1 of CDPs A-4-STB-06-054 and -055 requires the installation of a permanent split rail fence, maximum four feet in height, to be installed along the balance of the eastern property line south of the approved boardwalk/decks/barrier railing on Parcel 23, along the southern property line of Parcels 22 and 23, and on the balance of the western property line south of the boardwalk/decks/barrier railing on Parcel 22, as indicated in Exhibit 6. The split-rail fence shall be installed prior to occupancy to protect the remaining wetland habitat against impacts from construction activities. The minimum distance from ground level to the split-rail fence's first rung shall be 18 inches to allow for wildlife movement through the site.

Permanent signage, as required in **Special Condition Eleven (11)** of CDPs A-4-STB-06-054 and -055 shall be posted along the split-rail fence to inform the public about the sensitive wetland resource and the enhancement activities. Prior to issuance of the coastal development permit, the applicants shall submit signage plans, for the review and approval of the Executive Director, indicating the location, size, design, and content of all signs to be installed. All signs shall be installed prior to the start of construction, concurrent with the installation of the split-rail wetland protection fence. A minimum of four signs shall be placed in conspicuous locations along the split-rail fence, as shown in Exhibit 4. The language shall notify the public that the area contains a sensitive wetland habitat and that activities are prohibited within the fenced area.

Furthermore, in order to protect habitat values as required by Section 30240 of the Coastal Act, the Commission has found, in permit actions, that it is necessary to consider alternatives for siting and designing development in order to ensure that the alternative chosen is the one that minimizes impacts to ESHA. One such impact is the effect of artificial night lighting on wildlife. To address the impact of night lighting on the neighboring open space habitat, the Commission requires exterior night lighting to be minimized, shielded and directed away from the wetland and surrounding open space wherever lighting associated with development adjacent to these resources cannot be avoided pursuant to **Special Condition Seven (7)** of CDPs A-4-STB-06-054 and -055. Special Condition 7 of CDPs A-4-STB-06-054 and -055 requires exterior night lighting installed on the project site to be of low intensity, low glare design, and be hooded to direct light downward onto the subject parcel(s) and prevent spill-over onto adjacent parcels and any public open space areas, and into the wetland habitat. The only outdoor night lighting allowed on the subject parcel is limited to the minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. Security lighting attached to the residence and garage shall be controlled by motion detectors. The applicants shall submit a lighting plan for the review and approval of the Executive Director, fulfilling the lighting requirements.

Additionally, construction related disturbances may undermine the habitat value of the wetland complex through improper storage or placement of materials or equipment or through improper release of debris, waste or chemicals. To address the potential adverse impacts during construction, the Commission finds it necessary to provide a framework of the property owner's responsibilities that would apply during the construction phase of the project as well as for the life of the project, as described in **Special Condition Twelve (12)** of CDPs A-4-STB-06-054 and -055. Special Condition 12 of CDPs A-4-STB-06-054 and -055 outlines the applicants' responsibilities including parameters for placement and storage of construction materials, debris, or waste to ensure that it will not be subject to erosion nor degrade wetland habitat. Special Condition 12 of CDPs A-4-STB-06-054 and -055 also requires that any and all debris resulting from construction activities shall be removed from the site on the same day. Equipment shall not be operated or stored south of the rear yard fencing. Additionally, during construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm

drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.

Furthermore, the Commission requires a construction monitor, pursuant to **Special Condition Eight (8)** of CDPs A-4-STB-06-054 and -055, in order to ensure that construction activities are carried out in a manner that will not diminish wetland values. The applicants shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director to serve as the biological monitor. The biological monitor shall oversee the installation of the decks, patios, boardwalks and split-rail wetland protection fence at the edge of the permitted construction zone, prior to any construction activities. The biological monitor shall be present during excavation, exterior construction such as framing and foundation placement, or any grading activities to prevent intrusion into the delineated wetland habitat. The applicants shall cease work should any construction activities adversely impact wetland habitat, on or adjacent to the site(s). In such event, the biological monitor(s) shall direct the applicants to cease work and shall immediately notify the Executive Director. Project activities shall resume only upon written approval of the Executive Director. If significant impacts or damage occur to sensitive habitat or species, the applicants shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, program shall be processed as an amendment to this coastal development permit.

LCP Policy 9-14 specifically states that “new development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.”

The project EIR recognizes that the proposed development has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. The use of insecticides, herbicides, or any toxic chemical substances has the potential to significantly degrade ESH. The use of pesticides and/or herbicides by the County for mosquito abatement poses potential adverse effects to coastal waters. These impacts reduce the biological productivity and the quality of coastal waters. One of the long-term management responsibilities assigned by **Special Condition Six (6)** of CDPs A-4-STB-06-054 and -055 prohibits mosquito control except where a public agency determines that mosquito control is necessary for public health and safety reasons.

To ensure protection of water quality consistent with the certified LCP, **Special Condition Nine (9)** of CDPs A-4-STB-06-054 and -055 requires drainage and runoff

control plans, prepared by a licensed engineer, that incorporates structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. The selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile. Additionally, the plans shall reflect that there shall be no net reduction in stormwater runoff to the on-site and adjacent wetland complex (as delineated in the 1997 FLx report). The plan shall be reviewed and approved by a qualified geotechnical engineer to ensure that the design does not represent a threat to the site stability or safety and the consulting biologist preparing the Onsite Wetland Enhancement Plan to ensure that redirection of drainage does not adversely impact on-site or adjacent wetlands.

Additionally, **Special Condition Twelve (12)** of CDPs A-4-STB-06-054 and -055 outlines the property owner's responsibilities, which includes special provisions for washing of concrete trucks, paint, equipment, or similar activities. Such activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.

Furthermore, interim erosion control measure implemented during construction will serve to minimize the potential for adverse impacts to wetlands resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Ten (10)** of CDPs A-4-STB-06-054 and -055 is necessary to ensure the proposed development will not adversely impact water quality or coastal resources, consistent with the County's LCP.

The Commission also finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition Four (4)** of CDPs A-4-STB-06-054 and -055, the future development restriction, has been required.

The adverse impacts from the construction of new development on lots containing wetland habitat is substantial. As discussed above, these impacts can be reduced by considering project design alternatives and mitigation measures, but they cannot be completely avoided. However, the Commission can only find that this project alternative minimizes wetland impacts if the remaining wetland habitat on the site is preserved to the extent possible. The most effective way to protect the remaining wetlands on site is

through an open space restriction that prohibits development on the remainder of the site now and in the future. Therefore, to ensure that the onsite wetland area is permanently protected to the maximum extent feasible, **Special Condition Fifteen (15)** of CDPs A-4-STB-06-054 and -055 requires that no future development occur within the boundaries of the open space / wetland area, illustrated in Exhibit 6, except for approved: drainage and polluted runoff control activities; planting of native vegetation and restoration activities; public trails; and existing easements for roads, trails and utilities. **Special Condition Thirteen (13)** of CDPs A-4-STB-06-054 and -055 requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, as described above, the Commission finds that to allow reasonable economic use of property consistent with Section 30010 of the Coastal Act, there will be significant and unavoidable impacts to wetlands. The Commission further finds that as conditioned, the proposed residential development is the minimum necessary to avoid a taking and that the impacts to wetlands that cannot be avoided, are mitigated to the maximum extent feasible.

E. PUBLIC ACCESS AND VISUAL RESOURCES

Section 30210 Coastal Act states:

In carrying out the requirements of Section 4 of Article X of the California constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

LCP Policy 1-1, incorporating Section 30251 of the Coastal Act states:

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

LCP Policy 1-2 states:

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

LCP Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

LCP Policy 4-4 states:

In areas designated as urban on the land use plan maps, and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.

LCP Policy 4-5 states:

In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Blufftop structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.

LCP Policy 7-1 states, in part:

The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. . . .

Sec. 35-53. Overlay District Designations and Applicability. (in relevant part):

...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.

Sec. 35-71.7. R-1 Single-Family Residential Setbacks for Buildings and Structures (in relevant part):

1. Front: Fifty (50) feet from the centerline and twenty (20) feet from the right-of-way line of any street...

2. Side: On each side of the lot, ten percent of the width of the lot except:

a. for lots zoned 2-E-1 [minimum 2 acre] or less, in no case shall the required side yard be less than five (5) feet nor more than ten (10) feet...

3. Rear: Twenty-five (25) feet or fifteen (15) feet if the rear yard abuts a permanently dedicated open space or a street to which access has been denied as part of an approved subdivision or other approved development permit.

The project sites are located on two adjacent blufftop properties between the first public road and the sea (Exhibits 1 and 2). Each lot is approximately 5,600 sq. ft., 40 ft. in

width and 140 ft. in length. The subject parcels are undeveloped, relatively flat and are covered with low-lying vegetation. Wetlands are present over most of the site (Exhibit 3). Two public access easements are adjacent to the sites: one County easement running parallel to the easternmost project parcel to the bluff top where another easement runs east-west for some distance extending onto and beyond the subject parcels. Four parcels east and one parcel west of the subject sites are vacant open space parcels, also part of the vernal wetland complex, owned by Isla Vista Recreation and Park District and the County of Santa Barbara. Nearby single family residential development "ranges from 1,300 to 2,100 square feet of living space" (County Board of Sups. Findings).

The Final EIR (September 2003) for the project reports that: "no organized activities are known to occur on the parcels, but there is ample evidence of regular human (and domestic wildlife) use of the site due to the trampled vegetation and scattered trash, as well as a number of well-worn paths (both legal and incipient) crossing the open space to the bluff top." The parcels have been somewhat degraded by disturbances such as the presence of trails well-used by humans and domesticated animals, and deep tire ruts worn into the soil near Del Playa Drive.

As stated previously, the applicant submitted modified project plans to staff dated January 3, 2006. These plans propose development of a three-level, maximum 28 ft. 10 inches in height, 1,798 sq. ft. single family residence with a 419 sq. ft. of garage/carport on Parcel 22 and a 1,998 sq. ft. single family residence with a 610 sq. ft of garage/carport/laundry area on Parcel 23.

1. Public Access

In addition to any applicable policies of the LCP, all projects located between the first public road and the sea requiring a coastal development permit, such as the proposed project, must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast.

With regard to public access, there is an existing vertical public accessway to the bluff top trail and beach adjacent to one of the subject parcels, and there is an east-west trending accessway located offsite along the blufftop and immediately seaward of the subject parcels. The lateral accessway along the blufftop leads to a stairway to the beach, west of the subject parcels. In addition, there are informal access trails traversing through the property. Since the vertical or blufftop accessways allow access directly around the parcels the approved project would not have any directly impact on the public's ability to access the blufftop or beach. As proposed, however, the project would result in the closure and restoration of informal trails through the wetland area.

The Isla Vista beach is composed of a thin veneer of sand perched on a wave cut platform. The beach varies in width from approximately 43 feet to 136 feet (as measured from the base of the bluff to the MSL contour on the bedrock terrace), and is

generally narrower at the west (up-coast) end and wider at the east (down-coast end). Vertical access to the beach is via a ramp and four public stairways. The beach fronting Del Playa Drive is a heavily used beach serving the student residential community of Isla Vista of over 20,000 people. Isla Vista beach is used both for recreational purposes and as a means of reaching adjoining beaches up and down-coast of this community. The Isla Vista beach is a public beach that is intensively used for a variety of recreational activities, including strolling, surfing, running, sunbathing, and fishing.

The proposed development will be located on the bluff top above this sandy beach of Isla Vista that is widely used by the public at large. The Commission also recognizes that this beach in Isla Vista below the bluff on which the development is proposed has been widely used by the public for many years and that prescriptive rights likely exist for public use of the dry sandy beach from the base of the bluffs seaward to the mean high tide line. Members of the public have used the Isla Vista beach for sunbathing at the base of the bluffs on the dry sand and for walking and running. In addition, during periods when the tide is high along this beach, the dry sand has been used in order to pass along the beach from one end to the other. Use of both the dry and wet sandy beach at the base of these bluffs has been documented as far back as 1965, with public use continuing generally until the present for active and passive access and recreation. Due to this continual public use of the beach below the bluffs on which the proposed development will be situated, the Commission notes that the project should not have any adverse impact on any prescriptive rights to that use that may exist.

Furthermore, due to the naturally thin veneer of sand over the wave cut platform, the sand beach is highly sensitive to alteration of the littoral environment that would reduce the amount of sand reaching the beach or accumulating on the wave-cut platform. Any future seawalls or shoreline protective devices on the subject sites would exacerbate natural seasonal fluctuation in the amount of sand (and the consequent width of the beach) and result in the long-term loss of the beach and related public beach access. These effects are the result of a number of coastal processes influenced or induced by the seawall, including: (1) increasing the amount of wave reflection at the seaward face of the seawall, thus increasing the amount of beach sand scour; (2) preventing the natural retreat of the coastal bluff face in response to wave attack, thus preventing the landward shift of the fronting beach, as adjoining, unprotected reaches of the bluff retreat; and (3) reducing the amount of sand contributed to the littoral beach by the erosion of the bluff face.

One seawall (Norris/Murphy) constructed in Isla Vista in 1979 has already resulted in the narrowing and almost complete disappearance of the beach directly in front of the seawall, as erosion on either side of the seawall has caused the bluff up and downcoast from the seawall to retreat, creating an artificial promontory which juts out into the active surf-zone. The western end of Isla Vista Beach is generally narrower than the eastern end, and currently there is limited access toward the western end during periods of high tide, particularly during the winter months when the sand beach exhibits a winter beach profile (i.e., lower and narrower accumulation of sand on the wave cut platform.) Further, as noted above, the effects of the Norris/Murphy seawall provides confirmation

of the effects of seawalls and shoreline protective devices on lateral public access in Isla Vista.

In summary, future seawalls or shoreline bluff protective devices necessary to protect the proposed development would result in substantial impact to lateral public beach access by directly displacing existing public beach area, and by causing the long-term progressive loss of beach width. Increased loss of sand on the beach due to wave scour and reduction in sand supply would adversely impact beach access to and recreational use of the Isla Vista Beach by narrowing the average width of the beach, and by increasing the frequency and length of time when no sand beach would be available on the wave cut terrace.

Therefore, the Commission finds that the County's approval of the project is not in conformance with the public access requirements of the County's LCP, which incorporates Sections 30210 and 30211 of the Coastal Act. In approving the proposed development, the County did not condition the proposed development to avoid the construction of a seawall or shoreline bluff protective device in the future should the proposed development become threatened by bluff erosion and retreat. As a result, in order to ensure that the proposed project is consistent with the policies of the County LCP, including Section 30253 of the Coastal Act incorporated therein, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition Three (3)** of CDPs A-4-STB-06-054 and -055 in conjunction with **Special Condition Thirteen (13)** of CDPs A-4-STB-06-054 and -055 requires the applicants to record a deed restriction that would prohibit the applicants, or future landowners, from constructing a shoreline or bluff protective device or devices for the purpose of protecting any of the development approved under these applications.

Therefore, the Commission finds that, as conditioned, the proposed development will meet the public access and recreation policies of the County's LCP and Section 30210 of the Coastal Act.

2. Visual Resources

LCP Policies 3-14 and 4-4 require new development to be designed to fit the topography of the site and be consistent with the scale and character of the neighborhood. LCP Policy 4-5 specifically requires that oceanfront structures minimize or avoid impacts on public views from the beach. In addition, Section 30251 of the Coastal Act, which is included in the certified LCP as a guiding policy, requires that visual qualities of coastal areas shall be considered and protected and, where feasible, degraded areas shall be enhanced and restored. Policy 1-2 provides that where policies conflict the issue shall be resolved by applying the policies that are most protective of coastal resources. This is more specifically defined under the ESH Overlay District which explains that the provisions of the ESH shall govern over the regulations of any base zone district or overlay district.

The LCP policies as described above require that the proposed development be sited and designed to protect views to and along the ocean and scenic coastal areas and be

visually compatible with the character of surrounding areas. The subject parcels are located on adjacent blufftop lots between the first public road and the sea and neighboring properties are open space. The County-approved footprint of each house would be setback approximately 141-152 feet from the bluff edge and would not be visible from the beach.

The project EIR reported the significant impact to public and private views as a result of residential development on the subject parcels as follows:

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

Application of the visual policies of the LCP would require additional measures to encourage continuity with the open space environment and compatibility with the neighborhood character. Such measures would likely include further setbacks to promote through-views; elimination of setback variances, especially as pertains to the front yard to soften views from the first public road to the ocean; elimination of second story development; and/or restriction of landscaping to low-growing, low-mass plant species, such that at maturity the landscaping softens the effect of the structure but would not overpower the site with additional massing of trees, hedges, vines, etc.

However, in this case, the Commission must protect wetlands and visual resources in a manner that shall not be construed to authorize the “taking” of private property for public use. Where policies conflict, the alternative that is the most protective of coastal resources shall apply, consistent with Policy 1-2 of the LCP. In this case, the implementation of the LCP policies that provide wetland protection would be, on balance, most protective of coastal resources. This is underscored by Section 35-53 of the Zoning Code which provides that environmentally sensitive habitat standards shall override the requirements of the base zone district. See Section D, *Environmentally Sensitive Habitat and Wetlands*, of this report for a detailed analysis of the wetlands protection policies as well as the requirements to avoid unconstitutional taking of private property for public use.

As described in Section D, the Commission must consider Section 30010, and the Supreme Court decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a “taking” was addressed by the U.S. Supreme Court in *Lucas v. South Carolina Coastal Council*. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. The subject properties are zoned for residential use and the applicants have some expectation to pursue economically viable

residential use of the parcels. However, the level of residential development that would provide the minimum economically viable use of the property is not defined.

The applicants submitted revised plans to staff, dated January 3, 2006 (Exhibit 5). The January 3, 2006 project plans allow for a development footprint of 1,039 sq. ft. on Parcel 22, including a garage, carport, decks and boardwalks. The total structural development, including first floor second-story, and loft development, would be approximately 1,798 sq. ft., of habitable space with 419 sq. ft. development for a one-car garage and one-car carport. Under this scenario, there would be no development in the wetland, with the exception of a portion of the 3-foot wide raised boardwalk. The boardwalk would allow access around a portion of the house for maintenance purposes.

The January 3, 2006 project plans (Exhibit 5) allow for a development footprint of 1,665 sq. ft. on Parcel 23, including a garage and carport. The total structural development, including first floor second-story, and loft development, would be approximately 1,998 sq. ft., of habitable space with a 610 sq. ft. two-car garage/laundry and one-car carport. Under this scenario, there would be no development in or over the wetland habitat, including decks.

The certified LCP includes provisions for setback and height variances in Section 35-173 of the Coastal Zoning Ordinance. In order to locate the development outside of the wetlands, the January 3, 2006 project design requires variances from front and side yard setbacks, and a variance from the County's height requirements. Side yard setbacks would be eliminated on both parcels allowing development up to the property lines to the east and west. Additionally, both parcels would be allowed a 3½ -foot setback from the road right-of-way along the north property boundary. Under the project site's 10-R-1 zoning, structures can reach a maximum height of 25 feet. However, the January 3, 2006 plans include a loft at a maximum height of 28 ft, 10 inches. In this instance, the Commission finds, as it has found in past actions, that variances to other required development standards such as street setbacks, are appropriate where it is necessary in order to avoid or minimize impacts to sensitive resource areas, such as wetlands.

Consistent with the need to ensure that the applicants receive an economically viable use of their property while minimizing impacts to the sensitive resources on the property to the maximum extent feasible consistent with Section 30010 of the Coastal Act, the Commission finds that the proposed variances to the County's setback and height requirements are necessary. The Commission finds that to provide a reasonable economic use of the property and maximum feasible protection of wetlands, the front yard setbacks may be reduced to three feet on both parcels and the side yard setbacks may be eliminated as provided in the January 3, 2006 project plans. These variances would potentially have an adverse effect on protection of visual resources, such as views and community character. In this case, to provide reasonable economic use of property, the visual policies of the LCP cannot be fully applied. Where there is conflict between protection of wetlands and protection of visual resources, both the LCP and Coastal Act find that the protection of wetlands is of higher priority.

Approval of a variance to eliminate the side yard setback between structures, allows development more closely resembling a duplex. The LCP base zone district allows only one single-family dwelling per lot, and not duplexes. A duplex at this location may be considered inconsistent with the community character of the single-family residential zone district.

Because the lots are zoned for one single family dwelling (SFD) per lot and, even with no setback between the structures, *only* one SFD would be permitted on each parcel, then the Commission finds that the lack of a setback is limited to a community character issue and is not inconsistent with the requirements of the base zone district. Furthermore, the elimination of side yard setbacks between structures has been feasibly implemented under similar circumstances further downcoast on the Isla Vista blufftop. In December 2000, the County approved the construction of two single family residences on two adjacent 7,000 square foot bluff top lots on Del Playa Drive that are zoned for multiple residential (99-CDP-046 and 99-CDP-047). The two approved structures were each 25 feet in height and 2,093 square feet in size, with a 293 square foot attached garage. A side yard setback variance was granted for each structure, creating a zero side yard setback between the structures. Although the variances resulted in the appearance of a duplex development, the structures are two individual single-family residences.

As explained above, the Commission finds that the January 3, 2006 project design, as revised pursuant to Special Condition One, would allow for reasonable economic use of the property while minimizing impacts to the wetlands to the extent feasible given the highly constrained nature of the parcel. The January 3, 2006 project design will provide similar outdoor/indoor habitable space similar to nearby single-family residential development, which according to the County's findings, "ranges from 1,300 to 2,100 square feet of living space."

All of these measures will contribute to the further detriment of visual resources. And, as noted above, the LCP policies cannot be fully applied in these circumstances in order to implement wetland protection measures while allowing reasonable development of the property. It is important to note, however, that the majority of visual impact will be to private views, rather than public views. Though the development will be visually imposing, the public will have the ability to bypass the development and access the open space and bluff top path. Additionally the lots are each 40 feet wide and ocean through-view corridors are present immediately east and west of the properties. The visually intimidating structures will briefly interrupt public views from the road but are not substantially out of character with the existing built-out Del Playa bluff top.

Therefore, the Commission concludes that adverse impacts to wetland resources would be more significant than the impact to visual resources and that the proposed project as modified, is most protective of coastal resources consistent with Section 30010 of the Coastal Act.

F. WATER QUALITY

LCP Policy 1-1, incorporating Section 30231 of the Coastal Act states:

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

LCP Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparations is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

LCP Policy 3-16 states:

Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.

LCP Policy 3-17 states:

Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.

LCP Policy 3-18 states:

Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible to facilitate groundwater recharge.

LCP Policy 3-19 states:

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

As stated previously, the applicant submitted modified project plans to staff dated January 3, 2006. These plans propose development of a three-level, maximum 28 ft. 10 inches in height, 1,798 sq. ft. single family residence with a 419 sq. ft. of garage/carport

on Parcel 22 and a 1,998 sq. ft. single family residence with a 610 sq. ft of garage/carport/laundry area on Parcel 23. The January 3, 2006 project design requires variances from front and side yard setbacks and height requirements. Both parcels would have a 3½ -foot setback from the road right-of-way along the north property line, and there would be no side yard setback requirements for either property. Additionally, the January 3, 2006 project design requires a variance to the 25 ft. height requirement in order accommodate the proposed maximum height of 28 ft, 10 inches. As proposed, the development footprint of all structures would be located at the northern end of the parcels.

The proposed development will result in an increase in impervious surfaces, which in turn may decrease the infiltrative function and capacity of existing permeable land on sites. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the sites. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons such as oil and grease from vehicles, heavy metals, synthetic organic chemicals such as paint and household cleaners, soap and dirt from the washing of vehicles, dirt and vegetation from yard maintenance, litter, fertilizers, herbicides, pesticides, and bacteria and pathogens from animal waste. The discharge of these pollutants into coastal waters can cause cumulative impacts such as eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms, leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes; reduce optimum populations of marine organisms; and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the LCP, the Commission finds it necessary to require the incorporation of Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed sites. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

For design purposes, post-construction structural BMPs (or suites of BMPs) should be designed to treat or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or

the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The Commission finds that sizing post-construction structural BMPs to accommodate (filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the applicants to submit final drainage and runoff plans including selected post-construction structural BMPs which shall be sized based on design criteria specified in **Special Condition Nine (9)** of CDPs A-4-STB-06-054 and -055, and finds this will ensure the proposed developments will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Ten (10)** of CDPs A-4-STB-06-054 and -055 is necessary to ensure the proposed development will not adversely impact water quality or coastal resources, consistent with the County's LCP, including Policies 3-14, 3-16, 3-17, 3-18, and 3-19 and Section 30231 of the Coastal Act, incorporated into the LCP.

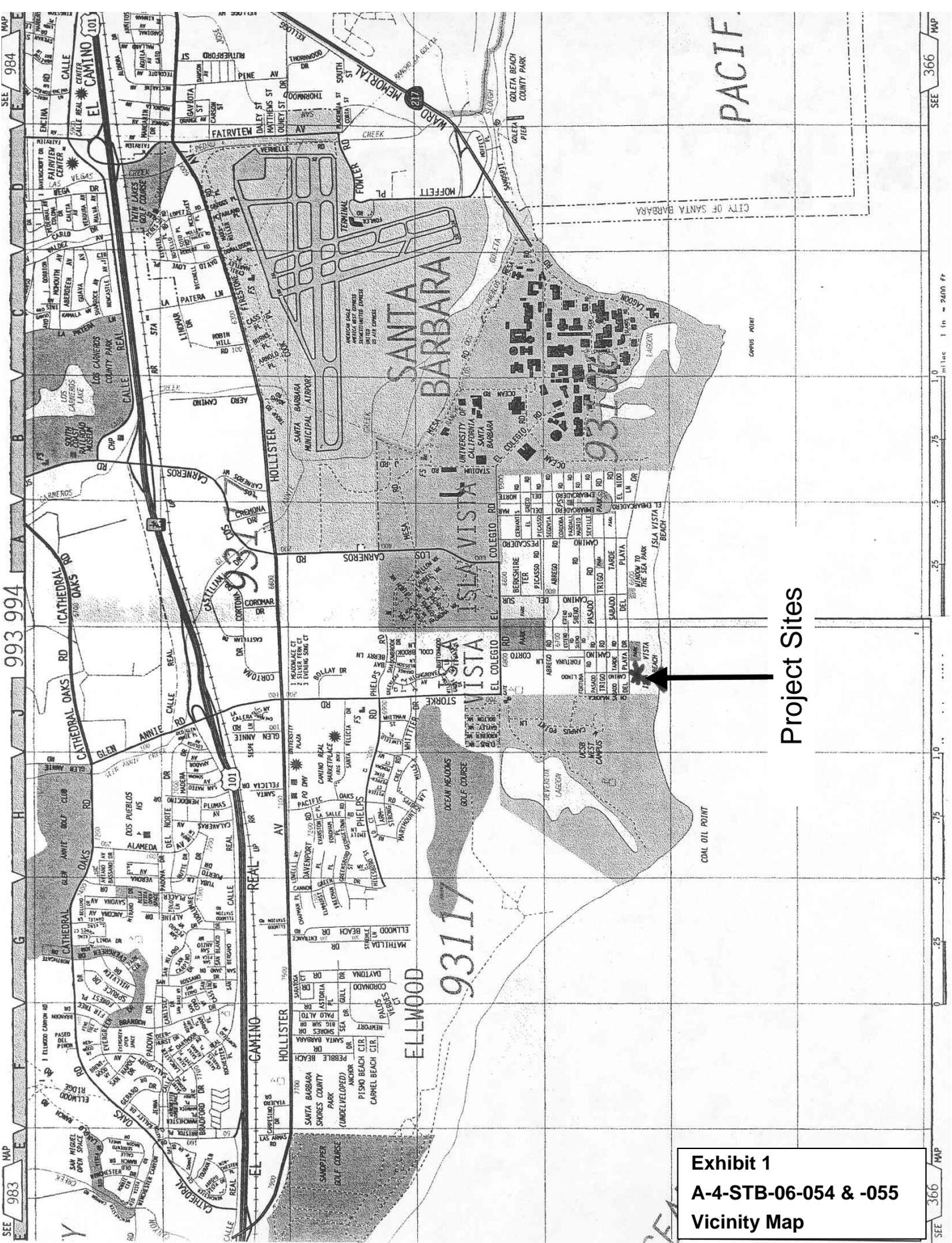
Additionally, to ensure that inadvertent impacts to water quality and the adjacent wetlands do not result from the construction of the proposed development, **Special Condition Twelve (12)** of CDPs A-4-STB-06-054 and -055 outlines the applicants' responsibilities including parameters for placement and storage of construction materials, debris, or waste to ensure that it will not be subject to erosion nor degrade wetland habitat. Special Condition 12 of CDPs A-4-STB-06-054 and -055 also requires that any and all debris resulting from construction activities shall be removed from the site on the same day. Equipment shall not be operated or stored south of the rear yard fencing. Additionally, during construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination.

Therefore, the Commission finds that, as conditioned, the proposed development will meet the water quality and watershed protection policies of the County's LCP and Section 30210 of the Coastal Act.

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application 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 which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

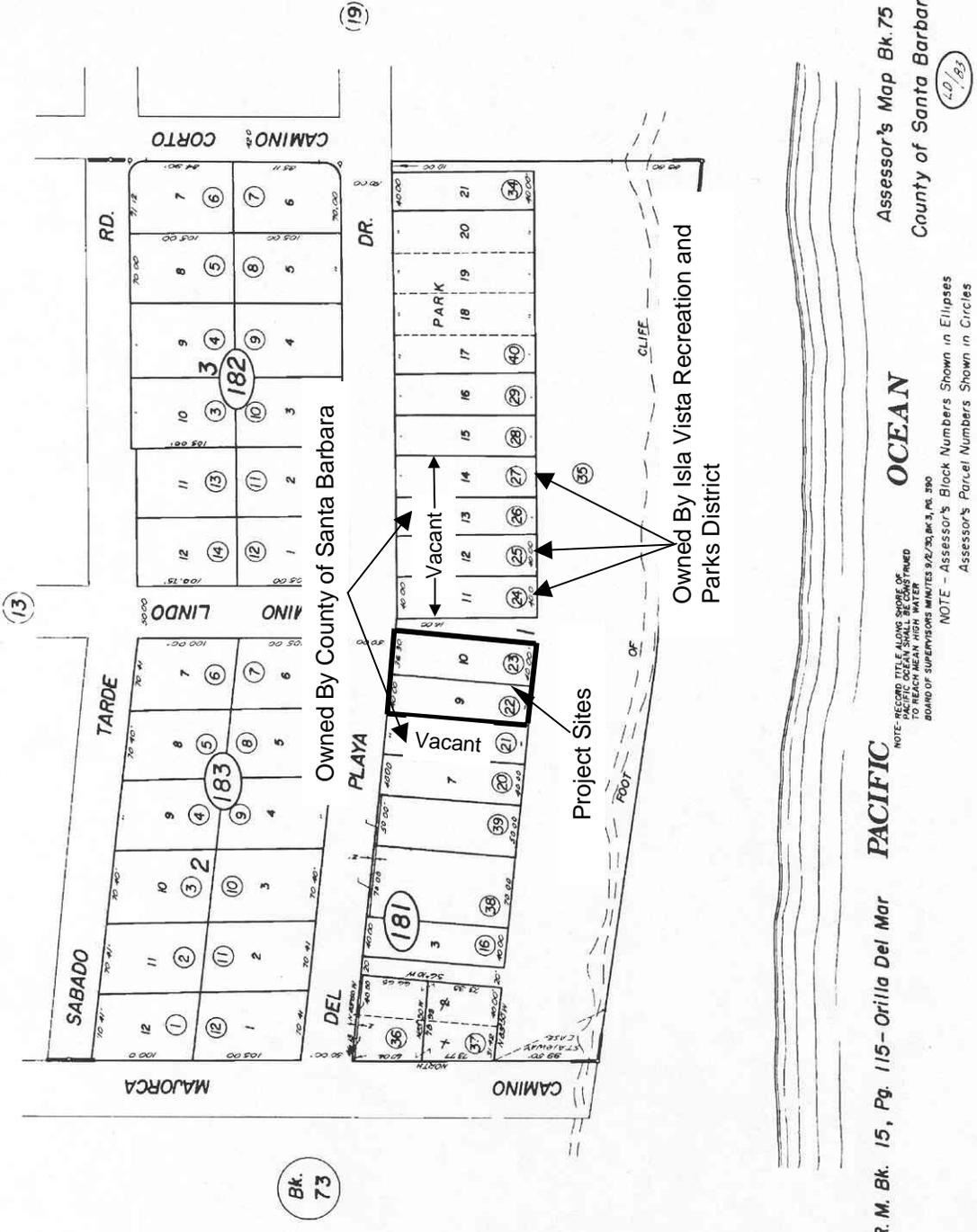
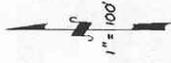


PACIF.

Project Sites

Exhibit 1
A-4-STB-06-054 & -055
Vicinity Map

SEE 983 MAP SEE 994 MAP
SEE 366 MAP
SEE 366 MAP
1 in = 2400 ft
0 .25 .5 .75 1.0 miles



R. M. Bk. 15, Pg. 115- Orilla Del Mar
 OCEAN
 Assessor's Map Bk. 75 - Pg. 18
 County of Santa Barbara, Calif.

NOTE - RECORD TITLE ALONG SHORE OF
 PACIFIC OCEAN SHALL BE CONSIDERED
 TO REACH MEAN HIGH WATER
 BOARD OF SUPERVISORS' MINUTES 9/2/50, P. 390
 NOTE - Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles

Exhibit 2
 A-4-STB-06-054 & -055
 Parcel Map

CAMINO
LINDO

D E L

P L A Y A D R I V E

Key

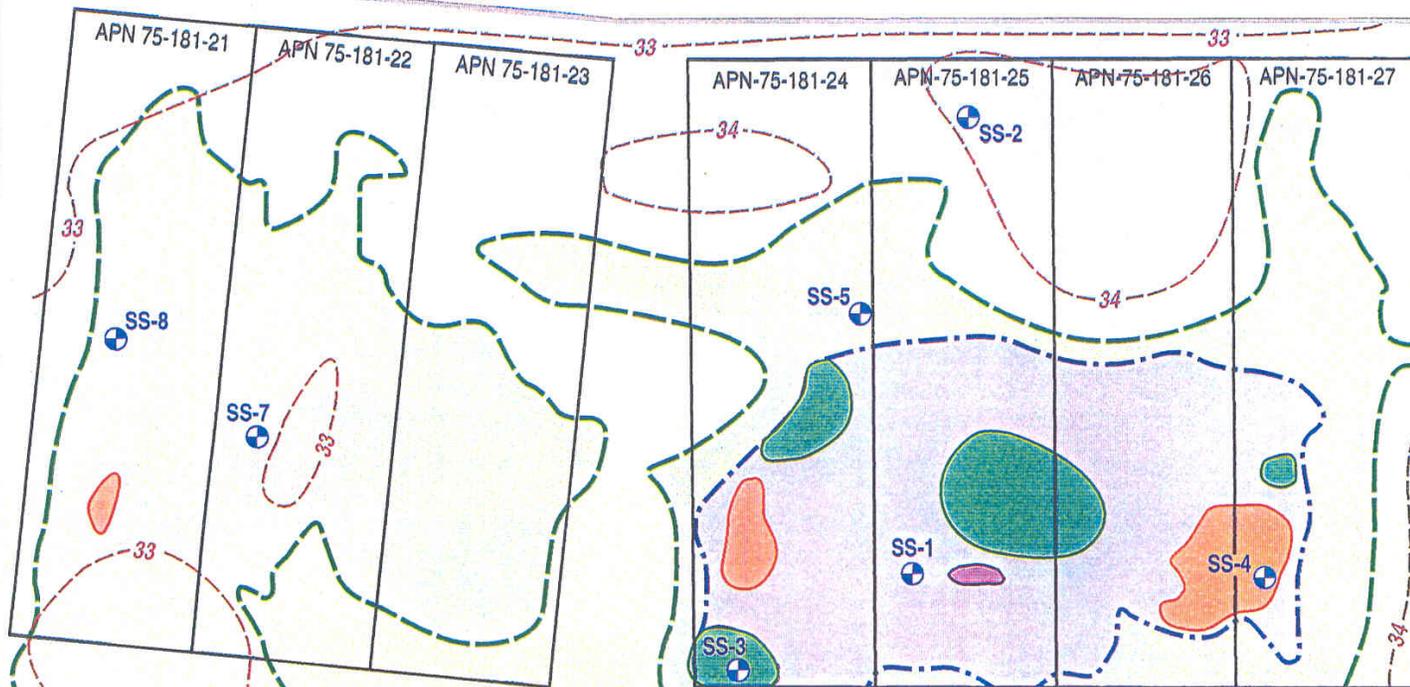
-  Wetland Boundary
-  Vernal Pool Boundary
-  Contour and Elevation
-  Sampling Station

Sensitive Plant Species

-  *Hemizonia parryi*
ssp. *australis*

Dominant Wetland Plant Species

-  *Eleocharis macrostachya*
-  *Juncus phaeocephalus*
-  *Lolium multiflorum*
-  *Eleocharis acicularis*/
Eryngium vaseyi



a c i f i c O c e a n

Wetlands and Plant Species

Isla Vista Del Playa Drive Parcels
FLx May 1997 Survey



Exhibit 3
A-4-STB-06-054 & -055
FLx Wetland Delineation
(1997)

CAMINO
LINDO

D E L

P L A Y A D R I V E

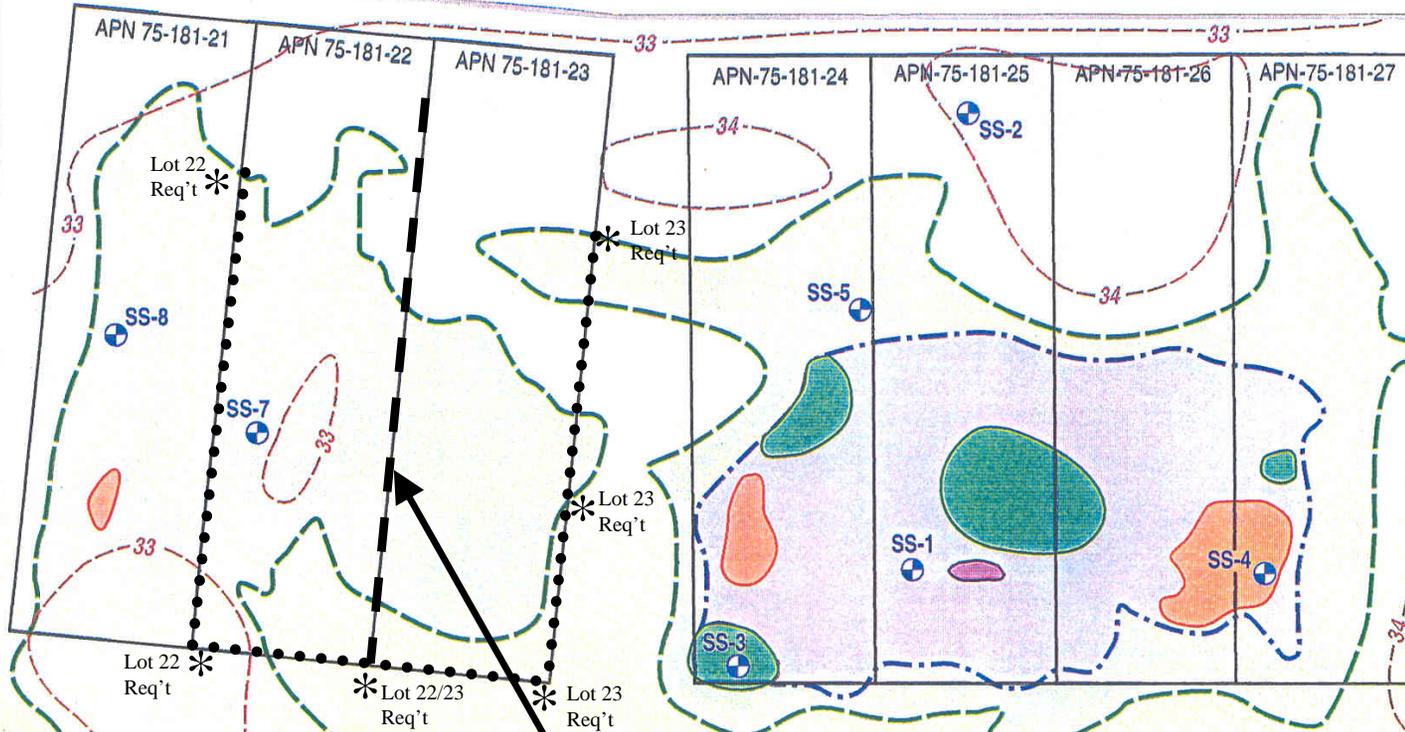
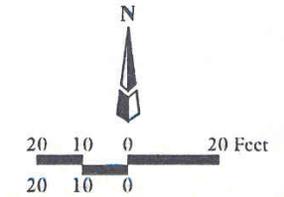
- Key**
- Wetland Boundary
 - Vernal Pool Boundary
 - Contour and Elevation
 - Sampling Station

Sensitive Plant Species

- Hemizonia parryi* ssp. *australis*

Dominant Wetland Plant Species

- Eleocharis macrostachya*
- Juncus phaeocephalus*
- Lolium multiflorum*
- Eleocharis acicularis*/
Eryngium vaseyi



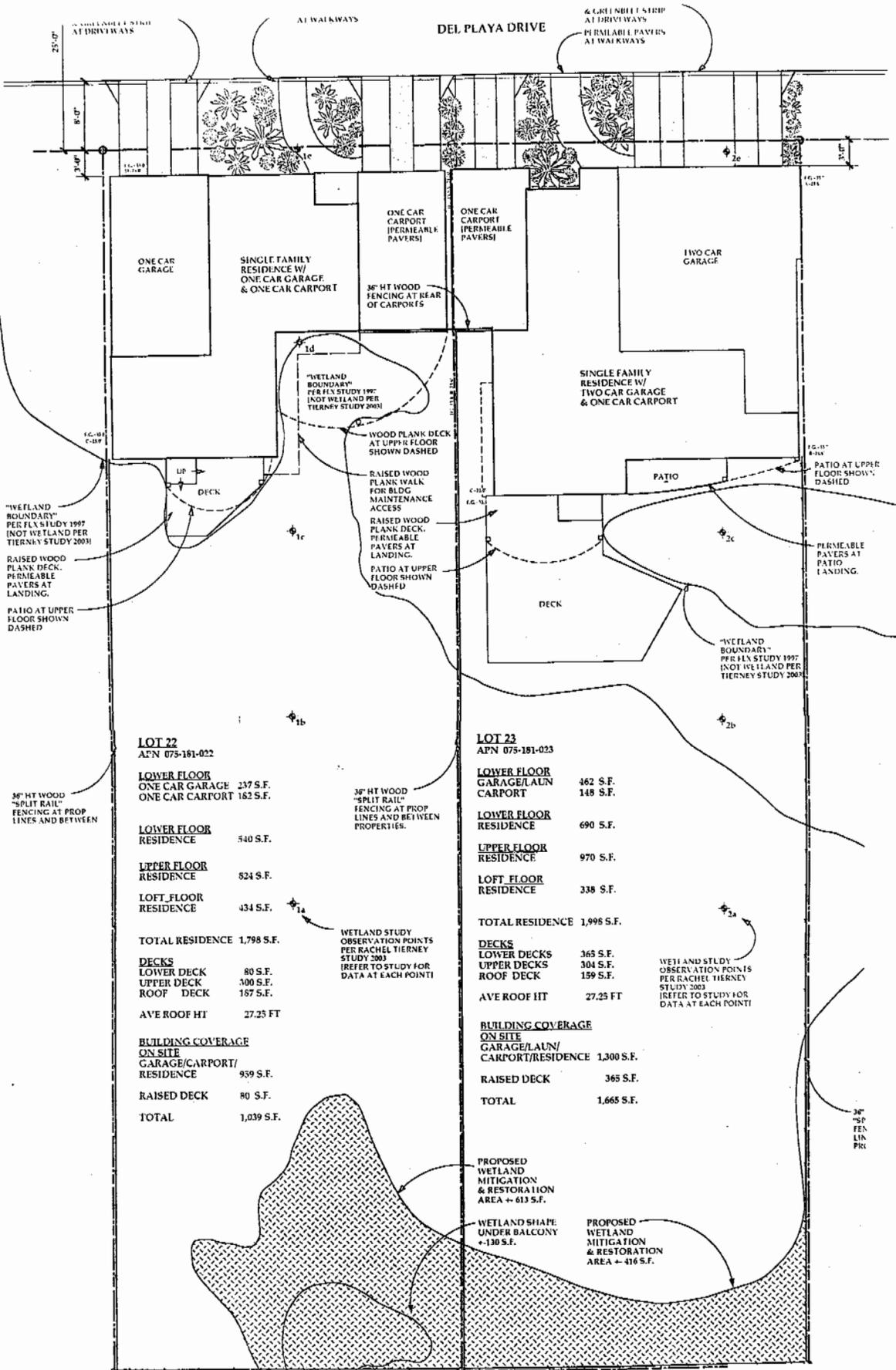
Split-Rail Fence
Between Parcels
Required When
Only One Project is
Constructed

- Required Split-Rail Wetland Protection Fence
- Approx. Location of Future Education/Instructional Signage

Wetlands and Plant Species
Isla Vista Del Playa Drive Parcels
FLx May 1997 Survey

Exhibit 4
A-4-STB-06-054 & -055
Fencing and Signage

a c i f i c O c e a n



LOT 22
APN 075-181-022

LOWER FLOOR	ONE CAR GARAGE 237 S.F.
	ONE CAR CARPORT 182 S.F.
LOWER FLOOR RESIDENCE	540 S.F.
UPPER FLOOR RESIDENCE	824 S.F.
LOFT FLOOR RESIDENCE	434 S.F.
TOTAL RESIDENCE	1,798 S.F.
DECKS	
LOWER DECK	80 S.F.
UPPER DECK	300 S.F.
ROOF DECK	167 S.F.
AVE ROOF HT	27.25 FT
BUILDING COVERAGE ON SITE	
GARAGE/CARPORT/RESIDENCE	959 S.F.
RAISED DECK	80 S.F.
TOTAL	1,039 S.F.

LOT 23
APN 075-181-023

LOWER FLOOR GARAGE/LAUN CARPORT	462 S.F.
	148 S.F.
LOWER FLOOR RESIDENCE	690 S.F.
UPPER FLOOR RESIDENCE	970 S.F.
LOFT FLOOR RESIDENCE	338 S.F.
TOTAL RESIDENCE	1,998 S.F.
DECKS	
LOWER DECKS	365 S.F.
UPPER DECKS	304 S.F.
ROOF DECK	159 S.F.
AVE ROOF HT	27.25 FT
BUILDING COVERAGE ON SITE	
GARAGE/LAUN/CARPORT/RESIDENCE	1,300 S.F.
RAISED DECK	365 S.F.
TOTAL	1,665 S.F.

WETLAND STUDY OBSERVATION POINTS PER RACHEL TIERNEY STUDY 2003 (REFER TO STUDY FOR DATA AT EACH POINT)

PROPOSED WETLAND MITIGATION & RESTORATION AREA = 613 S.F.

WETLAND SHAPE UNDER BALCONY = 130 S.F.

PROPOSED WETLAND MITIGATION & RESTORATION AREA = 416 S.F.

Dg. 1 of 10

SITE PLAN

EXHIBIT 5
A-4-STB-06-054 & -055
January 3, 2006 Project Plans

LOT 22 & 23
FLOOR
PLANS
&
ELEVATIONS



All design ideas and information represented herein are the original plans with the specified project and are the exclusive copyright and property of Lorla A. Karl Architect. These plans are not to be reproduced, copied, or otherwise used without the written permission of Lorla A. Karl Architect.

LORLA KARL
ARCHITECT

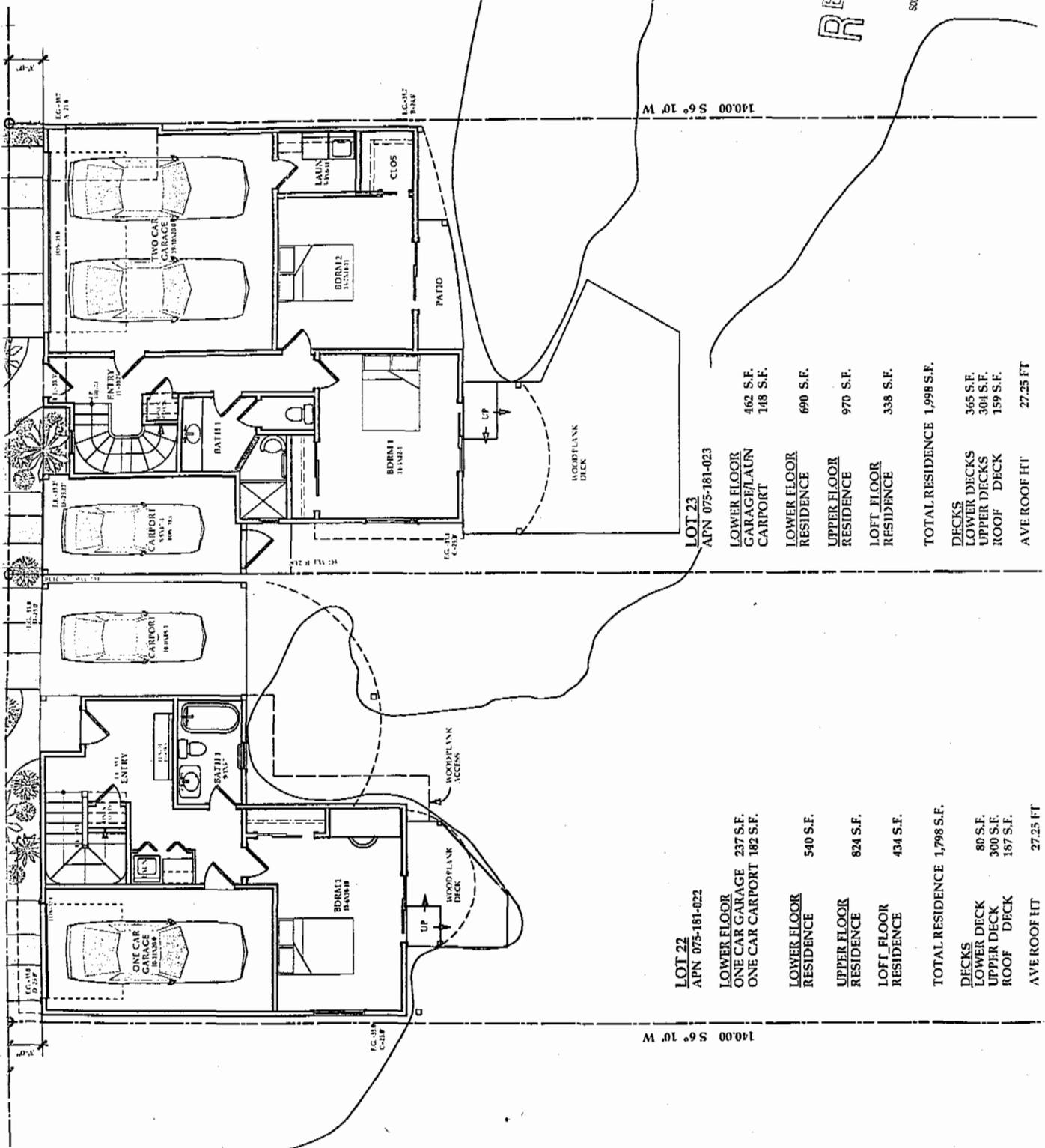
DATE
08.05.2005
12.12.2005
01.03.2006
CC UPDATE
DRAWINGS
VERSION B

REVISIONS

RECEIVED
FEB 21 2006
SOUTH CENTRAL COLLEGE

SHEET

A-7



LOT 22
APN 075-181-022

LOWER FLOOR
ONE CAR GARAGE 237 S.F.
ONE CAR CARPORT 182 S.F.

LOWER FLOOR RESIDENCE 540 S.F.

UPPER FLOOR RESIDENCE 824 S.F.

LOFT FLOOR RESIDENCE 434 S.F.

TOTAL RESIDENCE 1,798 S.F.

DECKS
LOWER DECK 80 S.F.
UPPER DECK 300 S.F.
ROOF DECK 187 S.F.

AVE. ROOF HT 27.25 FT

LOT 23
APN 075-181-023

LOWER FLOOR
GARAGE/LAUN CARPORT 148 S.F.

LOWER FLOOR RESIDENCE 690 S.F.

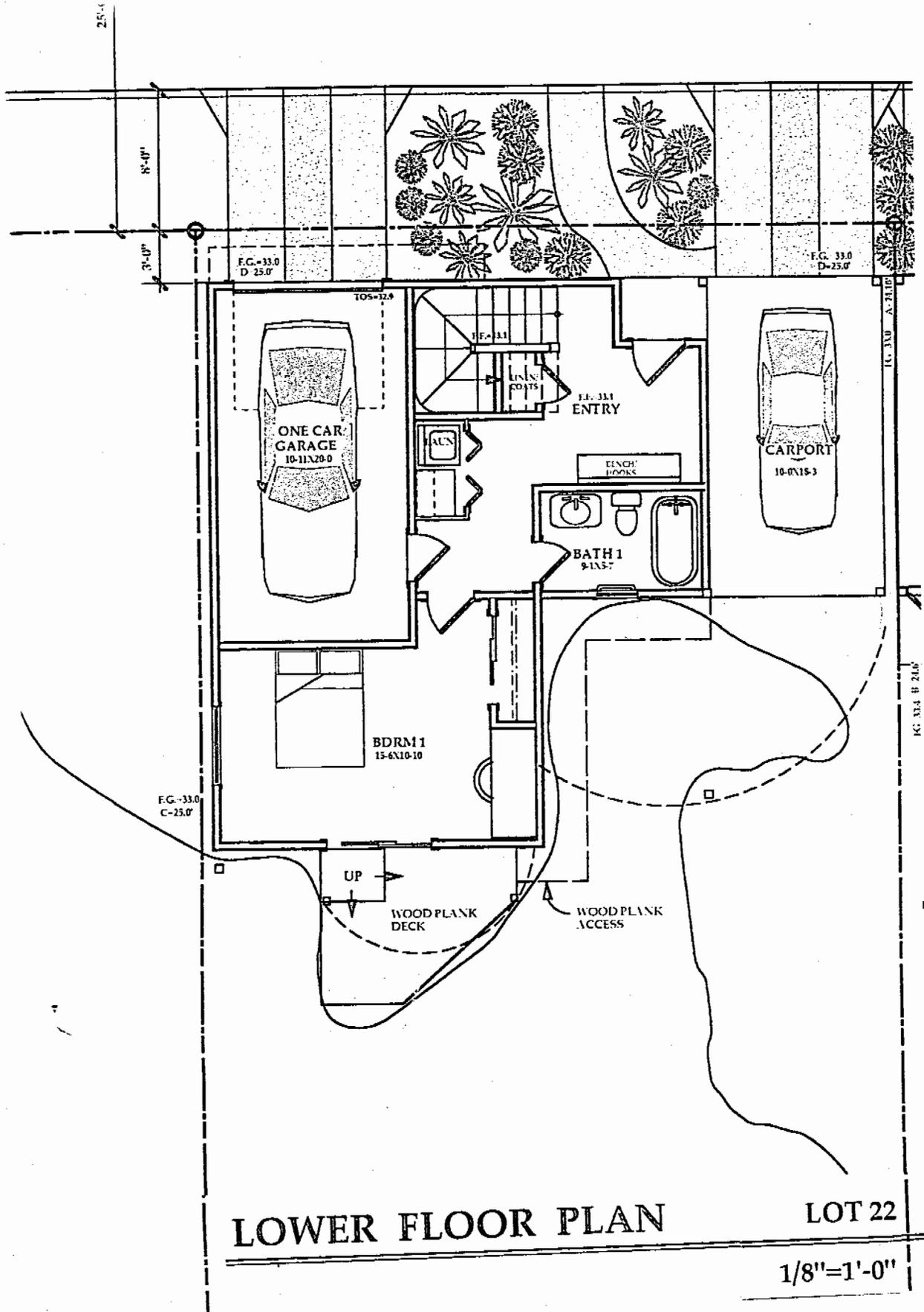
UPPER FLOOR RESIDENCE 970 S.F.

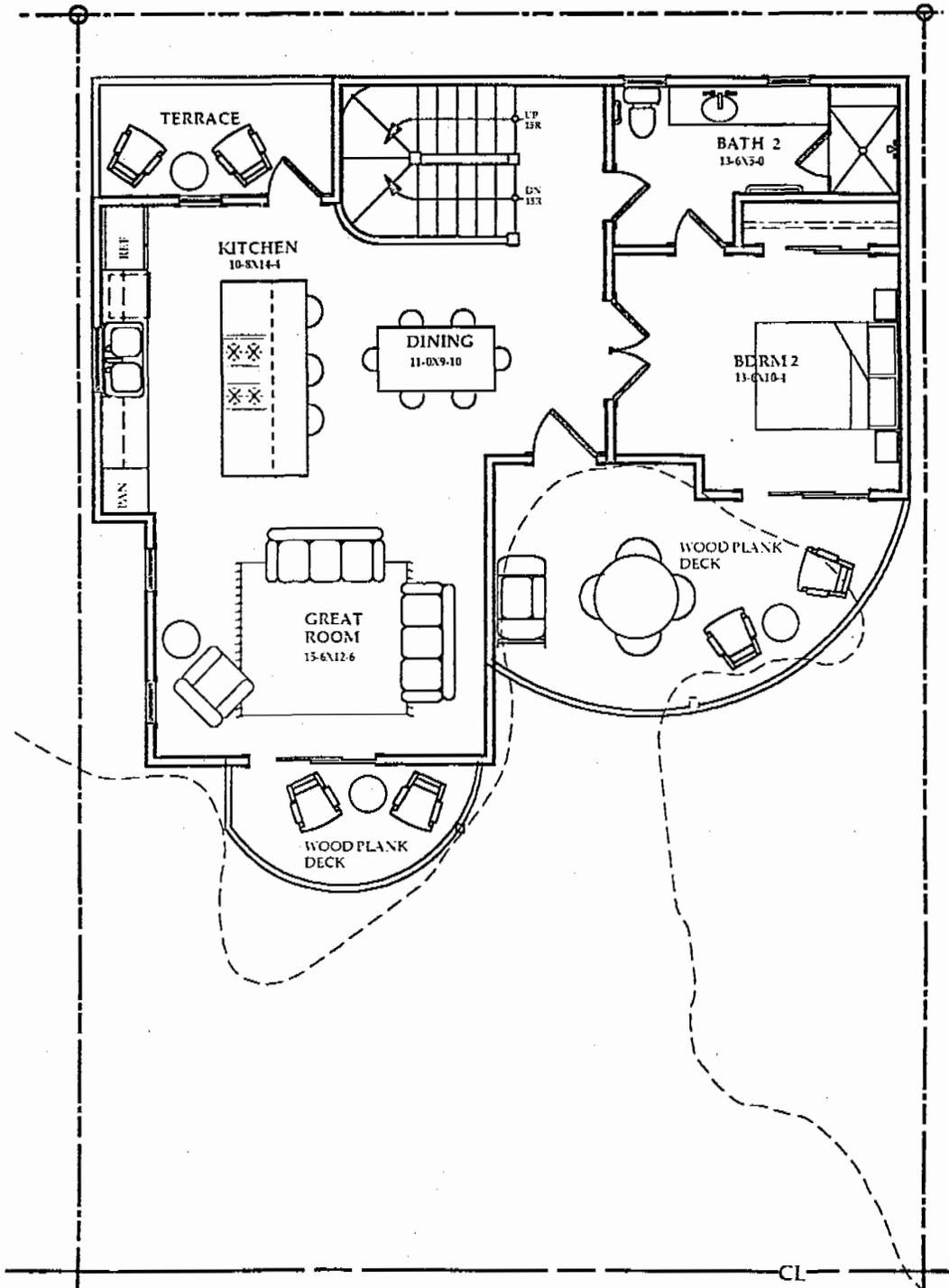
LOFT FLOOR RESIDENCE 338 S.F.

TOTAL RESIDENCE 1,998 S.F.

DECKS
LOWER DECKS 365 S.F.
UPPER DECKS 304 S.F.
ROOF DECK 159 S.F.

AVE. ROOF HT 27.25 FT

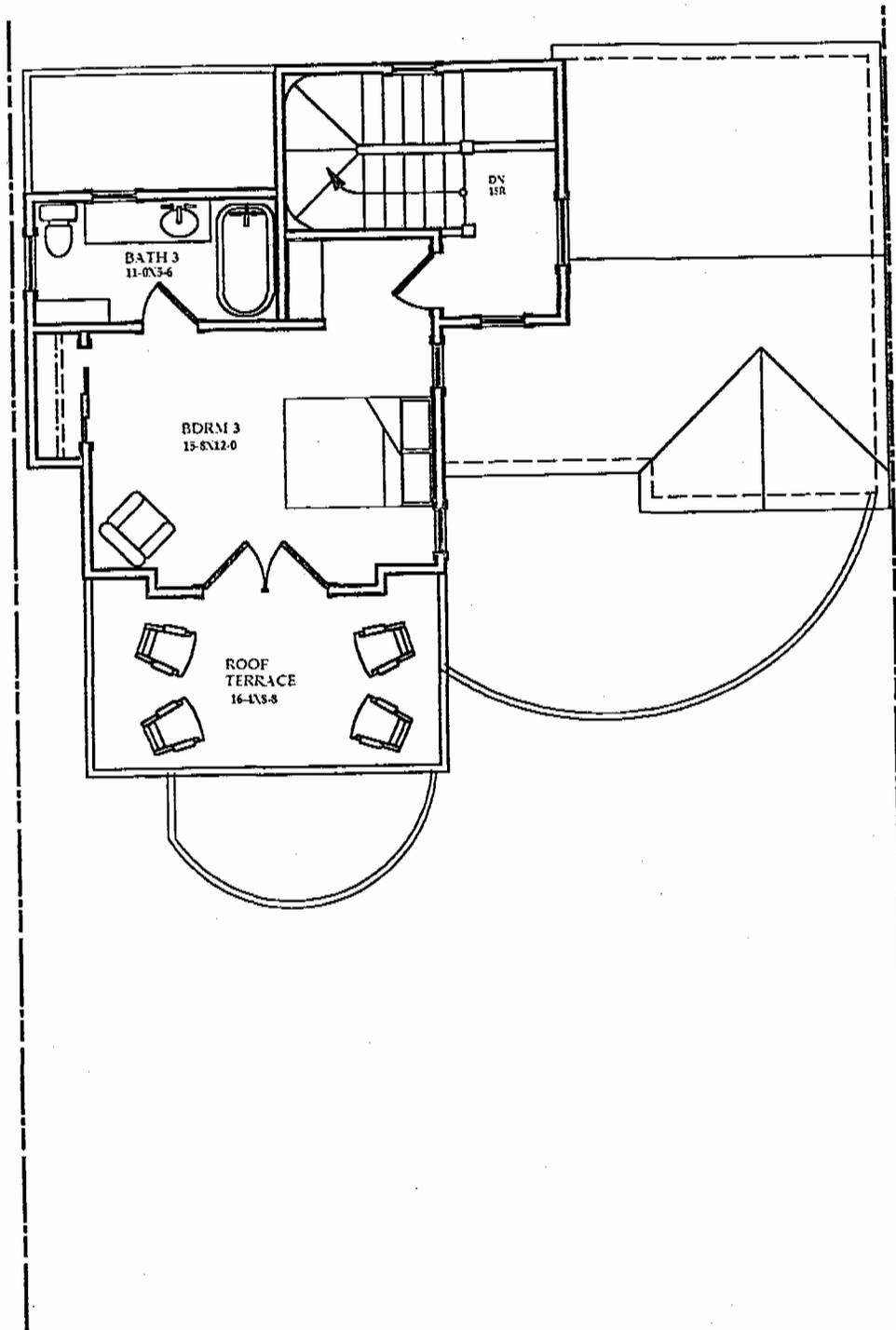




UPPER FLOOR PLAN

LOT 22

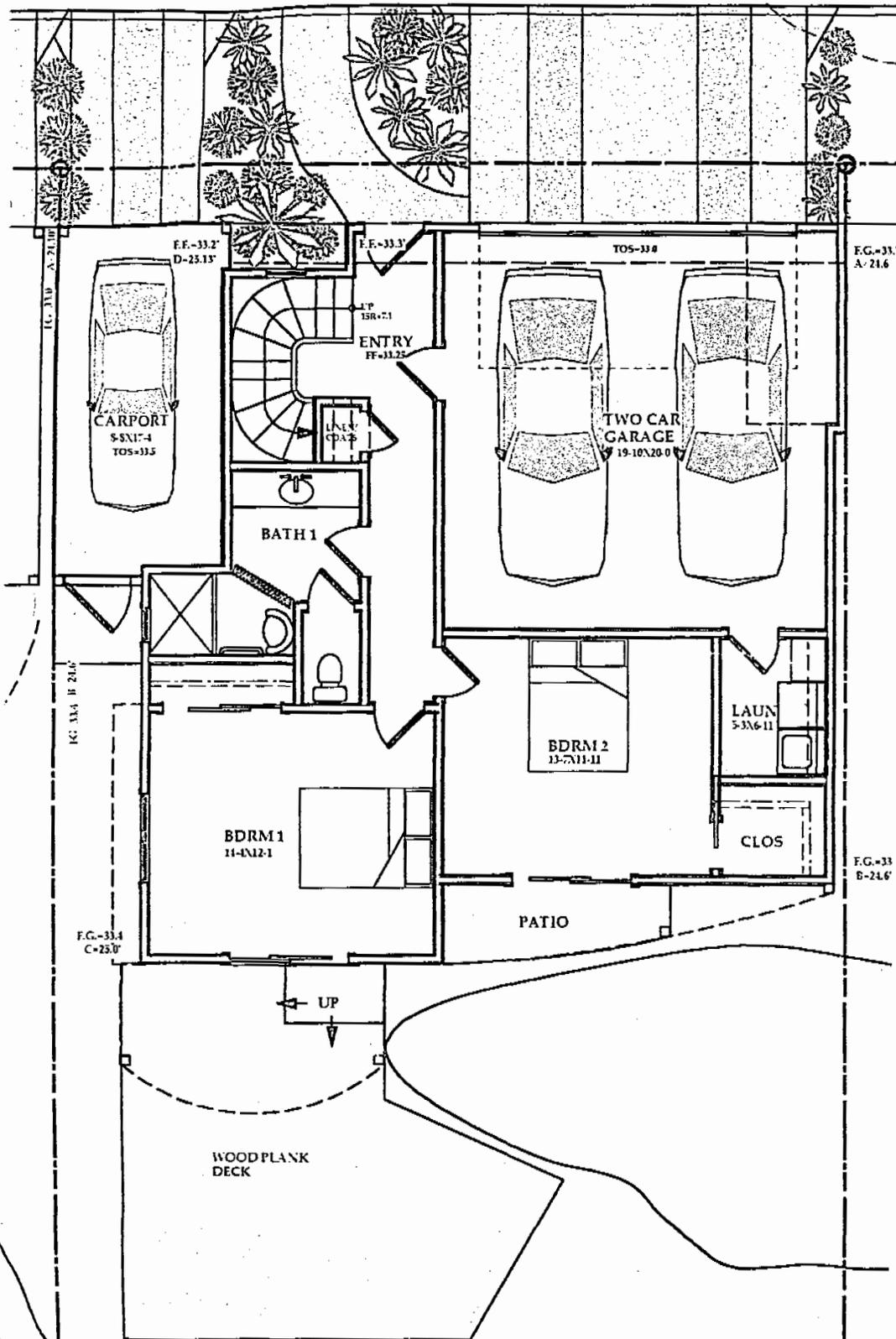
1/8"=1'-0"



LOFT FLOOR PLAN

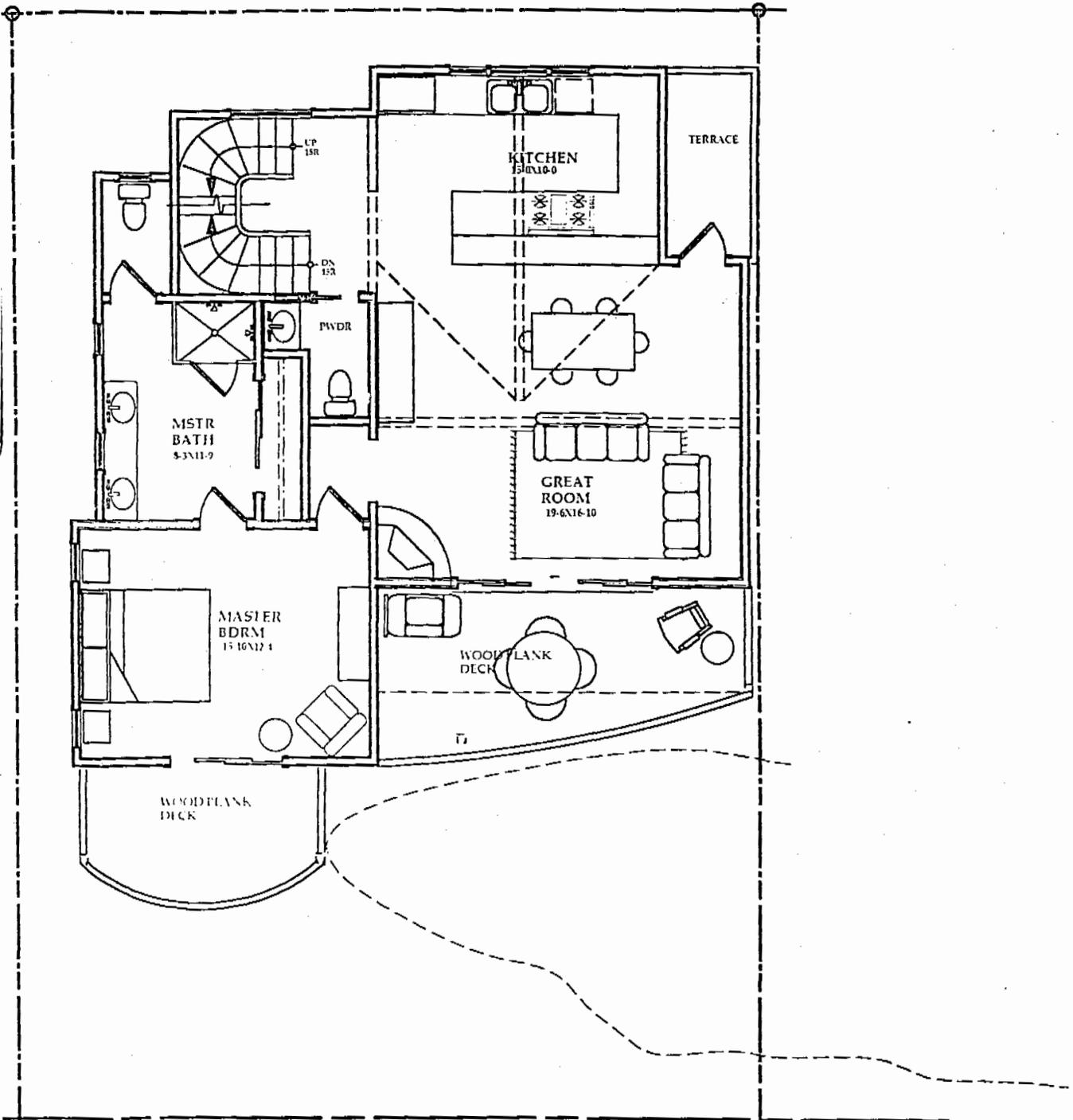
LOT 22

1/8"=1'-0"



LOWER FLOOR PLAN

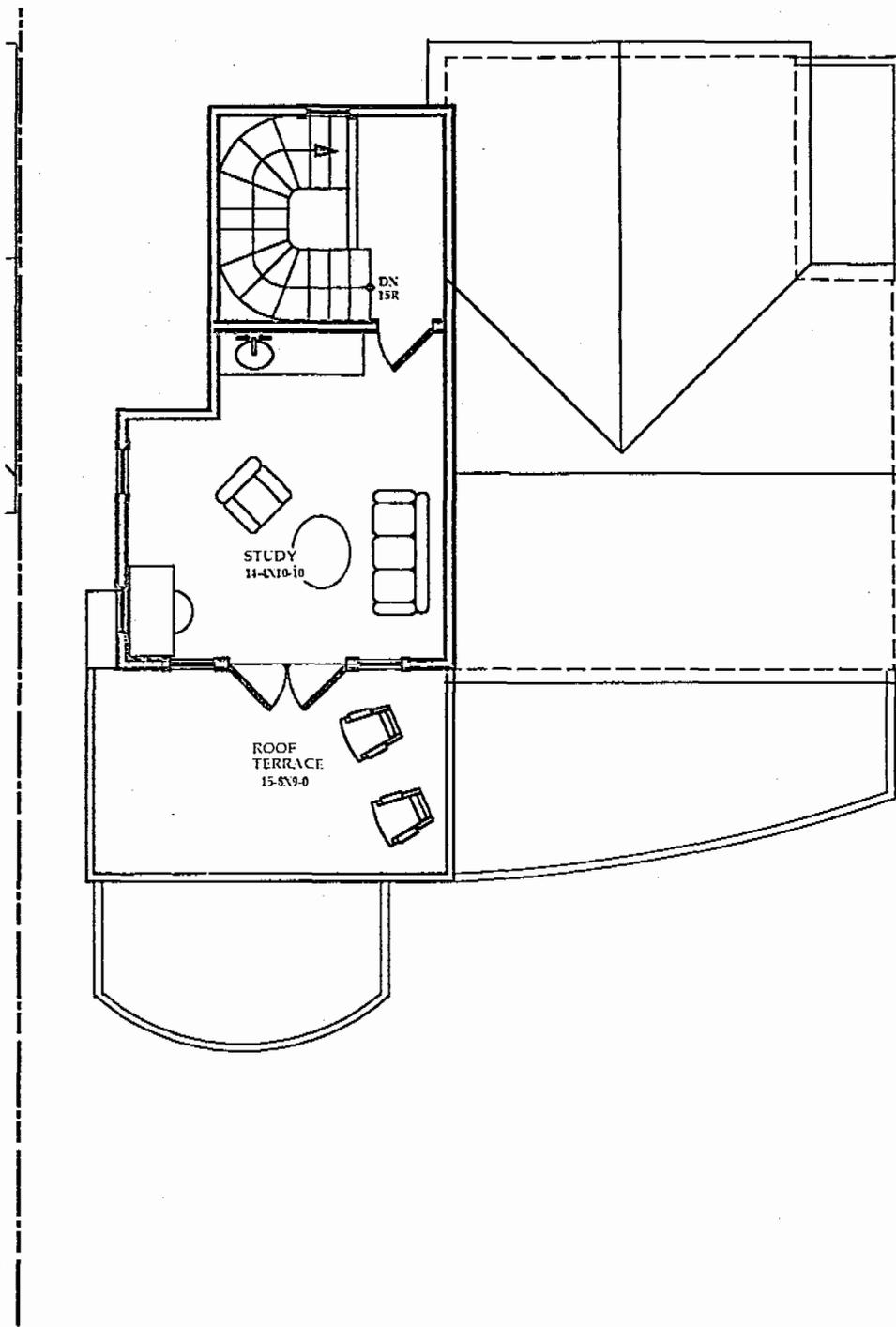
LOT 23



UPPER FLOOR PLAN

LOT 23

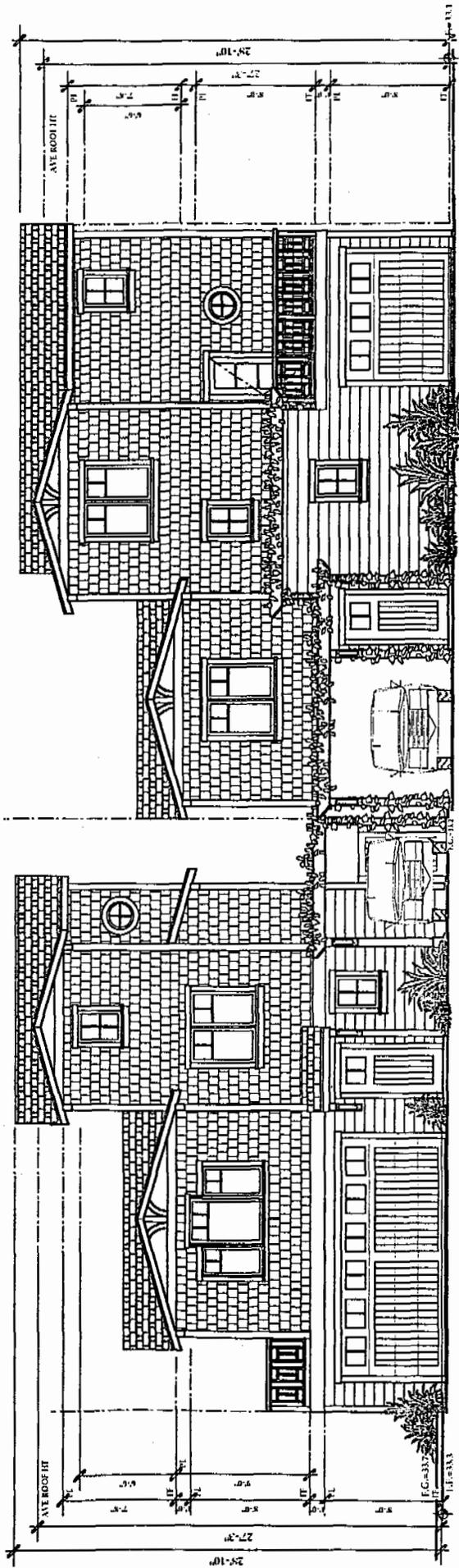
1/8"=1'-0"



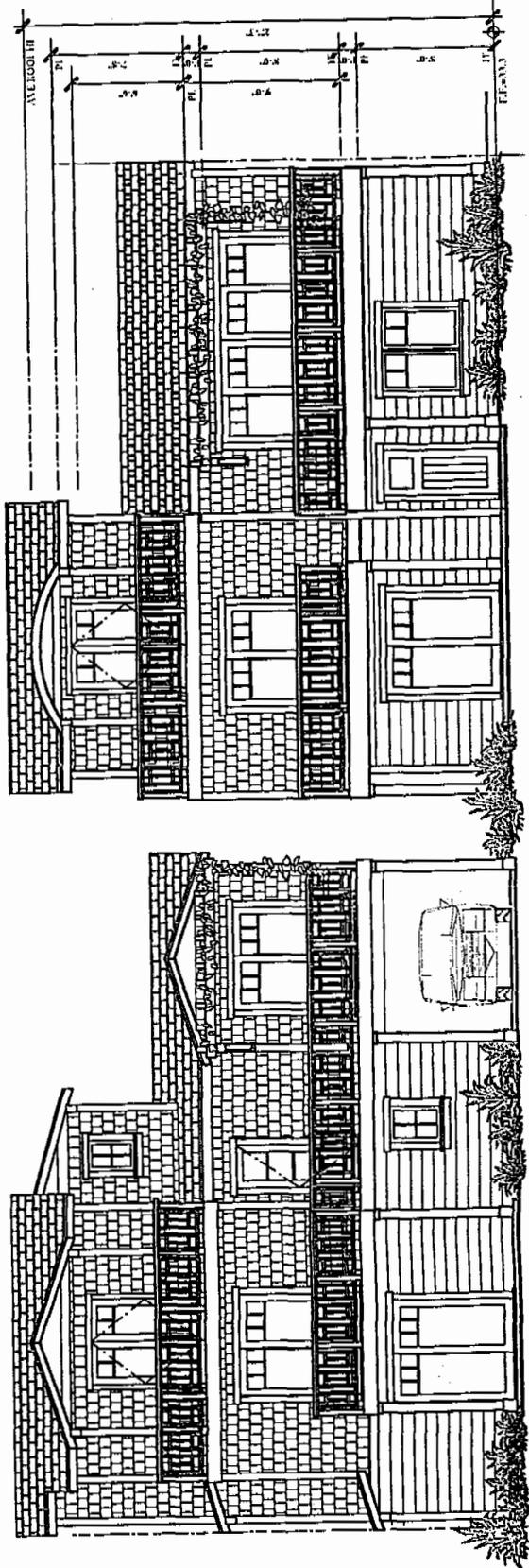
LOFT FLOOR PLAN

LOT 23

1/8"=1'-0"



NORTH ELEVATION **LOT 23** **LOT 22**
 FACING STREET



LOT 23

LOT 22

SOUTH ELEVATION

FACING BLUFFS

Parcel 22

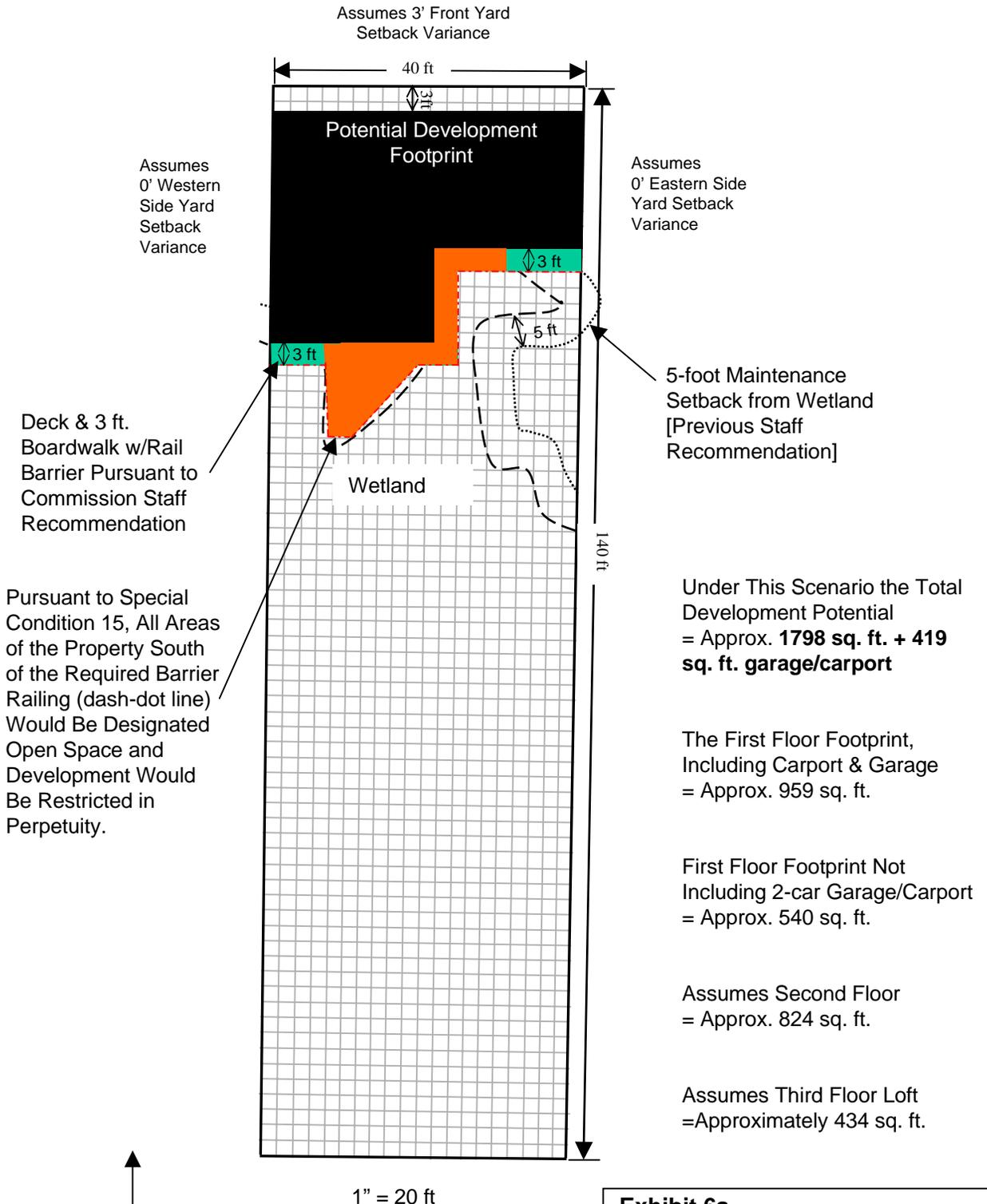


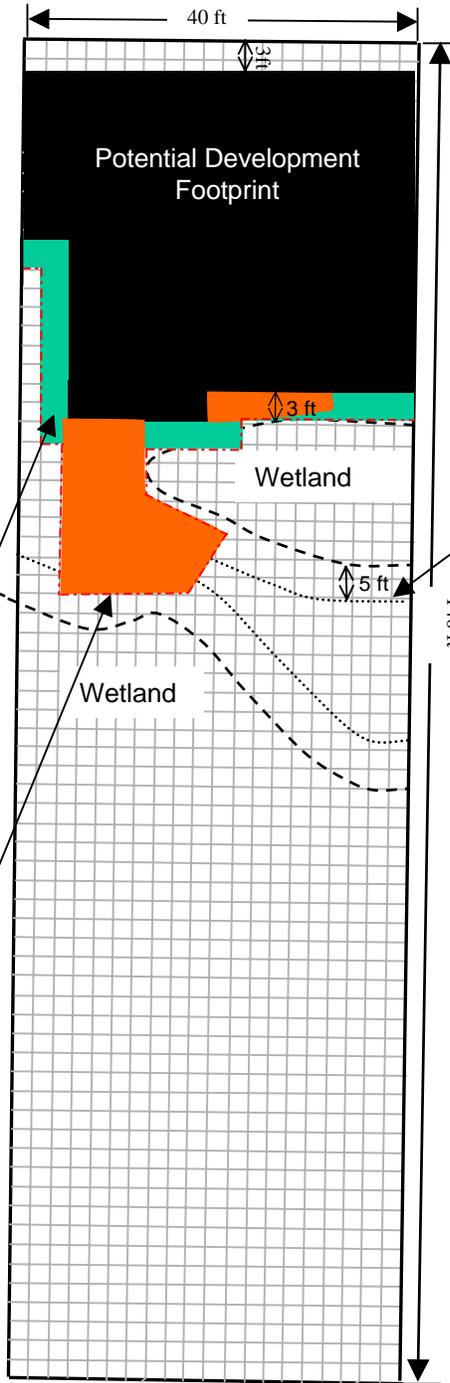
Exhibit 6a
A-4-STB-06-054 & -055
3-ft Wide Boardwalk Parcel 22

Parcel 23

Assumes 3' Front Yard Setback Variance

Assumes 0' Western Side Yard Setback Variance

Assumes 0' Eastern Side Yard Setback Variance



Deck & 3 ft. Boardwalk w/Rail Barrier Pursuant to Commission Staff Recommendation

Pursuant to Special Condition 15, All Areas of the Property South of the Required Barrier Railing (dash-dot line) Would Be Designated Open Space and Development Would Be Restricted in Perpetuity.

5-foot Maintenance Setback from Wetland [Previous Staff Recommendation]

Under This Scenario the Total Development Potential = Approx. **1,998 sq. ft. + 610 sq. ft. garage/carport**

The First Floor Footprint, Including Carport & Garage = Approx. 1,665 sq. ft.

First Floor Footprint Not Including 2-car Garage/Carport = Approx. 1,300 sq. ft.

Assumes Second Floor = Approx. 970 sq. ft.

Assumes Third Floor Loft = Approximately 338 sq. ft.

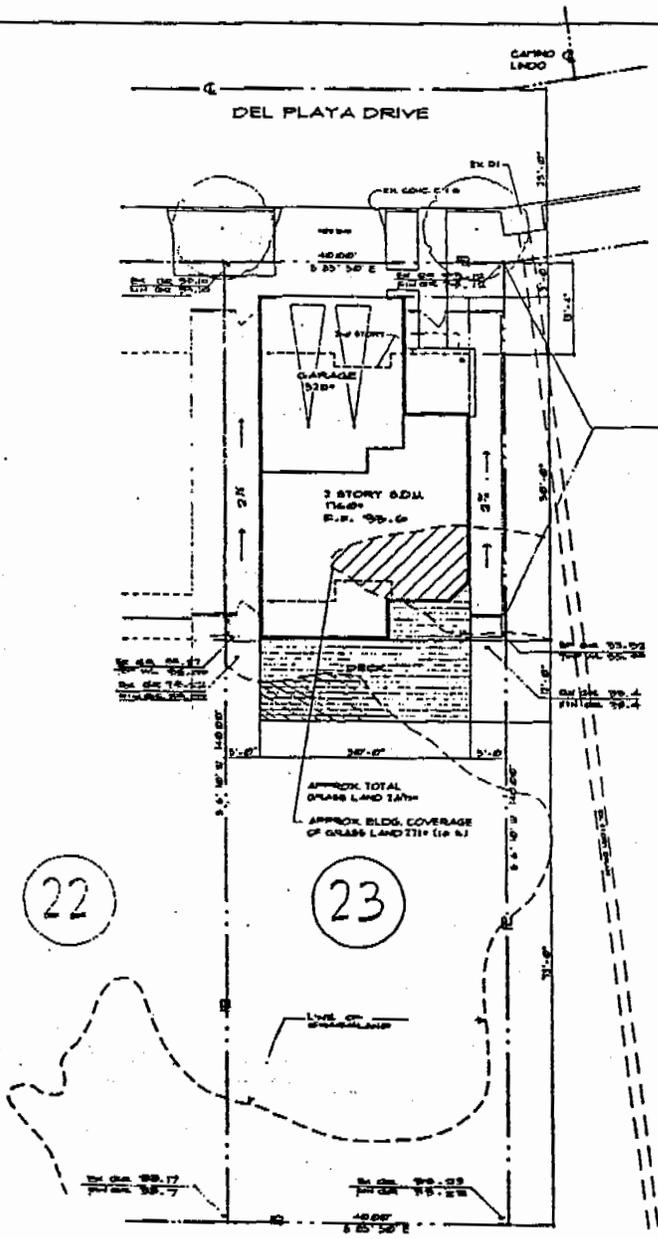


1" = 20 ft

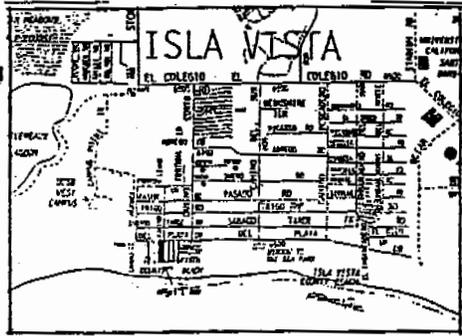
Exhibit 6b
A-4-STB-06-054 & -055
3-ft Wide Boardwalk Parcel 23

Figure 4

Parcel 23 Site Plan



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



VICINITY MAP

22 23



SITE PLAN

SITE SUMMARY:

Building Coverage	1362 sq. ft.	34%
Raised Wood Deck	350 sq. ft.	9%
Open Area and Landscaping	2400 sq. ft.	61%
Driveway & Snow Falls	162 sq. ft.	4%
Total (Per 740' x 140')	5400 sq. ft.	100%

SITE INFORMATION:
 APN: 075-101-023
 Zone: R-1000 Overlay Requirements
 Construction: VI

BUILDING INFORMATION:
 Two Story, Single Family Residence (SDF)
 Raised frame, raised wood floor, stucco siding,
 floor glass single roof, 4 bedrooms, 1 bath

Floor Area:
 First Floor: 701 sq. ft.
 Second Floor: 1240 sq. ft.
 Total Living: 1791 sq. ft.

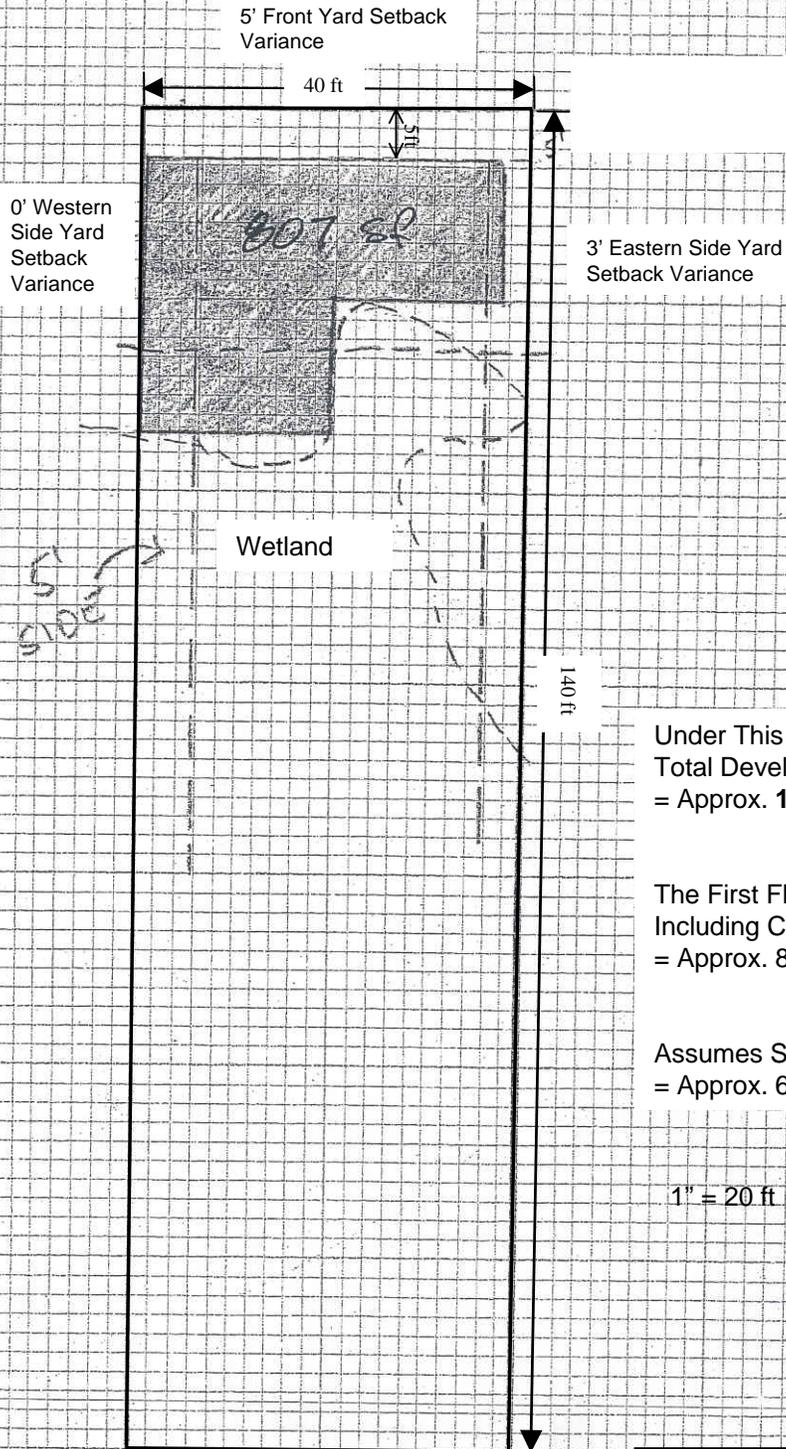
GRADING:
 Approximately 87 cubic yards will be removed for the crawl space and used to fill 1' slope yards so drainage will slope to the street. No grading will occur beyond the set back of the building.

REVISION	BY	DATE

Stan Ruffe Architect
 805.687.5538
 santa barbara, ca

NEW SINGLE FAMILY RESIDENCE FOR
 KATHY AND CHRIS CHASE, APR 21, 1983
 LOT 23 ... DEL PLAYA DRIVE, ISLA VISTA
 GOLETA, CALIFORNIA

Parcel 22



Under This Scenario the
Total Development Potential
= Approx. **1,412 sq. ft.**

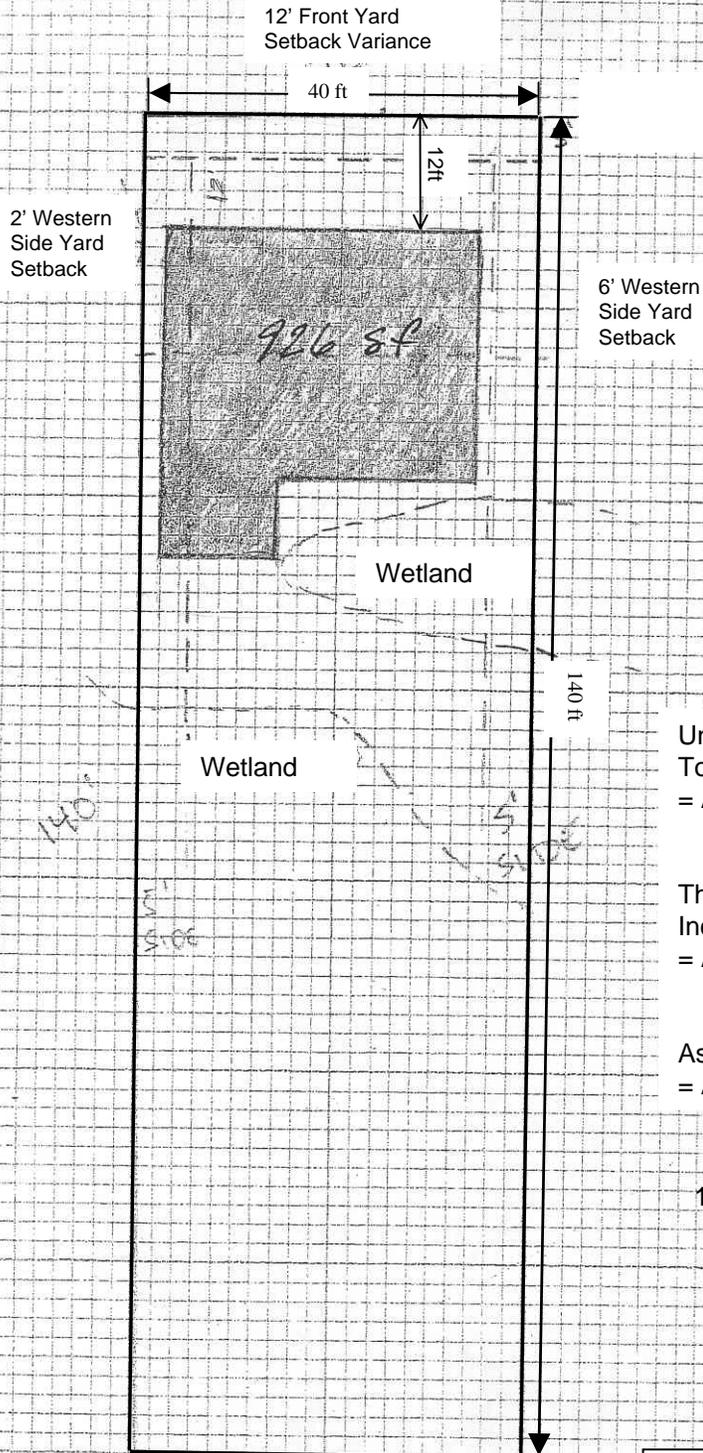
The First Floor Footprint,
Including Carport or Garage
= Approx. 807 sq. ft.

Assumes Second Floor
= Approx. 605 sq. ft.

1" = 20 ft

Exhibit 8a
A-4-STB-06-054 & -055
County's Approval on
Parcel 22

Parcel 23



Under This Scenario the
Total Development Potential
= Approx. **1,620 sq. ft.**

The First Floor Footprint,
Including Carport or Garage
= Approx. 926 sq. ft.

Assumes Second Floor
= Approx. 694 sq. ft.

1" = 20 ft

Exhibit 8b
A-4-STB-06-054 & -055
County's Approval on
Parcel 23

ATTACHMENT D

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



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

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

APPROVAL DATE: February 24, 2004

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

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

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

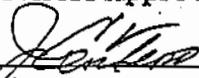
DATE OF PERMIT ISSUANCE:

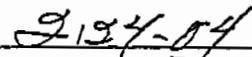
PROJECT DESCRIPTION AND CONDITIONS: See Exhibit A, hereby incorporated by reference.

EXPIRATION:

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

Board of Supervisors Approval:


Chair, Signature


Date

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

Print Name

Signature

Date

Planning & Development Issuance by:

Name

Date

G:\GROUP\PERMITTING\CASE FILES\CDH\01 CASES\01CDH-00000-00060\BOARD APPEAL\CDPH60 LOT 22.FINAL

EXHIBIT 9
A-4-STB-04-035
County Approval with
Conditions

EXHIBIT A
PROJECT DESCRIPTION AND CONDITIONS

Project Description

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

The project description is as follows:

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

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

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

Project Specific Conditions

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

Mitigation Measures from the EIR

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

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

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

6. The Design Standards shall be as follows:

Goals and Objectives:

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

Standards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conditions Unique to Permit Type

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

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

County Rules and Regulations

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

ATTACHMENT E

CONDITIONS OF APPROVAL

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

Project Description

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

The project description is as follows:

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

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

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

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

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

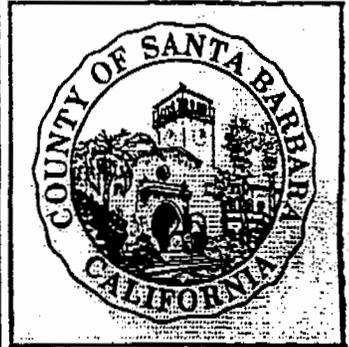
2. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Coastal Development Permit from Planning and

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

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

ATTACHMENT B

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



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

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

APPROVAL DATE: February 24, 2004

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

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

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

DATE OF PERMIT ISSUANCE:

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

EXPIRATION:

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

Board of Supervisors Approval:

Chair, Signature

Date

15-34-04

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

Print Name

Signature

Date

Planning & Development Issuance by:

Name

Date

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

EXHIBIT A
PROJECT DESCRIPTION AND CONDITIONS

Project Description

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

The project description is as follows:

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

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

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

Project Specific Conditions

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

Mitigation Measures from the EIR

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

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

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

Goals and Objectives:

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

Standards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conditions Unique to Permit Type

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

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

County Rules and Regulations

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

ATTACHMENT C

CONDITIONS OF APPROVAL

CHASE VARIANCE
02VAR-00000-00004
APN 075-181-023

Project Description

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

The project description is as follows:

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

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

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

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

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

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

CALIFORNIA COASTAL COMMISSION

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M E M O R A N D U M

FROM: John Dixon, Ph.D.
Ecologist / Wetland Coordinator

TO: Shana Gray

SUBJECT: Wetland Delineation for Chase & adjacent parcels

DATE: December 29, 2004

Materials reviewed:

1. Photos of vacant lots on Del Playa Drive in Isla Vista, including the Chase property, apparently taken during January, February, and March of 1978 and during January and February of 1995.
 2. Santa Barbara County Flood Control District rainfall records for Station 339 (Santa Barbara - El Estero Treatment Plant), Station 226 (Dos Pueblos Ranch), and Station 440 (Goleta Fire Station #14).
 3. FLx. May 1997. Plant surveys and wetland delineations for five land parcels, Del Playa Drive, Isla Vista, CA. A report to the County of Santa Barbara, Zoning Administration Division.
-

Photographs showing extensive ponding on the subject property have been submitted as evidence that the wetland areas are larger than those mapped by FLx as part of their technical wetland delineation. The significance of such photographs is generally difficult to assess since they provide no indication of the duration of inundation. A series of photographs of the same area taken about 7 days apart is necessary in order to estimate the duration of inundation in the context of a technical wetland delineation. It is also necessary to have rainfall records in order to determine whether the observations took place in a "normal" year. In the case of the photographs submitted, there is no way to assess the duration of ponding or inundation, and the rainfall data in the following table indicate that both periods were extraordinarily wet. Therefore, I do not think the photographs provide a basis for questioning the accuracy of the FLx delineation.

EXHIBIT 10
A-4-STB-06-054 & -055
J. Dixon Memo

Table. Rainfall immediately before and during the months that the submitted photographs were taken.

Date	Monthly Rainfall (Average from 3 Stations)	Long-Term Monthly Average	Deviation from Long-Term Average	Approximate Return Interval for Monthly Total (years)	
Dec-77	5.63	2.92	2.71	5 - 10	
Jan-78	9.33	3.96	5.37	10 - 25	Photos
Feb-78	10.33	3.94	6.39	10 - 25	Photos
Mar-78	12.17	3.02	9.15	200	Photos
Dec-94	0.84	2.92	-2.08	2	
Jan-95	20.18	3.96	16.22	200 - 500	Photos
Feb-95	1.32	3.94	-2.62	1	Photos

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M E M O R A N D U M

FROM: John Dixon, Ph.D.
Ecologist / Wetland Coordinator

TO: Shana Gray

SUBJECT: Chase Property Wetland Delineation

DATE: October 26, 2004

Documents reviewed:

1. FLx. May 1997. Plant surveys and wetland delineations for five land parcels, Del Playa Drive, Isla Vista, CA. A report to the County of Santa Barbara, Zoning Administration Division.
 2. Rachel Tierney (Biological Consultant). Letter report to Keven Drude (County of Santa Barbara) concerning wetland boundaries on the Chase property on Del Playa Drive in Isla Vista dated November 17, 2003
-

The FLx wetland delineation was conducted using the standard methods contained in the 1987 Army Corps of Engineers Wetland Delineation Manual. The wetland definition in the Commission's Regulations, which generally requires positive evidence of either wetland soils or wetland vegetation, was followed. The wetland delineation was conducted treating the whole open space area occupied by the five land parcels as a unit. Seven wetland sampling points were distributed throughout the area and 1 sampling point was placed in a typical upland portion of the site. The wetland sample points had evidence of all three wetland parameters (hydrology, hydric soils, and hydrophytic vegetation). The boundary between the wetlands and the uplands was drawn using a visually obvious change in the vegetation from an area dominated by wetland indicator species to an area dominated wild oats, an upland grass. Although it is stated that, "All areas within the wetland boundary satisfy at least two delineation criteria (and usually all three).", this is strictly true only for the seven sample points. Unfortunately, only one wetland sample point (SS6) was actually adjacent to the delineated wetland boundary. This is a significant lack in an otherwise careful delineation. Delineations should include paired sample points in and out of the wetland and adjacent to one another. The number of such paired samples depends on the size and the apparent homogeneity of the wetlands and uplands. Also, as a practical matter, a separate delineation with sample points would usually be conducted on each legal parcel, even though the parcel lines are arbitrary in the wetland context. In this case, two parcels (APN 75-181-23 & APN 75-181-27) received no sample points and the others received either one or two sample points. However, despite these technical shortcomings, the procedure used to delineate the wetlands was reasonable and the

distinction between areas with a predominance of wetland indicator species and those with a predominance of upland species can reasonably be assumed to be accurate.

Rachel Tierney accepts the accuracy of FLx's data, but noted the sparseness of the sample sites. She established five, uniformly spaced sample points along each of two transects from Del Playa Drive to the center of parcel APN 75-181-22 and parcel APN 75-181-23. She found evidence of hydric soils at the southern most point on each transect, which were in the general area of the nearest FLx sample point (SS7). However none of the more northerly points had hydric soil indicators. The only readily recognizable vegetation (in late fall) was the FAC species *Lolium*. In the FLx study, *Lolium* was the only dominant in the one sample point in the vicinity of these two parcels. Also, there was a note on that sample sheet that it was a "problem area – lower depressions are wetland but [unclear word] higher areas need to be visited in winter to confirm hydrology." Tierney points out that the areas under the proposed building footprint do not have hydric soils and would not be delineated as wetlands by the Army Corps of Engineers. She also points out that *Lolium* is a poor indicator and should not be used as the sole basis for delineating a wetland.

Based on the available information, it is my opinion that the wetland boundary established by FLx should be accepted. It marks the boundary between a predominance of wetland indicator plants and upland plants. FLx did not identify which wetland indicators were present near the boundary on the parcels in question. Tierney, observing during the worst time of year, only found evidence of *Lolium*, which is, no doubt, one of the dominant wetland indicator plants present during the winter and spring, but not necessarily the only one. Also, the delineation is not based solely on *Lolium*. It is clear that there is a wetness gradient from wet to dry as one goes from the center of the parcels to Del Playa Street and it is probable that a careful vegetation study during the appropriate time of year would also show a gradient in the vegetation. Along this moisture gradient, the line marking the lower extreme of upland grass is significant. I think that landscape position is important and where a preponderance of wetland indicator plants, even FAC plants, occur around the edges of an obvious wetland that the presumption should be that they are part of that wetland. That presumption could be rebutted by strong evidence of upland conditions, which generally requires extensive observations during the rainy season.