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ADDENDUM

DATE: October 12, 2007

TO: Commissioners and Interested Parties

FROM: North Central Coast District Staff

SUBJECT: Appeal No. A-2-SMC-07-035 (Ward, Sladek, Nerhan)

The purpose of the addendum is to:

(a) Add the following attachment to Barbara Mauz's appeal (Exhibit No. 3 of staff report):

G.M. Fellers and P.M. Kleeman, "California Red-Legged Frog Movement and Habitat Use: Implications for Conservation," *Journal of Herpetology*, 2007, vol. 41, no. 2, pp. 271-281.

This article was submitted as an attachment to the appeal, but was inadvertently left out of the staff report by Commission staff.

(b) Attach public correspondence regarding the staff recommendation.

(c) Attach correspondence from Barbara Mauz, Appellant, regarding the staff recommendation

(d) Attach correspondence from Keet Nerhan, Co-Applicant, requesting a postponement of the matter.

Note: The Commission may use its discretion to postpone the hearing on the Substantial Issue question, however, the applicants must waive their right to have a hearing within 49-days of when the appeal was filed (and sign a "49-day waiver form") before the hearing can be postponed. If the applicants do not waive their right to have a hearing within 49-days, the Commission must open the hearing at its October meeting, because the 49th day (November 9) is before the next Commission hearing week (November 14 – 16).

Journal of Herpetology, Vol. 41, No. 2, pp. 271–281, 2007

California Red-Legged Frog (*Rana draytonii*) Movement and Habitat Use: Implications for Conservation

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ABSTRACT.—**Nonbreeding habitats are critically important for *Rana draytonii*, especially for individuals that breed in temporary bodies of water. We radiotracked 123 frogs to evaluate seasonal habitat use. Individual frogs were continuously tracked for up to 16 months. Some individuals remained at breeding ponds all year, but 66% of female and 25% of male frogs moved to nonbreeding areas, even when the breeding site retained water. Frogs at our main study site moved 150 m (median), roughly the distance to the nearest suitable nonbreeding area. The greatest straight-line distance traveled was 1.4 km, although the presumed distance traveled was 2.8 km. Females were more likely than males to move from permanent ponds (38% of females, 16% of males), but among dispersing frogs, males and females did not differ in distance moved. Some frogs left breeding sites shortly after oviposition (median = 12 days for females, 42.5 days for males), but many individuals remained until the site was nearly dry. Fog provided moisture for dispersal or migration throughout the summer. Our data demonstrate that maintaining populations of pond-breeding amphibians requires that all essential habitat components be protected; these include (1) breeding habitat, (2) nonbreeding habitat, and (3) migration corridors. In addition, a buffer is needed around all three areas to ensure that outside activities do not degrade any of the three habitat components.**

Rana draytonii (California Red-Legged Frog) was once an abundant frog throughout much of central and southern California and is believed to have inspired Mark Twain's fabled story "The Celebrated Jumping Frog of Calaveras County." Now this frog is rare in both the Sierra Nevada foothills and the southern portion of its range (Jennings and Hayes, 1994). In parts of the central Coast Range, there are still large, vigorous populations, some of which probably rival those present 200 years ago (Fellers, 2005). *Rana draytonii* was federally listed as a Threatened species on 24 June 1996, and the recovery plan states that it ". . . has been extirpated from 70 percent of its former range . . . Potential threats to the species include elimination or degradation of habitat from land development and land use activities and habitat invasion by non-native aquatic species" (U.S. Fish and Wildlife Service, 2002:iv).

Rana draytonii use ponds or pools for breeding during the wet season (December through March) and ponds, riparian areas, or other aquatic habitats during the rest of the year. In Marin County, stock ponds are the most commonly used breeding sites. There is only one published report on migration or nonbreeding habitat requirements for this frog. Bulger et al. (2003) described movements of 56 *R. draytonii* in a coastal area about 100 km south of San Francisco. They found that 80–90% of the frogs remained at one breeding site all year. Frogs radiotagged at nonbreeding sites often moved in a straight-line between breeding and upland habitats without apparent regard to intervening vegetation or topography. Frogs traveled overland up to 2,800 m, and Bulger et al. (2003) recommended a 100 m buffer zone around breeding sites.

The California Red-Legged Frog recovery plan outlines the necessary actions for recovery. One task is to "conduct research to better understand the ecology of the California Red-legged Frog including the use of uplands, dispersal habits, and overland movements" (U.S. Fish and Wildlife Service, 2002:84). This is a concern not only for *R. draytonii* but also for many endangered and nonendangered vertebrates that migrate between breeding and nonbreeding areas. This includes salamanders (*Ambystoma*; Madison, 1997; *Triturus*; Joly et al., 2001), frogs (*Rana*; Richtor et al., 2001; Pope et al., 2000), snakes (*Farancia*; Gibbons et al., 1977), turtles (Burke and Gibbons, 1995; Bodie, 2001), and many species of passerine birds (Keast and Morton, 1980). Lamoureux and Madison (1999) made the point that studies need to examine amphibian habitat requirements at all times of the year not just during the breeding season. We designed our study to address this concern for *R. draytonii*.

MATERIALS AND METHODS

Study area.—Our study was conducted in Marin County, California, 45 km northwest of

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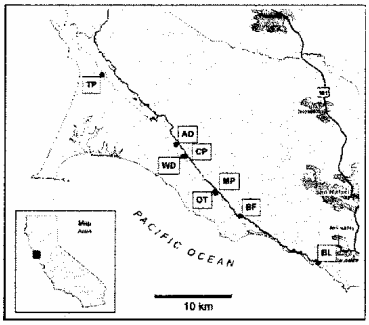

FIG. 1. Sites where California Red-Legged Frogs (*Rana draytonii*) were radiotagged at Point Reyes National Seashore and Golden Gate National Recreation Area, Marin County, California. Site descriptions are listed in Table 1.

San Francisco. All sites were within 6 km of the ocean and located at either Point Reyes National Seashore or Golden Gate National Recreation Area (Fig. 1). The local climate is Mediterranean, with an average annual rainfall of 100 cm that largely occurs between November and March. Mean monthly temperatures range from 8.6°C (December) to 16.6°C (August/September) at the headquarters of Point Reyes National Seashore in Olema Valley (National Park Service weather records). Most frogs (N = 112) were tagged in the Greater Olema Valley (Olema Valley and Pine Gulch Valley; 38°01'41"N, 122°46'50"E). To evaluate movement and habitat use in areas with contrasting habitats, nine frogs were tagged at Big Lagoon (37°51'36"N, 122°34'29"E), and two were tagged at Tomales Point (38°09'19"N, 122°54'43"E; Fig. 1).

Most of the Greater Olema Valley was characterized by a mixture of grazed and ungrazed grasslands interspersed with seasonal drainages with California bay (*Umbellularia californica*) and coast live oak (*Quercus agrifolia*). The west side of the valley was predominantly a Douglas fir forest (*Pseudotsuga menziesii*). Olema and Pine Gulch Creeks had well-defined riparian zones composed of California bay, red alder (*Alnus rubra*), willow (*Salix* spp.), big-leaf maple (*Acer macrophyllum*), and Douglas fir, with an understory dominated by blackberry (*Rubus discolor*), poison oak (*Toxicodendron diversilobum*), nettles (*Urtica dioica*), and western sword fern (*Polystichum munitum*). Within the valley, there were 24 *R. draytonii* breeding sites. Fourteen of these were artificial stock ponds, and the others were naturally occurring ponds or marshes. Aquatic vegetation was predominantly cattails (*Typha* spp.), pennywort (*Hydrocotyle verticillata*), and rushes (*Juncus* spp.). About half of the ponds were seasonal, whereas the others usually held water all year. Study sites within the Olema Valley were selected to represent a range of habitats and because there was a sufficiently large *R. draytonii* population at each of the study sites.

The Big Lagoon study site consisted of a cattail marsh with a seasonal creek (Green Gulch Creek) that flowed into it. The marsh had several small areas where water depth was 1.0–1.5 m during the winter, but most of the marsh was covered by < 0.25 m of water, even during the wet season. A levee on the north side separated the marsh from a permanent creek (Redwood Creek), but a set of culverts allowed water to enter the marsh during higher winter flows. Water retention in the marsh varied with rainfall but was also influenced by how much water the National Park Service allowed to pass through flood gates on the culverts. The Tomales Point study site was a nonbreeding site at a seasonal seep. The dominant vegetation was coyote brush (*Baccharis pilularis*), with a few wax myrtle (*Myrica californica*). The nearest breeding pond was 650 m away.

Field methods.—Frogs were caught at night either with a dip net or by hand. We marked each frog with a passive integrated transponder (PIT) tag (TX1400L, Biomark, Meridian, ID; www.biomark.com) for individual identification and recorded sex, snout–vent length (SVL), and mass. Each frog was radiotagged by attaching a transmitter (model BD-2G, Holohil Systems Ltd., Carp, Ontario, Canada; www.holohil.com) to a belt of aluminum beaded chain that was slipped over the frog's extended rear legs and up onto the waist (Rathbun and Murphey, 1996). The transmitters were either a dull green or light brown color. The aluminum belt was painted flat black to eliminate reflections. The smallest frog we radiotagged was 32 g, and the mass of the transmitter and belt was approximately 2.1 g (6% of the frog's mass). When possible, we recaptured frogs before the battery died (20-week life) and fitted a new transmitter. We tagged frogs during all months of the year except August, with most being tagged just prior to, or during, the December to January breeding season.

A total of 123 individual frogs was radiotagged (47 females, 76 males) between 5 November 1997 and 1 May 2003 at eight sites (Table 1). Twenty-three frogs were consecutively fitted with two transmitters, six frogs with three transmitters, and one frog wore six

TABLE 1. Sites where California Red-Legged Frogs (*Rana draytonii*) were fitted with radiotransmitters in Marin County, California. Figure 1 shows the geographic distribution of the sites.

Site name	Habitat	Number of frogs tagged		Days tracked	
		M	F	Median $\bar{x} \pm SD$	Range
Greater Olema Valley					
CP	Permanent pond	44	31	86 89.6 ± 56.0	2–229
MP	Seasonal pond	19	9	76 80.5 ± 47.3	12–191
AD	Seasonal pond	2	4	127 139.0 ± 75.0	63–253
BF	Seasonal pond	2	2	112 109 ± 74.9	28–184
WD	Permanent pond	0	1	134	134
OT	Permanent pond	1	0	121	121
All sites	–	68	47	83 91.3 ± 56.1	5–253
Big Lagoon					
BL	Permanent marsh	9	0	68 66.8 ± 36.8	16–130
Tomales Point					
TP	Seasonal seep and ditch	0	2	283	68–498

consecutive transmitters. Seventy-eight percent of all transmitters (N = 166) were recovered. Three frogs (two females, one male) lost their transmitters but were subsequently recaptured and outfitted with new transmitters 54,244, and 493 days later. This yielded 126 telemetry histories. We generally located radiotagged frogs twice weekly; more often when the frogs were making regular movements. We recaptured frogs every 3–4 weeks to check for injuries and ensure proper fit of the transmitter belt. Frogs were radiotagged for 91 days (median) at the Olema Valley study sites and for 67 and 283 days at the Big Lagoon and Tomales Point sites, respectively.

Frogs were located using a TR-2 receiver (Telonics, Mesa, AZ; www.telonics.com) or an R-1000 receiver (Communication Specialists, Inc., Orange, CA; www.com-spec.com) with a directional "H" or three-element yagi antenna. Fine scale location of transmitters was accomplished with a partially stripped coaxial cable inserted into a length of PVC pipe that was used as a probe (Fellers and Kleeman, 2003). Radio locations were only determined during the day.

Frog locations were plotted on a 7.5′ USGS topographic by noting proximity to a mapped feature or permanent local landmark (e.g., dead snag, fence corner). On a few occasions, locations were initially determined using a Garmin 12XL GPS unit (Garmin International Inc., Olathe, Kansas, www.garmin.com), but these locations were later visited and mapped on a topographic map using local landmarks. Telemetry data were analyzed by plotting coordinates on digitized USGS topographic maps (1:24,000 scale) using Topo! software (National Geographic TOPO! Maps, San Francisco, California; maps.nationalgeographic.com/topo). Unless otherwise noted, movements represent straight-line distances between successive locations. For some frogs, we also calculated a longer distance moved based on locations between breeding and nonbreeding sites. For example, frogs found at several successively further distances along a riparian corridor were presumed to have followed the creek between sites. This typically resulted in a longer distance moved than would be obtained using a straight-line distance and is referred to as presumed distance. Statistical analysis was conducted using Statistix (Version 7, Analytical Software, Tallahassee, Florida; www.statistix.com/home.html). We used α = 0.05 to evaluate statistical significance.

Olema Creek passed within 110 m of our main study site (CP) in Olema Valley (Fig. 1). To evaluate use of nonbreeding habitat, we conducted nocturnal surveys along all or part of a 4.8-km segment of Olema Creek where it flowed past our study area. One or two observers walked the creek while carefully searching both pools and stream banks for frogs. Observers used a combination of spotlights and binoculars to locate animals (Corben and Fellers, 2001). Radiotelemetry was not used as part of these nocturnal surveys. We believe that most of the frogs we located used the adjacent pond (CP) for breeding because (1) it

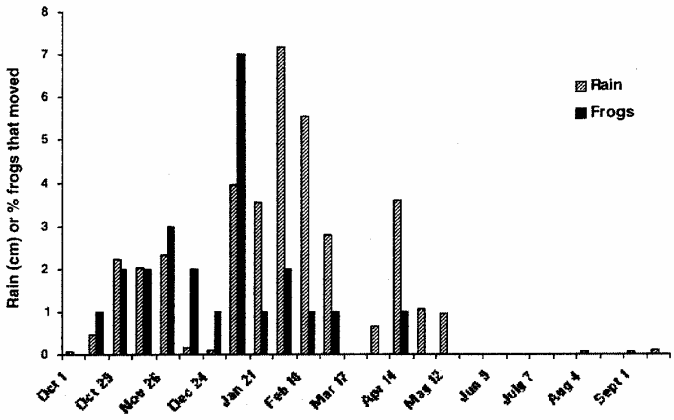

FIG. 2. Biweekly rainfall and the percent of radiotagged *Rana draytonii* that moved ≥ 30 m between October 1999 and September 2000.

was the closest breeding site and (2) some of the frogs found along the creek had been fitted with radiotransmitters at the pond.

RESULTS

Frogs made small-scale movements (< 30 m) throughout the year. Movements of < 30 m could be made without leaving the breeding sites; hence, they were considered local, non-dispersal. Movements ≥ 30 m generally coincided with winter rains, although some frogs did not move until their seasonal habitat was on the verge of completely drying. In general, frogs moved toward breeding ponds with the onset of heavy winter rains. Frogs departed from breeding ponds at varying times throughout the rainy season, with some frogs remaining at permanent ponds all year. Some frogs made large-scale movements during the dry season (May through October), as seasonal breeding sites dried. A regression of the percent of frogs that moved ≥ 30 m versus rain showed that more frogs moved with higher amounts of rain (P = 0.006). We show rainfall and movements for the 1999–2000 season (Fig. 2), the year we had the most frogs simultaneously radiotagged.

Frog movements in the greater Olema Valley.—One hundred fifteen frogs were tracked for a mean of 91 days each (range = 5–253, Table 1). Median distance moved from the breeding site was 0 m, but for the 36 frogs that moved ≥ 30 m, the median was 150 m (range = 30–1400 m, Table 2, Fig. 3). In many cases, frogs almost certainly moved more than the straight-line distance between sites. This was confirmed with individuals that were located in transit. Presumed distance moved for those frogs that moved ≥ 30 m was 185 m (median, range = 30–1400 m).

A higher proportion of radiotagged females moved ≥ 30 m than males (13 of 68 males, 23 of 47 females, χ^2 = 11.49, df = 1, P < 0.01). For frogs that moved ≥ 30 m, distance traveled was not significantly different for males (N = 13) and females (N = 23; median = 210 vs. 140 m, respectively; Wilcoxon rank sum T = 1.22, P = 0.22). Because some frogs lost their transmitters or were killed by predators (see below), the median distance moved might be greater than what we measured. Of the 36 frogs that moved ≥ 30 m, 22 (11 males, 11 females) reached a destination where they remained for at least two weeks. For these frogs, median distance traveled was 175 m. The median for these males and females was not significantly different (210 vs. 120 m; Wilcoxon rank sum T = 0.56, P = 0.58), in part because of the large variability in distance traveled.

A higher proportion of females left breeding sites than males. At our main study site (CP), nine of 21 (43%) females left the breeding site, whereas only four of 25 (16%) males departed. Females left the breeding site sooner than males (1, 5, 5, 5, 12, 55, 60, 76, 92 days for females [median = 12]; 31, 38, 47, 69 days for males

TABLE 2. Distance moved for 110 California Red-Legged Frogs (*Rana draytonii*) with radiotransmitters at three study sites in Marin County, California. Sixteen frogs radiotagged at nonbreeding sites are not included in this tabulation.

		Distance moved for frogs that moved ≥ 30 m						Frogs that moved < 30 m
	Sex	Minimum	Median	Maximum	Mean	SD	*N*	*N*
Olema Valley								
CP	Males	200	240	490	293	135	4	31
CP	Females	100	320	1400	421	416	10	14
MP	Males	270	270	270	270	–	1	18
MP	Females	150	150	150	150	0	2	7
AD	Males	–	–	–	–	–	0	2
AD	Females	30	80	90	70	28	4	0
BF	Males	80	80	80	80	–	1	1
BF	Females	40	95	150	95	78	2	0
WD	Males	–	–	–	–	–	0	0
WD	Females	–	–	–	–	–	0	1
OT	Males	560	560	560	560	–	1	0
OT	Females	–	–	–	–	–	0	0
Big Lagoon								
BL	Males	30	105	390	158	136	6	3
	Females	–	–	–	–	–	0	0
Tomales Point								
TP	Males	–	–	–	–	–	0	0
TP	Females	30	40	50	40	14	2	0

[median = 42.5]), but the sample size was small, and the difference was not significant ($T = 0.61$, df = 11, $P = 0.55$).

Some of the dispersing frogs moved well away from the breeding site. One female (10.7 cm SVL) left the pond at our main study area (CP), crossed Olema Creek (the primary nonbreeding area) and stopped at a pond 320 m from the breeding pond. Two females (10.9 and 10.1 cm SVL) moved from CP, across Olema Creek and eventually resided in marshes, 0.88 and 1.02 km from the breeding site. Another female (10.6 cm SVL) moved down Olema Creek and up a small tributary for a total distance of 2.8 km (see individual case histories below).

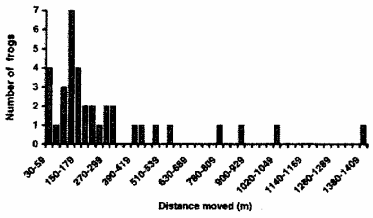

FIG. 3. Straight-line distance moved for all radiotagged Greater Olema Valley frogs that traveled ≥ 30 m. Median = 185 m, $N = 36$.

Fourteen of the breeding sites in the Greater Olema Valley were stock ponds surrounded by pastures. At these sites, all frogs that left the breeding site had to cross heavily grazed grassland to reach another pond or the riparian area. Frogs moved directly across these fields, typically traveling the most direct route to their destination. Movements of 100–200 m across open grasslands were common. With one exception, movements taking more than one night were along riparian corridors. One frog, however, spent five days sitting in a small clump of rushes in an open grassland (45 m from the breeding pond) before moving another 100 m to a small riparian area where it spent the next 50 days.

In two instances, we radiotagged females that appeared to have recently laid eggs (i.e., gaunt sides, conspicuously loose skin). Both frogs left the breeding pond within two days and moved to a seasonal marsh 800 m away. One frog took 32 days (5 December 1997 to 5 January 1998), whereas the other took five days (14–19 January 2000). A gravid female was fitted with a transmitter at a seasonal pond on 29 January 2001. By 8 February 2001, she had moved to an adjoining swale dominated by rushes. When captured on 28 February 2001, she had laid her eggs, as indicated by a sudden drop in mass. By 3 April 2001, she had moved 150 m to a riparian area where she remained until the transmitter was removed on 1 August 2001.

Frog movements at Big Lagoon.—The nine male frogs at this site moved a median distance of 70 m (0– 390 m, Table 2). Frogs made small-scale movements (< 30 m) throughout the time they were radiotagged (26 December 2002 through 3 June 2003). Most movements were between three of the deeper parts of the marsh, but one frog moved 390 m up Green Gulch Creek (when part of the marsh dried), to a seasonal creek that flowed into the marsh system. The other frogs moved to the only remaining pool at the west edge of the marsh, 50–75 m away. Most frogs did not use the riparian zone along the adjacent Redwood Creek. One individual spent four weeks there, and another frog moved to the riparian zone just before it lost its transmitter. We found frogs in the riparian area during only one nocturnal survey, although we regularly found them in the marsh or adjacent cattails.

Frog movements at Tomales Point.—The two female frogs radiotagged at this site (6.7 and 10.6 cm SVL) were relatively sedentary and apparently did not move to a breeding site. They had transmitters for an average of 283 days (68 and 498 days). Both frogs moved > 30 m, with a mean of 65 m (Table 2). Although it might have been possible for the female that we tracked for 498 days to have moved to a breeding pond, laid eggs, and returned to her nonbreeding site without our noticing her absence, the gradual increase in mass throughout the time we tracked her indicated that this did not happen, and she apparently did not breed during the time we radiotracked her.

Use of riparian habitat.—On six of the 21 nocturnal stream surveys, there were ≥ 4 frogs per 100 m of stream, and one survey located seven frogs per 100 m (2 September 1999). Because radiotagged frogs known to be present (i.e., located during the same day by telemetry and also found along the creek on subsequent days) were frequently not seen during nocturnal surveys, the number of frogs along the creek was greater than what we observed, but it is not possible to determine by how much. For example, during a nocturnal survey on 5 July 2000, we observed one of the radiotagged frogs known to be along the creek, but we did not find two other radiotagged frogs whose presence had been confirmed earlier that day. Similarly, a nocturnal survey on 3 August 2000 did not detect either of two radiotagged frogs known to be present earlier that day; however, two untagged adults and nine subadults (< 5.5 cm SVL) were observed. Nocturnal surveys also suggested that frogs tended to concentrate along portions of the creek nearest the breeding sites (Fig. 4).

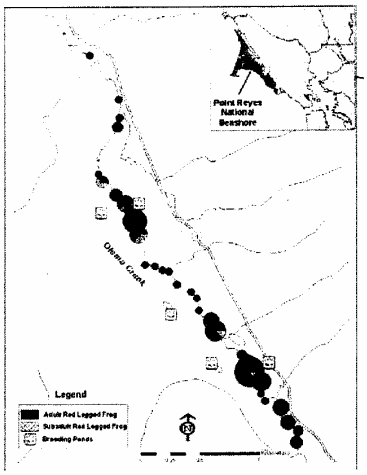

FIG. 4. Distribution of *Rana draytonii* along Olema Creek as detected during nocturnal surveys 4–6 October 1999. The distribution of frogs was similar during other surveys. Circles represent frogs, and size of each circle indicates relative number of frogs.

Diurnal behaviour.—We conducted our radiotracking during the day and were frequently able to confirm visually the exact location of frogs with transmitters. This allowed us to evaluate diurnal microhabitat use. It was not unusual to find California Red-Legged Frogs basking in full sun, immediately adjacent to the water. Although we observed this behavior primarily at breeding ponds, occasionally frogs were found in similar situations in nonbreeding riparian areas.

Frogs that were not basking used a variety of cover. In permanent ponds, they sat entirely underwater in the deeper portions of the pond (> 0.75 m), usually in association with the emergent vegetation. At sites with deeper water, *R. draytonii* sat on the bank in close proximity to the water. In shallow, seasonal ponds (< 0.4 m deep), frogs were usually under vegetation (e.g., rushes, blackberries, hedge nettles [*Stachys ajugoides*]) at the edge of the pond. In seeps or seasonal streams, frogs were found under blackberry thickets interspersed with poison oak, coyote brush, hedge nettles, stinging nettles (*Urtica dioica*), and mats of rushes. Along permanent streams, frogs were found in or near pools with a depth of > 0.5 m and associated with structurally complex cover (e.g., root mass, logjam, or overhanging bank).

When on stream banks, frogs sat under dense vegetation as far as 2 m from the water's edge. Vegetation was predominantly western swordfern, blackberry, hedge nettle, and giant horsetail (*Equisetum telmateia*).

Predation.—We documented two predation events and had circumstantial evidence for three others. A Great Blue Heron (*Ardea herodia*) ate two radiotagged frogs sometime between 4 and 18 January 2000 (Fellers and Wood, 2004). Three other frogs appeared to have been killed by predators. The skin, bones, and transmitter of one frog were found at the base of a guano-stained fence post, along with a number of raptor pellets. Two frogs appeared to have been killed by mammalian predators, although we have no definitive proof. We found the skin, internal organs, PIT tag, and transmitter of a frog in a riparian corridor, and we found pieces of skin, internal organs, and the transmitter of another frog. One frog appeared to have been stepped on by a large, hoofed animal, probably one of the cows that grazed in the pasture. We found the anterior two-thirds of the frog in a pasture; the posterior portion of the frog had been crushed into the ground. Although we did not observe any predation during our nocturnal surveys along Olema Creek, we regularly observed raccoons (*Procyon lotor*), Black-Crowned Night Herons (*Nycticorax nycticorax*), river otters (*Lutra canadensis*), and nonnative rats (*Rattus* spp.). At breeding sites, we observed Great Blue Herons, but other potential predators probably visited the ponds and marshes at times.

Injuries from transmitters.—Twenty frogs had injuries from transmitter belts (17% of radiotagged frogs). The most common injury consisted of small abrasions on the dorsum or, less frequently, a midventral abrasion. The wounds generally healed within two weeks if frogs were fitted with transmitter belts with one additional bead. Eleven of the injured frogs were reweighed at the time the wound was noticed, and all frogs had gained mass since their initial capture. We reweighed 22 uninjured frogs with transmitters; 18 (78%) gained mass after initial capture, two (9%) had no change, and three (13%) lost mass. The mean mass gain for these frogs was 21%, and mean mass loss was 8.5%. Overall, we do not believe that the minor injuries caused by the transmitter belt interfered with frog behavior.

Individual case histories.—The frog that was radiotagged for the longest time had a transmitter for 16 months. When first caught on 12 May 1999, the female frog weighed 42.5 g and was 7.3 cm SVL. It grew steadily and was 77.7 g and 8.9 cm when last captured on 14 June 2000.

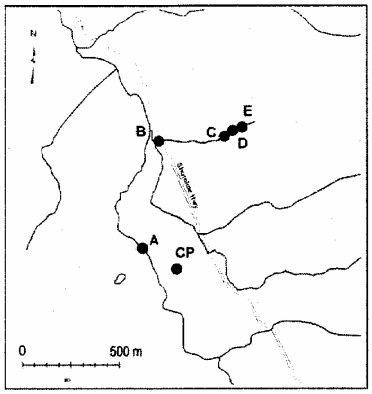

FIG. 5. Movements of a female radiotagged *Rana draytonii* that was captured at a breeding pond (CP) and subsequently moved to sites A–E. The frog was 10.5 cm (SVL) and was tagged during the breeding season (19 January 1999). The straight-line distance from CP to E was 1.4 km, but the presumed distance moved was 2.8 km.

The frog was caught in a puddle (1.0 × 0.3 m, 15 cm deep) that had formed in a rut created by a roadside seep along an abandoned dirt road on Tomales Point (site TP, Fig. 1). For 16 months, this frog made frequent, small (2–10 m) movements, within a 200-m^2 area surrounding the seep. The furthest the frog moved was 110 m. It used a variety of microhabitats: underwater in the puddle, underground in small mammal burrows, partially buried in duff beneath wax myrtle and coyote brush, and sitting in small clumps of grass. Although this frog was an adult female, it did not move to the nearest known breeding pond (650 m away) during the winter of 1999–2000. On 1 September 2000, the transmitter was found in the grass beneath a coyote brush, 6 m from where the frog had last been found. We could not determine whether the transmitter had fallen off or whether the frog had met a predator.

One frog moved at least 1.4 km. This was a female (10.5 cm SVL) tagged at a breeding pond (CP) during the breeding season (19 January 1999). On 23 January 1999, she was located under a fallen tree, 240 m away in Olema Creek. On 30 January 1999, she had moved a minimum of 650 m to a pool in a small tributary of Olema Creek (Fig. 5). It is quite likely that the frog followed Olema Creek to the tributary, which would have required a move-

ment of 1.0 km to reach that point. By 14 February 1999, the frog had moved either across a two-lane, paved country road or under the road through a culvert. She then moved up a small, seasonal drainage, 430 m from its previous location. The presumed distance traveled by this frog was 2.8 km. The frog stayed in this drainage and was often found under blackberry brambles and thickets of poison oak along the stream. The transmitter and remains of the frog were found on 14 June 1999, apparently the victim of avian predation (see Predation above).

Discussion

The California Red-Legged Frog recovery plan emphasizes protection and recovery of breeding habitat (U.S. Fish and Wildlife Service, 2002), and most protection efforts have focused on breeding sites. One challenge in managing *R. draytonii* has been the paucity of data on habitat use beyond the breeding site, thus making it difficult to evaluate requirements for nonbreeding habitat and connecting migration corridors. Our study provides insights into *R. draytonii* movement and habitat use in a coastal environment and establishes a basis for making decisions about habitat protection.

Migration of *R. draytonii* from the breeding sites we studied was highly variable. Some frogs remained at breeding ponds all year, whereas others spent only a few days. Two-thirds of female frogs and 25% of male frogs moved from breeding areas. Bulger et al. (2003) found that 80–90% of *R. draytonii* remained at one breeding site all year. In our study, frogs at sites that held water only seasonally often lingered until the site was on the verge of drying completely. Because all our study sites were in an area where summer fog is the norm (E. J. Null, NOAA Technical Memorandum, NWS WR-126, 1995; Lundquist and Bourcy, 2000), frogs could move throughout much of the summer with little risk of desiccation. Once along the riparian corridor, frogs used a range of microhabitats that provided both cover and moisture, especially blackberry thickets, log-jams, and root tangles at the base of standing or fallen trees. Regular summer dispersal across open grassland is in contrast to what Rothermel and Semlitsch (2002) reported for juvenile *Ambystoma* and *Bufo* in Missouri where desiccation appeared to be a significant factor affecting amphibian dispersal across fields adjacent to their artificial pools.

There was a wide range of migration distances (30–1400 m, straight-line). Our main study pond was 110 m from a riparian zone that provided suitable nonbreeding habitat (CP, Fig. 1). For frogs that moved at least 30 m from the pond, the median movement was 150 m. Relatively short movements from breeding sites was also suggested by the nocturnal surveys of riparian vegetation along Olema Creek (Fig. 4) where we found more frogs in areas adjacent to breeding sites. At Big Lagoon, where nonbreeding habitat was immediately adjacent to breeding sites in the marsh, the median distance moved was 68 m, and none of the frogs went more than 390 m. These short movements were similar to Columbia Spotted Frogs (*Rana luteiventris*); Pilliod et al. (2002) found no significant difference between males ($\bar{x}$ = 367 m moved) and females ($\bar{x}$ = 354 m). Bartelt et al. (2004) reported that male Western Toads (*Bufo boreas*) traveled shorter distances from breeding ponds than females (581 m ± 98 and 1105 m ± 272, respectively). Because there is relatively little data on these species, it is not possible to determine whether the differences are species-specific or dependent on the local landscape.

When frogs moved beyond the minimum distance to reach a suitable nonbreeding area, some followed riparian corridors, whereas others moved directly toward sites where they stayed through the nonbreeding season. Because most frogs moved from a breeding pond, across a grazed pasture, to a riparian area, they did not have the option of following a waterway during their initial movement. This is similar to Bulger et al. (2003), where frogs mostly moved in a straight line without apparent regard to intervening vegetation or topography. However, there were a few individuals in each study that moved primarily along a creek.

During our nocturnal surveys of Olema Creek, some frogs were well hidden by cover, whereas others sat fully exposed on top of logs or even on the sandy edge of the creek, places where Red-Legged Frogs were rarely seen during the day. It is unclear why some individuals spent hours exposed to predation when good cover was only 1–2 m away. A frog in the open would have a wider field of view to detect and capture prey, perhaps partially mitigating the risk of predation. We documented predation by a Great Blue Heron, had evidence of predation by a raptor, and suspect that two other frogs succumbed to mammal predators. Additionally, we occasionally observed predators along Olema Creek including raccoons, Black-Crowned Night Herons, river otters, and nonnative rats (*Rattus* spp.). At a marsh that was not part of this study, we regularly observed night herons, and *R. draytonii* were so skittish that we have never been able to capture a single individual.

Based on their findings that 60% of the radiotagged frogs stayed within 30 m of their

breeding sites, Bulger et al. (2003) recommend a 100-m buffer with an array of suitable habitat elements around breeding sites. Although that may work well at their study area, we do not believe that a simple, symmetrical buffer is typically adequate. At our main study site, a 100-m buffer would not include any suitable nonbreeding habitat. Because the pond completely dries every 4–5 years, such a buffer would result in the elimination of the local population. By contrast, the Big Lagoon site has suitable nonbreeding habitat immediately adjacent to the marsh. At that site, maintaining the marsh habitat and the natural water levels would likely be adequate for long-term survival.

Three important conclusions from our study are that (1) most frogs move away from breeding sites, but only a few move farther than the nearest suitable nonbreeding habitat; (2) the distance moved is highly site-dependent, as influenced by the local landscape; and (3) land managers should not use average dispersal or migration distances (from our study, or any other) to make decisions about habitat requirements. A herpetologist familiar with *R. draytonii* ecology needs to assess the local habitat requirements.

Recommendations.—Maintaining populations of pond-breeding amphibians, such as *R. draytonii*, requires that all essential habitat components be protected. These include (1) breeding habitat, (2) nonbreeding habitat, and (3) migration corridors. In addition, a buffer is needed around all three areas to ensure that outside activities do not degrade any of the three habitat components.

For *R. draytonii*, nonbreeding habitats must have several characteristics: (1) sufficient moisture to allow amphibians to survive throughout the nonbreeding season (up to 11 months), (2) sufficient cover to moderate temperatures during the warmest and coldest times of the year, and (3) protection (e.g., deep pools in a stream or complex cover such as root masses or thick vegetation) from predators such as raptors (hawks and owls), herons, and small carnivores.

Breeding habitat has been well described (U.S. Fish and Wildlife Service, 2002; Stebbins 2003) and receives most of the management attention (US Fish and Wildlife Service, 2002). However, nonbreeding areas are equally important because some *R. draytonii* spend only a week or two at breeding sites, yet nonbreeding habitat is frequently ignored and is generally not well understood. Aside from our study, Bulger et al. (2003) are the only ones to publish details on the use of nonbreeding habitat by *R. draytonii*. Additional research on nonbreeding habitat is needed, especially in other parts of range where *R. draytonii* occupy a diversity of ecotypes.

Migration corridors are frequently not considered in management planning for California Red-Legged Frogs. Our work and that of Bulger et al. (2003) indicate that *R. draytonii* migration corridors can be less "pristine" (e.g., closely grazed fields, plowed agricultural land) than the other two habitat components. Bulger et al. (2003) observed that *R. draytonii* did not avoid or prefer any landscape feature or vegetation type. They tracked frogs that crossed agricultural land, including recently tilled fields and areas with maturing crops. Our study site did not encompass such a diversity of habitats, but frogs readily traversed pastureland that surrounded the breeding sites. While conducting other research, we observed five frogs crossing a recently burned field as they moved toward a breeding pond during the first rain of the season (25 October 2004). Both our study and that of Bulger et al. were conducted at study sties near the Pacific Ocean where summer fog and high relatively humidity reduce the risk of desiccation for dispersing amphibians (E. J. Null, NOAA Technical Memorandum, NSW, WR-126, 1995; Lundquist and Bourcy, 2000). 5 Though desiccation was probably not a problem for frogs in our study, amphibians are often faced with a variety of hazards including roads (Gibbs, 1998; Vos and Chardon, 1998), degradation of habitat (Vos and Stumpel, 1995; Findlay and Houlahan, 1997; Gibbs, 1998), predation (Gibbs, 1998), as well as desiccation (Rothermel and Semlitsch, 2002; Mazerolle and Desrochers, 2005).

Buffers are often described as the area that frogs use near breeding sites. Such usage combines migration corridors and nonbreeding habitat, as well as the adjacent area necessary to protect these areas. We believe that it is important to identify each habitat component separately and then include a buffer that is sufficiently large to maintain the integrity of each habitat type. Such a buffer cannot be defined as a standard distance but rather as an area sufficient to maintain the essential features of the amphibian habitat. Hence, a riparian area adjacent to a forest undergoing clear-cut logging would need a relatively large buffer to protect it from increased sedimentation and the increased temperature fluctuations that occur after logging. Less severe habitat modifications adjacent to amphibian habitat could be accommodated with a narrower buffer (deMaynadier and Hunter, 1995, 1999; Gibbs, 1998).

Buffers are typically described as a fixed-width boundary around breeding sites (Semlitsch and Bodie, 2003). However, the distribution of habitat components is rarely symmetrical

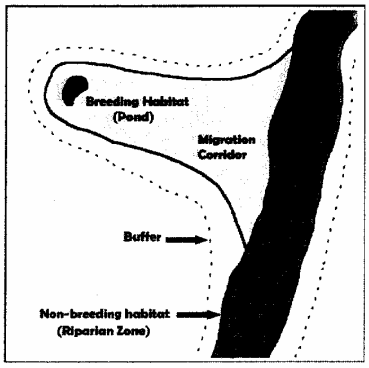

FIG. 6. Stylized diagram of typical *Rana draytonii* habitat showing the critical habitat components and the required asymmetrical buffer.

(e.g., a pond with frogs dispersing in all directions to surrounding nonbreeding area). At all of our study sites, frogs moved primarily in one direction, often toward the nearest riparian area, similar to what Rothermel and Semlitsch (2002) reported. As suggested by Regosin et al. (2005), protecting frog habitat in these situations requires an asymmetrical conservation area (Fig. 6). Because it is often not obvious from casual inspection what areas frogs are relying upon, delineating each habitat component and determining the size of a suitable buffer requires either an expert opinion from a field biologist with extensive experience with the species of interest or a field study to monitor radiotagged frogs.

The design of protected areas is often developed with the unstated assumption that only the most sedentary frogs can or need to be protected. The resulting systematic loss of individuals that move the farthest can have unexpected and unwanted effects (Gill, 1978; Berven and Grundzien, 1990). Long-distance dispersers are the individuals most likely to reach distant breeding sites and, hence, provide the genetic diversity that is important for survival of small populations. Additionally, those same dispersers are the individuals that would colonize sites where frogs have been lost because of random events that periodically extirpate local populations. By consistently selecting against frogs that disperse the greatest distances, the effective size of a metapopulation is reduced and the size of the effective breeding population is smaller; smaller breeding populations have a greater likelihood of extirpation (Gill, 1978; Sjogren, 1991).

Acknowledgments.—We thank S. Berendt, C. Corben, K. Freel, G. Guscio, and L. Wood for assistance with fieldwork. W. Perry prepared the maps. J. Fellers, G. Rathbun, and N. Scott offered useful comments on the manuscript. Fieldwork was funded by the U.S. Geological Survey, U.S. Fish and Wildlife Service, and the National Park Service. Collecting permits were provided by the National Park Service and the U.S. Fish and Wildlife Service. The Vedanta Society allowed us to radiotrack frogs on their property. This research was conducted under California Department of Fish and Game and U.S. Fish and Wildlife Service research collecting permits. The authors have complied with all applicable institutional Animal Care guidelines.

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Exhibit No. 3
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
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Accepted: 20 January 2007.

Exhibit No. 3
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Appeal
(Page 18 of 18)

5 October 2007

Agenda Item F5c
James Benjamin

California Coastal Commission
North Central Coast District
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Attn: Mr. Michael Endicott, District Manager

Re: Appeal No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)

Dear Mr. Endicott:

In the matter of the above appeal, I support staff's recommendation for a finding of substantial issue for the following reasons.

First, it is incomprehensible that County approval for this residential well would not be preceded by a hydrological study as required by LCP Policy 5.22. This policy implements Coastal Act protection for agricultural uses by determining whether a new residential use would not diminishing water that is needed for agriculture or sensitive habitat protection. The hundreds of new residential wells approved by the County in recent years have depleted the aquifer to the point that some wells have reportedly failed; this suggests that the aquifer's resources are being used faster than they can recharge. Unless a hydrological analysis contained evidence to support the view that this well would be in a separate aquifer and thus not compete with agricultural uses, it is difficult to see how a new residential well would not exacerbate this trend.

Further, a well (including a test well) is development, and County LCP policies 7.3, 7.5, 7.12, 7.16, 7.18, and 7.19 mandate development be conditioned to protect nearby sensitive habitat areas. Without biological study of the parcel and nearby areas as required by LCP Policy 7.5, the County could not have had the evidence needed to support findings for such protection.

Moreover, considering an isolated well project rather than a project for development of a future residential house what includes the well is inconsistent with LCP Policies 5.10 and zoning code sections 6350 and 6355, because it does not condition development to ensure the future viability of agriculture.

Thank you in advance for sharing this letter with the members of the Coastal Commission, and thanks to them for considering my views on this matter.

Sincerely

Signature on File

James Benjamin
400 Pilarcitos Avenue
Half Moon Bay, CA 94019

Exhibit No. 8
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Public Correspondence

RECEIVED
OCT 10 2007
CALIFORNIA
COASTAL COMMISSION

October 9, 2007

Agenda Item F5c
Elaine H. Carrington

California Coastal Commission
North Central Coast District
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Attention: Mr. Michael Endicott, District Manager

Re:Appeal No. A-2-SMC-07-03 (Ward-Sladek-Nerhan)

Dear Mr. Endicott:

I respectfully request that this communication be distributed to each Coastal Commissioner and thank you for your consideration in this matter.

Regarding the above-mentioned appeal, I am in complete support of staff's recommendation for a finding of substantial issue.

The County approved the proposed residential well without performing a hydrological study prior to said approval. LCP Policy 5.22 requires that a study be made to determine if the underlying aquifer can support a new residential use without diminishing water needed for sensitive habitat protection or agriculture. Hundreds of prior approvals of new residential wells have depleted the aquifer to the point that wells are now reported as failing.

The well project was considered in isolation by the County, rather than within the context of the future residential home that it will serve. Thus, the County failed to impose conditions on the development that would ensure the future viability of agriculture as required by LCP Policies 5.10 and zoning code sections 6350 and 6355.

In addition, there was no biological study of the parcel and nearby vicinity by the County, as required by LCP Policy 7.5. A biological study is required to impose proper conditions on the development in order to protect sensitive habitat areas as required by LCP Policies 7.3,7.5,7.12,7.16,7.18 and 7.19.

Sincerely,

Elaine H. Carrington
734 Le Mans Way
Half Moon Bay, CA 94019

Exhibit No. 8
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Public Correspondence

(Page 2)

October 4, 2007

Agenda Item F5c
Barbara K. Mauz

California Coastal Commission
North Central Coast District
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Attn: Mr. Michael Endicott, District Manager

Re: Appeal No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)

Dear Mr. Endicott:

As the appellant for the above appeal, I am submitting the following comments. Personal matters prevent me from being able to travel to the appeal hearing in Southern California. I **request that copies of this letter be given to each Coastal Commissioner.**

I appreciate Commission staff's analysis of this project. I am very pleased to see they have recommended a finding of substantial issue. I hope the Coastal Commission will follow staff's recommendation.

The conversion of agricultural land to residential use poses a major threat to the future of agricultural on the Coast. An important goal of the California Coastal Act was to protect agriculture. We have seen many attempts to subvert these protections in recent years by the County of San Mateo.

This project involves the drilling of a residential well on agricultural land. Drawing water for residential use could be very harmful to surrounding parcels that are being actively farmed and to nearby sensitive habitat. We are already seeing failed wells in the Mid-Coast due to the County's approval of too many residential wells over the years. A detailed hydrological study is required before this well can be approved.

A biological study is also required by the LCP but was not done. Finally, the County did not analyze the well project in the context of the future residential house(s) that would be served by this well. The County did not impose conditions on the development that would protect the future viability of agriculture, as required by the LCP.

Sincerely,

Signature on File

Barbara K. Mauz
P.O. Box 1284
El Granada CA 94018

Exhibit No. 9
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Appellant Correspondence

KEET NERHAN
P.O. Box 158
Half Moon Bay, CA 94019

Phone: 650-726-4402 Fax: 650-726-3615

October 9, 2007

Honorable California Coastal Commissioners
c/o Charles Lester, Deputy Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Honorable Commissioners and Mr. Lester:

This letter is a request that a matter on your agenda for October 12, 2007, A-2-SMC-7-35, be postponed to a future date. I am one of the applicants for this matter. It has come to my attention, that your staff had requested additional time and had needed additional materials, and that my representative had been unaware of this requirement because he was out of the country. The result was that your staff did not receive a response. For this, I apologize.

I have also learned that the issues involved here could have been resolved if certain conditions, primarily involving environmental protection and some use restrictions, had been met. My fellow applicants and I would not have considered these conditions unreasonable. We only regret that we were not made aware of them.

We believe that it will be more efficient and effective, both for your staff and for us, to continue the permit process, rather than to divert our efforts to preparation for a de novo hearing.

We are certain that if proper time and attention are given to the issues involved, a conclusion satisfactory to all parties can be reached, and I therefore request a postponement of the substantial issue question to a subsequent meeting of the commission. I am authorized to speak for my co-applicants when I say that we will be personally involved in an effort to reach a suitable solution for all parties, if given the time to do so.

Respectfully,

Signature on File

Keet Nerhan

Exhibit No. 10
Appeal No. A-2-SMC-07-035
(Ward, Sladek & Nerhan)
Applicant request for postponement

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

F5c

Filed: 9/21/07
49th Day: 11/9/07
Staff: Ruby Pap-SF
Staff Report: 9/27/07
Hearing Date: 10/12/07

STAFF REPORT – APPEAL
SUBSTANTIAL ISSUE

APPEAL NO.:	**A-2-SMC-07-035**
APPLICANTS:	**Greg Ward, Jeff Sladek, Burdette Sladek and Keet Nerhan**
LOCAL GOVERNMENT:	**San Mateo County**
ACTION:	**Approved with Conditions**
PROJECT LOCATION:	Frenchman's Creek Rd., unincorporated Half Moon Bay (San Mateo County) (APN 048-310-230)
PROJECT DESCRIPTION:	Construction of a domestic well
APPELLANT:	Barbara Mauz
RECOMMENDATION:	**Substantial Issue**

1.0 EXECUTIVE SUMMARY

1.1 Summary of Staff Recommendation: Substantial Issue

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

The approved development consists of the construction and drilling of a domestic well and 6' x 6' concrete pad located approximately 73.5 feet from the northwestern property line (Exhibit No. 2). According to the County staff report the purpose of the approved domestic well construction is to assess initial water quality and quantity for potential future application(s) of single family residential construction.

The approved development is located approximately 1,295 feet southeast of Frenchman's Creek Road on lands zoned Planned Agriculture Development (PAD)

(Exhibit 1). The project site is located within the Cabrillo Highway County Scenic Corridor, and surrounding land uses include agriculture and single family residential development.

The Commission received an appeal of the County's approval of the proposed development contending that the project is inconsistent with the sensitive habitat and agricultural protection policies of the certified San Mateo County LCP (Exhibit 3). Specifically, the appellant contends that the County approval fails to demonstrate that the domestic well, a non-agricultural use, will not diminish water supply for sensitive habitat protection as required by the LCP. The appeal also contends that the County approval did not impose any necessary conditions of approval to ensure the future viability of agriculture on the property, even though the domestic water well will ultimately be used to support a residential use.

Staff recommends that the Commission find that the appeal of the development approved by San Mateo County raises a substantial issue regarding the conformity of the approved development to the sensitive habitat and agricultural protection policies of the LCP, particularly in regards to the need for biological reports and hydrological reports to make the appropriate findings that the development would not impact the water supply for the maintenance sensitive habitat and agricultural production in the watershed.

2.0 STAFF RECOMMENDATION

Substantial Issue

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

Motion:

I move that the Commission determine that Appeal No. A-2-SMC-06-021 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation:

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

Resolution to Find Substantial Issue:

The Commission hereby finds that Appeal No. A-2-SMC-06-021 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

3.0 PROJECT SETTING AND DESCRIPTION

The approved project site is located approximately 1,295 feet southeast of Frenchman's Creek Road on lands zoned Planned Agriculture Development (PAD) (Exhibit 1). The property is approximately 15.5-acres and is undeveloped. Access to the property is obtained via a private easement from Frenchman's Creek Road. The site contains ruderal grasses and other native and non-native vegetation.

The approved development consists of the construction and drilling of a domestic well and 6' x 6' concrete pad located approximately 73.5 feet from the northwestern property line, approximately 550 feet northeast from the shared property line of the property located southwest of the subject site (Exhibit 2). The project site is located within the Cabrillo Highway County Scenic Corridor, and surrounding land uses include agriculture and single family residential development. According to the County staff report the purpose of the approved domestic well construction is to assess initial water quality and quantity for the potential future application(s) of single family residential construction. The staff report also states that any potential future development would be required to submit a subsequent application for a CDP and PAD permit to demonstrate compliance with all applicable land use regulations.

4.0 APPEAL PROCESS

4.1 Local Government Action

July 23, 1997: Certificate of Compliance (COC) Type A recorded on the subject APN (File No. COC 97-0004)

May 3, 2007: Initial Zoning Hearing Officer public hearing on subject project. Project was continued.

May 25, 2007: Coastal Commission Staff submitted a comment letter to County Staff regarding the subject development's consistency with agricultural protection policies of the LCP (Exhibit 6).

June 7, 2007: Appellant submitted comments to the County regarding project CEQA non-compliance, inconsistency with LUP policy 1.8 requiring that new development in rural areas not have significant adverse impacts on coastal resources, and inconsistency with LCP agricultural protection policies (Exhibit 5).

June 7, 2007: Alternate Zoning Hearing Officer Public Hearing on subject development. Project was continued to July 19, 2007 to allow for a project site visit to be conducted by the applicant, County staff, and the Alternate Zoning Hearing Officer to see the specific proposed well location, and to allow for county staff to prepare a supplemental staff report for the project addressing correspondence received from Mr. Kevin Lansing and Nature Watch/Ms. Barbara Mauz regarding the proposed project description and conformance with CEQA; and to allow County staff to provide response to correspondence received at the public hearing from Kevin Lansing, Nature Watch/Ms. Barbara Mauz, and written correspondence received from Ruby Pap of the CCC.

July 10, 2007: Alternate Zoning Hearing Officer conducted a public site visit to the subject property.

July 19, 2007: Alternate Zoning Hearing Officer continued the item to August 16, 2007 to allow additional time for County staff to prepare supplemental staff report regarding CEQA and conversion of agricultural lands.

August 16, 2007: Alternate Zoning Hearing Officer approved the subject development subject to eleven (11) special conditions. The full text of the conditions can be found in Exhibit No. 4.Those conditions related to the appeal include: #3, that the applicant(s) apply for and receive a well permit prior to construction; #7, that prior to issuance of the well permit, the applicants submit for approval an erosion and drainage control plan; #8, since it appears the subject property does not comply with Williamson Act provisions requiring active agricultural activity, that in the event development is proposed in the future, applicants contact the Planning Department and be advised to file a "Notice of Non-Renewal" of Williamson Act contract and wait the requisite 9-years until new development permits are approved or issued; #10, that prior to issuance of the well permit, the applicant submit a survey prepared by a land surveyor demonstrating that the well is set back at least 30-feet from the edge of the vegetation along the northwest property line; and #11, which requires that prior to approval of any future permit authorizing a permanent power source for the well or any other non-agricultural activity or use, the applicant shall submit a hydrological study demonstrating that the operation of the well will not significantly diminish water supplies needed for agricultural protection and sensitive habitat protection as per LCP Policy 5.22(b)

4.2 Filing of Appeal

On September 11, 2007, the Commission received notice of the County's final action approving a coastal development permit for the project (Exhibit 4). The Commission's appeal period commenced the following working day and ran for ten working days thereafter (September 12 through September 25, 2007). On September 21, 2007, within the 10-working day appeal period, the Commission received an appeal from Barbara Mauz (Exhibit 3) (Exhibit 3). Following receipt of the appeal, the Commission mailed a notification of appeal to the County, the applicant, and other interested parties listed on the appeal form.

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The appeal on the above-described decision was filed on September 21, 2007. The 49th day will be November 9, 2007.

In accordance with the California Code of Regulations, on September 24, 2007, staff requested all relevant documents and materials regarding the subject approval from the County to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. As of the date of this staff report, September 27, 2007, the Commission has not yet received the local record from San Mateo County.

4.3 Appeals under the Coastal Act

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

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff; or in a sensitive coastal resource area; or located within 100 feet of any wetland, estuary, or stream. Developments approved by counties may be appealed if they are not designated as the "principal permitted use" under the certified LCP. Developments that constitute a major public works or a major energy facility may also be appealed, whether they are approved or denied by the local government.

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

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the approved project with the certified LCP.

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* portion of the appeal hearing and review the merits of the proposed project. This *de novo* review may occur at the same or subsequent meeting. If the Commission were to conduct a *de novo* hearing on the appeal, because the proposed development is located between the first public road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

In this case, since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission will proceed to its *de novo* review at a subsequent meeting, after the applicant has provided the Commission with the information it needs to conduct its de novo review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised.

The only persons qualified to testify before the Commission on the substantial issue question are the applicants, the appellant and persons who made their views known to the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing.

4.4 Standard of Review

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

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

The term *substantial issue* is not defined in the Coastal Act or its implementing regulations. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Commission Regulations, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

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

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

5.0 SUBSTANTIAL ISSUE ANALYSIS

5.1 Appellants' Contentions

The Coastal Commission received one appeal of the County's action on the approved development. The full text of the appeal is included in Exhibit 3. The appeal filed by Barbara Mauz includes the following contentions:

1. The County approval fails to demonstrate that the domestic well, a non-agricultural use, will not diminish water supply for sensitive habitat protection as required LUP Policy 5.22 and Section 6328.14 of the Zoning Code. Compliance with these policies require, at a minimum, delineation and biological assessment of sensitive habitat areas on the property and surrounding vicinity. A biological assessment was not conducted for the approved development. Further, LUP Policy 7.5 requires the preparation of a biological report when significant impacts to sensitive habitat areas may occur. There is evidence that a riparian corridor or wetland occurs 30-feet away from the approved well, because the County staff report describes a "fairly heavily vegetated ravine or drainage swale…which suggests some sort of riparian corridor is present." In addition, there could be habitat for the rare California Red Legged Frog, San Francisco Garter Snake, San Francisco Dusky-Footed Woodrat, and migratory birds on site. Therefore, the appellants assert, the County should have required the preparation of a biological report, and analyzed the project for consistency with LCP sensitive habitat policies.

2. The County approval did not impose any conditions of approval to ensure the future viability of agriculture on the property even though the domestic water well will ultimately be used to support a residential use and such assurance is required by LUP Policies 5.1, 5.11, and 5.22 as well as and certified Zoning Regulations Sections 6350 and 6355.

In this case, the Commission exercises its discretion and determines that the appeal of the development approved by the County raises a **substantial issue** of conformity of the approved development with the sensitive habitat and agricultural protection policies of the certified LCP.

5.1.1 Sensitive Habitats

Contention

The appellant contends that the County approval fails to demonstrate that the domestic well, a non-agricultural use, will not diminish water supply for sensitive habitat protection as required by LUP Policy 5.22 and Section 6328.14 of the Zoning Regulations. Compliance with these policies require, at a minimum, delineation and biological assessment of sensitive habitat areas on the property and surrounding vicinity. A biological assessment was not conducted for the approved development. Further, LUP Policy 7.5 requires the preparation of a biological report when significant impacts to sensitive habitat areas may occur. There is evidence that a riparian corridor or wetland occurs 30-feet away from the approved well, because the County staff report describes a "fairly heavily vegetated ravine or drainage swale…," "which suggests some sort of riparian corridor is present." In addition, there could be habitat for the rare California Red Legged Frog, San Francisco Garter Snake, San Francisco Dusky-Footed Woodrat, and migratory birds on site. Therefore, the appellants assert, the County should have

required the preparation of a biological report, and analyzed the project for consistency with LCP sensitive habitat policies.

Applicable Policies

*5.22 Protection of Agricultural Water Supplies

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

*7.3 Protection of Sensitive Habitats

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

*7.4 Permitted Uses in Sensitive Habitats

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

7.5 Permit Conditions

> *a. As part of the development review process, require the applicant to demonstrate that there will be no significant impact on sensitive habitats. When it is determined that significant impacts may occur, require the applicant to provide*

a report prepared by a qualified professional which provides: (1) mitigation measures which protect resources and comply with the policies of the Shoreline Access, Recreation/Visitor-Serving Facilities and Sensitive Habitats Components, and (2) a program for monitoring and evaluating the effectiveness of mitigation measures. Develop an appropriate program to inspect the adequacy of the applicant's mitigation measures.

b. When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when in the judgment of the Planning Director restoration is partially or wholly feasible.

[emphasis added]

7.7 Definition of Riparian Corridors

Define riparian corridors by the limit of riparian vegetation (i.e., a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of freshwater: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

7.8 Designation of Riparian Corridors

Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of freshwater in the Coastal Zone. Designate those corridors shown on the Sensitive Habitats Map and any other riparian area meeting the definition of Policy 7.7 as sensitive habitats requiring protection, except for manmade irrigation ponds over 2,500 sq. ft. surface area.

7.11 Establishment of Buffer Zones

a. On both sides of riparian corridors, from the limit of riparian vegetation extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.

b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams.
c. Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point except for manmade ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

7.12 Permitted Uses in Buffer Zones

Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) residential uses on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) in Planned Agricultural, Resource Management and Timber Preserve Districts, residential structures or impervious surfaces only if no feasible alternative exists, (4) crop growing and grazing consistent with Policy 7.9, (5) timbering in streamside corridors as defined and controlled by State and County regulations for timber harvesting, and (6) no new residential parcels shall be created whose only building site is in the buffer area.

7.14 Definition of Wetland

Define wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and manmade impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernally wet areas where the soils are not hydric.

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

7.16 Permitted Uses in Wetlands

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

disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

7.18 Establishment of Buffer Zones

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

7.19 Permitted Uses in Buffer Zones

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

Certified Zoning Section 6328.14: Conditions

…For all proposed development requiring a domestic well water source and not subject to the provisions of Section 6328.7(e), require as a condition of approval demonstrated proof of the existing availability of an adequate and potable water source for the proposed development, and that use of the water source will not impair surface streamflow, the water supply of other property owners, agricultural production or sensitive habitats.

Certified Zoning Section 6328.7: Application Requirements.

… The application for a Coastal Development Permit shall be accompanied by:…

(e) For all proposed development requiring a domestic well water source, except single-family residences and any permitted use on a parcel of 40 acres or greater, demonstrated proof of the existing availability of an adequate and potable water source for the proposed development, and that use of the water source will not impair surface streamflow, the water supply of other property owners, agricultural production or sensitive habitats.

Discussion

The County – approved development authorizes construction of a domestic well on a 15.5-acre property zoned Planned Agriculture Development (PAD) (Exhibit 2). According to the County staff report, the proposed well site was 25-feet from a “fairly heavily vegetated ravine or drainage swale. This swale does not show up as a creek or stream on any maps, but is evident on-site and from aerial photographs,” which, as

stated in the County staff report, “suggest some sort of riparian corridor present (Exhibit 7).” In its approval, the County imposed Special Condition No. 10, which required that the well be located at least 30-feet from the edge of the “vegetation along the northwest property line (Exhibit 4).”

LUP Policy 7.5 requires the preparation of a professional biological report when significant impacts to sensitive habitat *may* occur. According to the County staff report and other project application documents submitted to the Commission, a biological report was never completed for this project. Given the County findings acknowledging some sort of riparian corridor or a wetland on site, a wetland delineation should also have been conducted to ensure that the appropriate buffer was required from the area in question. In the case of wetlands, LUP Policy 7.18 requires a 100-foot buffer. As described above, the County required a 30-foot buffer to the potential “riparian corridor” (Exhibit 4 and 6).

In addition, LUP Policy 5.22 and certified Zoning Regulation Section 6328.14 requires that any conversion of agricultural land to a non-agricultural use demonstrate that sufficient water supplies needed for sensitive habitat protection are not diminished. There is no evidence in the project materials that this finding was made prior to County approval, although the County did condition the project (#11) to require a hydrological study for any *future* non-agricultural development to support a finding that operation of the well will not significantly diminish water supplies needed for sensitive habitat protection and agricultural protection in the watershed as per LCP Policy 5.22(b) (Exhibit 4). Although this study has been required for future development, it was not required for the currently approved development (construction of the well). In order to approve the project consistent with the LCP, LCP Policy 5.22(b) requires that the County require this study and make this finding prior to approval of the well.

It is unknown whether the approved domestic well would diminish water supplies needed for sensitive habitat protection because no biological study, wetland delineation, or hydrological study was conducted. Therefore, the Commission finds that the County had no factual and legal support for its decision, and therefore the appeal raises a substantial issue of conformity of the approved development with LUP Policies 5.22, 7.3 - 7.5, 7.7, 7.11, 7.12, 7.16, 7.18, 7.18, 7.19 and certified Zoning Regulation Section 6328.14.

5.1.2 Agricultural Protection

Contention

The appellant contends that the County approval did not ensure the future viability of agriculture on the property even though the domestic water well is to be ultimately used to support a residential use as stated in the County staff report. Therefore, the appellant contends that the County approval of the approved development is inconsistent with LCP Policies 5.1 and 5.11 and certified Zoning Code sections 6350 and 6355 (Exhibit 3).

Applicable Policies

LUP Policy 1.8:

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

LUP Policy 5.10

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

Certified Zoning Section 6350: Purpose of the Planned Agricultural District

> *The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:*
>
> *(a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
>
> *(b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already*

been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,

(c) developing available lands not suitable for agriculture before converting agricultural lands,

(d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

(e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

[Emphasis added.]

Certified Zoning Section 6355: Substantive Criteria for Issuance of a Planned Agricultural Permit

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

A. General Criteria

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

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

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

1. *all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and*
2. *continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and*

3. *clearly defined buffer areas are developed between agricultural and nonagricultural uses, and*
4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality…*

[Emphasis added.]

*5.22 Protection of Agricultural Water Supplies

Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that:

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

[emphasis added]

Discussion

According to County documents, the approved domestic well is intended to assess initial water quality and quantity for future residential development (Exhibit 7). Therefore, the domestic well should be analyzed as a residential use. The LCP requires that conversion of agricultural lands to non-agricultural uses be analyzed against all of the San Mateo County LCP agricultural protection policies, and consistency must be established through County findings and conditions in order to approve coastal development permit. Commission staff brought this issue to the attention of County staff in a comment letter dated May 25, 2007 (Exhibit 6).

LUP Policy 5.22 "Protection of Agricultural Water Supplies" requires that an adequate potable water source be demonstrated for non-agricultural uses, and that sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed not be diminished. As discussed above, there is no evidence in the project materials that this finding was made prior to County approval, although the County did condition the project (#11) to require a hydrological study for any future non-agricultural development to support a finding that operation of the well will not significantly diminish water supplies needed for sensitive habitat protection and agricultural protection in the watershed as per LCP Policy 5.22(b) (Exhibit 4). Although this study has been required for future development, it was not required for the currently approved development (construction of the well). In order to approve the project consistent with the LCP, LCP Policy 5.22(b) requires that the County require this study and make this finding prior to approval of the well.

It is unknown whether the approved domestic well would diminish water supplies needed for agricultural production because no hydrological study was conducted. Therefore, the Commission finds the County had no factual and legal support for its decision, and the appeal raises a substantial issue of conformity of the approved development with LUP Policies1.8, 5.10, and 5.22 and certified Zoning Regulation Section 6350 and 6355.

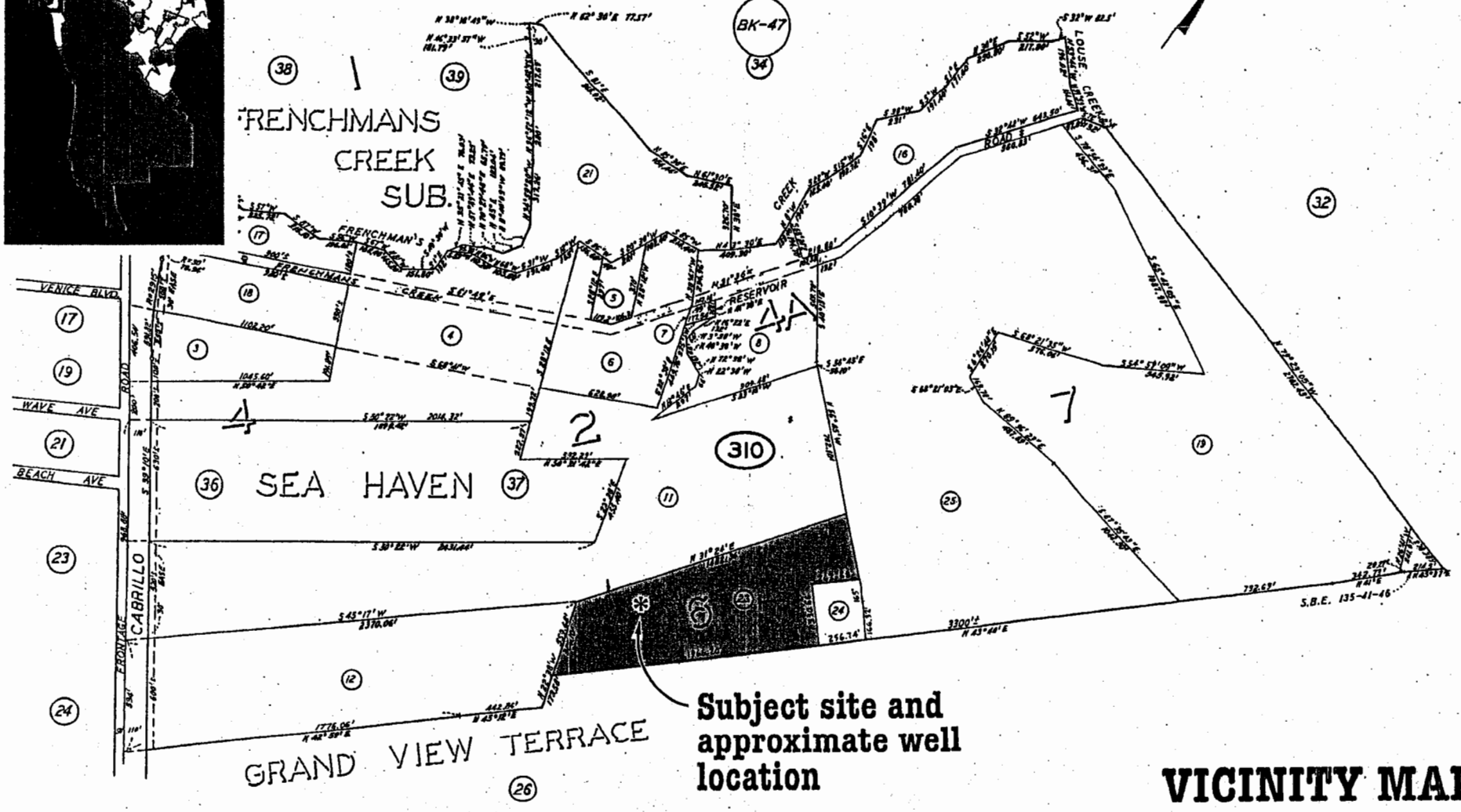
5.1.3 Conclusion

All of the various foregoing contentions raised by the appellants have been evaluated against the claim that they raise a substantial issue in regard to conformance of the local approval with the certified LCP. The Commission finds that the appeal raises a substantial issue of conformance of the approved project with the certified LCP with respect to contentions raised concerning sensitive habitat and agricultural resources.

Exhibits:

1. Vicinity Map
2. Soils Map with Subject Site and Approximate Well Location
3. Appeal by Barbara Mauz
4. San Mateo County Notice of Final Local Decision
5. Appellant Correspondence to San Mateo County
6. Commission Staff Correspondence to San Mateo County
7. San Mateo County Staff Report

48-31



VICINITY MAP

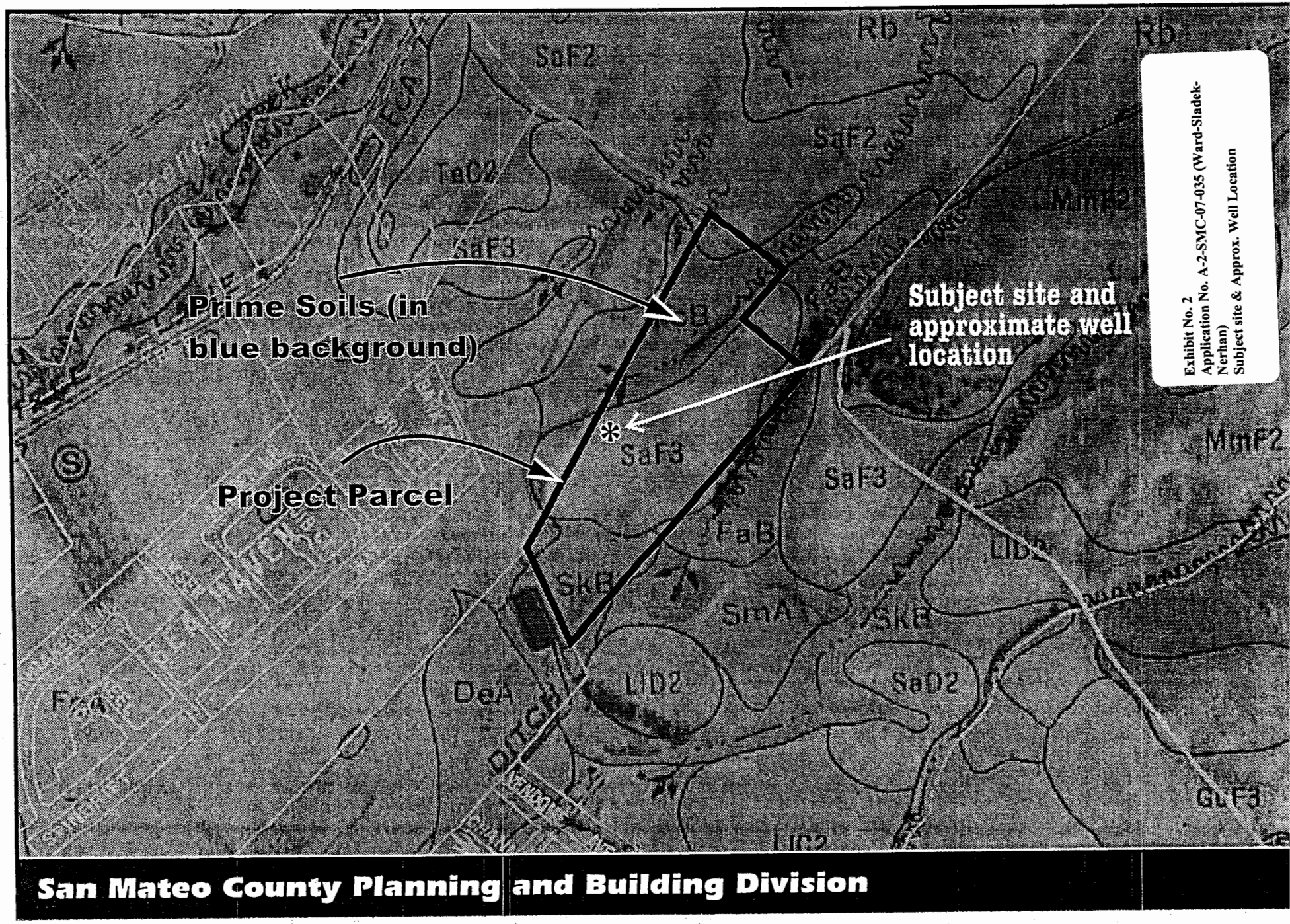
San Mateo County Zoning Hearing Officer's Meeting

Owner/Applicant: **Jeff Sladek**

Attachment: B

File Numbers: **PLN 2005-00376**

Exhibit No. 1
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Vicinity Map



PLN 2005-00376 Prime Soils Map: APN 048-310-230

ATTACHMENT D

Ref: Prime Soils Composite Map sheet 9

pln05-376 05-29-07 ss (prime soils 048-310-230 05-22-07 r

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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www.coastal.ca.gov

COMMISSION NOTIFICATION OF APPEAL

DATE: September 24, 2007

TO: Lisa Aozasa, Project Planner III
County of San Mateo, Building & Planning
455 County Center
Redwood City, CA 94063

FROM: Ruby Pap, Coastal Program Analyst RP

RE: **Commission Appeal No. A-2-SMC-07-035**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #:	**PLN2005-00376**
Applicant(s):	**One Stop Design, Attn: Greg Ward; Jeff Sladek; Keet Nerhan & Burdette Sladek**
Description:	**To allow for construction of a domestic well located on an undeveloped parcel zoned Planned Agriculture Development (PAD) off of Frenchman's Creek Road**
Location:	**Frenchman's Creek Area, Half Moon Bay (San Mateo County) (APN(s) 048-310-230)**
Local Decision:	**Approved w/ Conditions**
Appellant(s):	**Barbara K. Mauz**
Date Appeal Filed:	**9/21/2007**

The Commission appeal number assigned to this appeal is A-2-SMC-07-035. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Mateo's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

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

cc: One Stop Design, Attn: Greg Ward; Jeff Sladek; Keet Nerhan & Burdette Sladek

Exhibit No. 3
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Appeal

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA COASTAL COMMISSION
NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260 FAX (415) 904-5400

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

RECEIVED
SEP 21 2007
CALIFORNIA
COASTAL COMMISSION

SECTION I. Appellant(s)

Name: Barbara K. Mauz

Mailing Address: P.O. Box 1284.

City: El Granada Zip Code: 94018 Phone: 650-726-4013

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Mateo, Planning & Building Department, Zoning Hearing Officer

2. Brief description of development being appealed:

Coastal Development Permit and Planned Agricultural Permit for a domestic well (with concrete pad) on an undeveloped parcel off Frenchman's Creek Road in the Planned Agricultural District (PAD) with intent to assess water quality and quantity for the potential future application(s) of single family residential construction

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

Frenchman's Creek Road, in the unincorporated Half Moon Bay area of San Mateo County
APN 048-310-230

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SMC-07-035

DATE FILED: 9/21/07

DISTRICT: North Central Coast Dist.

Exhibit No. 3
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Appeal

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

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

☒ Planning Director/Zoning Administrator

☐ City Council/Board of Supervisors

☐ Planning Commission

☐ Other

6. Date of local government's decision: 8-16-2007

7. Local government's file number (if any): PLN2005-00376

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Greg Ward
One Stop Design
3566 Beard Road.
Fremont, CA 94555

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

(1) Koet Nerhan & Burdette Sladek, c/o KN properties, P.O. Box 158 Half Moon Bay, CA 94019-0158
Kathy Marx, Consulting Planner, City of Half Moon Bay, 501 Main Street, Half Moon Bay, CA 94019

(2) Kerry Burke, 34 Amesport Landing, Half Moon Bay, CA 94019
Kevin Lansing, 359 Filbert Street, Half Moon Bay, CA 94019
Kathryn Slater-Carter P.O. Box 370321, Montara 94037
K.C. Kelly, Branscomb Farms, 380 Frenchmans Creek Road, Half Moon Bay, CA 94019

(3) Lennie Roberts, Committee for Green Foothills, 339 La Cuesta, Portola Valley, CA 94028
Lucy Triffleman, US Fish and Wildlife Service, 2800 Cottage Way room W-2605, Sacramento, CA. 95825
Serge Glushkoff, California Department of Fish and Game, P.O. Box 47, Yountville, CA 94599

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

Barbara K. Mauz

Signature of Appellant(s) or Authorized Agent

Date : September 21, 2007

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

Section VI. Agent Authorization

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

_____

Signature of Appellant(s)

Date : _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See attachment.

Appeal Attachment

LCP policy 5.22 and Section 6328.14 of the County Zoning Code requires that before any conversion of agricultural lands to non-agricultural use, the applicant must demonstrate that sufficient water supplies needed for sensitive habitat protection are not diminished. Compliance with this policy requires, as a minimum, a delineation and biological assessment of sensitive habitat areas on the parcel and the surrounding vicinity, which has not been done. The local jurisdiction was made aware of this deficiency during the local review process.

LCP policy 7.3 requires projects to be sited and designed to prevent impacts to sensitive habitat areas. LCP policy 7.5 requires the preparation of a professional biological report when significant impacts to sensitive habitat areas may occur.

The August 26 County staff report states the proposed project is located close to a "fairly heavily vegetated ravine or drainage swale...which suggests some sort of riparian corridor is present." LCP Policy 7.8 defines riparian corridors as sensitive habitat. Without the benefit of biological report, County staff classified the area as an "intermittent stream" and imposed a 30 foot buffer zone around the project site. LCP Policy 7.18 requires a 100 foot buffer zone from the edge of any wetland. LCP Policy 7.14 defines a wetland by the presence of any one of the following three criteria: hydrology, hydrophytic vegetation, or hydric soils. A biological report is needed to determine if the riparian/drainage area mentioned above satisfies the LCP definition of wetlands requiring a 100 foot buffer.

LCP Policy 7.4.b requires compliance with U.S. Fish and Wildlife Service and California Department of Fish and Game regulations in sensitive habitat areas. Compliance with this policy requires a professional biological report to investigate the presence of potential habitat for rare or endangered species and, if present, to recommend adequate mitigation measures. A recent published research study states that "non-breeding habitats are critically important" for the survival of California Red-legged Frogs, and that even disturbed agricultural land can provide critical non-breeding habitat. The same study found that California red-legged frogs moved a median distance of 150 meters, and as far as 1.4 kilometers, between breeding and non-breeding areas.[1] Frenchman's creek is a nearby sensitive stream and riparian habitat that supports a number of rare, threatened, and endangered species, including the California red-legged frog, the San Francisco garter snake, the San Francisco dusky-footed woodrat, and migratory birds.[2]

Finally, the County staff report states that the purpose of the proposed domestic water well is to support future development of a single family residence. Coastal Act section 30241, LCP policies 5.10, 5.11, and Zoning Code sections 6350 and 6355 all impose limitations on non-agricultural development to amounts that will not adversely affect the viability of agriculture. It is reasonably foreseeable that the approval of this project will be followed by an application for one or more single family residences on the same parcel. The local jurisdiction did not impose any conditions of approval on this project that would ensure the future viability of agriculture, if and when the proposed domestic water well is ultimately used to support a residential use on the parcel.

1. See G.M. Fellers and P.M. Kleeman, "California Red-Legged Frog Movement and Habitat Use: Implications for Conservation," *Journal of Herpetology*, 2007, vol. 41, no. 2, pp. 271-281.
2. See California Coastal Commission staff report for "San Mateo County Resource Conservation District Public Works Plan No. 2-07-004," June 28, 2007, http://documents.coastal.ca.gov/reports/2007/7/Th6a-s-7-2007.pdf

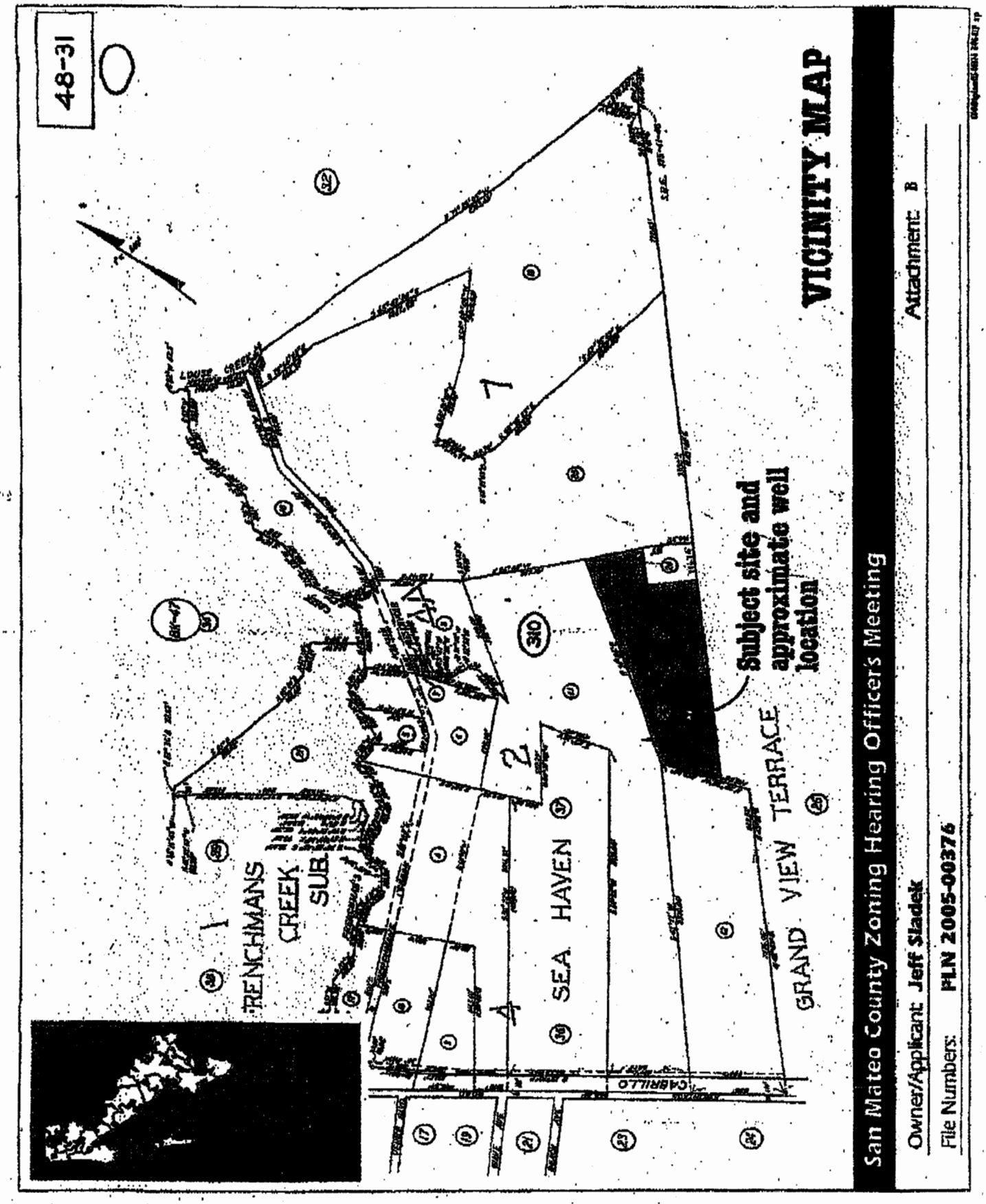

Exhibit No. 3
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Appeal

2-SMC-06-017

San Mateo County

Planning and Building Department ▪ 455 County Center ▪ Redwood City
California 94063 ▪ Planning: 650/363-4161 ▪ Building: 650/599-7311 ▪ Fax: 650/363-4849

September 7, 2007

NOTICE OF FINAL LOCAL DECISION
Pursuant to Section 6328.11.1(f) of the San Mateo County Zoning Regulations

CERTIFIED MAIL

California Coastal Commission
Nr. Central Coast District Office
Attn: Ruby Pap Coastal Planner
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

County File No. : PLN2005-00376

Applicant Name: JEFF SLADEK
Owner Name: NERHAN KEET

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on **August 16, 2007**. The County appeal period ended on **August 30, 2007**. Local review is now complete.

This pemit IS appealable to the California Coastal Commission; please initiate the California Coastal Commission appeal period.

If you have any questions about this project, please contact ~~NMA~~ at (650) 363-~~4161~~. 4852
Lisa Aozasa

~~NMA~~ J. Cabrera

Project Planner

Exhibit No. 4
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Notice of Final Local Local Decision
(Page 1 of 6)

County of San Mateo

Planning & Building Department

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849

Mail Drop PLN122
plngbldg@co.sanmateo.ca.us
www.co.sanmateo.ca.us/planning

Please reply to: Lisa Aozasa
(650) 363-4852

August 16, 2007

Greg Ward
One Stop Design
3566 Beard Road
Fremont, CA 94555

Subject: **PLN2005-00376**
Location: **Frenchman's Creek Road, Half Moon Bay**
APN: **048-310-230**

On August 16, 2007, the Alternate Zoning Hearing Officer considered your request for a Coastal Development Permit and Planned Agricultural Permit, pursuant to Sections 6328 and 6350, respectively, of the San Mateo County Zoning Regulations, to allow for construction of a domestic well located on an undeveloped parcel off of Frenchman's Creek Road in the unincorporated Half Moon Bay area of San Mateo County. This project is appealable to the California Coastal Commission. This project was continued from the May 3, 2007, June 7, 2007, and July 19, 2007, Zoning Hearing Officer public hearings.

The Alternate Zoning Hearing Officer made the findings and approved this project subject to the conditions of approval as attached.

Any interested party aggrieved by the determination of the Alternate Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) working days from such date of determination. The appeal period for this project will end on **August 30, 2007 at 5:00 p.m.**

This approval is appealable to the California Coastal Commission. Any aggrieved party who has exhausted their local appeals may appeal this decision to the California Coastal Commission within ten (10) working days following the Coastal Commission's receipt of the County's final decision. Please contact the Coastal Commission's North Central Coast District Office at (415) 904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods are sequential, not concurrent, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

If you have any questions concerning this item, please contact the Project Planner above.

Very truly yours,

Jim Eggemeyer
Alternate Zoning Hearing Officer

cc: Public Works Department
Building Inspection Section
Assessor's Office
City of Half Moon Bay
San Mateo County Fire
Burdette Sladek/Keet Nerhan
California Coastal Commission
Barbara Mauz
Kevin Lansing
Kathryn Slater-Carter
Kerry Burke
Committee for Green Foothills
Leonard Woren
Branscom Farms LLC
K. C. Kelly

zhd0816R(rev).6jk.doc

County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

FINDINGS

Regarding the Environmental Review, Found:

1. That this project has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15304 which allows for minor private land alterations which do not involve the removal of healthy, mature scenic trees.

Regarding the Coastal Development Permit, Found:

2. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program (LCP) since the project minimizes grading, vegetation removal, and impacts to visual and agricultural resources.

3. That the project conforms to the specific findings required by policies of the San Mateo County LCP in that wells are the appropriate method of water supply in rural areas, and, as conditioned, will not diminish water supplies needed for agricultural production and sensitive habitat.

Regarding the Planned Agricultural District Permit, Found:

4. That the proposed project, as described in the application and accompanying materials, complies with all applicable criteria for issuance of a Planned Agricultural District Permit contained in Section 6355 of the Zoning Regulations since the project will not adversely impact prime soils or agricultural operations.

CONDITIONS OF APPROVAL

Planning and Building Department

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Alternate Zoning Hearing Officer on August 16, 2007. This approval is only for the drilling of one well and no electricial utility connection is permitted. Only a temporary generator during construction and testing to determine well water quantity and quality is permitted. Minor revisions or modifications to this project may be made subject to the review and approval of the Community Development Director.

Exhibit No. 4
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Notice of Final Local Local Decision
(Page 4 of 6)

2. These permits shall be valid for one year, in which time the applicant shall be issued a well permit. Any extension of these permits shall require submittal of an application for permit extension and payment of any applicable permit extension fees at least 30 days prior to the permit's expiration.

3. The applicant shall apply for and be issued a well permit prior to the start of construction and develop in accordance with the approved plans as well as install all well structures to current codes.

4. The applicant shall secure an Encroachment Permit from the Public Works Department for any work proposed to be conducted within the public right-of-way.

5. The applicant shall comply with any and all future requirements of the Public Works, Environmental Health, Building Inspection Section and Fire Marshal.

6. The applicant shall be responsible that any proposed grading activities demonstrate compliance with the County Grading Ordinance, to the satisfaction of the Community Development Director.

7. Prior to the issuance of the well permit, the applicant shall submit to Planning for review and approval, an erosion and drainage control plan which shows how the transport and discharge of soil and pollutants from the project site will be minimized. The goal is to prevent sediment and other pollutants from leaving the project site and to protect all exposed earth surfaces from erosive forces. Said plan shall adhere to the San Mateo County Wide Storm Water Pollution Prevention Program "General Construction and Site Supervision Guidelines," including:

   a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.

   b. Removing spoils promptly, and avoiding stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.

   c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to a local storm drain system or water body.

   d. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

   e. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

   f. Storm drain inlets shall be protected from sediment-laden runoff to the greatest extent feasible. Storm drain inlet protection devices include sand bag barriers, filter fabric fences, block and gravel filters, and burlap bags filled with drain rock.

Exhibit No. 4
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Notice of Final Local Local Decision
(Page 5 of 6)

8. The identified parcel in this application is currently under a Williamson Act Agricultural Contract (County File Number AP 81-2). The State Department of Conservation has recently informed the County of the strict requirements a parcel must meet necessary to remain in compliance with both the specific contract provisions and the Williamson Act provisions mandated by State legislation. Compliance with such provisions requires that: (a) there has been and remains active, economically viable agriculture activity on the parcel; and/or (b) the parcel contains prime soils as defined in the State Williamson Act provisions.

   Initial review indicates that this subject parcel may not comply with requirements. Because of this, no additional Planning or Building permits will be approved pending further staff review. In the event development is proposed or contemplated in the future, the applicant must contact the Planning Department and may be advised to: (1) file a "Notice of Non-Renewal" with the County Planning Department, and (2) wait the requisite nine years before the contract terminates, until any such new development permits are approved or issued.

9. Noise levels produced by the proposed construction activity shall not exceed the 80 dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.

10. Prior to issuance of the well permit, the applicant shall submit a survey prepared by a licensed land surveyor demonstrating that the well is set back at least 30 feet from the edge of the vegetation along the northwest property line.

11. Prior to approval of any future permit authorizing installation of a permanent power source for the well, or for any other non-agricultural activity or use, the applicant shall submit a hydrological study that includes all relevant information required to support a finding that operation of the well will not significantly diminish water supplies needed for agricultural protection and sensitive habitat protection in the watershed, per LCP Policy 5.22(b).

From: "Nature Watch" <nature_watch@hotmail.com>
To: <jakenney@co.sanmateo.ca.us>
Date: 6/7/2007 3:07 AM
Subject: My Letter re: PLN 2005-00376 (Zoning Hrg. Officer's Hrg.)/Barbara Mauz

CC: <clester@coastal.ca.gov>, <rpap@coastal.ca.gov>

June 7, 2007 - Via E-Mail -

Zoning Hearing Officer
San Mateo County Planning & Building
County Government Center
455 County Center - 2nd Floor
Redwood City, CA 94063

Re: PLN 2005-00376 (Ward, Sladek and Nerhan)
APN: 048-310-230

Dear Zoning Hearing Officer,

Please make this letter a part of the Official County Public Record regarding PLN 2005-00376.

The proposed construction of a Domestic Water Well in PAD Zoned Land is an incompatible use; further, this project as described in the Staff Report states that the Domestic Well is to assess water quality and quantity for the POTENTIAL FUTURE APPLICATION(S) of single-family residential construction indicating that the well is the first step to a larger project that equates to piecemeal development which is illegal, as 15378 of the CEQA guidelines is the "whole of an action" where a project cannot legally be segmented into smaller pieces and then studied independently of one another. The related larger project involved in this application does not qualify for the categorical exemption 15304 due to exceptions stated in 15300.2c (significant effect) and 15300.2d (scenic highways).

With regards to the actual larger project, please be reminded that County voters in 1986 mandated and enacted Measure A, which included the key provision of the LCP which would require a County-wide vote to:

(a) extend urban services outside the urban boundary,

(b) the conversion of prime soils to another use,

(c) allow a change in intensity of use of the land, or

(d) rezone the lands for any of the above

The County's recommendation of approval of a Coastal Development Permit and Planned Agricultural District Permit for PLN 2005-00376 is inconsistent with the following:

LUP Policy 1.8 states:

Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not:

(1) have significant adverse impacts, either individually or cumulatively,

on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production. [Emphasis added.]

LUP Policy 5.10:

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

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

Zoning Regulation Section 6350 - Purpose of the Planned Agricultural District (PAD)

The purpose of the Planned Agricultural District is to: (1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and (2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques:

(a) establishing STABLE BOUNDARIES SEPARATING Urban and Rural Areas and, when necessary, clearly defined buffer areas.

(b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a STABLE LIMIT TO URBAN DEVELOPMENT.

(c) developing available lands not suitable for agriculture before converting agricultural lands,

(d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality and,

(e) assuring that all divisions of prime agricultural land - except those stated in (b) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture. [Emphasis added.]

The CEQA exception of 15300.2d would also apply here as the actual larger project (potential future application(s) of single-family residential construction) could negatively impact the visual character of the scenic resources — and could also violate LCP Policy 8.5 which requires that new development be located where it is least visible from State and County Scenic Roads, least likely to significantly impact views from public

viewpoints, and best preserves the visual and open space qualities of the area.

In conclusion, the creation of a domestic well in Planned Agricultural District land that is intended to support agricultural uses is incompatible; overall, the creation of domestic wells is a great concern because every one that is allowed is a depletion of this Coastside's very limited water supply.

Very truly yours,

Barbara K. Mauz
P.O. Box 1284
El Granada, CA 94018

cc: California Coastal Commission

STATE OF CALIFORNIA—THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

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

Attachment D

May 25, 2007

Lisa Aozasa
San Mateo County
Planning and Building Division
455 County Center
Redwood City, CA 94063

Subject: ***Proposed domestic well (PLN2005-00376)***

Dear Lisa,

I would like to provide some comments on the above-referenced coastal development permit application. The proposed development involves the drilling of a domestic well on agriculturally zoned lands, to assess initial water quality and quantity for future application of a single family residence. This project is appealable to the Commission because the proposed domestic well is not principally permitted use in the PAD zone.

The proposed domestic well is intended be used for a future single family residence on the site. The proposed well and its use should be analyzed for consistency with all the San Mateo County LCP agricultural protection policies, and analyzed in context with its future single-family residential use. For example, LCP Policy 5.22 "Protection of Agricultural Water Supplies" requires that an adequate potable water source be demonstrated for non-agricultural uses, and that sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.

The Commission carefully scrutinizes proposals to convert agricultural lands to non-agricultural uses, including residential uses, has heard two such projects on appeal (Polacek PLN 2002-00199, A-2-SMC-04-002; and Waddell PLN2002-00375, A-2-SMC-04-009), and has several similar appeals pending (Palpung Monastery Project PLN2002-00683; Chan PLN 2005-00381; and Sterling PLN2000-00812). The San Mateo County Local Coastal Program has strong coastal agricultural protection policies, necessitating thorough analyses and detailed findings and conditions for any proposed non-agricultural development on PAD lands prior to approval of such projects.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Ruby Pap
Coastal Program Analyst II
North Central Coast District

Cc: Jeff Sladek, Applicant
Lisa Grote, Community Development Director
Stephanie Bortollo-Davis, Neal Martin and Associates

Exhibit No. 6
Application No. A-2-SMC-07-035 (Ward-Sladek-Nerhan)
Commission Staff Correspondence to SMCO

Item #6/Sladek/Nerhan/Ward
Regular

RECEIVED
AUG 13 2007
CALIFORNIA
COASTAL COMMISSION

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

DATE: August 16, 2007

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: SUPPLEMENTAL STAFF REPORT: Consideration of a Coastal Development Permit and a Planned Agricultural District Permit, pursuant to Sections 6328 and 6350 respectively, of the San Mateo County Zoning Regulations to allow for construction of a domestic well located on an undeveloped parcel off of Frenchman's Creek Road in the unincorporated Half Moon Bay area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2005-00376 (Ward/Sladek and Nerhan)

PROPOSAL

The applicant is proposing to construct domestic water well with the intent to assess initial water quality and quantity on an undeveloped parcel for the potential future development of a single-family residence. Associated with construction of the underground well is a 6 ft. by 6 ft. concrete pad. No utility lines are proposed; power for drilling of the well shall be met by a temporary generator during construction. Any potential future development for the site would require a Coastal Development Permit and a Planned Agricultural District Permit to demonstrate compliance with all applicable land use regulations.

RECOMMENDATION

Approve the Coastal Development Permit and Planned Agricultural District Permit, County File Number PLN 2005-00376, by adopting the required findings and conditions of approval as listed in Attachment A.

BACKGROUND

The Alternate Zoning Hearing Officer (ZHO) considered this item at the June 7, 2007 meeting. As stated in the decision letter, Attachment B, the item was continued, with the Alternate ZHO requesting that a site visit be arranged and a supplemental staff report be prepared addressing comments received regarding compliance with the California Environmental Quality Act (CEQA) and applicable agricultural and visual quality policies and regulations. Staff's response is below.

DISCUSSION

1. Site Visit

Staff conducted the requested site visit on July 10, 2007. The applicant, Greg Ward, and property owner, Burdette Sladek, accompanied staff and the Alternate ZHO to the proposed well site, which is accessed via an unpaved road across private property. Notice of the site visit was sent to interested members of the public. The purpose of the site visit was to allow the Alternate ZHO to see the site, which is somewhat remote. No discussion of the project took place.

Staff observed the following at the site visit:

a. The proposed well site, though remote, is accessible via an existing private ranch road across parcels also owned by the owner(s) of the subject parcel. No significant grading, tree or vegetation removal would be required to access the site for the purpose of drilling a well.

b. The proposed well site, while located about 73 feet from the property line, is estimated to be only about 25 feet from a fairly heavily vegetated ravine or drainage swale. This swale does not show up as a creek or stream on any maps, but is evident on-site and from aerial photographs, which suggest some sort of riparian corridor is present. To ensure compliance with LCP Policy 7.11 (*Establishment of Buffer Zones*), Condition No. 10 requires confirmation that the well is located at least 30 feet from the edge of the vegetation, which is the minimum distance for buffer zones for intermittent streams, when riparian vegetation may exist.

c. There is no active, ongoing agriculture on the property at present. While the detailed soils map shows that there are some areas of prime soil on the property, the soils in the vicinity of the well site are light grey, rocky and do not appear to be prime soils. This is consistent with the map, which shows the soils in this area to be non-prime.

2. Compliance with CEQA

As stated in the prior staff report on this item dated June 7, 2007, staff recommended that the project be determined to be exempt from CEQA per Section 15304, Class 4, which consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

In correspondence received prior to the June 7 hearing (see Attachments D, E and G), an objection was raised to defining the "the project" as consisting only of construction of the well, rather than including potential future construction of a single-family home on the site as part of the current project. CEQA Section 15378 is cited, which defines a "project" to be "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." In this case, the applicant has applied for a domestic (rather than agricultural) well,

since he may consider construction of a single-family residence in the future, if the proposed well produces sufficient water quality and quantity. However, it is not certain that the well will yield the water necessary to support a single-family home, no permanent power source for well operation is proposed, nor have plans for a single-family home been submitted. As such, it would be difficult to assess the environmental impact of such future construction to the level of detail that CEQA requires. Attempting to evaluate the environmental impacts of a single-family home now would involve much speculation, as its location, size, and design have not been specified.

In addition, County Counsel advises that the recommendation for exemption is appropriate, because the applicant is not attempting to "piecemeal" the project, i.e. break the project into phases solely to avoid environmental review under CEQA. In this case, there is no risk that, should the applicant apply for permits for single-family home construction on PAD land in the County Scenic Corridor in the future, the project will be determined to be exempt from CEQA.

Further, the fact that single-family home construction will not automatically follow well construction to the point where they must be evaluated as one project is especially true in this particular case, since the subject property is currently under a Williamson Act Contract. As such, it is possible that approval of permits for single-family home construction could not occur for at least nine years, even if the owner applied for non-renewal of the contract immediately (please see Condition No. 8, Attachment A).

Finally, as pointed out in the correspondence received, per CEQA Section 15300.2, Class 4 Categorical Exemptions "are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant." As stated, the project site is within a designated County Scenic Corridor, making the visual impact of any proposed structure particularly sensitive. However, the proposed well, which includes only a concrete pad above ground, will have no significant visual impact, nor will it be seen from Cabrillo Highway. Further, no significant tree or vegetation removal or grading will be required to access the well site. As such, staff continues to recommend that the Class 4 exemption be applied in this case.

3. Compliance with Agricultural Policies/Regulations

In all correspondence received (see Attachments D through H), there is concern expressed about the project's compliance with LCP Policies and PAD District regulations regarding the conversion of agricultural lands to non-agricultural uses.

In response, staff continues to recommend that the proposed well, which is the sole action that is the subject of the current permit application, is in compliance with these policies/regulations as detailed in the previous staff report (Attachment C).

Specifically, staff disagrees with the assertion per the letter from Coastal Commission staff (Attachment D), that the proposed well is in conflict with LCP Policy 5.22 (*Protection of Agricultural Water Supplies*). This policy requires each parcel legalized in accordance with LCP Policy 1.29 (a Certificate of Compliance was issued for the subject property in 1997), to demonstrate a safe and adequate well water source for non-agricultural uses located on

that parcel, before conversion of agricultural land is approved. By drilling a well before single-family home construction is proposed, the applicant is attempting to comply with this requirement. In fact, a small amount of land must be converted for the well itself, and the well must be dug and tested, in order to determine definitively that there is a safe and adequate well water source on the property.

Further, in this case, the applicant has indicated that the well may be for domestic use, but there are no immediate plans to construct a home, and the well will not be put into production, since there is no permanent power source proposed. As such, drilling the well will not diminish agricultural water supplies nor endanger sensitive habitat protection in the watershed. To further ensure compliance with this section of Policy 5.22, staff has added Condition No. 11, which requires that a hydrological study be provided confirming this, prior to installation of a permanent power source for the well, which would require a separate CDP, if the well is to be used to support any non-agricultural use.

Finally, the well site has been chosen in a non-central location such that it will not interfere with either agricultural or residential land uses, whichever the property owner chooses to pursue in the future.

4. Compliance with the Williamson Act

In correspondence received after the June 7 hearing from the City of Half Moon Bay (Attachment H), questions regarding compliance with Williamson Act provisions are raised. In response, staff continues to recommend that the proposed well does not constitute a material breach of the Williamson Act contract. Government Code Section 51250 (see Attachment I), specifies that a breach of the contract is material if both (1) a commercial, industrial, or residential building is constructed that is not related to an agricultural use, and (2) the total area of all of the building(s) exceeds 2,500 sq. ft. Clearly, the proposed well does not meet either condition. Additionally, staff has consulted with their William Act representative at the State Department of Conservation, who confirmed that a well by itself does not represent a material breach. However, to ensure that the applicant is aware that any future construction of a non-agricultural building has the potential to violate the contract, a revised Condition No. 8 is recommended.

ATTACHMENTS

A. Findings and Conditions of Approval (Revised)
B. Alternative ZHO Decision Letter from June 7, 2007 hearing
C. Staff Report from June 7, 2007, ZHO Hearing
D. Letter from Coastal Commission Staff, dated May 25, 2007
E. Kevin Lansing's Letter, dated June 6, 2007
F. Greg Ward's E-mail Response, dated June 6, 2007
G. Barbara Mauz's Letter, dated June 7, 2007
H. Letter from City of Half Moon Bay Staff, dated June 12, 2007
I. Government Code Section 51250

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