

## CALIFORNIA COASTAL COMMISSION

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 Staff: Shana Gray  
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# W 8b

## STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

**LOCAL GOVERNMENT:** County of Santa Barbara  
**LOCAL DECISION:** Approval with Conditions  
**CDP APPEAL NO.:** A-4-STB-07-113  
**APPLICANT:** Greg and Stacy Renker  
**APPELLANT:** Commissioners Patrick Kruer and Mary Shallenberger  
**PROJECT LOCATION:** 3151 Padaro Lane, unincorporated Santa Barbara County  
 (Assessor Parcel No. 005-380-021)

**PROJECT DESCRIPTION:** Demolition of an existing single family residence of approximately 1,875 sq. ft. and detached garage and construction of a new residence with main floor of approximately 10,378 sq. ft., upper floor of approximately 2,236 sq. ft., basement of approximately 2,221 sq. ft. and attached mechanical/storage space of 459 sq. ft., detached garage of approx. 1,576 sq. ft. with second story hobby room of approximately 559 sq. ft., tennis cabana of approximately 800 sq. ft., garden folly structure of approximately 157 sq. ft., storage shed of approximately 178 sq. ft, and a detached second residential unit of approximately 1,200 sq. ft. with attached mechanical/storage space of 35 sq. ft. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, upgrades to the electrical service, and a stone perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 4,356 cu. yds. of cut and approximately 940 cu. yds. of fill. Four protected coast live oaks and five protected non-native trees would be removed. Project includes planting of 40 coast live oaks and 15 specimen trees.

**MOTION & RESOLUTION:** Page 6

### SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants' assertions that the approved project is not consistent with the environmentally sensitive habitat areas (ESHA), monarch butterfly habitat and native and non-native protected trees policies of the certified Local Coastal Program (LCP).

Both the Santa Barbara County Coastal Plan and the Toro Canyon Plan (a certified component of the LCP) contain policies requiring protection of both native and non-native protected trees. The County's staff report indicates that the proposed project would require the removal of four protected Coast Live Oak trees (*Quercus agrifolia*) and five protected non-native trees (three cypress and two eucalyptus) (see Exhibit 4). One oak to be removed is located within a new Fire Department driveway hammerhead on the eastern side of the new residence, another oak tree is located where the new detached garage/hobby room would be sited, and the other two oaks to be removed are located together where the reconstructed main residence is proposed and where a new water feature would be located. Four of the five non-native protected trees (two Monterey Cypress 40" & 28" diameter; two Blue Gum Eucalyptus 26" & 48" diameter) would be removed for the proposed tennis court. The fifth non-native protected tree (Monterey Cypress 30" diameter) is located along the proposed western portion of the main residence.

The appellants contend that there are four issues that result in inconsistency with the certified LCP: (1) oak tree removal; (2) removal of non-native protected trees; (3) encroachment of development into the dripline and critical root zones by the perimeter wall; and (4) lack of analysis of the potential for the onsite trees to serve as monarch butterfly habitat.

As to the first point, the appellants contend that the analysis to allow for removal of the four oak trees was faulty because it did not meet the Tree Removal requirements of the LCP. Oak trees may be removed only if: (1) the trees are dead; or (2) the trees prevent the construction of a project for which a coastal development permit has been issued and project redesign is not feasible; or (3) the trees are diseased and pose a danger to healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning & Development Department ...; or (4) the trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property. In this case, the Tree Survey (Exhibit 4) submitted by the applicant to the County concluded that one of the oak trees to be removed was healthy and that two of the oak trees were relatively healthy although they have suppressed, poor branch structures. In fact, only one of the four oak trees to be removed was determined to be significantly damaged; however, neither the tree survey nor the County's analysis found that there was any imminent threat to life or property or any hazards attributed to any of the four oak trees to be removed. Further, it does not appear that findings that any of the trees constitute such a hazard could be made given the significant distance of the trees that were determined to be less healthy from the existing residence and garage.

The appellants further contend that the removal of several non-native protected trees is inconsistent with Toro Canyon Plan Policy BIO-TC-13 which requires that such trees be preserved to the maximum extent feasible. In the January 9, 2007 Tree Survey (Exhibit 4), four of these trees are identified as healthy and are proposed to be removed to accommodate a tennis court. The removal of these protected trees for an accessory use is not consistent with the protection afforded under BIO-TC-13.

The third basis of the appeal is that the encroachment of development into the dripline and critical root zones of multiple oak trees as a result of the construction of a new perimeter wall along the eastern property boundary is inconsistent with the LCP's requirements to protect native vegetation and oak trees. Further, the grading associated with the construction of the new wall under the oak trees would also not be consistent with the provisions of the LCP which require development to be sited and designed to avoid and minimize damage to native trees, including critical root zones.

The final issue raised under the appeal is that the County's analysis was deficient with regard to the potential of the site to provide monarch butterfly habitat. The project site is located in the immediate vicinity of a major aggregation site and it has not been determined if there is any use or potential use of the property by monarch butterflies. As a result, the appellants contend that it is not possible to make a definitive conclusion as to whether the proposed development complies with the policies and provisions of the LCP as they apply to the protection of monarch butterfly habitat.

Each of these issues raises a substantial question as to whether the approved development conforms with the standards set forth in the certified Local Coastal Program. Therefore, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the approved development does not meet provisions of the certified Local Coastal Program regarding monarch butterfly habitat, native and non-native protected trees, and ESHA protection.

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## EXHIBITS

- Exhibit 1. Vicinity Map
  - Exhibit 2. Parcel Map
  - Exhibit 3. Site Plan
  - Exhibit 4. Tree Identification & Arborist Report
  - Exhibit 5. Final Local Action Notice
  - Exhibit 6. Commissioner Appeals
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**SUBSTANTIVE FILE DOCUMENTS:** Santa Barbara County Coastal Plan (January 1982; with updates through 1999); Santa Barbara County Coastal Zoning Ordinance, Article II, Chapter 35 of the County Code; Summerland Community Plan (May 1992); *Monarch Butterfly Overwintering Sites In Santa Barbara County, California* (Daniel Meade, November 1999); Field Report, Renker, Padaro Lane (Peter Winn, Westree, January 9, 2007)

## I. APPEAL JURISDICTION AND PROCEDURES

### A. APPEAL JURISDICTION

Under Section 30603 of the Coastal Act, a local government's approval of a coastal development permit may be appealed to the Commission if it authorizes development that is located within the appealable areas, such as those located between the sea and the first public road paralleling the sea; within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach, whichever is greater; on state tidelands; or along or within 100 feet of any wetland, estuary, or stream. Further, any development approved by a County that is not designated as the principal permitted use within a zoning district may also be appealed to the Commission, irrespective of its geographic location within the coastal zone. Finally, local approval or denial of development that constitutes major public works or major energy facilities may also be appealed to the Commission.

In this case, the project site is located between the first public road and the sea and, therefore, within the geographic appeals area of the County's jurisdiction as shown on the Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map (Santa Barbara County Coastal Zone Map Sheet 126) certified for the County of Santa Barbara. Thus, the approved development is appealable to the Commission.

### B. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs, a local government's actions on Coastal Development Permits in certain areas and for certain

types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of their coastal permit actions. During a period of 10 working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

### **1. Grounds for Appeal**

The grounds for appeal of development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act (Section 30603[b][1] of the Coastal Act).

### **2. Substantial Issue Determination**

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of this sort unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on the substantial issue question. 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. Pursuant to Section 13117 of the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised by the appeal.

### **3. De Novo Permit Review**

If a substantial issue is found to exist, the Commission will evaluate the project de novo. The Commission's de novo review may occur at the same meeting as the substantial issue portion of the appeal hearing or at a subsequent meeting. If the de novo portion of the appeal hearing will occur at a subsequent meeting, the Commission will continue the appeal hearing after finding the appeal to raise a substantial issue. The applicable test for the Commission to consider in its de novo review of the proposed project is whether the proposed development is in conformity with the certified Local Coastal Program and, if the development is between the sea and the first public road paralleling the sea, the public access and public recreation policies of the Coastal Act. If the proposed project is considered de novo, testimony may be taken from all interested persons.

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

On July 16, 2007, the Zoning Administrator for the County of Santa Barbara approved Coastal Development Permit No. 06CDH-00000-00029 for demolition of an existing single-family residence and garage and construction of a new two-story residence, detached residential second unit, and accessory structures. The Notice of Final Action

for the project was received by Commission staff on August 20, 2007 (Exhibit 5). A ten working day appeal period was set and notice provided beginning August 21, 2007 and extending to September 4, 2007.

An appeal of the County's action was filed by Commissioners Patrick Kruer and Mary Shallenberger on September 4, 2007 (Exhibit 6), during the appeal period. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals. On September 4, 2007 Commission staff sent a request that the County provide its administrative record for the permits. The administrative record was received on September 17, 2007.

## II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE

**MOTION I:** *I move that the Commission determine that Appeal No. A-4-STB-07-113 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

### **STAFF RECOMMENDATION:**

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

### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-4-STB-07-113 presents a substantial issue with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION AND BACKGROUND**

On July 16, 2007, the Zoning Administrator of the County of Santa Barbara approved the following project description (Exhibit 3):

Demolition of an existing single family residence of approximately 1,875 square feet and detached garage, and construction of a new residence with main floor of approximately 10,378 square feet,

upper floor of approximately 2,236 square feet, basement of approximately 2,221 square feet and attached mechanical/storage space of 459 square feet, detached garage of approximately 1,576 square feet with second story hobby room of approximately 559 square feet, tennis cabana of approximately 800 square feet, garden folly structure of approximately 157 square feet, storage shed of approximately 178 square feet, and a detached residential second unit of approximately 1,200 square feet with attached mechanical/storage space of 36 square feet. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, upgrades to the electrical served to the adjacent parcel to the west (APN 005-380-013). A stucco with a stone cap, and stone perimeter wall of six feet in height in the front yard setback and eight feet in height in the side yard setbacks is also proposed.

The project also includes the location of a utility transformer (height to be determined by Southern California Edison), generator (approximately 4 feet, 5 inches in height), and switchgear (approximately 7 feet, 7 inches in height) partially in the front yard setback, subject to 07MOD-00000-00004. The Modification allows the utility structures to be located eight feet in the front yard setback as measured from the centerline of Padaro Lane, and three feet, six inches in the front yard setback as measured from the road right-of-way. The transformer and generator will be approximately 16 feet, 6 inches from the road right-of-way and approximately 42 feet from the centerline of Padaro Lane.

The following structures currently exist on the parcel: a residence of approximately 1,875 square feet and detached carport/storage shed of approximately 709 square feet. The proposed project will require approximately 4,356 cubic yards of cut and approximately 940 cubic yards of fill. Four protected coast live oaks and five protected non-native trees are proposed for removal, with replacement of 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees. The property will continue to be served by the Montecito Water District, a private septic system, and Carpinteria/Summerland Fire Protection District. Access will continue to be taken from Padaro Lane. The property is a 4.57 acre parcel zoned 3-E-1 and shown as Assessor's Parcel Number 005-380-021, located at 3151 Padaro Lane in the Carpinteria/Toro Canyon Area, First Supervisorial District.

The subject parcel is located at 3151 Padaro Lane, within the Toro Canyon Plan area, Santa Barbara County (Exhibit 1). The 4.5-acre bluff top parcel (Assessor Parcel No. 005-380-021, Exhibit 2) is zoned *Residential*, 3 acre minimum lot size (3-E-1).

## **B. LOCAL PERMIT HISTORY**

On July 16, 2007, the Zoning Administrator of the County of Santa Barbara approved a coastal development permit (06CDH-00000-00029) for demolition of an existing single-family residence and garage and construction of a new two-story residence, detached residential second unit, and accessory structures subject to 31 conditions of approval and in reliance of Modification 07MOD-00000-00004 which allows the required 50-foot front yard setback to be reduced by 8 feet to accommodate electrical equipment.

The County ran a local appeal period for ten calendar days following the date of the Zoning Administrator's decision. No local appeals were filed.

Commission staff received the Notice of Final Action for the Zoning Administrator's approval of the Coastal Development Permit (06CDH-00000-00029) August 20, 2007. A 10-working day appeal period was set, extending to September 4, 2007. Appeals were

received from Commissioners Patrick Kruer and Mary Shallenberger on September 4, 2007, within the 10-working day appeal period.

### **C. APPELLANTS' CONTENTIONS**

Appeals were filed by Commissioners Kruer and Shallenberger for Coastal Development Permit 06CDH-00000-00029. The appeals contend that the approved project is not consistent with the provisions of the certified LCP with regard to the protection of environmentally sensitive habitat areas, monarch butterfly habitat and native and non-native protected trees. The grounds for appeal are summarized below. The full text of each appeal is provided in Exhibit 6.

The appeals contend that the project is inconsistent with the following LCP provisions: Land Use Plan Policies 1-1, 1-2, 9-22, 9-23, 9-35, 9-36; Coastal Act Sections 30107.5 and 30240 as incorporated into the LCP pursuant to Policy 1-1; Article II of the Zoning Code Sections 35-97.18 and 35.140; and Toro Canyon Plan Policies BIO-TC-13, BIO-TC-13.1, BIO-TC-13.2. Taken together, these policies limit the removal of native and non-native protected trees; require development to be sited and designed to avoid damage to native protected trees, non-native roosting and nesting trees, and non-native protected trees; and provide specific protections for oak trees and monarch butterfly trees.

Both the Santa Barbara County Coastal Plan and the Toro Canyon Plan (a certified component of the LCP) contain policies providing protection for both native and non-native protected trees. The County's staff report indicates that the proposed project would require the removal of four protected Coast Live Oak trees (*Quercus agrifolia*) and five protected non-native trees (three cypress and two eucalyptus) (see Exhibit 4). One oak to be removed is located within the required Fire Department driveway hammerhead, another oak tree is located at the detached garage/hobby room and the other two oaks are located together along the proposed eastern portion of the main residence and water feature. Four of the five non-native protected trees (two Monterey Cypress 40" & 28" diameter; two Blue Gum Eucalyptus 26" & 48" diameter) would be removed for the proposed tennis court. The fifth non-native protected tree (Monterey Cypress 30" diameter) is located along the proposed western portion of the main residence.

The appellants contend that there are four issues that result in inconsistency with the certified LCP: (1) oak tree removal; (2) removal of non-native protected trees; (3) encroachment of development into the dripline and critical root zones by the perimeter wall; and (4) lack of analysis of the potential for the onsite trees to serve as monarch butterfly habitat.

As to the first point, the appellants contend that the County's analysis to allow for removal of the four oak trees was faulty because it did not meet the Tree Removal requirements specified in Section 35-140.3 of the certified Zoning Code. Under Sec. 35-140, oak trees may be removed only if: (1) the trees are dead; or (2) the trees prevent the construction of a project for which a coastal development permit has been issued and project redesign is not feasible; or (3) the trees are diseased and pose a danger to

healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning & Development Department ...; or (4) the trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property. The Tree Survey submitted by the applicant to the County found that one of the four oak trees to be removed was healthy and that two of the oaks to be removed had suppressed, poor branch structure. In fact, the Oak Tree Survey actually only found that one of the four oak trees to be removed was considered to be significantly damaged. However, neither the tree survey nor the County's analysis indicated whether there was an imminent threat to life or property or what risks or hazards might be attributed to the existing conditions. Further, it does not appear that any of these four trees constitute such a hazard (in regard to existing development on site) given that the less healthy trees are located a significant distance from the existing residence and garage.

Further, several species of non-native trees are specifically protected under the certified LCP. The appellants further contend that the removal of several non-native protected trees, as approved by the County, is inconsistent with Toro Canyon Plan Policy BIO-TC-13 which requires that such trees be preserved to the maximum extent feasible. In the Tree Survey, four of these trees are identified as healthy and are proposed to be removed to accommodate a tennis court. The removal of these protected trees for an accessory use is not consistent with the protection requirements of BIO-TC-13.

The third basis of the appeal is that the encroachment of development into the dripline and critical root zones of multiple oak trees by a new perimeter wall is inconsistent with the LCP's requirements to protect native vegetation and oak trees. As proposed, a new stone perimeter wall would be located under the dripline of several oak trees along the western perimeter of the property. The associated grading under the oak trees would also not be consistent with LCP Policy 9-35, 9-36 or Toro Canyon Plan Policy BIO-TC-13 and Development Standards BIO-TC-13.1 and 13.2 which when considered together require development to be sited and designed to avoid and minimize damage to native trees, including critical root zones.

The final issue raised under the appeals is that the County's analysis was deficient with regard to the potential of the site to provide monarch butterfly habitat. The project site is located in the immediate vicinity of a major aggregation site and it has not been determined if there is any use or potential use of the property by monarch butterflies. As a result, the appellants contend that it is not possible to make a definitive conclusion whether the proposed development complies with the policies and provisions of the LCP as they apply to the protection of monarch butterfly habitat.

#### **D. ANALYSIS OF SUBSTANTIAL ISSUE**

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the approved development's conformity to the policies contained in the certified County of Santa Barbara Local Coastal Program (LCP) or the public access policies of the Coastal Act.

The appellants are appealing the project based on the project's impacts to environmentally sensitive habitat areas, monarch butterfly habitat and native and non-native protected trees, inconsistent with the policies of the Local Coastal Plan which specifically requires that these resources be protected. The Commission finds that a substantial issue exists with respect to the grounds on which the appeal has been filed because the appeals raise significant questions about whether the approved project is consistent with policies of the LCP for the specific reasons discussed below.

The project's inconsistency with the LCP can be categorized into four issues: (1) oak tree removal; (2) removal of non-native protected trees; (3) encroachment of development into the dripline and critical root zones by the perimeter wall; and (4) lack of analysis of the potential for the onsite trees to serve as monarch butterfly habitat.

### **1. Local Coastal Program (LCP) Policies**

The appellants contend that the project, as approved by the County does not conform to the policies of the LCP with regard to environmentally sensitive habitat areas (ESHA), monarch butterfly habitat and native and non-native protected trees. The appellants identify potential inconsistencies with the following LCP policies, including the Toro Canyon Plan (TCP), which is a certified component of the LCP:

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

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

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

Section 30240 of the Coastal Act states:

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

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

Policy 1-2 (Resource Protection):

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

Policy 9-22 Butterfly Trees:

***Butterfly trees shall not be removed except where they pose a serious threat to life or property, and shall not be pruned during roosting and nesting season.***

Policy 9-23 Butterfly Trees:

***Adjacent development shall be set back a minimum of 50 feet from the trees.***

Policy 9-35 Native Plant Communities (e.g., coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species & other plants of special interest):

***Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.***

Policy 9-36 Native Plant Communities:

***When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.***

Sec. 35-97.18. Development Standards for Native Plant Community Habitats.

***Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.***

***1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.***

***2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.***

Sec. 35-140. Tree Removal.

***35-140.1 Purpose and Intent***

***The purpose of this section is to regulate the removal of certain trees within the Coastal Zone. The intent is to preserve healthy trees that are important for the protection of habitat areas and the scenic and visual quality of the County.***

***Sec. 35-140.2 Applicability.***

***A Coastal Development Permit under Sec. 35-169 shall be required for the removal of any tree which is six inches or more in diameter measured four (4) feet above the ground and six feet or more in height and which is 1) located in a County street right-of-way; or 2) located within 50 feet of any major or minor stream except when such trees are removed for agricultural purposes; or 3) oak trees; or 4) used as a habitat by the Monarch Butterflies.***

**Sec. 35-140.3 Processing.**

***In addition to the requirements for the issuance of a coastal development permit set forth in Sec. 35-169, a coastal development permit for the removal of trees shall not be issued unless the Coastal Planner makes one of the following findings:***

- 1. The trees are dead.***
- 2. The trees prevent the construction of a project for which a coastal development permit has been issued and project redesign is not feasible.***
- 3. The trees are diseased and pose a danger to healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning & Development Department by a licensed tree surgeon.***
- 4. The trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.***

Toro Canyon Plan (TCP) Policy BIO-TC-13:

***Native protected trees and non-native protected trees shall be preserved to the maximum extent feasible.***

Toro Canyon Plan Development Standard BIO-TC-13.1:

***A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "non-native protected tree" is at least 25 inches in diameter at this height. Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.***

Toro Canyon Plan Development Standard BIO-TC-13.2:

***Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/use, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.***

## **2. Oak Tree Removal**

Four oak trees are proposed to be removed for this project (Tree Nos. 17, 45, 46, and 54 shown on Exhibit 4). However, the required findings to allow removal of oak trees, pursuant to Sec. 35-140 of the certified Zoning Code, have not been made. Sec. 35-140 allows removal of oak trees only if the trees are dead or diseased or in a weakened state that would cause imminent danger to persons or property.

The County's analysis states that three (Tree Nos. 17, 45, and 46 on Exhibit 4) of the four oak trees are unhealthy or damaged:

***The other three oaks proposed for removal are 24", 6", and 10". All three are in poor health due to damage during a windstorm or growth suppression from adjacent trees, per the Arborist Reports and Tree Survey prepared by the project arborist. A portion***

***of the main residence and a proposed water feature will be placed where the 6" and 10" oaks are located, and the garage will be sited where the 24" oak is located.***

The County's analysis also found that it would be possible to redesign the project to avoid removal of the healthy oak tree that is proposed to be removed:

***One 16" Oak to be removed is healthy but is located within a driveway hammerhead required for Fire Department access. If the residence was reduced in size or if the guest wing was reconfigured, the hammerhead could be moved so that it does not require the loss of this mature tree. As the project is proposed, however, the required hammerhead necessitates the loss of the oak.***

The Updated Tree Survey, prepared by Peter Winn, Arborist, dated March 16, 2007, indicated that one of the oak trees (Tree No. 17 on Exhibit 4) proposed for removal was split in two; two of the oak trees (Tree Nos. 45 and 46) had suppressed, poor branch structure; and one (Tree No. 54) was healthy. The suggestion appears to be that these trees may be removed because they fit into the final criterion of 35-140.3. However, that section requires that the trees' weakness presents an "imminent danger to persons or property." The tree survey did not state whether there was an imminent threat to life or property or what risks or hazards might be attributed to the existing conditions. Moreover, given the distance from existing development, it appears that the trees do not present any danger to persons or property. At most, the trees might present a potential *future* threat to life or property, assuming the proposed project is constructed as approved by the County, and then only as a result of the siting of the proposed development, which is obviously capable of being changed. As a result, the project is inconsistent with Sec. 35-140 of the LCP.

Additionally, LCP Policies 9-35 and 9-36 require development to be sited, designed, and constructed to minimize impacts to native vegetation. One specification of that rule is that grading and paving shall not adversely affect root zone aeration and stability of native trees. Further, Toro Canyon Plan Policy BIO-TC-13 requires that native protected trees be preserved to maximum extent feasible. Native protected trees are defined under BIO-TC-13.1 as native trees that are at least six inches in diameter as measured 4.5 feet above level ground. Development Standard BIO-TC-13.1 requires that sufficient area be provided from any grading to protect the critical root zones of native protected trees. Development Standard BIO-TC-13.2 specifically states that development shall be sited and designed at an appropriate scale, including size of main structure footprint, size and number of accessory structures/use, and total areas of paving, to avoid damage to native protected trees such as oaks.

Given the extent of the property and the location of the oak trees, it would appear feasible to site and design a residential project that would avoid removal of the oak trees. Therefore, there is, at a minimum, a substantial issue presented by these appeals with respect to whether this project, as approved, is consistent with LCP Policies 9-35, 9-36 or Toro Canyon Policies BIO-TC-13, BIO-TC-13.1, and BIO-TC-13.2. Though the applicant is proposing mitigation planting of 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings), avoidance of damage to native trees would be more protective and minimize impacts to native vegetation to the maximum extent feasible. Moreover, it is what is required by the policies and provisions of the LCP.

Thus, for the reasons discussed above, the Commission finds that a substantial issue exists regarding the approved development's consistency with the LCP policies regarding protection of native trees.

### **3. Removal of Non-Native Protected Trees**

The project would require the removal of five non-native protected trees, including three Monterey Cypress (Tree Nos. 15, 31, and 32 in Exhibit 4) and two Blue Gum Eucalyptus (Tree No. 33 of Exhibit 4 includes both trees). Non-native protected trees are defined in Toro Canyon Plan Development Standard BIO-TC-13.1 as trees that are at least 25 inches in diameter as measured 4.5 feet above level ground.

The Updated Tree Survey, prepared by Peter Winn, Arborist, dated March 16, 2007, indicates that four of the trees, two eucalyptus and two cypress, are healthy and would be removed to accommodate the tennis court. The fifth tree (Tree No. 15 of Exhibit 4) was identified as having "major decay, wind damage, leans to southwest, hazardous, major trunk decay at the base."

Toro Canyon Plan Policy BIO-TC-13 requires that non-native protected trees be preserved to maximum extent feasible. Additionally, Toro Canyon Plan Development Standard BIO-TC-13.2 requires siting and design changes, including size of footprint or number of accessory structures, to avoid damage to non-native protected trees.

There are clearly siting and design changes that could be made that would avoid damaging these trees. Even putting aside the one unhealthy tree, the tennis court could be eliminated to avoid impacts to the four healthy non-native protected trees. Additionally, given the extent of the property, it may be feasible to redesign the residential development to relocate the tennis court to avoid removal of the four healthy trees. For these reasons, the Commission finds that there is, at a minimum, a substantial issue presented by these appeals with respect to whether the project, as approved, is consistent with Toro Canyon Policies BIO-TC-13 and BIO-TC-13.2, as there are alternative configurations, locations, or designs that would be consistent with the provisions of the LCP that would not adversely impact these protected trees.

Thus, for the reasons discussed above, the Commission finds that a substantial issue exists regarding the approved development's consistency with the LCP policies regarding the protection of non-native protected trees.

### **4. Encroachment Into Oak Trees**

In addition to the removal of oak trees, a perimeter wall is proposed that would encroach into the driplines and critical root zones of several oak trees along the western perimeter of the property (Tree No. 18 in Exhibit 4).

The County's analysis reached the following conclusion:

***Other than the proposed perimeter wall, the proposed development will not impact any of the critical root zones of the remaining protected oak trees by more than 20%, triggering mitigation.***

The County further concluded that the perimeter wall under the oak tree canopy is allowable with the following provision:

***The proposed perimeter wall will be conditioned so that the project engineer and arborist will be onsite while the caisson footings are being dug, to avoid oak tree roots as much as possible.***

In short, the County expressly determined that the wall would impact protected oak trees. It nevertheless concluded that, other than the proposed perimeter wall, the critical root zones would not be impacted by more than 20%. This 20% standard is not a certified component of the LCP, and the policies that require protection of oak trees do not support the County's use of this standard. Further, the County's finding seems to indicate that the perimeter wall would not, in fact, even meet the uncertified 20% standard.

LCP Policies 9-35 and 9-36 require development to be sited, designed, and constructed to minimize impacts to native vegetation. One specification of that rule is that grading and paving shall not adversely affect root zone aeration and stability of native trees. Further, Toro Canyon Plan Policy BIO-TC-13 requires that native protected trees be preserved to maximum extent feasible. Native protected trees are defined under BIO-TC-13.1 as native trees that are at least six inches in diameter as measured 4.5 feet above level ground. Development Standard BIO-TC-13.1 requires that sufficient area be provided from any grading to protect the critical root zones of native protected trees. Development Standard BIO-TC-13.2 specifically states that development shall be sited and designed at an appropriate scale, including size of main structure footprint, size and number of accessory structures/use, and total areas of paving, to avoid damage to native protected trees such as oaks.

Given the size of the lot and the fact that a perimeter wall is not a necessary element for single family residential development, the Commission finds that the proposed development can be feasibly redesigned, including relocation or elimination of the perimeter wall, to avoid the dripline of the oak canopy and critical root zones. Therefore, the project is not consistent with LCP Policies 9-35, 9-36 or Toro Canyon Policies BIO-TC-13, BIO-TC-13.1, and BIO-TC-13.2.

Thus, for the reasons discussed above, the Commission finds that a substantial issue exists regarding the approved development's consistency with the LCP policies regarding protection of native trees.

## **5. Potential Monarch Butterfly Habitat**

The subject property is located approximately 125 feet from a property known to harbor a major monarch butterfly aggregation site. This monarch butterfly site, identified as Site 97 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* report (Meade, November 1999) is located at 3177 Padaro Lane, and is summarized as follow:

***Site 97. This location is now the most populated Monarch colony in Santa Barbara County south of Ellwood. Large clusters form in the eucalyptus trees in the front yard of this residence in a dense grove. This site is to the west of another site that once harbored most of the butterflies clustering in this area... Formerly, the Padaro aggregation was on trees beside the long driveway of 3459. Now, large dense clusters form well back from the road in eucalyptus at 3177. Some butterflies patrol among trees all along Padaro Lane, but are concentrated near 3177 Padaro Lane.***

The site at 3177 Padaro Lane is reported to be a permanent aggregation site (i.e., butterfly aggregation stays in location through the entire aggregation period from October through February or March) comprised of eucalyptus.

LCP Policy 9-22 restricts the removal of butterfly trees except where they pose a serious threat to life or property. Additionally, Policy 9-22 states that butterfly trees shall not be pruned during roosting and nesting season. Policy 9-23 requires adjacent development to be set back a minimum of 50 feet from monarch butterfly trees.

The County's LCP requires protection of monarch butterfly habitat in general, rather than limiting protection to aggregation sites. Policies 9-22 and 9-23 could include foraging, transitory, or autumnal sites which support monarch aggregation sites. The native and non-native trees on the subject site, including those proposed for removal, may be serving as monarch butterfly habitat, given the proximity to the aforementioned major aggregation site. However, the County analysis does not address the potential for the trees on site to serve as monarch butterfly habitat.

The administrative record for the subject project does not indicate that a biological evaluation was completed on the property, which would include an analysis of whether the site serves as monarch butterfly habitat in conjunction with the established habitat nearby. If any of the trees on site serve as monarch butterfly habitat, then removal of such trees would not be permitted under the provisions of the LCP unless the trees are dead, pose a danger to healthy trees, or cause an imminent danger to persons or property.

Without the proper biological evaluation, the monarch butterfly policies of the LCP cannot be adequately implemented and the County cannot make the required finding of consistency with the policies and provisions of the certified LCP. For the above reasons, the lack of information raises question as to the project's consistency with LCP Policy 9-22 and LCP Policy 9-23.

Thus, for the reasons discussed above, the Commission finds that a substantial issue exists regarding the approved development's consistency with the LCP policies regarding protection of monarch butterfly habitat and ESHA protection.

Therefore, for all of the reasons listed in this Section D of these findings, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the approved development does not meet provisions of the certified Local Coastal Program regarding monarch butterfly habitat, native and non-native protected trees, and ESHA protection.

## **E. CONCLUSIONS REGARDING SUBSTANTIAL ISSUE**

The purpose of the substantial issue determination is to establish whether a substantial question is raised with respect to the appellants' assertions that the project does not conform to the certified LCP and public access policies of the Coastal Act. As described above, the Commission finds that the appellants' contentions do raise substantial issues with regard to the consistency of the approved project with environmentally sensitive habitat areas, monarch butterfly habitat and native and non-native protected trees standards of the certified Local Coastal Program.

## **F. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION**

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. In accordance with the staff recommendation, the Commission finds that the *de novo* portion of the appeal hearing must be continued because the Commission does not have sufficient information to determine how the proposed development could be modified so that it can be approved consistent with the certified LCP.

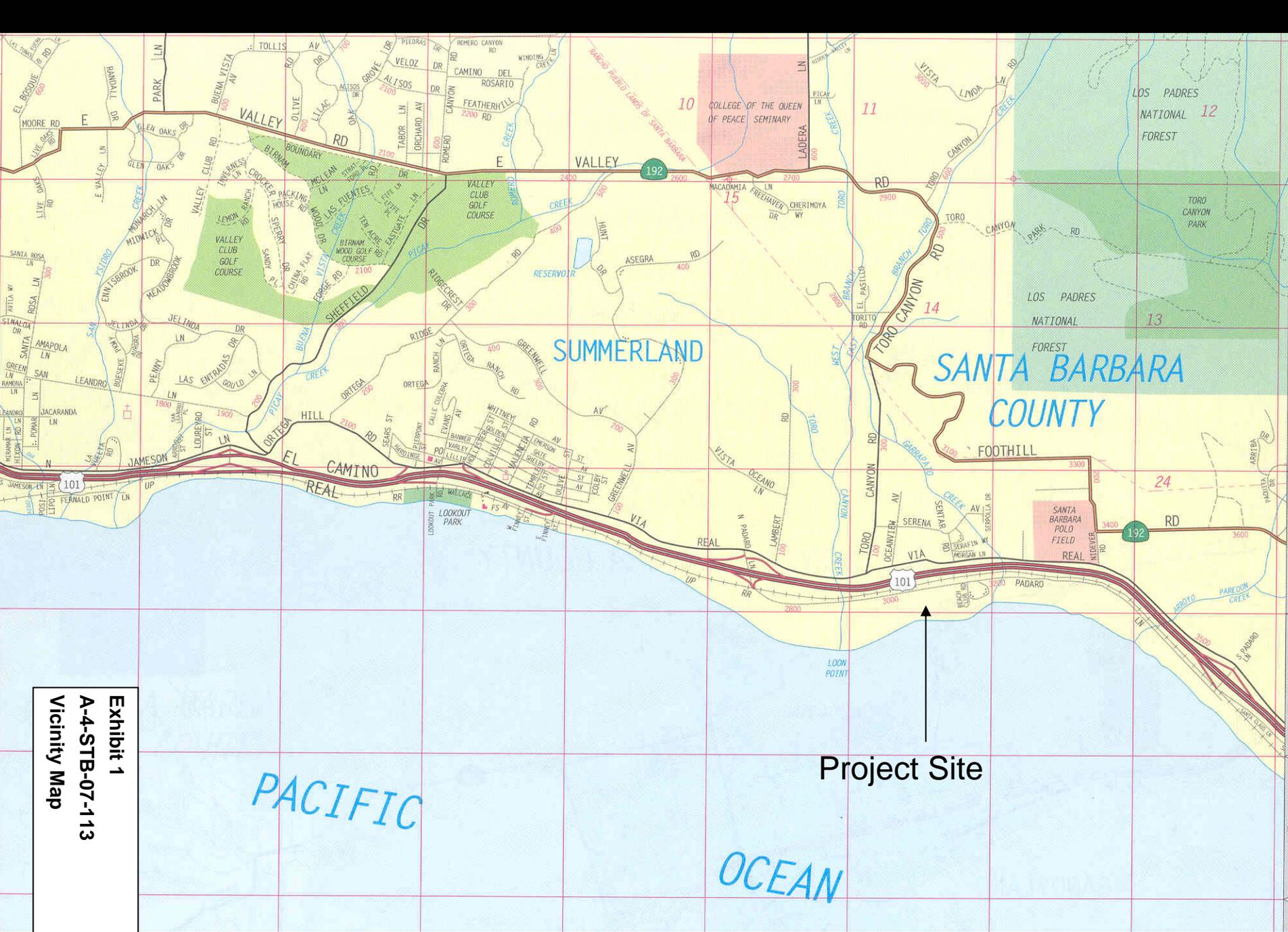
Given that the development that the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Following is a discussion of the information needed to evaluate the development.

### **Biological Assessment**

A biological assessment of the project site is necessary to make a determination as to the development's consistency with monarch butterfly and ESHA requirements. To properly address the ESHA impacts associated with the proposed project, the applicant must submit a biological evaluation that: (1) identifies use, or potential use, of the site by monarch butterflies (including but not limited to aggregations, foraging, transitory, or autumnal sites); (2) provides survey data for monarch butterflies; (3) provides local/regional assessment of the site's ecological relationship with the known aggregation site to the east of the property, and the historic aggregation site in Toro Canyon to the west of the property; (4) identifies the use, or potential use, of the site by sensitive or protected flora or fauna, including raptor surveys; (5) provides an analysis of the potential impacts of the proposed development on the identified habitat or species; (6) identifies project alternatives to avoid impacts; (7) suggests any applicable mitigation measures that would minimize or mitigate residual impacts that could not be avoided through alternatives; and (8) provides similar alternatives analysis to avoid native and non-native protected trees. The assessment should further include all

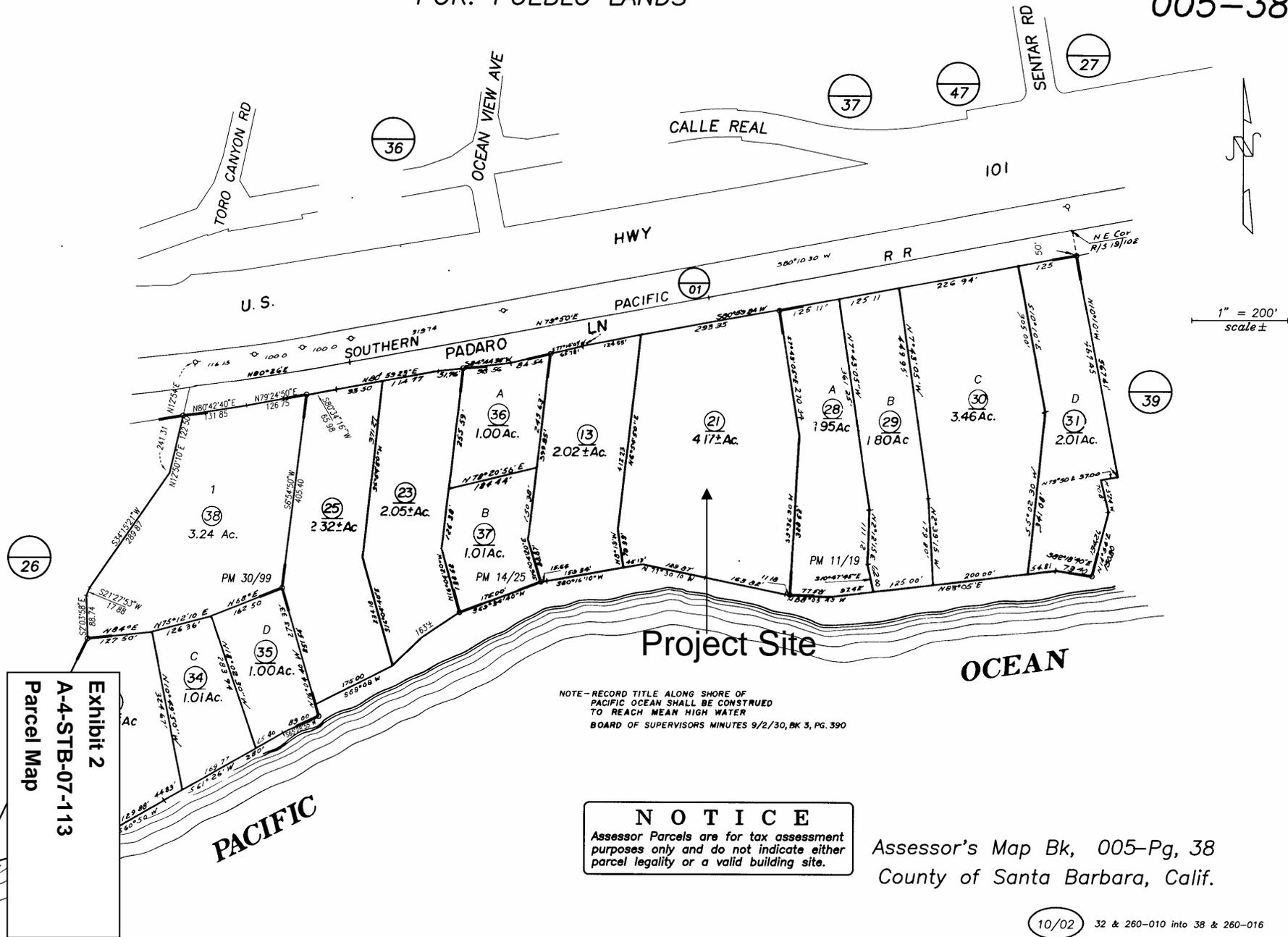
applicable background information and documentation such as photographs, a discussion of the physical characteristics of (e.g., micro climates), identification and map of monarch butterfly or other sensitive species habitat.

Without the above information, the Commission cannot reach a final determination concerning the project's consistency with the environmentally sensitive habitat area and monarch butterfly habitat policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.



**Exhibit 1**  
**A-4-STB-07-113**  
**Vicinity Map**

**Project Site**



26

Exhibit 2  
 A-4-STB-07-113  
 Parcel Map

NOTE-RECORD TITLE ALONG SHORE OF PACIFIC OCEAN SHALL BE CONSTRUCTED TO REACH MEAN HIGH WATER BOARD OF SUPERVISORS MINUTES 9/2/30, BK 3, PG. 390

**NOTICE**  
 Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

Assessor's Map Bk, 005-Pg, 38  
 County of Santa Barbara, Calif.

US HWY 101

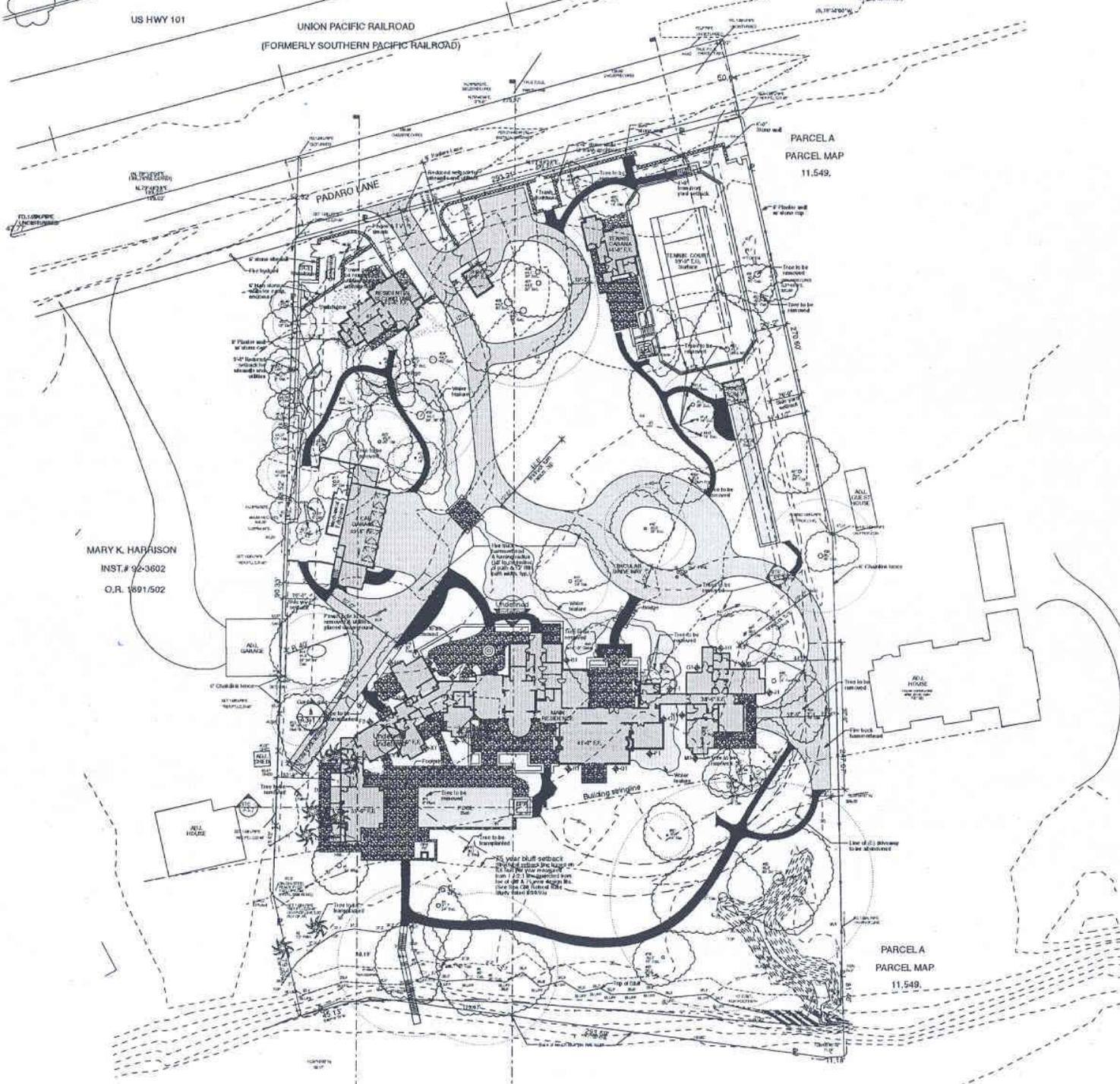
UNION PACIFIC RAILROAD  
(FORMERLY SOUTHERN PACIFIC RAILROAD)

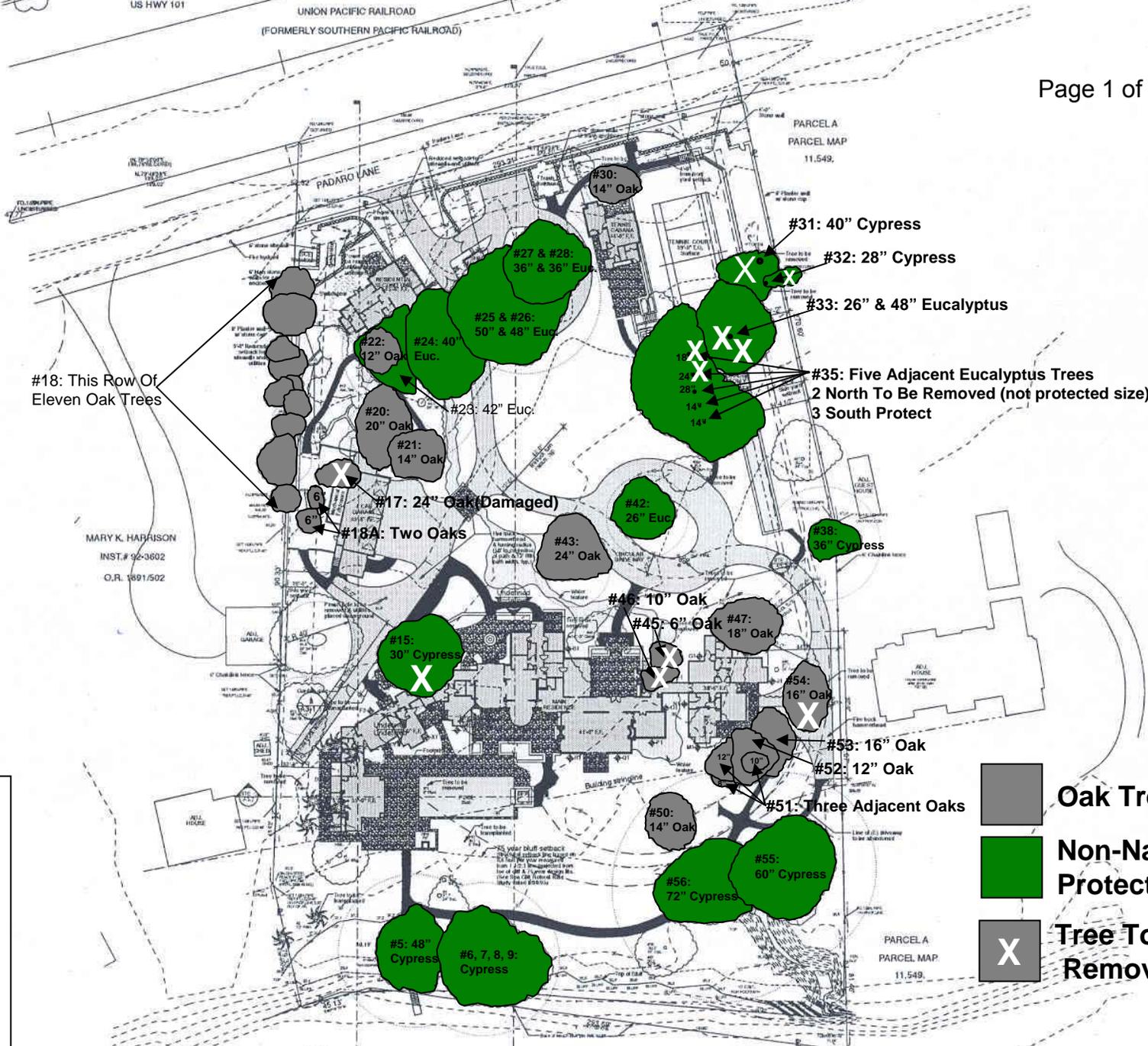
PARCELA  
PARCEL MAP  
11.549.

MARY K. HARRISON  
INST. # 92-3602  
O.R. 1891/502

PARCELA  
PARCEL MAP  
11.549.

Exhibit 3  
A-4-STB-07-113  
Site Plan





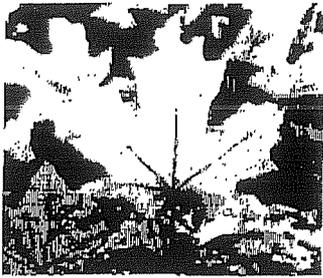
#18: This Row Of Eleven Oak Trees

MARY K. HARRISON  
INST.# 92-3602  
O.R. 1891/502

Exhibit 4  
A-4-STB-07-113  
Tree Identification Map  
& Arborist Report

- Oak Trees
- Non-Native Protected Trees
- X Tree To Be Removed

Note, Not All Trees For Removal or Transplant Are Indicated



WESTREE

Peter Winn  
P.O. Box 22702  
Santa Barbara  
CA 93121  
805-966-3239  
Cont. Lic. #772299

March 7, 2006

CJ Paone  
Neumann, Mendro, Andrulaitis Architects.  
888 Linden Avenue  
Carpinteria, CA 93013

Re; Renker Residence, 3151 Padaro Lane.

Dear CJ,

As you requested I have reviewed the preliminary plans for a new residence at 3151 Padaro Lane, in regard to the potential impact this will have on the existing mature trees on the site.

The site has a great deal of mature and specimen trees to work with, some in good condition and some not. It appears you have tried to fit the various structures and amenities within the existing landscape very well. However, there are a few trees that will need to be removed and mitigated accordingly and the remainder protected per my recommendations.

In the process of preparing my report, 58 trees were surveyed and marked with an aluminum tag which displays an identification number. On the enclosed spreadsheet you will find the surveyed trees listed by identification number, common name, botanical name, diameter at breast height (DBH) and miscellaneous comments which will aid in further identification and may contain specific recommendations. In addition, I have created a column labeled "T / R / P" which will serve as my official recommendation for each tree, given the proposed project. "T" means that the corresponding tree is deemed to be transplantable, "R" means that I am recommending the tree be removed, and "P" means the corresponding tree should be protected in its existing location. Those trees immediately impacted by the proposed new construction are *in bold print*.

Wherever there are trees to be removed due to construction encroachment or because they are hazardous, they shall be mitigated per the current County specifications. There are many small, young Oaks, Pines and Cypresses on the site that may otherwise be removed for grading as they are under 4" dbh (diameter at breast height) but I feel these trees would make great replacement trees for those mature trees being removed. This

idea should be passed on to the Landscape Architect for review, which I believe is Sydney Baumgartner.

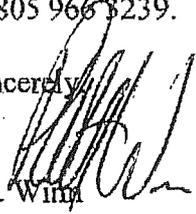
Where the structures encroach within the critical root zones of some of the trees, all necessary tree protections shall be followed. As there are many different species of trees on the site, each one shall be evaluated individually for its ability to tolerate the impacts of construction.

#### **RECOMMENDATIONS FOR TREE PROTECTION DURING CONSTRUCTION.**

- Fence off all trees from construction at the critical root zone or where practical with 6' chain link or orange construction fence with metal stakes.
- No activities or storage of construction materials shall be allowed within the fenced areas unless approved by the project arborist.
- Any root disturbance to any of the protected trees shall be done by hand and the project arborist alerted.
- All roots encountered shall be cut cleanly with a sharp saw to allow for new root regeneration, backfilled immediately or kept moist to prevent drying out and dying.
- Any tree affected by the construction process shall be deep-root fertilized to promote better health and vigor.
- Compaction of the root zone shall be avoided by spreading 3-4" of mulch. If necessary plywood or equivalent shall be placed on top.
- During hot, dry periods the foliage may need to be washed with high pressure water to remove construction dust.
- Project arborist shall be notified prior to any activities within the critical root zone.

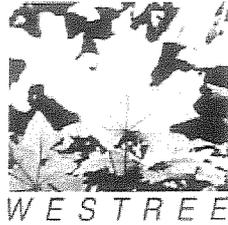
Should you have any further questions or comments please do not hesitate to call my office at 805 966 3239.

Yours sincerely,

  
Peter J.H. Winn  
I.S.A. Certified Arborist #921

Enclosures; Tree survey.

# FIELD REPORT



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Date: January 9, 2007  
By: Peter Winn  
Present:  
Project: Renker, Padaro lane

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Jennifer Welch, Mary Andrulatus.

This is to verify the tree damaged in the wind storm on December 27<sup>th</sup> 2006 was Oak tree #17. It lost its top and major limb to the south, leaving only a trunk and two small back limbs.

I feel the damage was so severe that the tree shall need to be removed, it has also become an eye-saw and will detract from the aesthetics of the remaining trees on the site.

Please see the attached photos of the damage to the tree. Should you have any further questions, please do not hesitate to call.

Thank you,

Peter Winn.

| #   | Common Name              | Botanical Name                 | DBH in "s    | T/R/P | Comments   |
|-----|--------------------------|--------------------------------|--------------|-------|--|
| 1   | Southern Magnolia        | Magnolia grandiflora           | 24           | P     | Healthy, salt damage to leaves on south side   |
| 2   | Mexican Fan Palm         | Washington robusta             | 12           | T     | Healthy  |
| 3   | Lemon Gum Eucalyptus.    | Eucalyptus citriodora          | 24           | P     | Healthy, some structural weakness. Prune.  |
| 4   | Lemon Gum Eucalyptus.    | Eucalyptus citriodora          | 24           | P     | Healthy, some structural weakness. Prune.  |
| 5   | Monterey Cypress         | Cupressus macrocarpa           | 48           | P     | Healthy  |
| 6   | Monterey Cypress         | Cupressus macrocarpa           | 36           | P     | Good for age   |
| 7   | Monterey Cypress         | Cupressus macrocarpa           | 36           | P     | Good for age   |
| 8   | Monterey Cypress         | Cupressus macrocarpa           | 48           | P     | Good for age   |
| 9   | Monterey Cypress         | Cupressus macrocarpa           | 36           |       | Removed due to cliff erosion   |
| 10  | Italian Stone Pine       | Pinus pinea                    | 6            | T     | Young & healthy  |
| 11  | South African Wild Plum  | Harpephyllum caffrum           | 8            | R     | Major Salt damage  |
| 12  | Giant Bird of Paradise   | Strelitzia nicolai             | Multi-stems  | T     | Good specimen  |
| 13  | Red Flowering Eucalyptus | Eucalyptus ficifolia           | 18, 18, & 10 | P     | Healthy  |
| 14  | Monterey Cypress         | Cupressus macrocarpa           | 24, 24, 24   | P     | Healthy; pervious driveway required and maintain 30 feet of clearance from trunk with any development.               |
| 15  | Monterey Cypress         | Cupressus macrocarpa           | 30           | R     | Major decay, wind damage, leans to southwest, hazardous, major trunk decay at the base.                              |
| 16  | King Palms               | Archontophoenix cunninghamiana |              | R     | Healthy, (4 trees)   |
|     | Queen Palms              | Syagrus romanzoffiana          |              | R     | Healthy, (6 trees)   |
| 17  | Coast Live Oak           | Quercus agrifolia              | 24           | R     | 12/27/06: Severe damage during wind storm, tree split in two   |
| 18  | Coast Live Oak           | Quercus agrifolia              | 6 to 14      | P     | Group of 11. Young & healthy along property line; wall footings to be spaced around trees.                           |
| 18a | Coast Live Oak           | Quercus agrifolia              | 6, 6         | P     | Young & healthy  |
| 19  | Australian Tee Tree      | Leptospermum larvigatum        | 10           | P     | Sprawling, interesting   |
| 20  | Coast Live Oak           | Quercus agrifolia              | 20           | P     | Topped for SCE wires, poor specimen, pervious parking recommended.   |
| 21  | Coast Live Oak           | Quercus agrifolia              | 14           | P     | Co-dominant stems with potential to split, poor specimen, topped for SCE wires, pervious parking recommended.        |
| 22  | Coast Live Oak           | Quercus agrifolia              | 12           | P     | Young & healthy, topped for power lines, patio will not impact CRZ; water feature not a concern given shallow depth. |

| #  | Common Name           | Botanical Name        | DBH              | T / R / P | Comments  |
|----|-----------------------|-----------------------|------------------|-----------|---|
| 23 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 42               | P         | Mature & healthy; regular pruning is important for longevity, don't allow drainage water to collect in CRZs, shallow water feature will not be a problem, (discing of soil over the years has disturbed trees); the shed poses no problem being in the CRZ; pervious driveway recommended |
| 24 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 40               | P         |   |
| 25 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 50               | P         |   |
| 26 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 48               | P         |   |
| 27 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 36               | P         |   |
| 28 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 36               | P         |   |
| 29 | Pittosporum           | Pittosporum undulatum | 10 multi         | R         |   |
| 30 | Coast Live Oak        | Quercus agrifolia     | 14               | P         |   |
| 31 | Monterey Cypress      | Cupressus macrocarpa  | 40               | R         | Healthy, impacted by tennis court   |
| 32 | Monterey Cypress      | Cupressus macrocarpa  | 28               | R         | Healthy, impacted by tennis court   |
| 33 | Blue Gum Eucalyptus   | Eucalyptus globulus   | 26 & 48          | R         | Two trees. Healthy. In way of tennis court  |
| 34 | Acacia                | Acacia galeyana       | 12               | R         | Healthy. In way of tennis court   |
| 35 | Lemon Gum Eucalyptus. | Eucalyptus citriodora | 14 to 28         | R & P     | 5 trees in a row. Remove 2 to North, Protect 3 to South   |
| 36 | Pittosporum           | Pittosporum undulatum | 6 stems          | R         | Healthy, in new motor court   |
| 37 | Monterey Cypress      | Cupressus macrocarpa  | 24               | P         | Healthy   |
| 38 | Monterey Cypress      | Cupressus macrocarpa  | 36               | P         | Lot of wind damage, tree has been pruned and no longer poses a threat.  |
| 39 | Pittosporum           | Pittosporum undulatum | 2 x 6"           | R         | Screen. Healthy   |
| 40 | Pittosporum           | Pittosporum undulatum | 6 to 8           | R         | Hedgerow, reduce tops if staying  |
| 41 | Melaleuca             | Melaleuca ericifolia  | 4 x 4", 8"       | R         | Interesting, poor structure. In new motor court   |
| 42 | Red Flowering Euc.    | Eucalyptus ficifolia  | 26               | P         | Healthy specimen; can be pruned for vehicle clearance; driveway is not detrimental to tree  |
| 43 | Coast Live Oak        | Quercus agrifolia     | 24               | P         | Suppressed, leaning excessively to the north, major wound about 20 feet high. Impervious surface is preferable; the water features should not pose any problems as it's approximately 20 feet from the trunk  |
| 44 | Deodar Cedar          | Cedrus deodara        | 3 x 14", 1 x 12" | R         | Sparse specimen, very close to new structure.   |
| 45 | Coast Live Oak        | Quercus agrifolia     | 6                | R         | Suppressed, poor branch structure, co-dominant stems, there is a split already starting.  |

| #  | Common Name         | Botanical Name       | DBH       | T/R/P | Comments  |
|----|---------------------|----------------------|-----------|-------|---|
| 46 | Coast Live Oak      | Quercus agrifolia    | 10        | R     | Suppressed, poor branch structure, will eventually fail, justifiable removal.   |
| 47 | Coast Live Oak      | Quercus agrifolia    | 18        | P     | Co-dominant stems, has already split and one has fallen. Compaction is out of the CRZ so not an issue. Recommend that foundation spans major root. <b>Healthy specimen, driveway is pre-existing, tree has adjusted to environment, compaction is not an issue. Recommend that foundation spans major root.</b> |
| 48 | Camphor             | Cinnamomum camphora  | 24        | P     |   |
| 49 | Monterey Pine       | Pinus radiata        | 14        | R     | <b>Weak, susceptible to pest &amp; disease</b>  |
| 50 | Coast Live Oak      | Quercus agrifolia    | 14        | P     | Poor condition, suppressed but growing back   |
| 51 | Coast Live Oak      | Quercus agrifolia    | 8, 10, 12 | P     | Young, healthy grove, driveway is pre-existing so compaction is not an issue, younger trees can handle more disturbance so encroachment into CRZ for fire access driveway and hammerhead is acceptable;   |
| 52 | Coast Live Oak      | Quercus agrifolia    | 12        | P     | bamboo and myoporum have been removed and grove should continue to thrive.  |
| 53 | Coast Live Oak      | Quercus agrifolia    | 16        | P     |   |
| 54 | Coast Live Oak      | Quercus agrifolia    | 16        | R     | Healthy, in way of required Fire Hammerhead   |
| 55 | Monterey Cypress    | Cupressus macrocarpa | 60 & 24   | P     | Mature, healthy. Wind damaged, lost major limbs   |
| 56 | Monterey Cypress    | Cupressus macrocarpa | 72        | P     | Mature, healthy. Wind damaged, lost major limbs   |
| 57 | Monterey Cypress    | Cupressus macrocarpa | 12        | P     | Young & healthy   |
| 58 | Monterey Cypress    | Cupressus macrocarpa | 18        | P     | Young & healthy   |
| 59 | Blue Gum Eucalyptus | Cupressus macrocarpa | 36, 24    | P     | <b>Mature, healthy, 24" stem leans excessively to south and could be removed to reduce pull on 28" stem, water feature not a concern given shallow depth.</b>   |

**Key:**

- Transplantable ( T )
- Remove ( R )
- Protect ( P )

**Note:** Items in bold are trees directly affected by the proposed construction  
Items in red are "protected" trees to be removed

4-STB-07-235

CERTIFIED 8-3-07

Appeal period start 8/21/07  
County of Santa Barbara

# Planning and Development

John Baker, Director

Dianne Black, Director Development Services

John McInnes, Director Long Range Planning



## NOTICE OF FINAL ACTION

DATE: July 26, 2007

TO: California Coastal Commission  
Shana Gray  
89 South California Street, Suite 200  
Ventura, California 93001

RECEIVED  
AUG 20 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

On July 16, 2007 Santa Barbara County took final action on the appealable development described below:

- Appealable Coastal Development Permit [06CDH-00000-00029. 07MOD-00000-00004]
- Appealable Coastal Development Permit [case number] following discretionary case [#]
- Discretionary action on a case

**Project Applicant:**  
Jennifer Welch  
Penfield & Smith  
1327 Del Norte Road, Suite 200  
Camarillo, CA 93010

**Property Owner:**  
Greg and Stacy Renker  
c/o La Rue, Corrigan & McCormick LLP  
5959 Topanga Canyon Boulevard, Suite 180  
Woodland Hills, CA 91367

**Project Description:** Hearing on the request of Jennifer Welch, agent for the owners Greg and Stacy Renker, to consider the following:

- a) Case No. 06CDH-00000-00029 [application filed on June 19, 2006] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 3-E-1, to allow for demolition of an existing single-family residence and garage and construction of a new two-story residence, detached residential second unit, and accessory structures;
- b) Case No. 07MOD-00000-00004 [application filed on April 13, 2007] for a Modification in compliance with Section 35-179 of the Article II Coastal Zoning Ordinance, to allow for a modification to the required 50-foot front yard setback of eight feet to allow for the location of a utility transformer, generator, and switchgear; and  
and to accept the Exemption pursuant to Sections 15301(a) and 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act.

**Location:** The application involves AP No. 005-380-021, located at 3151 Padaro Lane in the Carpinteria/Toro Canyon area, First Supervisorial District.

Development Review  
Building & Safety  
Energy, Administration  
123 E. Annapolis Street  
Santa Barbara, CA 93101  
Phone: (805) 568-2000  
FAX: (805) 568-2030

Long Range Planning  
30 E. Figueroa St, 2nd Floor  
Santa Barbara, CA 93101  
Phone: (805) 568-3380  
FAX: (805) 568-2076

Building & Safety  
185 West Hwy 246, Ste 101  
Buellton, CA 93427  
Phone: (805) 686-5020  
FAX: (805) 686-5028

**Exhibit 5**  
**A-4-STB-07-113**  
**Notice of Final Action**

Phone: (805) 934-6250  
FAX: (805) 934-6258

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

Please contact Selena Buoni, the case planner at 805-568-2910 if you have any questions regarding the County's action or this notice.

*Selena Buoni*  
Selena Buoni, Project Planner

*7/17/2007*  
Date

Attachment: Final Action Letter dated July 17, 2007

cc: Case Files: 06CDH-00000-00029, 07MOD-00000-00004  
Cintia Mendoza, Hearing Support

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COURT HOUSE

# COUNTY OF SANTA BARBARA CALIFORNIA

## ZONING ADMINISTRATOR

COUNTY ENGINEERING BUILDING  
123 E. ANAPAMU STREET  
SANTA BARBARA, CALIFORNIA 93101-2058  
PHONE: (805) 568-2000

RECEIVED  
AUG 20 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

July 17, 2007

Jennifer Welch  
Pennfield & Smith  
1327 Del Norte Road, Suite 200  
Camarillo, CA 93010

ZONING ADMINISTRATOR  
HEARING OF JULY 16, 2007

**RE: Renker Demolition and New Single-Family Dwelling, Detached Residential Unit, Accessory Structures, and Setback Modification, 06CDH-00000-00029, 07MOD-00000-00004**

Hearing on the request of Jennifer Welch, agent for the owners Greg and Stacy Renker, to consider the following:

- a) 06CDH-00000-00029 [application filed on June 19, 2006] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 3-E-1, to allow for demolition of an existing single-family residence and garage and construction of a new two-story residence, detached residential second unit, and accessory structures;
- b) 07MOD-00000-00004 [application filed on April 13, 2007] for a Modification in compliance with Section 35-179 of the Article II Coastal Zoning Ordinance, to allow for a modification to the required 50-foot front yard setback of eight feet to allow for the location of a utility transformer, generator, and switchgear; and

to accept the Exemption pursuant to Sections 15303(a) and 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act. The application involves AP No. 005-380-021, located at 3151 Padaro Lane in the Carpinteria/Toro Canyon area, First Supervisorial District.

Dear Ms. Welch:

At the regular hearing of the Santa Barbara County Zoning Administrator on July 16, 2007, Case Nos. 06CDH-00000-00029, 07MOD-00000-00004 marked "Officially Accepted, County of Santa Barbara July 16, 2007, Zoning Administrator Exhibit #1" was conditionally approved, based upon the project's consistency with the Comprehensive Plan and based on the ability to make the required findings. The Zoning Administrator also took the following action:

1. Adopted the required findings for the project specified in Attachment A of the staff report, dated June 22, 2007, including CEQA findings;
2. Accepted the Exemption, included in Attachment B of the staff report dated June 22, 2007, pursuant to CEQA Sections 15303(a) and 15303(e); and
3. Approved the project subject to the conditions included in Attachment C and Attachment D of the staff report dated June 22, 2007, as revised at the hearing of July 16, 2007.

## REVISIONS TO THE CONDITIONS OF APPROVAL

*Condition 1 is amended:*

- 1. Project Description.** This Coastal Development Permit is based upon and limited to compliance with the project description and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

**The project is for a Coastal Development Permit to allow demolition of an existing single family residence of approximately 1,875 square feet and detached garage, and construction of a new residence with main floor of approximately 10,378 square feet, upper floor of approximately 2,278 ~~2,236~~ square feet, basement of approximately 2,221 square feet and attached mechanical/storage space of ~~213~~ 459 square feet, detached garage of approximately 1,576 square feet with second story hobby room of approximately 559 square feet, tennis cabana of approximately 800 square feet, garden folly structure of approximately 157 square feet, storage shed of approximately 178 square feet, and a detached second residential unit of approximately 1,200 square feet with attached mechanical/storage space of 36 square feet. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, and upgrades to the electrical service to the adjacent parcel to the west (APN 005-380-013). A stucco with a stone cap, and stone perimeter wall of six feet in height in the front yard setback and eight feet in height in the side yard setbacks is also proposed.**

**The project also includes the location of a utility transformer (height to be determined by Southern California Edison), generator (approximately 4 feet, 5 inches in height), and switchgear (approximately 7 feet, 7 inches in height) partially in the front yard setback, subject to 07MOD-00000-00004. The Modification allows the utility structures to be located eight feet in the front yard setback as measured from the centerline of Padaro Lane, and three feet, six inches in the front yard setback as measured from the road right-of-way. The transformer and generator will be approximately 16 feet, 6 inches from the road right-of-way and approximately 42 feet from the centerline of Padaro Lane.**

**The following structures currently exist on the parcel: a residence of approximately 1,875 square feet and detached carport/storage shed of approximately 709 square feet. The proposed project will require approximately ~~4,891~~ 4,356 cubic yards of cut and approximately 940 cubic yards of fill. Four protected coast live oaks and five protected non-native trees are proposed for removal, with replacement of 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees. The property will continue to be served by the Montecito Water District, a private septic system, and the Carpinteria/Summerland Fire Protection District. Access will continue to be taken from Padaro Lane. The property is a 4.57 acre parcel zoned 3-E-1 and shown as Assessor's Parcel Number 005-380-021, located at 3151 Padaro Lane in the Carpinteria/Fore Canyon area, First Supervisorial District.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

*Condition 2 is amended:*

2. **Tennis Court.** Prior to issuance of this CDP, revised plans shall be submitted to P&D for review and approval that show the finished surface elevation of the tennis court raised to the existing grade at the southern end of the court, at ~~approximately 41.8~~ 41 feet. The project description shall be updated to reflect the revised grading quantities.

*Condition 3 is amended:*

3. **Other Departments.** The project shall comply with the following Departmental and District letters:
  - a. Air Pollution Control District, dated June 22, 2006
  - b. Environmental Health Services, dated June 14, 2007
  - c. Carpinteria/Summerland Fire Protection District, dated July 19, 2006 and December 14, 2006
  - d. Public Works, Project Clean Water, dated October 17, 2006
  - e. Parks Department, dated July 11, 2007

*Condition 5 is amended:*

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

d. In the event that staff determines that any portion of the project is not in compliance with the conditions of approval of this permit, or approved plans dated July 16, 2007 or an immediate STOP WORK ORDER may be issued.

*Condition 9 is amended:*

9. **Dust Inhibition.** If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:
- a. seeding and watering to re-vegetate graded areas; and/or
  - b. spreading of soil binders; and/or
  - c. any other methods deemed appropriate by Planning and Development.

**Plan Requirements:** These requirements shall be noted on all plans. **Timing:** Plans are required prior to ~~approval~~ issuance of Coastal Development Permits.

**MONITORING:** Grading Inspector shall perform periodic site inspections.

*Condition 14 is amended:*

14. **Erosion and Sediment Control.** Best available erosion and sediment control measures shall be implemented during grading and construction. Best available erosion and sediment control measures may include but are not limited to use of sediment basins, gravel bags, silt fences, geo-bags or gravel and geotextile fabric berms, erosion control blankets, coir rolls, jute net, and straw bales. Storm drain inlets shall be protected from sediment-laden waters by use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps. Sediment control measures shall be maintained for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping. Construction entrances and exits shall be stabilized using gravel beds, rumble plates, or other measures to prevent sediment from being tracked onto adjacent roadways. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods. **Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to ~~approval~~ issuance of Coastal Development Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction.

**MONITORING:** P&D staff shall perform site inspections throughout the construction phase.

*Condition 15 is amended:*

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

shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The wash off area shall be designated on all plans prior to ~~approval~~ issuance of Coastal Development Permits. The washout area(s) shall be in place and maintained throughout construction.

**MONITORING:** P&D staff shall check plans prior to approval of Coastal Development Permits and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout area(s).

*Condition 17 is amended:*

17. **Archeological Monitoring.** All earth disturbances including scarification and placement of fill within the archaeological site area shall be monitored by a P&D-qualified archaeologist ~~and a Native American Consultant~~ pursuant to County Archaeological Guidelines. **Plan Requirements and Timing:** Prior to issuance of a Coastal Development Permit, a contract or Letter of Commitment between the applicant and the archaeologist, consisting of a project description and scope of work, shall be prepared. The contract must be executed and submitted to P&D for review and approval.

**MONITORING:** P&D planners shall confirm monitoring by archaeologist and P&D grading inspectors shall spot check field work.

*Condition 22 is amended:*

22. **Concrete and Pavement Application.** To prevent storm water contamination during roadwork or pavement construction, concrete, asphalt, and seal coat shall be applied during dry weather. Storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc. **Plan Requirements and Timing:** These requirements shall be specified on the grading and building plans submitted to P&D prior to ~~approval~~ issuance of Coastal Development Permits.

**MONITORING:** P&D shall site inspect, as needed during construction.

*Condition 23 is amended:*

23. **Construction Materials.** Construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which minimizes the potential for storm water contamination. **Plan Requirements and Timing:** Bulk storage locations for construction materials and any measures proposed to contain the materials shall be shown on the grading plans submitted to P&D for review prior to ~~approval~~ issuance of Coastal Development Permits.

**MONITORING:** P&D shall site inspect prior to the commencement of, and as needed during all, grading and construction activities.

*Condition 25 is amended:*

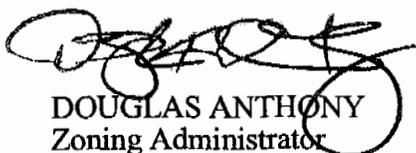
25. **Additional Permits Required.** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain Coastal Development and Building Permits from Planning and

Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the ~~Commission~~ Zoning Administrator. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

***The Findings, Coastal Development Permit and the Conditions of Approval reflect the action of the Zoning Administrator and are included in this letter as Attachment A and Attachment C.***

- The Zoning Administrator's decision may be appealed locally by the applicant, an aggrieved person, as defined under Section 35-58, or any two members of the Coastal Commission within 10 calendar days of the date of the Administrator's decision.
- If a local appeal is filed, it shall be processed in accordance with all provisions of Section 35-182.3 of the Coastal Zoning Ordinance, and shall be taken to the Santa Barbara County Clerk of the Board, 105 East Anapamu Street - Room 407, Santa Barbara, California before the appeal period expires.
- No filing fee is required for an appeal since this project may ultimately be appealed to the Coastal Commission under Section 35-182.4.2.
- Please be advised that if a local appeal is filed, the final action on the appeal by the Board of Supervisors may be appealed to the California Coastal Commission if that final action includes the approval of a permit.
- **Local appeal period expires on Thursday, July 26, 2007 at 5:00 P.M.**

Sincerely,



DOUGLAS ANTHONY  
Zoning Administrator

xc: Case Files: 06CDH-00000-00029, 07MOD-00000-00004  
Hearing Support Zoning Administrator File  
Petra Leyva  
Records Management  
Architect: Mary Andrulaitis, Neumann, Mendro, Andrulaitis Architects, LLP, 888 Linden Street, Carpinteria, CA 93013  
Owner: Greg & Stacy Renker, c/o La Rue, Corigan & McCormick LLP, 5959 Topanga Canyon Boulevard, Suite 180, Woodland Hills, CA 91367  
Address File: 3151 Padaro Lane, Carpinteria, CA 93013  
Shana Gray, California Coastal Commission, 89 South California St., Ste 200, Ventura, CA 93001  
County Surveyor's Office  
Air Pollution Control District  
Environmental Health Services  
Carpinteria/Summerland Fire Protection District  
County Public Works  
Supervisor Carbajal, First District

Selena Buoni, Planner

**Attachments:**            **Attachment A -- Findings**  
                                 **Attachment C – Conditions of Approval**  
                                 **Attachment D – Modification Conditions of Approval**

DA:ah

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## ATTACHMENT A: FINDINGS

### 1.0 CEQA FINDINGS

The project can be found exempt pursuant to Sections 15303(a) and 15303(e) of the State CEQA Guidelines. Section 15303(a) exempts the construction of one single-family residence, or a second dwelling in a residential zone. In urbanized areas, up to three single-family residences may be constructed under this exemption. Section 15303(e) exempts accessory structures including garages, carports, patios, swimming pools, and fences. The proposed project includes demolition of an existing single-family residence of approximately 1,875 square feet and detached garage, and construction of a new 14,877 square foot residence (including basement) and attached mechanical/storage space of 213 square feet, detached garage of approximately 1,576 square feet with second story hobby room of approximately 559 square feet, tennis cabana of approximately 800 square feet, garden folly structure of approximately 157 square feet, storage shed of approximately 178 square feet, and a detached second residential unit of approximately 1,200 square feet with attached mechanical/storage space of 36 square feet. The proposed project also includes a perimeter wall, sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, and upgrades to the electrical service to the subject parcel and the adjacent parcel to the west.

### 2.0 ADMINISTRATIVE FINDINGS

#### Coastal Development Permit Findings

**2.1 Pursuant to Section 35-169.6 of the Coastal Zoning Ordinance (Article II), a Coastal Development Permit shall be approved or conditionally approved only if all of the following findings are made:**

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

The proposed development, as conditioned, conforms to all applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan and the Toro Canyon Plan, and with the approval of the requested Modification the proposed development is consistent with all provisions of Article II (Coastal Zoning Ordinance), as discussed in Sections 6.2 and 6.3 of this staff report. Therefore, this finding can be made.

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

A Certificate of Compliance has been approved by the County Surveyor and recorded to demonstrate parcel validity. Therefore this finding can be made.

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

With the approval of the requested Modification, the proposed development meets all setback requirements, height limitations, and all other applicable provisions of Article II (Coastal Zoning Ordinance), as discussed in Section 6.3 of this staff report. No open zoning violations exist on the property. Therefore, this finding can be made.

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

The proposed project complies with the maximum allowable height requirements and would not significantly obstruct public views from the public beach or adjacent public roads and highways. Therefore, this finding can be made.

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

The proposed project is compatible with some of the newer residential developments along Padaro Lane. Site visits performed by the project planner and by the South County Board of Architectural Review did not conclude that the proposed project is incompatible with the established physical scale of the area, since it will be mostly screened from public vantage points. No neighbors have contacted the project planner or appeared at SBAR hearings to review or oppose the project. Therefore, this finding can be made.

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

The proposed construction would not conflict with or affect any public access or recreation policies. The proposed project improvements are located outside of the existing Public Access Easement and would not have any effect on lateral access to the beach. Therefore, this finding can be made.

**Detached Residential Second Unit Findings:**

***A Coastal Development Permit application for a residential second unit shall only be approved or conditionally approved if, in addition to the findings required under Section 35-169 (Coastal Development Permits), all of the following findings are made:***

**2.1.7 *The proposal conforms to the development standards in Section 35-142.6.***

As discussed in Sections 6.2 of this Staff Report, the proposed project is consistent with the Comprehensive Plan, including the Coastal Land Use Plan and the Toro Canyon Plan, in terms of all applicable land use and development policies. As discussed in Sections 6.3 of this Staff Report, the project complies with the intent, purpose, and district regulations of the 3-E-1 Zone as specified by the Coastal Zoning Ordinance (Article II). Therefore, this finding can be made.

**Modification Findings:**

**2.2 Pursuant to Section 35-179.6 of the Coastal Zoning Ordinance (Article II), a Modification shall only be approved if all of the following findings are made:**

**2.2.1 *The project is consistent with the Coastal Act, Comprehensive Plan including the Local Coastal Plan and any applicable Community Plan.***

As discussed in Sections 6.2 and 6.3 of this Staff Report and incorporated herein by reference, the proposed project is consistent with the Comprehensive Plan, including the Coastal Land Use Plan and the Toro Canyon Plan, in terms of all applicable land use and development policies, subject to approval of this Modification. Therefore, this finding can be made.

**2.2.2 *The project complies with the intent and purpose of the applicable Zone District(s) including Overlays, this Section and this Article.***

As discussed in Sections 6.2 and 6.3 of this Staff Report and incorporated herein by reference, the project complies with the intent, purpose, and district regulations of the 3-E-1 Zone as specified by the Coastal Zoning Ordinance (Article II). The proposed generator, transformer and switchgear are required for the subject parcel and the neighboring parcel to the west, and will provide electricity to residences in a portion of the County that is zoned for residential use. The proposed Modification would not change the residential character of the neighborhood and would not cause any significant visual impacts to any of the surrounding residences. Therefore, this finding can be made.

**2.2.3 *The Modification is minor in nature and will result in a better site or architectural design, as approved by the Board of Architectural Review, and/or will result in greater resource protection than the project without such Modification.***

The proposed Modification received preliminary review and approval at the May 25, 2007 South County Board of Architectural Review (SBAR). The SBAR made the required findings that the setback Modification is minor in nature and will result in better site design. Therefore, this finding can be made.

**2.2.4 *The project is compatible with the neighborhood, and does not create an adverse impact to community character, aesthetics or public views.***

Landscaping screening is proposed between Padaro Road and the proposed utility structures. The SBAR determined that the overall project is compatible with the neighborhood and does not create an adverse impact to community character, aesthetics or public views. Therefore, this finding can be made.

**2.2.5 *Any Modification of parking or loading zone requirements will not adversely affect the demand for on-street parking in the immediate area.***

This request is not for a modification of parking or loading zone requirements and would not have any impact on street parking in the immediate area. The utility structures are proposed to be located so that service vehicles can completely pull off of Padaro Road for maintenance needs. Therefore, this finding can be made.

**2.2.6 *The project is not detrimental to existing physical access, light, solar exposure, ambient noise levels or ventilation on or off site.***

The requested modification will not be detrimental to existing physical access, light, solar exposure, ambient noise levels or ventilation on or offsite. Therefore this finding can be made.

**2.2.7 *Any adverse environmental impacts are mitigated to a level of insignificance.***

There are no adverse impacts associated with this modification request. Therefore this finding can be made.

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



**Case No.:** 06CDH-00000-00029 **Planner:** Selena Buoni  
**Project Name:** Renker Demo & New Residence, Detached Residential  
 Second Unit, Detached Garage and Hobby Room, Tennis Cabana and Court,  
 Storage Structures, Pools, Spas, Perimeter Wall, Electrical Infrastructure,  
 and Associated Landscaping  
**Project Address:** 3151 Padaro Lane, Carpinteria  
**A.P.N.:** 005-380-021

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

**APPROVAL DATE:** July 16, 2007

**COUNTY APPEAL PERIOD STARTS:** July 17, 2007

**COUNTY APPEAL PERIOD ENDS:** July 26, 2007

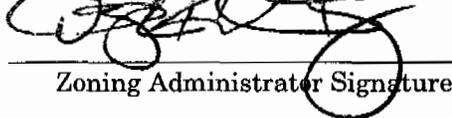
**APPEALS:** The decision on this project may be appealed to the Board of Supervisors by the applicant, an aggrieved person, or any two members of the Coastal Commission. The written appeal must be filed with the Clerk of the Board at 105 East Anapamu Street, Santa Barbara, CA 93101 by 5:00 p.m. on or before the date the **County Appeal Period Ends** (Art. II Sec. 35-182.). If a local appeal is filed, the Board of Supervisors' final decision on the appeal may be appealed to the California Coastal Commission. If no local appeal is filed, the project may not be appealed to the California Coastal Commission, except as provided in Section 13573 of the California Coastal Commission's Administrative Regulations.

**DATE OF PERMIT ISSUANCE:**

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

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

**Zoning Administrator Approval:**

  
 \_\_\_\_\_  
 Zoning Administrator Signature

7-16-07  
 \_\_\_\_\_  
 Date

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

\_\_\_\_\_  
 Print Name

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

**Planning & Development Issuance by:**

\_\_\_\_\_  
 Name

\_\_\_\_\_  
 Date

**ATTACHMENT C: COASTAL DEVELOPMENT PERMIT**  
**CONDITIONS OF APPROVAL**

PROJECT SPECIFIC CONDITIONS

Case #: 06CDH-00000-00029

Project Name: Renker Demo / New Single Family Residence, Detached Residential Second Unit,  
Detached Garage and Hobby Room, Tennis Cabana, Storage Structures, Pools, Spas, Perimeter Wall,  
Electrical Infrastructure, and Associated Landscaping

Project Address: 3151 Padaro Lane, Carpinteria

APN: 005-380-021

1. **Project Description.** This Coastal Development Permit is based upon and limited to compliance with the project description and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

The project is for a Coastal Development Permit to allow demolition of an existing single family residence of approximately 1,875 square feet and detached garage, and construction of a new residence with main floor of approximately 10,378 square feet, upper floor of approximately 2,236 square feet, basement of approximately 2,221 square feet and attached mechanical/storage space of 459 square feet, detached garage of approximately 1,576 square feet with second story hobby room of approximately 559 square feet, tennis cabana of approximately 800 square feet, garden folly structure of approximately 157 square feet, storage shed of approximately 178 square feet, and a detached second residential unit of approximately 1,200 square feet with attached mechanical/storage space of 36 square feet. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, and upgrades to the electrical service to the adjacent parcel to the west (APN 005-380-013). A stucco with a stone cap, and stone perimeter wall of six feet in height in the front yard setback and eight feet in height in the side yard setbacks is also proposed.

The project also includes the location of a utility transformer (height to be determined by Southern California Edison), generator (approximately 4 feet, 5 inches in height), and switchgear (approximately 7 feet, 7 inches in height) partially in the front yard setback, subject to 07MOD-00000-00004. The Modification allows the utility structures to be located eight feet in the front yard setback as measured from the centerline of Padaro Lane, and three feet, six inches in the front yard setback as measured from the road right-of-way. The transformer and generator will be approximately 16 feet, 6 inches from the road right-of-way and approximately 42 feet from the centerline of Padaro Lane.

The following structures currently exist on the parcel: a residence of approximately 1,875 square feet and detached carport/storage shed of approximately 709 square feet. The proposed project will require approximately 4,356 cubic yards of cut and approximately 940 cubic yards of fill. Four protected coast live oaks and five protected non-native trees are proposed for removal, with replacement of 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees.

The property will continue to be served by the Montecito Water District, a private septic system, and the Carpinteria/Summerland Fire Protection District. Access will continue to be taken from Padaro Lane. The property is a 4.57 acre parcel zoned 3-E-1 and shown as Assessor's Parcel

**Number 005-380-021, located at 3151 Padaro Lane in the Carpinteria/Toro Canyon area, First Supervisorial District.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

2. **Tennis Court.** Prior to issuance of this CDP, revised plans shall be submitted to P&D for review and approval that show the finished surface elevation of the tennis court raised to the existing grade at the southern end of the court, at 41 feet. The project description shall be updated to reflect the revised grading quantities.
3. **Other Departments.** The project shall comply with the following Departmental and District letters:
  - a. Air Pollution Control District, dated June 22, 2006
  - b. Environmental Health Services, dated June 14, 2007
  - c. Carpinteria/Summerland Fire Protection District, dated July 19, 2006 and December 14, 2006
  - d. Public Works, Project Clean Water, dated October 17, 2006
  - e. Parks Department, dated July 11, 2007
4. **Print & Illustrate Conditions on Plans.** Prior to issuance of this CDP, all applicable final conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
5. **Permit Compliance.** The applicant shall ensure that the project complies with all approved plans and all project conditions. To accomplish this, the applicant agrees to:
  - a. Contact P&D staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
  - b. Contact P&D staff at **least two weeks** prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and with key construction personnel.
  - c. Pay fees prior to issuance of Coastal Development Permits as authorized under ordinance and fee schedules to cover costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g., non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists and archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.

d. In the event that staff determines that any portion of the project is not in compliance with the conditions of approval of this permit, or approved plans dated July 16, 2007 or an immediate STOP WORK ORDER may be issued.

6. **Construction Hours.** Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions.
7. **Construction Staging Area and Access.** All parking related to construction activities shall be located on-site. No construction parking shall take place on Padaro Lane. Alternative parking may be located at an off-site parking area acceptable to and approved by P&D.

**MONITORING:** Building Inspectors shall spot check and respond to complaints.

8. **Board of Architectural Review.** Exterior elevations, colors, and materials to conform to that approved by the SBAR as part of 06BAR-00000-00036. Final BAR approval shall be received prior to issuance of this Coastal Development Permit. The project shall conform to final SBAR approval in all respects.
9. **Dust Inhibition.** If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:
- d. seeding and watering to revegetate graded areas; and/or
  - e. spreading of soil binders; and/or
  - f. any other methods deemed appropriate by Planning and Development.

**Plan Requirements:** These requirements shall be noted on all plans. **Timing:** Plans are required prior to issuance of Coastal Development Permits.

**MONITORING:** Grading Inspector shall perform periodic site inspections.

10. **Dust Control.** Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below.
- a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
  - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
  - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

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

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

11. **Dust Monitor.** The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. Their duties shall include holiday and weekend periods when work may not be in progress. **Plan Requirements:** The name and telephone number of such persons shall be provided to the APCD. **Timing:** The dust monitor shall be designated prior to the preconstruction meeting with the Permit Compliance Officer.

**MONITORING:** P&D shall contact the designated monitor as necessary to ensure compliance with dust control measures.

12. **Tree Protection and Replacement Plan.** In order to protect existing native trees and minimize adverse effects of grading and construction onsite, the applicant shall implement a tree protection and replacement plan. No ground disturbance including grading for buildings, accessways, easements, subsurface grading, sewage disposal and well placement shall occur within the critical root zone of any native tree unless specifically authorized by the approved tree protection and replacement plan. The tree protection and replacement plan shall include the following:

- a. An exhibit showing the location, diameter and critical root zone of all protected trees located onsite.
- b. Fencing of all trees to be protected at or outside of the critical root zone. Fencing shall be at least three feet in height of chain link or other material acceptable to P&D and shall be staked every 6 feet. The applicant shall place signs stating "tree protection area" at 15 foot intervals on the fence. Said fencing and signs shall be shown on the tree protection exhibit, shall be installed prior to Coastal Development Permit approval and shall remain in place throughout all grading and construction activities.
- c. The tree protection plan shall clearly identify any areas where landscaping, grading, trenching or construction activities would encroach within the critical root zone of any native or specimen tree. All encroachment is subject to review and approval by P&D.
- d. Construction equipment staging and storage areas shall be located outside of the protected area and shall be depicted on project plans submitted for Coastal Development Permit clearance. No construction equipment shall be parked, stored or operated within the protected area. No fill soil, rocks or construction materials shall be stored or placed within the protected area.
- e. All proposed utility corridors and irrigation lines shall be shown on the tree protection exhibit. New utilities shall be located within roadways, driveways or a designated utility corridor such that impacts to trees are minimized.
- f. Any proposed tree wells or retaining walls shall be shown on the tree protection plan exhibit as well as grading and construction plans and shall be located outside of the critical root zone of all protected trees unless specifically authorized.

- g. Any encroachment within the critical root zone of native trees shall adhere to the following standards:
  - i. Any paving shall be of pervious material (gravel, brick without mortar or turf block).
  - ii. Any trenching required within the critical root zone of a protected tree shall be done by hand.
  - iii. Any roots one inch in diameter or greater encountered during grading or trenching shall be cleanly cut and sealed.
  - iv. All "Recommendations for Tree Protection during Construction", as specified by project arborist Peter Winn and dated May 9, 2007, shall be followed.
- h. All trees located within 25 feet of buildings shall be protected from stucco and/or paint during construction.
- i. No permanent irrigation shall occur within the critical root zone of any native tree. Drainage plans shall be designed so that tree trunk areas are properly drained to avoid ponding.
- j. Only trees designated for removal on the approved tree protection plan shall be removed.
- k. Any protected trees which are removed, relocated and/or damaged (more than 20% encroachment into the critical root zone) shall be replaced on a 10:1 (15:1 for blue oak trees) basis with 1 gallon size saplings grown from seed obtained from the same watershed as the project site. Where necessary to remove a tree and feasible to replant, trees shall be boxed and replanted. A drip irrigation system with a timer shall be installed. Trees shall be planted prior to final occupancy and irrigated and maintained until established (five years). The plantings shall be protected from predation by wild and domestic animals, and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
- l. Any unanticipated damage that occurs to trees or sensitive habitats resulting from construction activities shall be mitigated in a manner approved by P&D. This mitigation may include but is not limited to posting of a performance security, tree replacement on a 10:1 (15:1 for blue oak trees) ratio and hiring of an outside consultant biologist to assess the damage and recommend mitigation. The required mitigation shall be done immediately under the direction of P&D prior to any further work occurring on site. Any performance securities required for installation and maintenance of replacement trees will be released by P&D after its inspection and approval of such installation.

**Plan Requirements:** Prior to approval of a Coastal Development Permit, the applicant shall submit grading plans, building plans and the tree protection and replacement plan to P&D for review and approval. All aspects of the plan shall be implemented as approved. **Timing:** Timing on each measure shall be stated where applicable; where not otherwise stated, all measures must be in place throughout all grading and construction activities.

**MONITORING:** P&D shall conduct site inspections throughout all phases of development to ensure compliance with and evaluate all tree protection and replacement measures.

- 13. **Oak Trees.** The applicant shall plant 40 coast live oak trees (ten 24" box and 30 1-gallon seedlings) obtained from locally occurring saplings or seed stock for the four oak trees to be removed. The trees shall be planted, gopher fenced and irrigated (drip irrigation on a timer) for a five (5) year maintenance period.

**Plan Requirements:** This requirement shall be shown on a landscape plan to be reviewed and approved by P&D and BAR. **Timing:** Prior to final inspection, 40 oak coast live oak (*Quercus agrifolia*) trees shall be planted, fenced, and irrigated.

**MONITORING:** P&D shall ensure tree installation and maintenance.

14. **Erosion and Sediment Control.** Best available erosion and sediment control measures shall be implemented during grading and construction. Best available erosion and sediment control measures may include but are not limited to use of sediment basins, gravel bags, silt fences, geo-bags or gravel and geotextile fabric berms, erosion control blankets, coir rolls, jute net, and straw bales. Storm drain inlets shall be protected from sediment-laden waters by use of inlet protection devices such as gravel bag barriers, filter fabric fences, block and gravel filters, and excavated inlet sediment traps. Sediment control measures shall be maintained for the duration of the grading period and until graded areas have been stabilized by structures, long-term erosion control measures or landscaping. Construction entrances and exits shall be stabilized using gravel beds, rumble plates, or other measures to prevent sediment from being tracked onto adjacent roadways. Any sediment or other materials tracked off site shall be removed the same day as they are tracked using dry cleaning methods. **Plan Requirements:** An erosion and sediment control plan shall be submitted to and approved by P&D and Flood Control prior to issuance of Coastal Development Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site. **Timing:** The plan shall be implemented prior to the commencement of grading/construction.

**MONITORING:** P&D staff shall perform site inspections throughout the construction phase.

15. **Concrete Washout Areas.** During construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, waterbody or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to P&D, and this area shall be shown on the construction and/or grading and building plans. **Timing:** The wash off area shall be designated on all plans prior to issuance of Coastal Development Permits. The washout area(s) shall be in place and maintained throughout construction.

**MONITORING:** P&D staff shall check plans prior to approval of Coastal Development Permits and compliance staff shall site inspect throughout the construction period to ensure proper use and maintenance of the washout area(s).

16. **Archeological Surveys.** Ground disturbances shall be subject to a Phase 1 archaeological survey pursuant to County Archaeological Guidelines and if required, Phase 2 and Phase 3 studies shall be performed if significant resources are encountered and potential impacts are unavoidable. All work shall be funded by the applicant. **Timing:** All work shall be completed prior to approval of Coastal Development Permits.

**MONITORING:** P&D shall receive and review study prior to approval of Coastal Development Permits.

17. **Archeological Monitoring.** All earth disturbances including scarification and placement of fill within the archaeological site area shall be monitored by a P&D-qualified archaeologist pursuant to County Archaeological Guidelines. **Plan Requirements and Timing:** Prior to issuance of a Coastal Development Permit, a contract or Letter of Commitment between the applicant and the archaeologist, consisting of a

project description and scope of work, shall be prepared. The contract must be executed and submitted to P&D for review and approval.

**MONITORING:** P&D planners shall confirm monitoring by archaeologist and P&D grading inspectors shall spot check field work.

18. **Archaeological Remains.** In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant.

**Plan Requirements/Timing:** This condition shall be printed on all building and grading plans.

**MONITORING:** P&D shall check plans prior to approval of Coastal Development Permits and shall spot check in the field.

19. **Excavation and Grading.** The applicant shall limit excavation and grading to the dry season of the year (i.e. April 15 to November 1) unless a Building & Safety approved erosion and sediment control plan is in place and all measures therein are in effect. All exposed graded surfaces shall be reseeded with ground cover vegetation to minimize erosion. **Plan Requirements:** This requirement shall be noted on all grading and building plans. **Timing:** Graded surfaces shall be reseeded within 4 weeks of grading completion, with the exception of surfaces graded for the placement of structures. These surfaces shall be reseeded if construction of structures does not commence within 4 weeks of grading completion.

**MONITORING:** P&D shall site inspect during grading to monitor dust generation and 4 weeks after grading to verify reseeded and to verify the construction has commenced in areas graded for placement of structures.

20. **Drainage Plans.** Drainage shall be consistent with approved drainage plans. **Plan Requirements:** Prior to approval of Coastal Development Permits, a drainage plan shall be submitted to P&D and Flood Control for review and approval. The plan shall include the location(s) of all proposed pipelines, the entire length of all proposed pipelines, trees located within fifteen feet of the pipeline, pipe diameters, and locations where the pipe(s) would surface, and amount of water that would flow from each pipeline. **Timing:** The components of the drainage plan shall be implemented prior to approval of Coastal Development Permits.

**MONITORING:** P&D shall site inspect during grading.

21. **Retention of Stormwater Runoff.** The project shall provide for on-site retention of storm water runoff, infiltration, and recharge where feasible. Feasibility shall be determined by the P&D Registered Geologist and Flood Control District engineer. Recharge systems shall be developed in conjunction with the Flood Control District and P&D. **Plan Requirements:** A drainage plan showing the location and design parameters of the bioswales and other retention methods shall be submitted to P&D and Flood Control for review and approval. **Timing:** Retention and/or recharge basins shall be installed (landscaped and irrigated subject to P&D and Flood Control District approval) prior to occupancy clearance.

**MONITORING:** Planning and Development shall site inspect for installation and maintenance of landscaping. Flood Control sign off is required on final grading/drainage plans.

22. **Concrete and Pavement Application.** To prevent storm water contamination during roadwork or pavement construction, concrete, asphalt, and seal coat shall be applied during dry weather. Storm drains and manholes within the construction area shall be covered when paving or applying seal coat, slurry, fog seal, etc. **Plan Requirements and Timing:** These requirements shall be specified on the grading and building plans submitted to P&D prior to issuance of Coastal Development Permits.  
**MONITORING:** P&D shall site inspect, as needed during construction.
23. **Construction Materials.** Construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which minimizes the potential for storm water contamination. **Plan Requirements and Timing:** Bulk storage locations for construction materials and any measures proposed to contain the materials shall be shown on the grading plans submitted to P&D for review prior to issuance of Coastal Development Permits.  
**MONITORING:** P&D shall site inspect prior to the commencement of, and as needed during all, grading and construction activities.
24. **Recycling of Demolition Materials.** Demolition and/or excess construction materials shall be separated onsite for reuse/recycling or proper disposal (e.g., concrete asphalt). During grading and construction, separate bins for recycling of construction materials and brush shall be provided onsite. **Plan Requirements:** This requirement shall be printed on the grading and construction plan. Permittee shall provide P&D with receipts for recycled materials or for separate bins. **Timing:** Materials shall be recycled as necessary throughout construction. All materials shall be recycled prior to occupancy clearance.  
**MONITORING:** P&D shall review receipts prior to occupancy clearance.
25. **Additional Permits Required.** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain Coastal Development and Building Permits from Planning and Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Zoning Administrator. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
26. **Landscape Requirements.** Landscaping shall be maintained for the life of the project.
27. **NTPO Condition.** Recorded Notice to Property Owner documents are necessary to ensure that the tennis cabana and the guest wing of the main residence will not be rented as separate units and that the residential second unit will not be sold separately from the primary residence. The property owner shall sign and record the documents prior to issuance of Coastal Development Permits.
28. **Indemnity and Separation Clauses.** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

29. **Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

### ***APPEALABLE GDP-H CONDITIONS***

30. The review authority's approval of this Appealable CDP shall expire one year from the date of approval or, if appealed, the date of action by the Board or the California Coastal Commission on the appeal, if the permit for use, building or structure permit has not been issued.
31. The use and/or construction of the building or structure, authorized by this approval cannot commence until the Coastal Development Permit and necessary Building Permits have been issued. Prior to the issuance of the Coastal Development Permit, all of the project conditions that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Plans accompanying this Coastal Development Permit shall contain all project conditions.

# ATTACHMENT D: MODIFICATION CONDITIONS OF APPROVAL

## PROJECT SPECIFIC CONDITIONS

Case #: 07MOD-00000-00004

Project Name: Renker Front Yard Setback Modification for Utility Structures

Project Address: 3151 Padaro Lane, Carpinteria

APN: 005-380-021

1. **Project Description.** This Modification is based upon and limited to compliance with the project description and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

**The project is for a Modification to the required 50-foot front yard setback of eight feet to allow for the location of a utility transformer (height to be determined by Southern California Edison), generator (approximately 4 feet, 5 inches in height), and switchgear (approximately 7 feet, 7 inches in height). The transformer and generator will be approximately 16 feet, 6 inches from the road right-of-way and approximately 42 feet from the centerline of Padaro Lane. The following structures currently exist on the parcel: a residence of approximately 1,875 square feet and detached carport/storage shed of approximately 709 square feet. The property will continue to be served by the Montecito Water District, a private septic system, and the Carpinteria/Summerland Fire Protection District. Access will continue to be taken from Padaro Lane. The property is a 4.57 acre parcel zoned 3-E-1 and shown as Assessor's Parcel Number 005-380-021, located at 3151 Padaro Lane in the Carpinteria/Toro Canyon area, First Supervisorial District.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

2. **Board of Architectural Review.** Exterior elevations, colors, and materials to conform to that approved by the SBAR as part of 06BAR-00000-00036. The project shall conform to final SBAR approval in all respects.
3. **Additional Permits Required.** Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain Coastal Development and Building Permits from Planning and Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Commission. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
4. **Landscape Requirements.** Landscaping shall be maintained for the life of the project.

5. **Indemnity and Separation Clauses.** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
6. **Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
7. This Modification is not valid until a Coastal Development Permit for the development and/or use has been obtained. Failure to obtain said Coastal Development Permit shall render this Modification null and void. Prior to the approval of the Coastal Development Permit, all of the conditions listed in this Modification that are required to be satisfied prior to approval of the Coastal Development Permit must be satisfied. Upon issuance of the Coastal Development Permit, the Modification shall be valid. The effective date of this approval shall be the date of expiration of the appeal period, or if appealed, the date of action by the Board.
8. This Modification shall expire one year from the date of approval if a Coastal Development Permit has not been issued for the modified building or structure. Once the building or structure has been granted a Coastal Development Permit, the Modification shall have the same expiration date as the issued Land Use Permit.
9. Any use authorized by this Modification shall immediately cease upon expiration of this Modification. Modification renewals under Section 35-179.7 of the Coastal Zoning Ordinance (Article II) must be applied for prior to expiration of the Modification.

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
 88 SOUTH CALIFORNIA STREET, SUITE 200  
 VENTURA, CA 93001-4508  
 VOICE (805) 585-1800 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

**SECTION I. Appellant(s)**

Name: Chairman Patrick Kruer and Commissioner Mary Shallenberger - CCC

Mailing Address: 89 So. California St., 2nd Floor

City: Ventura

Zip Code: 93001

Phone: 805-585-1800

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Demolition of an existing single family residence of approximately 1,875 sq. ft. and detached garage, and construction of a new residence with main floor of approximately 10,378 sq. ft., upper floor of approximately 2,236 sq. ft., basement of approximately 2,221 sq. ft. and attached mechanical/storage space of 459 sq. ft., detached garage of approx. 1,576 sq. ft. with second story hobby room of approximately 559 sq. ft., tennis cabana of approximately 800 sq. ft., garden folly structure of approximately 157 sq. ft., storage shed of approximately 178 sq. ft. and a detached second residential unit of approximately 1,200 sq. ft. with attached mechanical/storage space of 35 sq. ft. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes and upgrades to the electrical service, and stone perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 4,356 cu. yds. of cut and approximately 940 cu. yds. of fill.

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

3151 Padaro Lane, Santa Barbara County

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-4-STB-07-113

Exhibit 6  
 A-4-STB-07-113  
 Appeals

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001-4508  
VOICE (805) 585-1800 FAX (805) 641-1732



|             |                   |
|-------------|-------------------|
| DATE FILED: | Jan 9-4-07        |
| DISTRICT:   | So. Central Coast |

**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: 7/16/07

7. Local government's file number (if any): 06CDH-00000-00029 07MOD-00000-00004

**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 and Stacy Renker, c/o La Rue, Corrigan & McCormick, LLP, 5959 Topanga Canyon Blvd, Suite 180, Woodland Hills, CA 91367

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

(1) Jennifer Welch, Penfield & Smith, 1327 Del Norte Road, Suite 200, Camarillo, CA 93010

(2)

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**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 attached



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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SEE ATTACHED

RECEIVED  
SEP 04 2007

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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

SECTION V. Certification

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

Signed: Mary K Schallenberger  
Appellant or Agent

Date: 9/4/07

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

(Document2)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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SEE ATTACHED

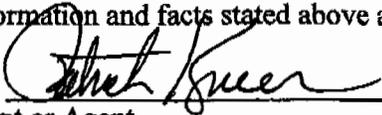
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Date: \_\_\_\_\_

(Document2)

## Exhibit A

Appeal of decision by Santa Barbara County granting a coastal development permit for demolition of an existing single family residence of approximately 1,875 sq. ft. and detached garage, and construction of a new residence with main floor of approximately 10,378 sq. ft., upper floor of approximately 2,236 sq. ft., basement of approximately 2,221 sq. ft. and attached mechanical/storage space of 459 sq. ft., detached garage of approx. 1,576 sq. ft. with second story hobby room of approximately 559 sq. ft., tennis cabana of approximately 800 sq. ft., garden folly structure of approximately 157 sq. ft., storage shed of approximately 178 sq. ft, and a detached second residential unit of approximately 1,200 sq. ft. with attached mechanical/storage space of 35 sq. ft. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes and upgrades to the electrical service, and stone perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 4,356 cu. yds. of cut and approximately 940 cu. yds. of fill. Four protected coast live oaks and five protected non-native trees would be removed. Project includes planting of 40 coast live oaks and 15 specimen trees. The project includes the location of a utility transformer, generator, and switchgear partially within the front yard setback, subject to Modification 07MOD-00000-00004. The project is appealed on the following grounds:

The project is inconsistent with the County of Santa Barbara's Local Coastal Program (LCP) policies regarding environmentally sensitive habitat areas, monarch butterfly habitat and native and non-native protected trees. Specifically, LCP Policies 1-1, 1-2, 9-22, 9-23, 9-35, 9-36; Coastal Act Sections 30107.5 and 30240 as incorporated into the LCP pursuant to Policy 1-1; Article II of the Zoning Code Sections 35-97.18 and 35.140; and Toro Canyon Plan Policies BIO-TC-13, BIO-TC-13.1, BIO-TC-13.2, (see below) limit the removal of native and non-native protected trees; require development to be sited and designed to avoid damage to native protected trees, non-native roosting and nesting trees, and non-native protected trees; and provide specific protections for oak trees and monarch butterfly trees.

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

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

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

Section 30240 of the Coastal Act states:

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

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

Policy 1-2 (Resource Protection):

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

Policy 9-22 Butterfly Trees:

**Butterfly trees shall not be removed except where they pose a serious threat to life of property, and shall not be pruned during roosting and nesting season.**

Policy 9-23 Butterfly Trees:

**Adjacent development shall be set back a minimum of 50 feet from the trees.**

Policy 9-35 Native Plant Communities (e.g., coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species & other plants of special interest):

**Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.**

Policy 9-36 Native Plant Communities:

**When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.**

Sec. 35-97.18. Development Standards for Native Plant Community Habitats.

**Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.**

**1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.**

**2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.**

Sec. 35-140. Tree Removal.

**35-140.1 Purpose and Intent**

*The purpose of this section is to regulate the removal of certain trees within the Coastal Zone. The intent is to preserve healthy trees that are important for the protection of habitat areas and the scenic and visual quality of the County.*

**Sec. 35-140.2 Applicability.**

*A Coastal Development Permit under Sec. 35-169 shall be required for the removal of any tree which is six inches or more in diameter measured four (4) feet above the ground and six feet or more in height and which is 1) located in a County street right-of-way; or 2) located within 50 feet of any major or minor stream except when such trees are removed for agricultural purposes; or 3) oak trees; or 4) used as a habitat by the Monarch Butterflies.*

**Sec. 35-140.3 Processing.**

*In addition to the requirements for the issuance of a coastal development permit set forth in Sec. 35-169, a coastal development permit for the removal of trees shall not be issued unless the Coastal Planner makes one of the following findings:*

- 1. The trees are dead.*
- 2. The trees prevent the construction of a project for which a coastal development permit has been issued and project redesign is not feasible.*
- 3. The trees are diseased and pose a danger to healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning & Development Department by a licensed tree surgeon.*
- 4. The trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.*

**Toro Canyon Plan (TCP) Policy BIO-TC-13:**

*Native protected trees and non-native protected trees shall be preserved to the maximum extent feasible.*

**Toro Canyon Plan Development Standard BIO-TC-13.1:**

*A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "non-native protected tree" is at least 25 inches in diameter at this height. Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.*

**Toro Canyon Plan Development Standard BIO-TC-13.2:**

*Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/use, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.*

Both the Santa Barbara County Coastal Plan and the Toro Canyon Plan (a certified component of the LCP) contain policies providing protection for both native and non-native protected trees. The County's staff report indicates that the proposed project would require the removal of four protected Coast Live Oak trees (*Quercus agrifolia*) and five protected non-native trees (three cypress and two eucalyptus). One oak to be removed is located within the required Fire Department driveway hammerhead, another oak trees is located at the detached garage/hobby room and the other two oaks are located together along the proposed eastern portion of the main residence and water feature. Four of the five non-native protected trees (two Monterey Cypress 40" & 28" diameter; two Blue Gum Eucalyptus 26" & 48" diameter) would be removed for the proposed tennis court. The fifth non-native protected tree (Monterey Cypress 30" diameter) is located along the proposed western portion of the main residence.

There are four issues that result in inconsistency with the certified LCP: (1) oak tree removal; (2) removal of non-native protected trees; (3) encroachment of development into the dripline and critical root zones by the perimeter wall; and (4) lack of analysis of the potential for the onsite trees to serve as monarch butterfly habitat.

### 1. Oak Tree Removal

As stated above four oak trees are proposed to be removed for this project. However, the findings to allow removal of oak trees, pursuant to Sec. 35-140 of the certified Zoning Code, have not been made. Sec. 35-140 allows removal of oak trees only if the trees are dead or diseased or in a weakened state that would cause imminent danger to persons or property.

The County's analysis states that three of the four oak trees are unhealthy or damaged:

***The other three oaks proposed for removal are 24", 6", and 10". All three are in poor health due to damage during a windstorm or growth suppression from adjacent trees, per the Arborist Reports and Tree Survey prepared by the project arborist. A portion of the main residence and a proposed water feature will be placed where the 6" and 10" oaks are located, and the garage will be sited where the 24" oak is located.***

The County's analysis also found that it would be possible to redesign the project to avoid removal of the healthy oak tree that is proposed to be removed:

***One 16" Oak to be removed is healthy but is located within a driveway hammerhead required for Fire Department access. If the residence was reduced in size or if the guest wing was reconfigured, the hammerhead could be moved so that it does not require the loss of this mature tree. As the project is proposed, however, the required hammerhead necessitates the loss of the oak.***

The Updated Tree Survey, prepared by Peter Winn, Arborist, dated March 16, 2007 indicated that one of the oak trees proposed for removal was split in two; two of the oak trees had suppressed, poor branch structure; and one was healthy. The tree survey did not state whether there was an imminent threat to life or property or what risks or hazards might be attributed to the existing conditions. Given the distance from existing development, it appears that the trees would require removal associated with potential

*future* threats to life or property resulting from siting of the proposed development. As a result, the project is inconsistent with Sec. 35-140 of the LCP.

Additionally, LCP Policies 9-35 and 9-36 require development to be sited, designed, and constructed to minimize impacts to native vegetation. Specifically, grading and paving shall not adversely affect root zone aeration and stability of native trees. Further, Toro Canyon Plan Policy BIO-TC-13 requires that native trees be preserved to maximum extent feasible. Development Standard BIO-TC-13.1 requires that sufficient area be provided from any grading to protect the critical root zones of native protected trees. Development Standard BIO-TC-13.2 specifically states that development shall be sited and designed at an appropriate scale, including size of main structure footprint, size and number of accessory structures/use, and total areas of paving, to avoid damage to native protected trees such as oaks.

Given the extent of the property and the location of the oak trees, it is feasible to site and design the project to avoid removal of the oak trees. Therefore, the project is not consistent with LCP Policies 9-35, 9-36 or Toro Canyon Policies BIO-TC-13, BIO-TC-13.1, and BIO-TC-13.2. Though the applicant is proposing mitigation planting of 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings), avoidance of damage to native trees is required by the above stated policies as a first measure.

## **2. Removal of Non-Native Protected Trees**

As stated above, the project would require the removal of five non-native protected trees, including three Monterey Cypress and two Blue Gum Eucalyptus. Non-native protected trees are defined in Toro Canyon Plan Development Standard BIO-TC-13.1 for trees that are at least 25 inches in diameter as measured 4.5 feet above level ground.

The Updated Tree Survey, prepared by Peter Winn, Arborist, dated March 16, 2007 indicates that four of the trees, two eucalyptus and two cypress, are healthy and would be removed to accommodate the tennis court. The fifth tree was identified as having "major decay, wind damage, leans to southwest, hazardous, major trunk decay at the base." This tree is located in the area proposed for the garage/hobby room structure.

Toro Canyon Plan Policy BIO-TC-13 requires that non-native protected trees be preserved to maximum extent feasible. Additionally, Toro Canyon Plan Development Standard BIO-TC-13.2 requires siting and design changes, including size of footprint or number of accessory structures, to avoid damage to non-native protected trees.

Given that the four healthy non-native protected trees would be removed to allow for an accessory sports court, development can be feasibly redesigned, including relocation or elimination of the tennis court, to avoid removal of the four healthy trees. Therefore the project is not consistent with Toro Canyon Policies BIO-TC-13 and BIO-TC-13.2. Though the applicant is proposing mitigation planting of 15 specimen trees, avoidance

of damage to non-native trees is required by the above stated policies as a first measure.

### **3. Encroachment Into Oak Trees**

In addition to the removal of oak trees, a perimeter wall is proposed that would encroach into the driplines and critical root zones of several oak trees along the western perimeter of the property.

The County's analysis reached the following conclusion:

***Other than the proposed perimeter wall, the proposed development will not impact any of the critical root zones of the remaining protected oak trees by more than 20%, triggering mitigation.***

The County further concluded that the perimeter wall under the oak tree canopy is allowable with the following provision:

***The proposed perimeter wall will be conditioned so that the project engineer and arborist will be onsite while the caisson footings are being dug, to avoid oak tree roots as much as possible.***

Though the County determined that the wall would impact protected oak trees, it concluded that the critical root zones would not be impacted by more than 20%. This 20% standard is not a certified component of the LCP and the remaining policies which require protection of oak trees do not support the County's conclusions.

LCP Policies 9-35 and 9-36 require development to be sited, designed, and constructed to minimize impacts to native vegetation. Specifically, grading and paving shall not adversely affect root zone aeration and stability of native trees. Further, Toro Canyon Plan Policy BIO-TC-13 requires that native trees be preserved to maximum extent feasible. Development Standard BIO-TC-13.1 requires that sufficient area be provided from any grading to protect the critical root zones of native protected trees. Development Standard BIO-TC-13.2 specifically states that development shall be sited and designed at an appropriate scale, including size of main structure footprint, size and number of accessory structures/use, and total areas of paving, to avoid damage to native protected trees such as oaks.

Given the size of the lot and the fact that a perimeter wall is not a necessary element for single family residential development, the proposed development can be feasibly redesigned, including relocation or elimination of the perimeter wall, to avoid the dripline of the oak canopy and critical root zones. Therefore, the project is not consistent with LCP Policies 9-35, 9-36 or Toro Canyon Policies BIO-TC-13, BIO-TC-13.1, and BIO-TC-13.2.

### **4. Potential Monarch Butterfly Habitat**

The native and non native trees on the subject site, including those proposed for removal, may be serving as monarch butterfly habitat, given the proximity to the major aggregation site. However, the County analysis does not address the potential for the

**3151 Padaro Lane, Santa Barbara County (Renker SFR)  
Case No. 06CDH-00000-00029 and 07MOD-00000-00004  
Grounds for Appeal**

trees on site to serve as monarch butterfly habitat, and presumably monarch butterfly surveys were not required.

The subject property is located approximately 125 feet from a property known to harbor a major monarch butterfly aggregation site. This monarch butterfly site, identified as Site 97 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* report (Meade, November 1999) is located at 3177 Padaro Lane, and is summarized as follow:

***Site 97. This location is not the most populated Monarch colony in Santa Barbara County south of Ellwood. Large clusters form in the eucalyptus trees in the front yard of this residence in a dense grove. This site is to the west of another site that once harbored most of the butterflies clustering in this area... Formerly, the Padaro aggregation was on trees beside the long driveway of 3459. Now, large dense clusters form well back from the road in eucalyptus at 3177. Some butterflies patrol among trees all along Padaro Lane, but are concentrated near 3177 Padaro Lane.***

The site at 3177 Padaro Lane is reported to be a permanent aggregation site (i.e., butterfly aggregation stays in location through the entire aggregation period from October through February or March), comprised of eucalyptus, and habitat health rating of “good.”

LCP Policy 9-22 restricts the removal of butterfly trees except where they pose a serious threat to life or property. Additionally, Policy 9-22 states that butterfly trees shall not be pruned during roosting and nesting season. Policy 9-23 requires adjacent development to be set back a minimum of 50 feet from monarch butterfly trees.

The County’s LCP protects monarch butterfly habitat. Policies 9-22 and 9-23 are interpreted to include foraging, transitory, or autumnal sites which support monarch aggregation sites. However, the County’s coastal development permit for the subject project does not indicate that a biological evaluation was completed on the property, which would include an analysis of whether the site serves as monarch butterfly habitat in conjunction with the established habitat nearby. If any of the trees on site serve as monarch butterfly habitat, then removal of such trees would not be permitted under the provisions of the LCP unless they were a threat to life or property.

Without the proper biological evaluation, the monarch butterfly policies of the LCP cannot be adequately implemented and the County cannot make the required finding of consistency with the policies and provisions of the certified LCP. For the above reasons, the lack of information raises question as to the project’s consistency with LCP Policy 9-22 and LCP Policy 9-23.

Thus, for the reasons discussed above, the appeals raise substantial issues with regard to the consistency of the approved project with the environmentally sensitive habitat areas, monarch butterfly habitat and native and non-native protected tree LCP provisions.