

CALIFORNIA COASTAL COMMISSION

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49th Day: February 26, 2007
Staff: RP-SF
Staff Report: January 31, 2007
Hearing Date: February 15, 2007
Commission Action:

**APPEAL STAFF REPORT
SUBSTANTIAL ISSUE**

APPEAL NO.: A-2-SMC-07-001

APPLICANT: Dan and Denise Sterling

LOCAL GOVERNMENT: San Mateo County

LOCAL DECISION: Approval with Conditions

PROJECT LOCATION: 300 San Juan Ave., El Granada (San Mateo County), APN 047-320-060

PROJECT DESCRIPTION: Conversion of an agricultural well to domestic use, construction of a new 6,456 square foot single family residence, placement of up to seven water storage tanks for fire suppression, installation of a septic system, construction and grading of a private access driveway, and legalization of an existing mobile home as temporary housing during construction, on a 143-acre planned agriculture development (PAD) zoned parcel.

APPELLANTS: Commissioners Patrick Kruer and Meg Caldwell

**SUBSTANTIVE FILE
DOCUMENTS:** See Appendix A

**STAFF
RECOMMENDATION:** Substantial Issue Exists

- EXHIBITS:**
1. Location Map
 2. Boundary & Topographic Survey
 3. Site Plan
 4. Single Family Residence Project Plans
 5. Sterling Agricultural Land Management Plan
 6. County Staff Report
 7. Notice of Final Local Action
 8. Appeal

SUMMARY OF STAFF RECOMMENDATION

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

The County of San Mateo approved Coastal Development Permit No. PLN2000-00812 for conversion of an agricultural well to domestic use, construction of a new 6,456 square foot single family residence, placement of up to seven water storage tanks for fire suppression, installation of a septic system, construction and grading of a private access driveway, and after the fact legalization of an existing mobile home as temporary housing during construction, on a 143-acre planned agriculture development (PAD) zoned parcel (exhibits 3 & 4).

Historically, dry pasture has been the predominant agricultural use of the site. The site at one time grazed up to 30-head of cattle. Currently, the applicants graze 10-head of cattle year-round, and have indicated their plans to continue this rotational grazing. Several acres of prime soils are located on the floodplains of El Granada Creek. These lands are currently not in cultivation, and there is an unpermitted mobile home and associated residential uses located on them.

The appellants contend that the approved project is not consistent with the agriculture policies of the County's certified Local Coastal Program ("LCP") because there is insufficient evidence to find that the project as approved and conditioned by the County will not have significant adverse impacts on coastal resources by impermissibly converting agricultural land, will not diminish the ability to keep agricultural lands in agricultural production, and will ensure that the lands are kept in agricultural production (exhibit 8).

Staff recommends that the Commission find that appellants' contentions are valid grounds for an appeal and raise a substantial issue of conformity of the approved development with the certified LCP, because the approved development fails to establish that the maximum amount of agricultural lands would be kept in agricultural production, necessary water supplies for agricultural and watershed activities would not be diminished, the productivity of agricultural lands would not be diminished, and agricultural lands would not be impermissibly converted to non-agricultural land uses.

The motion to adopt the staff recommendation of Substantial Issue is found on page no. 3

STAFF NOTES

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the de novo portion of the appeal hearing on the merits of the project will be held in the future.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

I. STAFF RECOMMENDATION

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

MOTION

I move that the Commission determine that Appeal No. A-2-SMC-07-001 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

STAFF RECOMMENDATION

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE

The Commission hereby finds that Appeal No. A-2-SMC-07-001 presents a substantial issue with respect to the grounds on which the appeal has 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.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. LOCAL GOVERNMENT ACTION

December 3, 1999:

San Mateo County planning staff issues Dan Sterling a Certificate of Exclusion for a Coastal Development Permit for the drilling of one agricultural well on the property.

November 16, 2000:

Dan and Denise Sterling apply to San Mateo County for a coastal development permit to subdivide a 152.89-acre parcel into two parcels, 4.79 acres and 148.1 acres, conversion of three agricultural wells to domestic wells, construction of a new 6,456 square foot single-family residence on the larger of the two parcels, placement of seven water storage tanks for fire suppression and legalization of an existing mobile home as temporary housing during construction.

September 12, 2001:

San Mateo County planning staff issues Dan Sterling a Certificate of Exclusion for a Coastal Development Permit for the drilling of two agricultural wells on the property.

March 9, 2005:

San Mateo County Planning Commission considers a Planned Agricultural District (PAD) permit and Coastal Development Permit (CDP), a Minor Subdivision, certification of a Mitigated Negative Declaration to subdivide a 152.89-acre parcel into two parcels, 4.79 acres and 148.1 acres, conversion of three agricultural wells to domestic wells, construction of a new 6,456 square foot single-family residence on the larger of the two parcels, placement of seven water storage tanks for fire suppression and legalization of an existing mobile home as temporary housing during construction.

The Planning Commission continues the matter to April 27, 2005 in order to allow time for staff to prepare a supplemental staff report that included comments from the Agricultural Advisory Committee, an accurate prime soils based map based on County map resources, an updated and accurate constraints map, a map indicating the extent of the eucalyptus groves on the property, and information regarding the most accurate size of the parcel and potential plans for access to parcel B.

April 27, 2005:

San Mateo re-considers the project described above and continued the matter to June 22, 2005 to allow for the applicants to submit a complete boundary survey prepared by a licensed surveyor, and for staff to identify alternate house sites for Parcel A, relative to the known and mapped constraints on the parcel, including a visual assessment as seen from Cabrillo Highway, and for planning staff to further review and confirm the compliance with all applicable PAD and LCP findings.

June 22, 2005:

Planning Commission continues the matter to July 13, 2005 to allow time for staff to further evaluate materials recently submitted by applicant, and to evaluate possible constraints that may be applied to the development of Parcel B and delineation of the building envelope.

July 13, 2005:

Planning Commission continues the matter to August 10, 2005 in order to allow time for staff to conduct further density analysis to ensure the proper number of density credits; review the property survey with the Department of Public Works to ensure that it fully and correctly describes the parcel; determine whether or not the Army Corps of engineers will allow a water pipe to cross the creek; and determine the feasibility of placing a water line from the existing well (serving the mobile home) on project Parcel A, down to San Juan Ave. east of the creek and long and with the San Juan Ave. road right-of-way for an adequate distance until it can re-enter the parcel and connect to an alternative house site west of the creek.

August 10, 2005:

Planning Commission continues the matter to September 14, 2005 in order to allow time for the applicant to submit all revisions, and staff ample time to review revised plans against all applicable PAD, subdivision regulations, General Plan, and LCP Policies.

September 14, 2005:

Planning Commission denies the CDP, finding that the project does not comply with the San Mateo County LCP, particularly in regards to

- a. "Locating and Planning New Development" Component Policy 1.8 (Land Uses and Development Densities in Rural Areas): The subdivision, particularly with regard to the location and configuration of Parcel B, poses potentially adverse visual impacts arising from its future but presently unknown development, as well as potential cumulative impacts on other coastal resources;
- b. "Agriculture" Component Policy 5.9 (Division of Land Suitable for Agriculture Designated as Agriculture): The subdivision particularly with regard to the location and configuration of Parcel B, does not ensure that potential agricultural productivity would be protected.
- c. "Visual Resources" Component Policy 8.5 (Location of Development): The future development of proposed Parcel B poses potentially adverse visual impacts, both relative to its currently unknown but potential scale and character compared to nearby single-family development across San Juan Avenue, as well as visibility from points west within the Cabrillo Highway Scenic Corridor.

September 20, 2005:

The applicants appeal the Planning Commission's denial of the project to the San Mateo County Board of Supervisors.

February 22, 2006:

The applicants formally withdraw the minor subdivision portion of the project and retain the request for a single family residence on a 143-acre parcel, and resubmit an appeal of the Planning Commission's Denial to the San Mateo County Board of Supervisors, based on the following:

- a. The new revised location (for the residence) is on non-prime soils and greater than 50 feet from Deer Creek.
- b. All necessary documentation of impacts from the revised location have been submitted, including: revised biological report, revised plot plan and elevations, grading, driveway and drainage plan, revised agricultural land management plan, septic plan, and other project data.
- c. The revised house location was designed to be in conformance with all San Mateo County requirements and has been reviewed by staff
- d. The minor subdivision was eliminated from the project
- e. As part of the revised application, the agricultural use will be restored on the portion of the property that contains prime soils and remove the existing house trailer.

December 12, 2006:

San Mateo County Board of Supervisors approve the revised project to convert an agricultural well to domestic use, construct a new 6,456 square foot single-family residence, placement of up to seven water storage tanks for fire suppression, installation of a septic system, construction and grade of a private access driveway, and legalization of an existing mobile home as temporary housing during construction.

The County's approval of the Coastal Development Permit finds that the project as conditioned conforms to the plans, policies, requirements and standards of the certified LCP, and conforms to the specific findings required by the policies of the certified LCP.

The County's approval is contingent upon 32 special conditions, as shown in exhibit 7, including those special conditions required by the Planning Division, Building Inspection Section, Department of Public Works, Environmental Health Division, and County Fire/Half Moon Bay Fire Protection District. These conditions require, among other conditions: (4) the submittal of a detailed erosion and sediment control plan; (5) design and implementation of appropriate stormwater pollution control measures during construction and residential use; (7) that the driveway/turnaround be designed such that soil/root compaction of any nearby trees to be preserved is minimized and that runoff does not create erosion problems for adjacent trees, and that tree sapling removal is minimized; (8) the allowance for removal of eight significant trees, with tree replacement occurring at a 1:1 ratio for each tree removed, with 15-gallon sized trees of an indigenous species suitable to the local environment; (9) the submittal of a revegetation and landscape plan clearly depicting tree removal and replacement, to minimize visual impacts resulting from the construction of the driveway, turnaround, new residence, and water tanks as seen from adjacent properties; (10) that the construction area be isolated with exclusionary fencing to exclude California Red Legged Frog (CRLF) and San Francisco Garter Snake (SFGS); (11) preconstruction surveys for CRLF and SFGS and remove any vegetation that may provide cover or conceal these species; (12) the education of construction workers by a qualified biologist on procedures to identify CRLF and SFGS and what to do if found; (13) that a qualified biologist inspect the worksite at least 3 times per month and report to the Planning Division; (15) that at the time of building permit application, the applicant submit information to the building inspection section related to the septic system for review and approval by the environmental health division; (16) that natural colors and materials be used for the residence, and water tanks painted dark green, with a requirement to submit color/material samples at the time of application for a building permit; (18) that all utilities serving the project be placed

underground; (19) that in the event the applicant wishes to convert the trailer to an affordable housing unit, then prior to the final building inspection approval of the main house, the applicant submit a CDP and PAD permit application.

B. FILING OF APPEAL

The Commission received the Notice of Final Local Action for the County's approval of the subject development on December 21, 2006. In accordance with the Commission's regulations, the 10-working-day appeal period ran from December 22, 2006 through January 8, 2007 (14 CCR Section 13110). The appellants (Commissioners Pat Kruer and Meg Caldwell) timely submitted their appeal (exhibit 8) to the Commission office on January 8th, within 10 working days of receipt by the Commission of the Notice of Final Local Action. The local record was requested on January 8, 2007. To date, the Commission has not received the local record from the County.

C. APPELLANTS' CONTENTIONS

On January 8, 2007, Commissioners Patrick Kruer and Meg Caldwell appealed the County of San Mateo's decision to approve the project. The appellants contend that there is insufficient evidence to find that the project as approved and conditioned by the County will not have significant adverse impacts on coastal resources, will not diminish the ability to keep agricultural lands in agricultural production, and will ensure that all agricultural lands are kept in agricultural production, inconsistent with agricultural protection policies of the LCP. The appellants further contend that due to a lack of a thorough agricultural viability and conversion analysis on the property, as well as information as to whether the conversion of one agricultural well to domestic use to serve the proposed residence provides a safe and adequate source of water, and whether adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished, the County's decision to approve the project is inconsistent with the LCP.

The full text of the contentions is included as exhibit 8.

D. APPEAL PROCESS

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be

appealed, whether approved or denied by the city or county. The grounds for an appeal of a County approval that is located between the sea and the first public road paralleling the sea are that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act.

The project approved by the County of San Mateo is appealable to the California Coastal Commission because single family residences are not designated the “principal permitted use” in the Planned Agriculture District (PAD).

E. PROJECT LOCATION AND SITE DESCRIPTION

The project approved by the County is located at 300 San Juan Avenue in unincorporated El Granada of San Mateo County (APN 047-320-060). The subject property is located approximately ½ mile east of the coast at the eastern border of El Granada just east of the developed area of El Granada on lands zoned Planned Agriculture Development (PAD) (exhibit 1). The property is bordered on the north and east by 4200-acres of lands owned by the Peninsula Open Space Trust (POST), also zoned PAD, and on the south and west by single-family residential development within the town of El Granada.

The property is approximately 143 acres in size, and consists of coastal hillsides and valleys with moderate to steep slopes, sloping northwest from San Juan Avenue. The northern portions of the property are covered in brush, grasslands, and large stands of mature eucalyptus trees. The eastern portion of the property is bisected by El Granada Creek, which helps supply an agricultural water impoundment on the property, located approximately 700-feet from the approved residence. The parcel is currently developed with three agricultural wells and a mobile home, which is serving as the current residence for the owners. The mobile home was placed on the site without any permits. As approved by the County, the unit must be removed from the site after construction of the proposed residence, unless the applicants apply for a coastal development permit to retain the unit as affordable housing on the site. The approved building envelope for the new single family residence is located in an open disturbed portion of the property dominated by grassland, between non-native Monterey pine forest and eucalyptus forest. The site is surrounded by blue gum eucalyptus forest, arroyo willow riparian scrub, non-native ruderal grassland, and non-native Monterey pine forest. The approved residence is located approximately 50-feet away from El Granada Creek.

F. PROJECT DESCRIPTION

The project approved by the County consists of: (1) the conversion of an agricultural well to domestic use; (2) construction of a new 6,456 square foot single family residence; (3) the installation of up to seven water storage tanks for fire suppression; (4) installation of a septic system; (5) construction and grading of a private access driveway from the end of San Juan Avenue to the house site; (6) grade approximately 690 cubic yards of combined cut and fill associated with the driveway/turnaround, house and water tanks; (7) removal of eight significant trees (Blue Gum eucalyptus and 3 Monterey pine trees) to accommodate the access drive/turnaround and house site; and (8) legalization of an existing mobile home as temporary housing during construction (exhibits 3 & 4).

G. SUBSTANTIAL ISSUE ANALYSIS

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) 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 this division.

The contention raised in the appeal presents potentially valid grounds for appeal in that it alleges the project's inconsistency with policies of the certified LCP.

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

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

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

The Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with policies of the San Mateo County certified LCP regarding agriculture.

Appellants' Contentions:

The appellants contend that sufficient evidence is lacking to find that the project as approved and conditioned will not have significant adverse impacts on coastal resources and will not diminish the ability to keep agricultural lands in agricultural production, and that the County's approval of the 6,456-square-foot residence does not include special conditions designed to ensure that the lands are kept in agricultural production, inconsistent with agricultural protection policies of the LCP. The appellants further contend that due to a lack of a thorough agricultural viability analysis on the property, as well as information as to whether the conversion of one agricultural well to domestic use to serve the proposed residence provides a safe and adequate source of water, and whether adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished, the County's decision to approve the project is inconsistent with the LCP (exhibit 8).

Applicable Policies:

LUP Policy 1.8:

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

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

[Emphasis added.]

LUP Policy 5.10:

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

- (1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;***
- (2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;***
- (3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;***

- (4) *The productivity of any adjacent agricultural lands is not diminished;*
 - (5) *Public Service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.*
- [Emphasis added.]

Zoning Regulation Section 6350. Purpose of the Planned Agricultural District

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

- (a) *establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
- (b) *limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,*
- (c) *developing available lands not suitable for agriculture before converting agricultural lands,*
- (d) ***assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and***
- (e) ***assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.***
[Emphasis added.]

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

It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in

Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria

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

...

B. Water Supply Criteria

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

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

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

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

4. *the productivity of any adjacent agricultural lands is not diminished, including the ability of the land to sustain dry farming or animal grazing, and*
5. *public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality...[Emphasis added.]*

Zoning Regulation Section 6361(C). Agricultural Land Management Plan

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

Discussion:

The County approved 6,456-square-foot residence and temporary mobile home are not the principally permitted use on lands zoned Planned Agriculture Development (PAD), and are permitted as conditional uses by PAD permit only. According to the County staff report, the approved residence, driveway, and other associated developments would convert “lands suitable for agriculture” to a residential use. The existing unpermitted mobile home has already converted prime soils adjacent to Deer Creek to residential uses. The County staff report does not indicate the total acreage or square footage of agricultural lands converted for the approved project (exhibit 6).

Historically, dry pasture has been the predominant agricultural use of the site. The site at one time grazed up to 30-head of cattle. Currently, the applicants graze 10-head of cattle year-round, and have indicated their plans to continue this rotational grazing (exhibit 5). Several acres of prime soils are located on the floodplains of El Granada Creek. The existence of the unpermitted mobile home and associated residential uses has left these lands uncultivated (R.D. Owen and Associates, March 2004).

As detailed below, the Commission finds that the appeals raise a substantial issue regarding conformity of the project approved by the County with the San Mateo County LCP Policies regarding the preservation of agricultural lands, based on the following:

1. There is insufficient factual and legal support for the local government’s decision that the development is consistent the certified LCP
2. The project involves potential impacts to significant coastal agricultural resources;
3. The precedential value of the local government’s decision is significant for future interpretation of its LCP; and
4. The appeal raises issues of regional and statewide significance.

Factual and Legal Support for Consistency Determination

Pursuant to Zoning Code Sections 6361(E):

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

Section 6361(C) of the zoning regulations requires that the agricultural productivity of the land be fostered and preserved in accordance with the above-referenced requirements of Sections 6350 and 6355 through an Agricultural Land Management Plan (Plan). The applicant's Plan states that the subject property has supported cattle grazing for approximately ten years, portions of the site contain prime soils, and a majority of the site contains lands suitable for agriculture (exhibit 5). The Plan goes on to say that 143-acres of the property will be "available" for rotational grazing of approximately 10 head of cattle and that pumpkins, squash, and other "appropriate agricultural products" will be planted. However, it is unclear from the Plan and the County's findings whether existing and potential agricultural productivity would be preserved on the site, whether continued or renewed agricultural use of the soils is infeasible (on both prime lands and other lands suitable for agriculture), whether permitted uses impair agricultural viability, or whether the viability of agricultural uses is severely limited by conflicts with urban uses, and whether available lands not suitable for agriculture are developed before converting agricultural lands as required by Section 6355, and 6350. This should be done through a thorough agricultural economic viability and conversion analysis. Without this analysis it is not possible to determine whether the approved project would foster and preserve agricultural productivity of the land, consistent with Section 6361. Therefore, the appeal raises a substantial issue of conformity with Sections 6361, 6350 and 6355 of the certified zoning regulations.

Further, while the applicants did submit an agricultural management plan indicating their desire to continue certain farming activities, the County's approval of the 6,456-square-foot residence does not ensure that all agricultural lands are kept in agricultural production, which is required by LCP Policy 1.8 and Section 6350 of the zoning regulations (exhibit 7). Accordingly, even if a single family residence can be approved on the parcel consistent with the LCP policies, special conditions are required to ensure that land use conflicts are minimized and that the maximum amount of agricultural lands are kept in agricultural production. Such conditions may require the dedication of an agricultural easement with "affirmative provisions" and recordation of a right to farm deed restriction. The Commission has recently imposed such conditions on similar projects on PAD lands in San Mateo County (Polocek PLN 2002-00199, A-2-SMC-04-002; and Waddell PLN2002-00375, A-2-SMC-04-009). As such, the approved project raises a substantial issue of consistency with LCP Policy 1.8 and Section 6350 of the certified Zoning Regulations.

Further, Section 6355 of the certified Zoning Regulations provides substantive criteria for approval of conditional uses on PAD zoned lands, both for conversion of prime agricultural lands and lands suitable for agriculture, including "water supply criteria." According to the County findings of approval, however, it is not clear whether the conversion of one agricultural well to domestic use to serve the proposed residence would provide a safe and adequate source

of water; the approval findings do not evaluate whether County environmental health has reviewed and approved the proposal or whether adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are diminished (exhibit 6).

The approved development includes the conversion of one agricultural well to domestic use. The original subdivision application that has since been revised included a request for conversion of three agricultural wells to domestic use. The Commission notes that between 1999 and 2001 the County issued three categorical exclusions for three agricultural wells on the property (PLN 1999-00910, PLN2001-00466). The Sterling's application for the original subdivision and single family residence was submitted to the County on November 16, 2000. San Mateo County Categorical Exclusion Order No. E-81-1 excludes from coastal development permitting requirements water wells provided such water facilities are used for on-site agriculturally-related purposes only. The exclusion of domestic wells from coastal development permitting requirements is inconsistent with the terms of the categorical exclusion order because the categorical exclusion excludes agricultural wells, not domestic wells, from permitting requirements.

The approved conversion of an agricultural well to a domestic well raises a substantial issue of conformity with the certified LCP because the approval does not address whether adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are diminished. The staff report states that the other wells on the property can be used to provide a water supply for existing and agricultural uses on site (exhibit 6). However, the water demand for potential agriculture use of the site is not identified. The water demand should be determined through a thorough agricultural economic viability analysis on the applicant's property as well as on neighboring properties in the watershed. In addition, the County findings of approval do not explain how the conversion of the well would affect the water supply. Therefore, the County's action to approve the development raises a substantial issue of consistency with Section 6355(B) of the certified Zoning Regulations.

Moreover, Section 6350(d) of the certified Zoning Regulations requires that non-agricultural development assure that it will not impair agricultural viability, either through increased assessment costs or degraded air or water quality. In the absence of a thorough agricultural economic viability analysis, as well as an analysis of how the residence would increase assessment costs (e.g. property taxes) on the property and surrounding properties, a substantial issue is raised with respect to the County action's consistency with Section 6350(d).

Significance of Coastal Resources

Currently, the project site is used for cattle grazing. Most of the site qualifies as "other lands suitable for agriculture" as defined by LUP Policy 5.3 because it is capable of supporting animal grazing. The site also contains prime agricultural soils on the flood plain of El Granada Creek, and these lands are defined as "prime agricultural lands" according to LUP Policy 5.1. Accordingly, the site is designated as Agriculture in the County's Land Use Plan and is zoned PAD (Planned Agricultural District). Based on the evidence provided to date, the land in question supports significant agricultural resources in the rural area of San Mateo County.

The purpose of the PAD zoning designation is to maintain the maximum amount of agricultural land in agricultural production. As such, the policies of the San Mateo County LCP strictly limit the conversion of agricultural lands to non-agricultural uses. Conversion of agricultural lands is prohibited unless the applicant provides factual evidence demonstrating that the development would meet the goals of the PAD zoning district and where all of the criteria specified in LUP Policy 5.10.a and Zoning Code Sections 6350 and 6355 are satisfied. The approved development raises a substantial issue of conformity with the agricultural protection requirements of the LCP because the County's approval does not evaluate whether continued or renewed agricultural use of all agricultural soils is feasible or demonstrate that the approved development would maintain the maximum amount of agricultural land in agricultural production, would not diminish the productivity of agricultural lands and would satisfy the criteria required to allow the conversion of agricultural land that are specified in LUP Policy 5.10.a and Zoning Code Sections 6350 and 6355.

Precedent, Regional and Statewide Significance

The agricultural resources impacted by the development approved by the County raise issues of regional and statewide significance and set an important precedent for the local government's decision for future interpretation of its LCP regarding preservation of agricultural uses on agricultural lands and protection of the agricultural economy in the rural areas of the San Mateo coast. The protection of coastal agriculture is one of the fundamental purposes of the California Coastal Act, as embodied in Coastal Act sections 30241, 30241.5, and 30242, and as further reflected in the policies and ordinances of the San Mateo County LCP cited above.

Substantial Issue Conclusion

For all of the above-stated reasons, the Commission finds that the appellants' contentions raise a substantial issue of conformity of the approved project with the agriculture policies of the San Mateo County certified LCP.

H. 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. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP.

Given that the project 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. The Commission notes that to date the

Commission has not received the local record from the County. While it is possible that the local record may contain evidence that goes to issues raised by the County's approval, the County's findings did not analyze such evidence. Informational items needed to evaluate the development include the following:

1. Comprehensive Site Plan

The site for the proposed development has a number of constraints that need to be analyzed to ensure the project's consistency with policies of the certified Local Coastal Program (LCP), including agricultural protection, visual resources, and sensitive habitat protection. Therefore, a revised single site plan is needed, depicting all the potential constraints on site, in order for this analysis to be conducted. This site plan should include 2 large scale site plans (as well as two sets of a reduced scale 8 1/2" x 11" copies) of the entire site showing the following features on a single plan sheet:

- a. Location of all prime agricultural lands and lands suitable for agriculture, as defined in Policies 5.1 and 5.3 of the certified LCP.
- b. Location of proposed grazing area and crop cultivation area
- c. Proposed development location, including single family residence, driveway, turnaround area, septic system, and other applicable structures
- d. Location of existing wells, well proposed for domestic use, and locations for all proposed water tanks.
- e. Previously proposed location for the single-family residence
- f. Pond location
- g. El Granada Creek and any other streams and wetlands
- h. Vegetation/plant Map (see below for detail)
- i. Eucalyptus grove, Monterey pine trees, and depiction of which trees are to be removed
- j. Location of potential monarch butterfly habitat and raptor nesting areas
- k. Location of existing mobile home
- l. Topographic contours
- m. Roads

2. Exact calculation of building envelope area

For similar projects on agricultural lands in San Mateo County, the Commission has required a 10,000-square-foot maximum building envelope to ensure their consistency with LCP policies regarding clustering and buffering from agricultural activities (LCP Policies 5.8, 5.10, and 5.15). Therefore, an exact calculation of the proposed building envelope, including accessory structures, driveways, septic infrastructure, etc. is needed.

3. Water Supply Analysis

Section 6355(B) of the certified Zoning Regulations requires development on PAD lands meet several water supply criteria. Therefore an analysis of the following is required in advance of Commission review and action on the CDP, demonstrating that: (a) an adequate and potable well

water source is available for all non-agricultural uses (as per LCP Policy 1.8, a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and other appurtenant uses); (b) adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.

In addition, evidence that the proposed conversion of the agricultural well to domestic use has been reviewed and approved by San Mateo County Environmental Health is needed.

4. Visual and Scenic Resources

Commission staff is also concerned about the potential visual impacts of the proposed residence. The proposed development is located within a County Scenic Corridor and within the Cabrillo Highway State Scenic Corridor. LCP Policy 8.5 requires that new development be located on a portion of a parcel where the development is least visible from State and County Scenic Roads, least likely to significantly impact views from public viewpoints, and best preserves the visual and open space qualities of the parcel. Accordingly, in order to approve the coastal development permit application, the Commission must find that the proposed development is consistent with the visual resource protection policies of the LCP that include policies 8.7, 8.10 and 8.18. Therefore, visual simulations of the visual impacts of house after trees are removed as proposed and with the landscaping/revegetation plan for screening residence after the trees are removed, are necessary including an evaluation of views from within the Cabrillo Highway Scenic Corridor.

5. Biological Resources

The biological report conducted for the proposal recommends that further rare plant surveys be conducted during flowering periods for rare plants, and that the site also still needs to be evaluated for nesting raptors during nesting season. In order for the Commission to evaluate the proposals impacts on potential rare plant and raptor sensitive habitats, consistent with the sensitive habitats component of the certified LCP, these surveys need to be conducted in advance of Commission review and action on the CDP. In addition, the County staff report describes wetland habitat, riparian habitat, and habitat for San Francisco Garter Snake and California Red Legged Frogs on the site, and contains conditions of approval designed to ensure that there are no impacts to these species or habitats. The potential sensitive habitat for these species needs to be evaluated further, and appropriate buffers and mitigations determined prior to Commission action on the CDP. This should involve consultation with the U.S. FWS and California Department of Fish and Game in regards to these protected species.

According to the December 2005 biological report for the proposed project by Thomas Reid Associates, the proposed development's location would require the removal of 8 trees (five blue gum eucalyptus and three Monterey pine trees), and that based on personal communication with a monarch specialist, it is unlikely the project site is being used as roosting habitat for Monarch butterflies. However, a July 12, 2003 letter from John Dayton, Consulting Biologist, regarding the previous proposal's impacts on Monarch butterfly habitat states that certain portions of the

eucalyptus grove contain potential monarch wintering habitat. He recommended that if it becomes necessary to remove trees from the grove (which is proposed), detailed monarch surveys, conducted on a weekly basis from mid October through early December, should be conducted to determine the project's impacts on the habitat. A reconciliation of these seemingly contradictory statements is needed in order for Commission staff to make an informed evaluation. Therefore, it is necessary for the applicants to submit written evidence from a monarch specialist, based on appropriate research and surveys, on whether winter monarch habitat exists on the site, and the likely impacts of the proposed project on the monarch habitat.

According to the updated (December 2005) biological report, "the blue gum eucalyptus and Monterey pine trees on site have some limited potential to provide nesting habitat for raptors such as red-shouldered hawk (*Buteo lineatus*), red-tailed hawk (*Buteo Jamaicensis*), Cooper's hawk (*Accipiter cooperii*), Sharp shinned hawk (*Accipiter striatus*), western screech owl (*Otus kennicottii*), and great horned owl (*Bubo virginianus*). In order to determine whether these trees are sensitive habitat areas, as defined by Policy 7.1 of the LCP, detailed raptor nesting survey need to be conducted prior to Commission action on the CDP.

6. Agricultural Viability and Conversion Analysis

An analysis of the feasibility of continued or renewed agricultural use of the soils at the site, both for grazing and cultivation is required. Feasible is defined in Section 30108 of the Coastal Act, which states:

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

This analysis should also address: (1) whether the proposed development will diminish the existing and potential productivity of adjacent agriculture both on and off the site and whether the development impairs agricultural viability, including an analysis of whether and how the viability of agricultural uses is severely limited by conflicts with urban uses; (2) the effect of the proposed conversion of the agricultural well on water supply for agriculture on and off-site; (3) whether continued or renewed agricultural use of the soils is feasible on both prime lands and other lands suitable for agriculture; and (4) whether available lands not suitable for agriculture are developed before converting agricultural lands.

Section 30241.5 of the Coastal Act provides further guidance on an economic feasibility evaluation for agricultural lands, and states that, at a minimum, the following elements should be considered:

(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years

immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

7. Hazards

LCP Policy 9.10 requires that the County Geologist or a certified engineering geologist review all building and grading permits in designated hazardous areas for evaluation of potential geotechnical problems and to review and approve all required investigations for adequacy. This policy also requires site-specific geotechnical investigations to determine appropriate mitigation measures for proposed development in hazardous areas. According to the LCP hazards maps, the proposed project site is located within an area known for potential shallow landslides. The County staff report states that the preliminary soils report indicates the location of the new proposed residence is not in an area subject to major slides, but a more detailed geotechnical report will be required at the time of building permit application. Therefore, the applicant should submit a site specific geotechnical report conducted by a certified engineering geologist that evaluates the potential for shallow landslides on the site, and recommended mitigation measures.

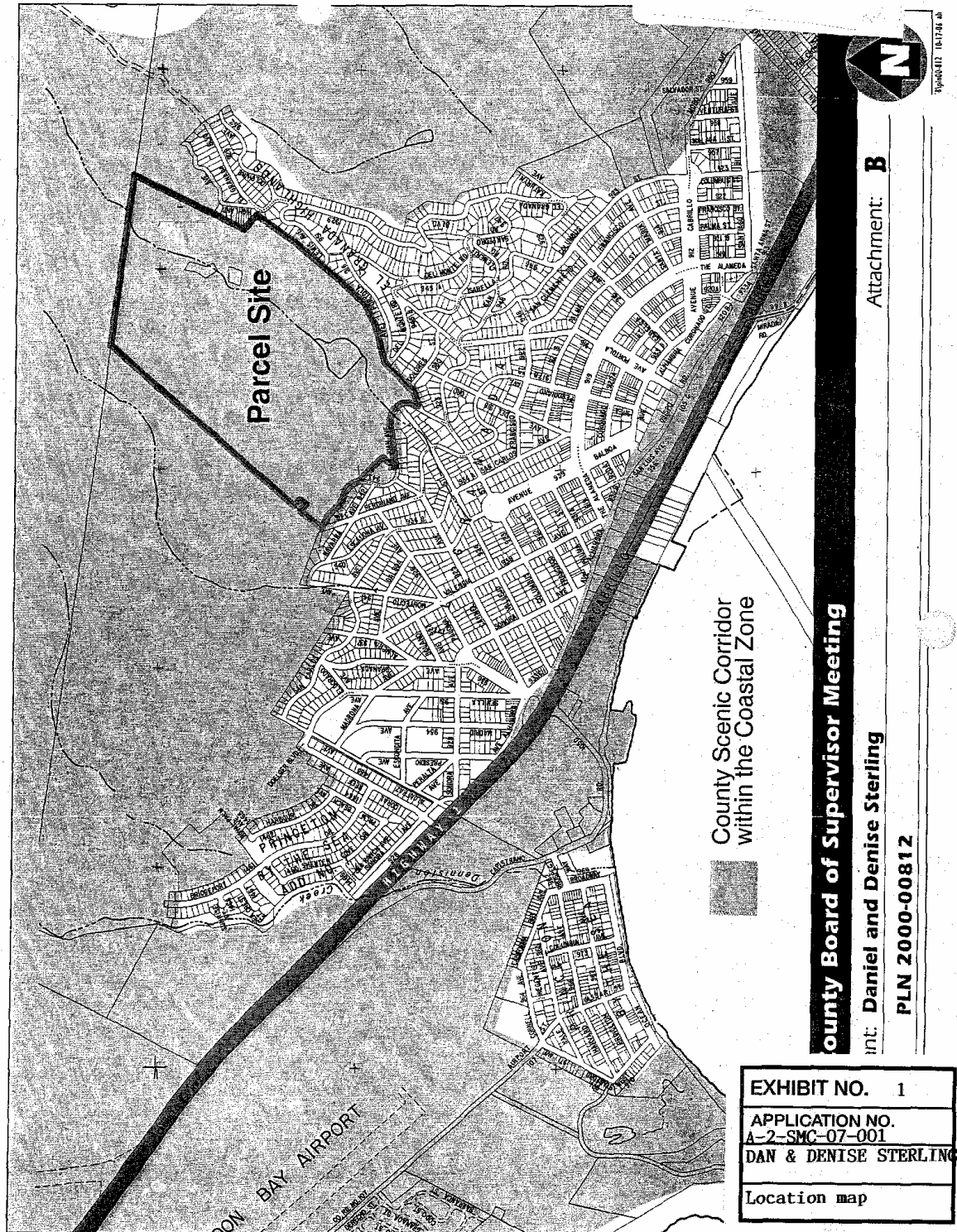
8. Septic System

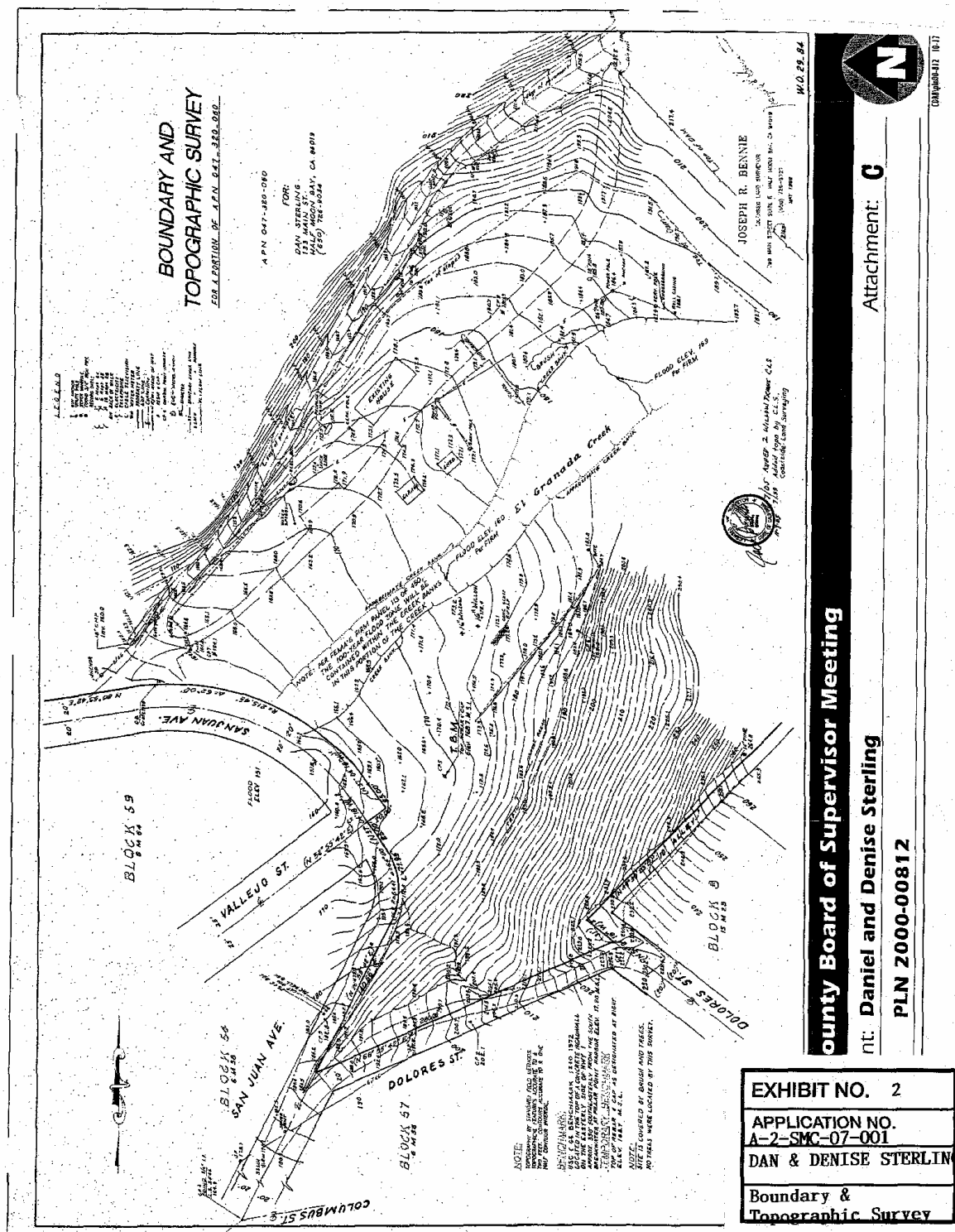
Plans for the proposed septic system as well as evidence the site is adequate for the proposed system is needed. In addition, evidence of septic system approval by San Mateo County Environmental Health is needed.

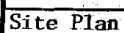
Without additional information, including the above, the Commission cannot reach a final determination concerning the consistency of the project with the policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

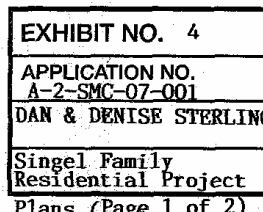
APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

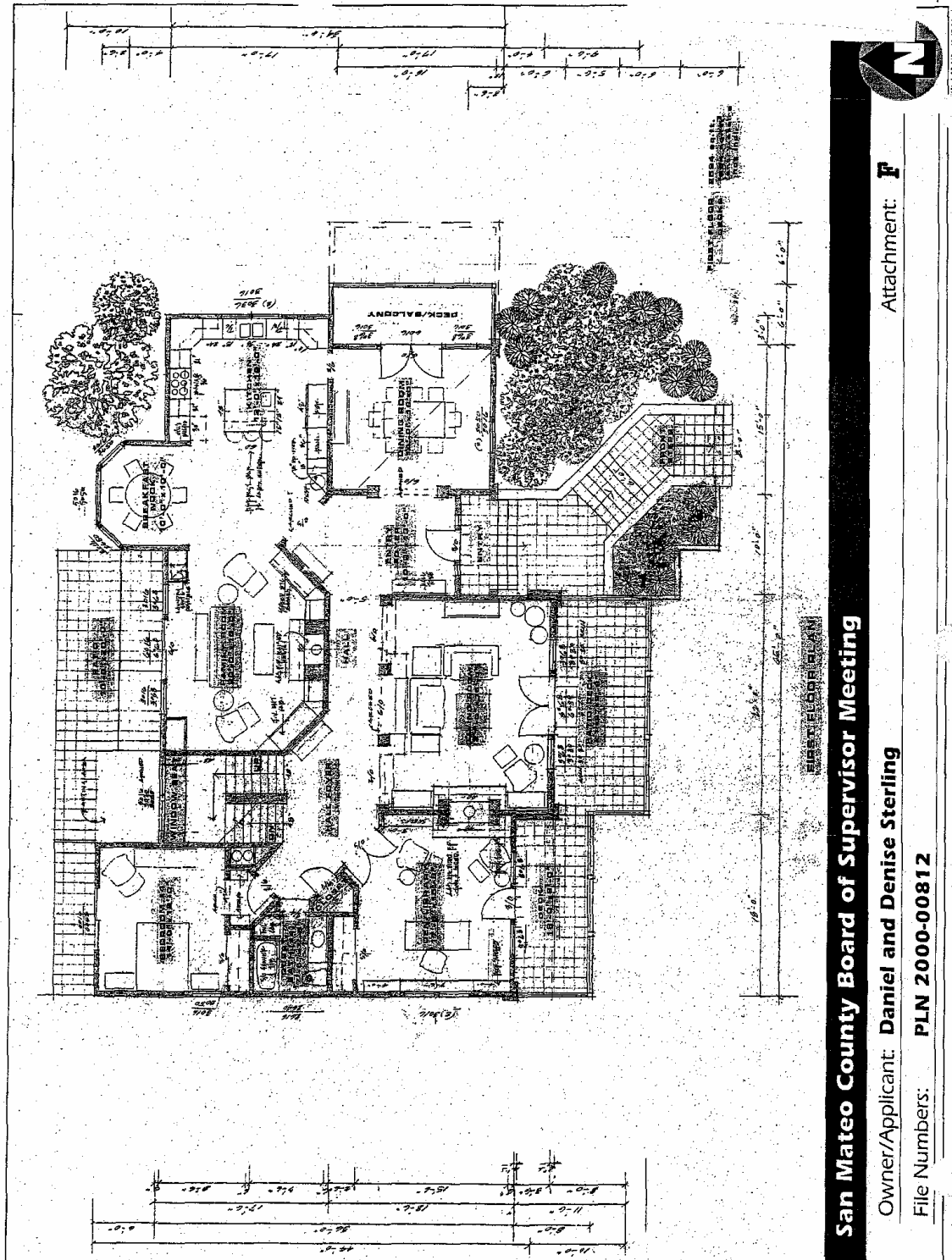
1. San Mateo County Local Coastal Program
2. Revised Agricultural Land Management Plan for Sterling Single Family Residence Project, 300 San Juan Avenue, El Granada – APN 047-320-060
3. R.D. Owen and Associates (March 2004). Development Feasibility Study for Minor Subdivision Proposal PLN 2000-0081: APN 047-320-060 300 San Juan Avenue, El Granada, CA. Prepared for Dan and Denise Sterling
4. Thomas Reid and Associates (Dec. 1, 2005). Letter to Dan and Denise Sterling Re-Biological survey for property in El Granada, CA (APN 047-320-060)
5. San Mateo County Environmental Services Agency Planning and Building Division. Certificate of Exemption or Exclusion from Requirement for a Coastal Development Permit to Dan Sterling to drill two agricultural wells on APN 047-320-060. PLN 2001-00446.
6. San Mateo County Environmental Services Agency Planning and Building Division (12/3/99). Certificate of Exemption or Exclusion from Requirement for a Coastal Development Permit to Dan Sterling to drill an agricultural well on APN 047-320-060. PLN 1999-00910.











Revised Agricultural Land Management Plan for Sterling Single Family Residence Project
300 San Juan Avenue, El Granada – APN 047-320-060
San Mateo County File # PLN 2000-00812

Project Background:

This application was originally filed in 2000 and included an application for a Minor Subdivision. Many revisions were made over the past several years. This Agricultural Land Management Plan reflects the amended application filed in February 2006 for a single-family residence on the south side of Deer Creek. The minor subdivision application has been withdrawn and the permits requested from the County only involve a single-family residence.

Site Description:

The most recent survey information indicates that this parcel is approximately 143 acres in size. The vast majority of the property consists of non-prime soils. A stock pond is located on the property and is utilized by the grazing cattle. The prime soils on the property are located adjacent to portions of Deer Creek. The existing mobile home was located on prime soils prior to ownership by the Sterling's. The revised site for the Sterling's home is on the south side of Deer Creek on non-prime soils per Soil Conservation Service information and County maps.

Existing Agricultural Operation:

The parcel has historically been used for grazing. The Sterling family has maintained cattle grazing program on the property without overgrazing the upland area of the property and maintaining adequate setback from adjacent non-agricultural uses. The majority of the 143 acres will be available for the rotational grazing operation of approximately 10 head of cattle. The limited number of animals will ensure that the property is not overgrazed thereby maintaining natural habitat values and to avoid erosion of the steeper hillsides.

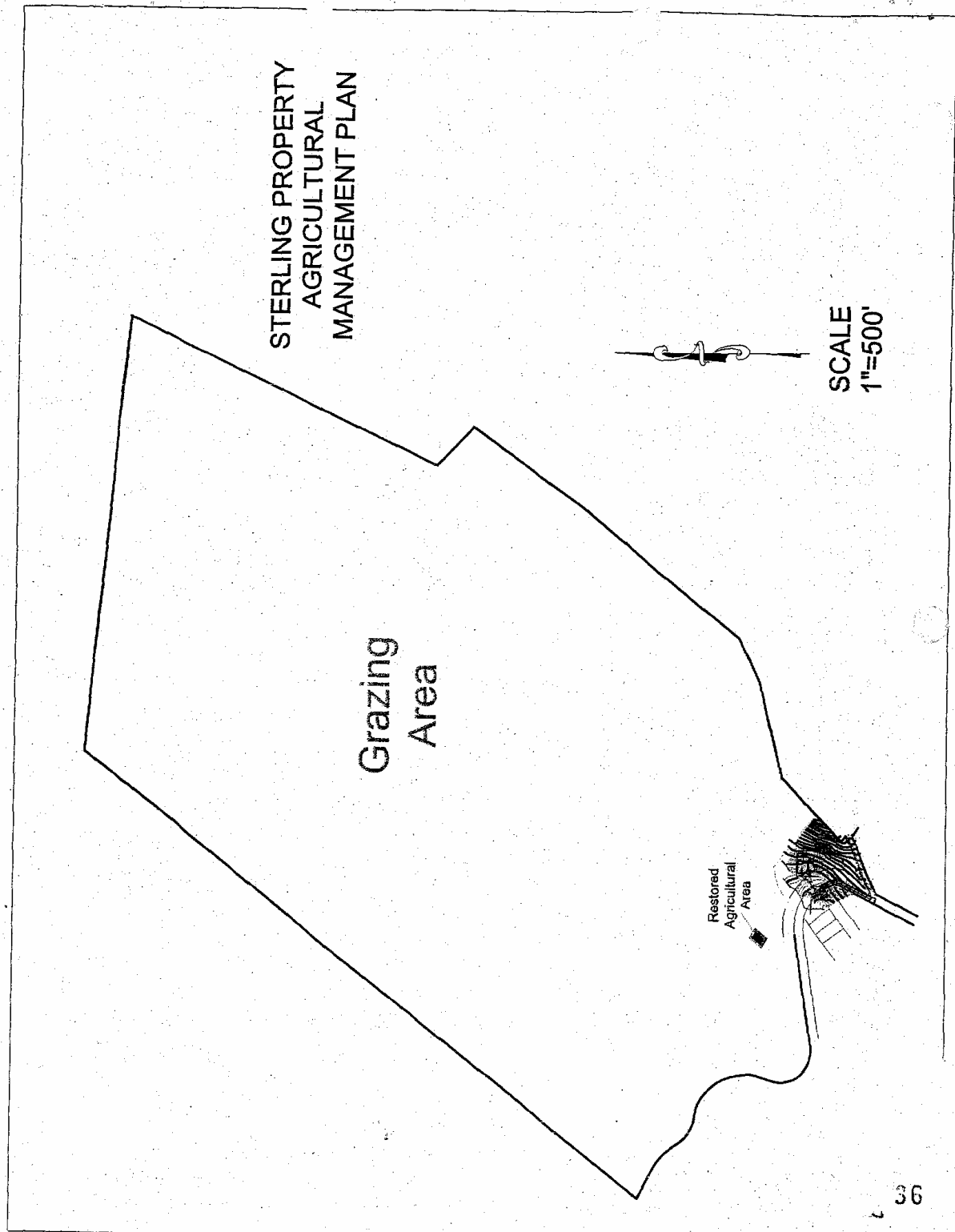
Proposed Agricultural Operation:

The existing cattle grazing use will continue and be maintained. The proposed house location on the south side of Deer Creek is currently fenced and the project will maintain the necessary buffer between the residential use and grazing operation.

Upon the issuance of an occupancy permit for the new home on the south side of Deer Creek, the Sterling family will vacate the existing mobile home that is located on the north side of the creek. The mobile home will be removed from the site and that area will be restored to accommodate agricultural use. The previous site of the mobile home will be planted in pumpkins, squash, and other appropriate agricultural products.

The February 2006 revised house location is in an area that has not been utilized for agriculture, is located on non-prime soils and is a shaded area adjacent to residential uses. The revised project will be not detrimental impact on agriculture since existing cattle grazing operation and the applicant is also restoring the support agricultural use.

EXHIBIT NO.	5
APPLICATION NO.	A-2-SMC-07-001
DAN & DENISE STERLING	
Sterling Agricultural	
Land Management Plan	
(Page 1 of 2)	





COUNTY OF SAN MATEO
Inter-Departmental Correspondence
ENVIRONMENTAL SERVICES AGENCY

RECEIVED

DEC 04 2006

CALIFORNIA
COASTAL COMMISSION

DATE: November 27, 2006
BOARD MEETING DATE: December 12, 2006
SPECIAL NOTICE/HEARING: 300-foot Notice
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Lisa Grote, Director of Community Development *LG*

SUBJECT: EXECUTIVE SUMMARY: Consideration of a Planned Agricultural District Permit, Coastal Development Permit, Grading Permit, and Certification of a Mitigated Negative Declaration, to convert an agricultural well to domestic use, construct a new 6,456 sq. ft. single-family residence, place up to seven water storage tanks for fire suppression, install a septic system, construct and grade a private access driveway/turn-around, and legalize an existing mobile home as temporary housing during construction, on a legal 143-acre parcel located just east of the unincorporated El Granada area of San Mateo County (Appeal of the Planning Commission's denial of a more ambitious project). This project is appealable to the California Coastal Commission.

RECOMMENDATION

Certify the Negative Declaration, approve the Planned Agricultural District Permit, Coastal Development Permit and Grading Permit for the construction of a new residence, access road, water tanks and associated grading by making the required findings and adopting the conditions of approval.

VISION ALIGNMENT

Commitment: Responsive, effective and collaborative government.

Goal 20: Government decisions are based on careful consideration of future impact, rather than temporary relief or immediate gain. This project has undergone f

EXHIBIT NO.	6
APPLICATION NO.	A-2-SMC-07-001
DAN & DENISE STERLING County Staff Report	
(Page 1 of 16 pages)	

environmental review and no comments objecting to the revised project have been received.

BACKGROUND

Proposal: The applicant is proposing to: (1) convert an agricultural well to domestic use, (2) construct a new 6,456 sq. ft. single-family residence, (3) install up to seven water storage tanks for fire suppression, (4) install a septic system, (5) construct a private access driveway from the end of San Juan Avenue to the house site, (6) grade approximately 690 cubic yards of combined cut and fill associated with the driveway/turnaround, house and water tanks, (7) remove 8 significant trees, and (8) legalize an existing mobile home as temporary housing during construction.

Planning Commission Action: On September 14, 2005, the Planning Commission denied the project, primarily due to its inclusion of a two-lot subdivision and associated critical visual impacts, as seen from Cabrillo Highway and other public viewing points in and around Pillar Point Harbor, posed by the applicant's proposed residence and that of a future, but not yet submitted house on the proposed second parcel. After consideration at three hearings, the Planning Commission ultimately denied the project because of its non-compliance with critical policies within the County's Local Coastal Program (LCP) regarding Agriculture, Locating and Planning New Development, and Visual Impacts.

DISCUSSION

The applicant appealed the Planning Commission's denial to the Board of Supervisors. However, soon thereafter, they revised the project. By withdrawing the subdivision and relocating their proposed residence, staff concludes that the revised project no longer conflicts with the LCP policies cited by the Planning Commission in its denial of the project. However, the applicant requested that the revised project still be considered by the Board, instead of being remanded back to the Planning Commission due to the controversy over the project since 2000.

Upon submittal of the revised project plans and materials, all interested parties were sent a notice of the revised project, to which there were no comments. Additionally, a revised Negative Declaration was prepared and circulated. Comments received support the project as currently proposed.

FISCAL IMPACT

Upon completion, due to the improvements made on the property, the assessed tax revenue on the subject parcel would increase.

DJH:kcd - DJHQ1392_WKU.DOC



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
ENVIRONMENTAL SERVICES AGENCY

DATE: November 27, 2006
BOARD MEETING DATE: December 12, 2006
SPECIAL NOTICE/HEARING: 300-foot Notice
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Lisa Grote, Director of Community Development

SUBJECT: Consideration of (1) a Planned Agricultural District Permit and Coastal Development Permit, pursuant to Sections 6353 and 6328.4, respectively, of the San Mateo County Zoning Regulations, (2) a Grading Permit, pursuant to Section 8602.1 of the County Ordinance Code, and (3) Certification of a Mitigated Negative Declaration pursuant to the California Environmental Quality Act, to convert an agricultural well to domestic use, construct a new 6,456 sq. ft. single-family residence, place up to seven water storage tanks for fire suppression, install a septic system, construct and grade a private access driveway, and legalize an existing mobile home as temporary housing during construction, on a legal 143-acre parcel located east of the unincorporated El Granada area of San Mateo County. (Appeal of the Planning Commission's denial of a more ambitious project). This project is appealable to the California Coastal Commission.

County File Number: PLN 2000-00812 (Sterling)

RECOMMENDATION

Certify the Negative Declaration, approve the Planned Agricultural District Permit, Coastal Development Permit and Grading Permit for the construction of a new residence, access road, water tanks and associated grading by making the required findings and adopting the conditions of approval in Attachment A.

VISION ALIGNMENT

Commitment: Responsive, effective and collaborative government.

Goal 20: Government decisions are based on careful consideration of future impact, rather than temporary relief or immediate gain. This project has undergone full environmental review and no comments objecting to the revised project have been received.

BACKGROUND

Proposal: The project currently proposed includes: (1) convert an agricultural well to domestic use, (2) construct a new 6,456 sq. ft. single-family residence, (3) install up to seven water storage tanks for fire suppression, (4) install a septic system, (5) construct a private access driveway from the end of San Juan Avenue to the house site, (6) grade approximately 690 cubic yards of combined cut and fill associated with the driveway/turnaround, house and water tanks, (7) remove eight significant trees (5 Blue Gum eucalyptus and 3 Monterey pine trees) to accommodate the proposed access drive/turnaround and house site, and (8) legalize an existing mobile home as temporary housing during construction. Attachments D through G illustrate the revised project.

Planning Commission Action: On September 14, 2005, the Planning Commission denied the project, primarily due to its inclusion of a 2-lot subdivision (a 4.8-acre parcel and 138.2-acre parcel) and associated critical visual impacts, as seen from Cabrillo Highway and other public viewing points in and around Pillar Point Harbor, posed by the applicant's proposed residence in its initial location and that of a future, but not yet submitted house on the proposed second parcel. The applicant's proposed residence was to have been located on the larger parcel, north of El Granada Creek and accessed via a long private driveway. There had been no house plans submitted for the second smaller parcel. After consideration at three hearings, the Planning Commission ultimately denied the project (see decision letter, Attachment K) because of its non-compliance with critical policies within three Local Coastal Program (LCP) components regarding Agriculture, Locating and Planning New Development, and Visual Impacts.

Revised Project Application: The applicant appealed the Planning Commission's denial to the Board of Supervisors. However, soon thereafter, they decided to revise the project as previously indicated. By withdrawing the subdivision and relocating their proposed residence, staff concludes that the revised project no longer conflicts with the LCP policies cited by the Planning Commission in its September 14, 2005 denial (fully discussed in Key Issue A.2. of this report). However, the applicant requested that the project, albeit revised, still be considered by the Board of Supervisors, instead of being remanded back to the Planning Commission due to the heightened neighborhood interest and time already spent on the project since 2000. Staff agreed that taking the project back to the Planning Commission would only add more delay as the project would inevitably be brought before the Board of Supervisors on appeal.

Upon submittal of the revised project plans and materials, all interested parties were sent a notice of the revised project, to which there were no comments. Additionally, a revised Negative Declaration was also prepared and circulated.

Report Prepared By: David Holbrook, Senior Planner; telephone 650/363-1837

Applicant: Kerry Burke

Owners: Dan and Denise Sterling

Location: 300 San Juan Avenue, El Granada

APN: 047-320-060

Size: 143 acres

Existing Zoning: PAD/CD (Planned Agricultural District/Coastal Development)

General Plan Designation: Agriculture

Existing Land Use: Residence (mobile home); otherwise undeveloped

Water Supply: There are existing agricultural wells located on-site, one of which is proposed for conversion to a domestic well as a part of this application (although the owners are seeking a water connection from CCWD for fire suppression). The proposed residence will be served by the converted well.

Sewage Disposal: The applicant will be using a septic system for sewage disposal.

Flood Zone: The majority of the property is located in Zone C, area of minimal flooding. There is a small portion of the property that is located within a Zone A along the creek; however, the project is not located in this area. Applicable Flood Zone Maps include 060311 0113B and 060311 0114B; effective date July 5, 1984.

Environmental Evaluation: A revised Initial Study and Mitigated Negative Declaration was prepared for this project and circulated from July 10, 2006 to July 31, 2006. The comments received are discussed in Section C of this report.

Setting: The subject property is approximately 143 acres of coastal hillsides and valleys with moderate to steep slopes. The property slopes northwest from San Juan Avenue. The northern portions of the property are covered in brush, grasslands and large stands of mature eucalyptus trees. The eastern portion of the property is bisected by El Granada Creek and helps supply an agricultural water impoundment. The parcel is currently developed with three agricultural wells and a mobile home, which is serving as the current residence for the owners. It was not, however, located on the site with any permits. This unit is proposed to be removed from the site after construction of the

proposed residence.

The revised project site (see Attachment D) is bordered to the northeast by El Granada Creek (a perennial creek, referred to in the biology report as Deer Creek), open space Monterey pine woodland to the east, eucalyptus and pine woodland and open space (owned by POST) to the north and existing single-family residential development to south and west. The proposed building envelope is located in an open, disturbed center portion of the property dominated by grassland, between the Monterey pine forest and eucalyptus forest. The site is surrounded by blue gum eucalyptus forest, arroyo willow riparian scrub, non-native ruderal grassland, and Monterey forest.

DISCUSSION

A. KEY ISSUES

1. Clarification of the Applicant's Appeal

As previously discussed above, the applicant appealed the Planning Commission's denial of the project based on their initial intention to retain the project is original scope (i.e. the subdivision). However, the applicant then revised the project to delete those project elements that had resulted in the Commission's denial. Thus there are no appeal issues, per se, to discuss. What follows is an analysis of why the revised project is now either in compliance or no longer relevant to those select policies.

2. Analysis of Revised Project Against Planning Commission's Findings of Denial

The project as revised and presently submitted--dropping the subdivision element and relocating the main residence to a far less visible location--is now in compliance, or not applicable, with regard to the following LCP Component policies cited in the Planning Commission's denial letter (see Attachment K). Each is followed by staff response.

a. Locating and Planning New Development

Policy 1.8 (Land Uses and Development Densities in Rural Areas)

Response: This policy seeks to: (1) "allow new development in rural areas only if it is demonstrated that it will not have significant adverse impacts . . . on coastal resources, (2) not diminish the ability to keep all prime agricultural land and other land suitable for agriculture," and (3) ensure that new development doesn't exceed mandated densities (requiring density credits for and seeks to control non-agricultural uses).

The initial project's primary adverse impacts on coastal resources were visual, from both the proposed residence on the larger parcel and the future residence on the second, small parcel. The access road proposed to serve

both residence sites also posed potential tree removal, erosion and drainage impacts. The revised project--deleting the subdivision (and associated future second house) and relocating the applicant's residence into a canyon area southeast of El Granada Creek and not visible from Cabrillo Highway--no longer triggers significantly adverse visual impacts, thus no longer conflicts with this policy. In fact, the revised location of the house is actually one that both neighbors and the Planning Commission suggested as the better choice. The applicant studied it as an early location option, but abandoned it due to access to a viable domestic water source, as issue that has since been resolved. Additionally, the proposed access road to the house site is an extension from the end of San Juan Avenue and does not require any significant tree removal. Potential drainage and erosion impacts will be mitigated via recommended conditions of approval.

With the subdivision removed from the application and the relocated residence not converting any prime soils, the project now poses no conflict with this element of Policy 1.8. Finally, the inclusion of a subdivision subjected the density analysis and resulting two density credits to detailed review, due to early calculations of the overall parcel's size. The parcel's size and density credit allocation was critical in order to allow the 2-lot subdivision. However, with the subdivision element removed, the issue regarding density credits is no longer critical; the proposed residence requires and consumes only one density credit, which the parcel is clearly allocated.

- b. Agriculture
Policy 5.9 (*Division of Land Suitable for Agriculture Designated as Agriculture*)

Response: With the deletion of the project's subdivision element, the current project poses no conflict or relevance with Policy 5.9.

- c. Visual Resources
Policy 8.5 (*Location of New Development*)

Response: As previously discussed regarding Policy 1.8, the revised project no longer poses conflicts with Policy 8.5.

3. Legalization of the Existing Mobile Home

The owners seek to legalize an existing mobile home, in which they propose to live in during construction of their proposed new residence. The mobile home is located on its present site without benefit of any permits or approvals from the County. It is presently located on prime soils on what is proposed as Parcel A, the larger of the two parcels. While staff supports its legalization, it recommends (as reflected in the conditions of approval, Attachment A) the following: (a) that the mobile home be relocated (until its removal) off prime soils, to an area whereby its visual impacts will be minimized; (b) that the owners not be allowed to continue to

occupy it until they have obtained the required building permit for its legalization from the Building Inspection Section, including compliance with all building requirements and payment of a \$10,000 temporary occupancy bond; (c) the mobile home must be removed as a condition of the final inspection approval for the proposed main house; (d) in the event that the building permit for the main house is not applied for and issued within one year of this approval, the mobile home shall be removed within 30 days of that 1-year date (permit extensions not permitted); and (e) in the event that the building permit is applied for but never issued due to its cancellation by the Building Inspection Section, the mobile home shall be removed within 30 days of the date of permit cancellation. Since the mobile home is intended to be used as a temporary structure during construction, it will not be discussed in the ensuing General Plan, Local Coastal Program and Zoning Compliance Sections.

4. Compliance with the General Plan

The project, as now proposed and conditioned, conforms with the applicable General Plan policies, as discussed below.

a. Vegetative, Water, Fish and Wildlife Resources

Policy 1.23 (*Regulate Location, Density and Design of Development to Protect Vegetative, Water, Fish and Wildlife Resources*). The project, as conditioned, will comply with this policy. El Granada Creek runs along the eastern side of the property that supplies an agricultural water impoundment and an associated fresh water marsh area. Based upon the applicant's most recently submitted biological report, this area has been determined to provide habitat for the California Red-Legged Frog and the San Francisco Garter Snake. There is also an existing eucalyptus grove that has potential for providing habitat for nesting raptors and moderate potential for providing wintering habitat for the monarch butterfly. The proposed driveway/turnaround and residence is located approximately 52 feet and 65 feet, respectively, southeast of El Granada Creek and any potential habitat areas. As added mitigation, staff is recommending conditions of approval related to proper erosion and sediment controls throughout grading and construction, pre-construction surveys for the sensitive species, isolating the construction area and on-going monitoring of the site by a certified biologist during grading and construction.

Policy 1.26 (*Protect Fish and Wildlife Resources*) requires development to minimize the disruption of fish and wildlife and their habitats. Mitigation measures were included, as part of the environmental review of this project, which are intended to address potential construction related impacts to sensitive species that could be on the site. These mitigation measures have been included as conditions of approval.

Policy 1.27 (*Regulate Development to Protect Sensitive Habitats*) and Policy

1.28 (*Buffer Zones*) call for the regulation of land uses and development activities within and adjacent to sensitive habitats in order to protect critical vegetative, water, fish and wildlife resources as well as establish necessary buffer zones adjacent to sensitive habitats in order to protect them. The biologist's mitigation for isolating the construction areas from the sensitive habitat areas as well as the 52- to 65-foot buffer will serve to bring the project into compliance with these two policies.

b. Soil Resources

Policy 2.17 (*Regulate Development to Minimize Soil Erosion and Sedimentation*) requires development to minimize soil erosion and sedimentation. A condition of approval has been included which requires the applicant to implement an erosion control plan for both the clearing, grading and construction phases of the project. All measures are to be installed prior to grading and construction activities commencing on-site and must be maintained throughout that process.

c. Visual Quality

Policies 4.1 (*Protection of Visual Quality*), 4.3 (*Protection of Vegetation*) and 4.4 (*Appearance of Rural and Urban Development*) all require protecting the visual quality of San Mateo County and designing aesthetically pleasing development that minimizes tree removal. While the proposed driveway, turn-around and house will require the removal of eight significant trees and involve the clearing of approximately 18,500 sq. ft., surrounding vegetation and contours are maintained. Relative to the total parcel size of 143 acres, this degree of disturbance would occur in a relatively secluded canyon area, resulting in minimal visual impacts, thus in compliance with the intent of these policies. In addition, the house is set back an adequate distance from any sensitive habitat areas. The development is confined to a wooded canyon area. Although some vegetation and tree removal will be required as previously indicated, this location is preferred over previously considered locations that posed critical visual impacts. The site topography and existing surrounding vegetation will screen the proposed residence from both Cabrillo Highway and the adjacent open space lands.

Policy 4.14 (*Appearance of New Development*) and Policy 4.21 (*Scenic Corridors*) regulate development to promote good design, site relationships and other aesthetic considerations as well as regulate land divisions to promote visually attractive development, especially when located within a scenic corridor. As mentioned previously, the proposed residence is located on a site that utilizes its topography and vegetation to prevent any visual impacts as seen from Cabrillo Highway (a County Scenic Corridor) or other points west. The applicant is proposing to use horizontal wood siding materials and paint the residence earthtone colors. The use of muted colors

and natural building materials will help reduce the visual impacts as seen from any adjacent properties.

Policy 4.20 (*Utility Structures*) minimizes the adverse visual quality of utility structures, including roads, overhead wires, utility poles, antenna, etc. The project has been conditioned to locate all new utility lines to the proposed residence underground from the nearest existing utility pole able to provide the necessary utility services.

Policy 4.24 (*Location of Structures*). The location of structures should be designed to carefully conform to the natural topography and natural vegetation, designed to minimize the impacts of noise, light, glare and odors and located adjacent to forested areas. The proposed residence does utilize the existing topography and vegetation within a canyon area which will minimize visual impacts. The development is also designed to minimize noise, light, glare and odor on adjacent properties.

Policy 4.25 (*Earthwork Operations*). Grading and earthwork operation should be kept to a minimum and, where necessary, make graded areas blend with adjacent landforms through the use of contour grading. The project includes a total of approximately 700 cubic yards of combined cut and fill for the driveway, turnaround, house and water tanks. To the degree feasible, the work will be contour grading. In addition, the use of erosion and sediment controls, required as recommended conditions of approval, will minimize soil erosion during this phase of the project.

Policy 4.26 (*Water Bodies*) allows for the development of water impoundments, but discourages structures which would adversely impact the appearance of a stream and the associated riparian habitat. As mentioned, there is an existing water impoundment on the property which is fed by El Granada Creek. There is also an associated fresh water marsh area that provides habitat. No changes are proposed to the water impoundment and the proposed development is adequately set back from this area to eliminate adverse impacts.

Policy 4.27 (*Ridgelines and Skyline*) discourages development on open ridgelines and skylines when seen as part of a public view which is defined as a range of vision from a public road or other public facility. The proposed residence will not be developed on or affect either a ridgeline or a skyline.

Policy 4.28 (*Trees and Vegetation*) and Policy 4.29 (*Landscaping and Screening*). The revised project will require the removal of eight significant trees (5 Blue Gum eucalyptus and 3 Monterey pine trees) to accommodate the driveway/turnaround and house construction. Otherwise, surrounding trees and vegetation shall be preserved and protected during construction. All trees shall be replaced with native plant materials or vegetation compatible

with the surrounding vegetation, climate, soil, and ecological characteristics of the region. In addition, a smooth transition shall be provided between development and adjacent forested areas. The applicant also plans on the use of native plant materials for use in the landscaping surrounding the proposed residence, which will help provide that smooth transition required by these policies.

d. Rural Land Use Policies

Policy 9.23 (*Land Use Compatibility in Rural Lands*) encourages the compatibility of land uses by locating new residential development immediately adjacent to existing developed areas, clustering the development where possible and buffering the development from adjacent recreational uses. The proposed project locates all residential land uses adjacent to the existing residential area while at the same time providing a buffer from adjacent open space recreational lands owned by POST.

Policy 9.28 (*Encourage Existing and Potential Agricultural Activities*) encourages the continued and future use of agricultural activities as well as considering open space designations for agricultural parcels that are no longer capable of agricultural activities. The proposed project provides for the continued agricultural use by retaining over 142 acres of land (of the 143 acres total) as undeveloped for agricultural or open space use.

Policy 9.30 (*Development Standards to Minimize Land Use Conflicts with Agriculture*) requires a clear separation or buffer between agricultural activities and non-agricultural uses. As stated above, the proposed development is buffered from any existing and potential agricultural uses of the site.

Policy 9.31 (*Protection of Agricultural Land*) requires the use of easements or enforceable restrictions to retain and/or expand agricultural activities. Staff has conditioned the project to record an easement, which will run with the land in perpetuity and limits the use of the land covered by the easement to agricultural uses. The easement will cover all land within the parcel, except for the area southeast of El Granada Creek and approximately 200 feet extending outwardly from the proposed driveway, turnaround and house site.

5. Conformance with the Local Coastal Program

Staff has completed a Coastal Development Permit checklist. The following policies are applicable to this project.

a. Locating and Planning New Development Component

Policy 1.8 (*Land Uses and Development Densities in Rural Areas*) only allows new development in rural areas if it can be demonstrated that the

development will not have a significant adverse impact on coastal resources, nor will it diminish the agricultural viability of surrounding prime agricultural land and other land suitable for agriculture. As previously discussed in Section A.2. of this report, and as conditioned, the revised project will not have a significant adverse impact on coastal resources. The active agricultural component on this parcel is cattle grazing which will be allowed to continue after construction.

b. Agricultural Component

Policy 5.22 (*Protection of Agricultural Water Supplies*) requires that availability of an adequate and potable well water source be provided for all non-agricultural uses and that sufficient water supplies exist for agricultural uses. There are three existing agricultural wells located on-site, one of which is being converted for domestic use to provide adequate well water for the proposed residence. The other two agricultural wells will remain as such to provide an agricultural water source in conformance with this policy.

c. Sensitive Habitats Component

Policy 7.5 (*Permit Conditions*) requires, as a part of the development review process, that the applicant submits a biological report prepared by a qualified professional which demonstrates that there will not be any significant impacts on sensitive habitats. The applicant submitted a new biological report (dated December 1, 2005; see Attachment L) prepared by Thomas Reid and Associates. This report found that there are sensitive habitat areas near El Granada Creek which runs along the eastern side of the property and feeds into an old water impoundment. The report concludes that the proposed development will not impact this sensitive habitat area due to the adequate buffer between this sensitive area and the proposed development. The report also includes mitigation measures to avoid any potential impacts during construction. These have been agreed to by the applicant and have been included as conditions of approval.

Policy 7.8 (*Designation of Riparian Corridors*) requires the designation of riparian corridors for all perennial and intermittent streams in the Coastal Zone. El Granada Creek is identified as a perennial stream. Its section near the project site has no riparian vegetation and is dominated by non-native eucalyptus woodland. As such, Policy 7.11.b. (*Establishment of Buffer Zones*) requires the establishment of a 50-foot buffer zone from the "predictable high water point for perennial streams" where no riparian vegetation exists. Setbacks of 52 feet to the driveway turnaround and approximately 65 feet to the house is proposed, in compliance with the required 50-foot buffer zone. In addition, mitigation measures, such as fencing the construction area and conducting surveys for sensitive species, will ensure protection of these sensitive habitat areas.

Policy 7.14 (*Definition of Wetlands*) defines wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Wetlands do not include vernal wet areas where the soils are not hydric. The biological report for this project identified a small wetland area in and around a pond (a former water impoundment) on the eastern side of the property near El Granada Creek, which is dominated by arroyo willow, sedge, horsetail and a number of other plant species common to wetland areas. The report also concludes that the pond may provide habitat for the San Francisco Garter Snake (SFGS), California Red-Legged Frog (CRLF) and the Western Pond Turtle (WPT). The project site is located approximately 700 feet from this pond, and thus no direct impacts to these wetland areas and associated habitat are expected.

Policy 7.32 (*Designation of Habitats of Rare and Endangered Species*) requires the designation of habitat for rare and endangered species. The biological report for this project identified El Granada Creek and the associated wetland area as potential habitat for the CRLF, SFGS and WPT along with California species of concern, including the yellow warbler and common saltmarsh yellowthroat. The U.S. Fish and Wildlife Service's CRLF critical habitat designation requires a 300-foot buffer around all potential frog habitat. As previously indicated, the project site is approximately 700 feet from this area.

d. Visual Resources Component

Policy 8.5 (*Location of Development*) requires new development to be located on a portion of a parcel where the development best preserves the visual and open space qualities of the parcel overall. As previously discussed in Section A.2. of this report and, as conditioned, staff believes the revised project, having eliminated the subdivision element and relocating the house to the least visible location, will best preserve the visual and open space qualities of the parcel. Thus the project is now in compliance with this policy.

Policy 8.6 (*Streams, Wetlands and Estuaries*) requires setbacks between development and the edge of streams and wetland areas, prohibits structural development which affects the visual quality of streams and requires the retention of existing wetland areas. As mentioned previously, the proposed development has a significant setback to the established sensitive habitat areas and the associated wetland area will remain intact.

Policy 8.7 (*Development on Skylines and Ridgelines*) prohibits the location of development on a ridgeline or skyline unless no other building site exists. The proposed residence is not located on, nor will it affect a ridgeline or a skyline.

Policy 8.9 (*Trees*) requires that new development be located so as to minimize tree removal, and Policy 8.10 (*Vegetative Cover*) requires the replacement of any vegetation removed to accommodate proposed development. As previously discussed, the project will require the removal of eight significant trees and the total clearance of 18,500 sq. ft. of area to accommodate the driveway/turnaround and house. While seemingly significant, this scope of disturbance is weighed against a parcel whose total size is 143 acres. More importantly, the total vegetative impacts will occur within a relatively secluded canyon area and will pose nothing of the visual impacts that the project's initial iteration as subsequently denied by the Planning Commission in September 2005. Due to potential visual impacts of the development, staff is recommending a condition requiring the applicant to submit a re-vegetation plan showing what types of vegetation and landscaping will be planted within the disturbed construction areas.

e. Hazards Component

Policy 9.2 (*Designation of Hazard Areas*). El Granada Creek and the associated water impoundment have been identified as a flood hazard by FEMA. This area is also within the required riparian habitat buffer zone which restricts development in this area. The proposed building site is outside of this designated hazard area.

Additionally, the LCP Hazards Map indicates the subject site is located within an area known for potential shallow landslides. The preliminary soils report indicates the location of the new proposed residence is not in an area subject to major slides. However, as required by Policy 9.10 (*Geological Investigation of Building Sites*), a more detailed geotechnical report will be required at the time of building permit application.

6. Compliance with the Zoning Regulations

a. Permitted Uses

The soils on the project site are categorized as "lands suitable for agriculture." Single-family residences, as well as domestic wells, are allowed with a PAD permit on lands suitable for agriculture and other lands.

Development Standard	Requirement	Proposed
Front Yard Setback	50 ft.	50 ft.
Rear Yard Setback	20 ft.	1,000+ ft.
Right Side Yard Setback	20 ft.	140 ft.
Left Side Yard Setback	20 ft.	1,000+ ft.
Maximum Height	36 ft.	34 ft.

c. Substantive Criteria for Issuance of a PAD Permit

Section 6355 of the PAD Regulations lists a number of criteria required to be met prior to issuance of a PAD permit to allow for conversion of land, which is involved with the proposed project.

General Criteria. In general, the encroachment of all development upon which land is suitable for agricultural use shall be minimized, all development shall be clustered, and the project elements shall conform to the Development Review Criteria in Chapter 20A.2 of the Zoning Regulations. The development proposed is outside of any prime soils areas and leaves the remainder of the parcel in open space uses which can continue to be used for animal grazing and other agricultural uses in the future. The proposed driveway, turnaround, residence and water tanks are clustered together. The subject development conforms to all applicable Development Review Criteria. The Development Review Criteria includes such things as also required by the LCP, as discussed in the previous section of this report.

Water Supply Criteria. The Water Supply Criteria for issuance of a PAD permit requires the applicant to demonstrate an adequate and potable well water source on the parcel where development is proposed. The parcel has three existing agricultural wells, one of which will be converted to a domestic well to provide an adequate and potable water supply. The other wells on the property can be used to provide a water supply for existing and future agricultural uses on-site.

Criteria for the Division of Lands Suitable for Agriculture or Other Lands. The project as currently proposed no longer includes a subdivision element. Thus this criteria is not applicable to the revised project.

Criteria for the Conversion of Prime Agricultural Lands. The prime soils on the parcel are located on the opposite side of El Granada Creek and to the north around the pond area. No project elements occur near nor will impact or convert prime soils, thus this criteria is not applicable to the project.

Criteria for the Conversion of Lands Suitable for Agriculture or Other Lands. The criteria for the conversion of lands includes such criteria as a determination that all agriculturally unsuitable lands on the parcel have been developed or determined undevelopable, that continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, that clearly defined buffer areas are developed between agricultural and non-agricultural uses, that the productivity of any adjacent agricultural lands is not diminished, and that public service or facility expansions and permitted uses do not impair agricultural viability. The land is extremely steep in some areas making it

difficult to use for agricultural purposes with the exception of animal grazing and the development utilizes a small area on the parcel leaving the majority of the parcel undeveloped and available for some type of agricultural use. There will be a clearly defined buffer area between any agricultural and the non-agricultural development. The proposed residence will not diminish the ability for neighboring agricultural operations, if any, to be continued.

d. Agricultural Land Management Plan

Section 6361.C. of the PAD Regulations requires that an Agricultural Land Management Plan be prepared and submitted for parcels 20 acres or more in size before conversion (in this case, the project would convert "lands suitable for agriculture"). The plan shall demonstrate how the land's agricultural productivity will be fostered and preserved in accordance with Sections 6350 and 6355 of the PAD regulations. Upon submittal of the revised project in March of 2006, the applicant also submitted the required Agricultural Land Management Plan (see Attachment H). Upon review of that plan, staff concludes that it complies with aforementioned sections of the PAD Regulations.

7. Conformance with Grading Regulations

The County Grading Regulations require that the following findings be made for approval, each followed by staff's response.

- a. *That the granting of the permit will not have a significant adverse effect on the environment.*

As indicated in the mitigation measures recommended for the Negative Declaration (as discussed in Section D of this report below) and as associated conditions listed in Attachment A, the proposed grading for all elements of the project will not have a significant adverse effect on the environment.

- b. *That the project conforms to the criteria of the Grading Regulations, including the standards referenced in Section 8605.*

Section 8605 includes standards for erosion and sediment control, performance standards, geotechnical reports, dust control, fire safety and time restrictions. The submitted grading plans, together their review and recommended conditions by the Department of Public Works and Half Moon Bay Fire District, will ensure that the grading aspects of this project comply with all such standards.

- c. *That the project is consistent with the General Plan.*

As indicated in the General Plan Compliance Section A.4. of this report, the grading aspects of this project comply.

B. REVIEW BY THE MIDCOAST COMMUNITY COUNCIL

The Midcoast Community Council was sent a referral for this project on March 13, 2006. As of the date of this report, they have not responded.

C. ENVIRONMENTAL REVIEW

A revised Initial Study and Mitigated Negative Declaration (Attachment I) was prepared for the project, reflecting the critical changes, e.g. deleting the subdivision and relocating the house. The document was circulated from July 10, 2006 to July 31, 2006. Two written comment letters were received (Attachment J), which are summarized below, followed by staff's response.

1. **Letter from G.A. Laster (July 31, 2006).** Mr. Laster's letter covered the following three points:

- a. Water tanks. Why are seven water tanks proposed for fire suppression instead of securing water from CCWD? Where would the tanks be located?

Staff Response: Seven tanks are the maximum needed to provide the required domestic and fire suppression water supply. The tanks will be located near the house. The CCWD's service boundary coincides with the County's Urban/Rural Boundary, which is located between the R-1 zoned El Granada area and the PAD-zoned Sterling property. The LCP prohibits the extension of water service beyond the CCWD's service boundaries and Urban/Rural Boundary. While the owners are attempting to secure water from CCWD for fire suppression purposes only, staff is not aware of what provisions would ever allow such a service provision to occur, even for fire-suppression. In any event, the total amount of water storage that would be provided by the proposed water tanks is adequate to serve both the fire suppression and domestic water needs of the project.

- b. Subdivision. Given that the project no longer includes the 2-lot subdivision, why does the Initial Study's Section 1.g. refer to two parcels? What is the basis for the reference of 1.625 density credits and the number of proposed water tanks suggests future subdivision.

Staff Response: Review of Section 1.g. reveals the reference to cattle grazing "...on the larger of two parcels..." This was a typo and is intended to refer only to the one parcel. While the subdivision is no longer part of this project, the calculation and allocation of 1.625 density credits was presented and

discussed at length at the September 14, 2005 public hearing. While staff is confident of that allocation figure, it is not a relevant topic of the project as revised; the proposed residence consumes only one density credit. Finally, the applicant proposes seven water tanks (4,900 gallons each) instead of one or two much larger tanks storing the same volume. Seven smaller tanks are easier to place and locate on the site.

- c. Clearing, Tree Removal and Grading. While clearing, tree removal and grading will be required, where, what and how much are involved? Will there be replacement and restoration of these areas?

Staff Response: As previously indicated, the project will require a total of 18,500 sq. ft. of land clearing. The driveway, turnaround and house would require 565 cubic yards for excavation and 125 cubic yards of fill. The water tanks will require ten cubic yards if excavation. Tree replacement, at a 1:1 basis for each significant tree removed, will be required and has been made a condition of approval. Additionally, conditions of approval are included requiring that a landscape plan be submitted and that all disturbed areas be revegetated.

2. **Letter from Robin McKnight and Allen Olivo (July 31, 2006).** While supportive of the revised project as described, their letter covered three issues:

- a. Subdivision. This was the same question that Mr. Laster asked regarding the Negative Declaration's reference to two parcels. Please refer to staff response to that issue.
- b. Water Tanks. This was the same question that Mr. Laster asked regarding the need for the seven water tanks. Please refer to staff response to that issue.
- c. Visibility of Proposed Structures. Will any structures be visible from Highway 1 or other public viewpoints?

Staff Response: None of the proposed structures (house or water tanks) will be visible from Highway 1, nor should they be visible from any surrounding County-maintained roadways, given their canyon location and the surrounding dense trees and vegetation.

FISCAL IMPACT

Upon completion, due to the improvements made on the property, the assessed tax revenue on the subject parcel would increase.



San Mateo County

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

December 12, 2006

2-SMC-02-201

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

CERTIFIED MAIL

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

RECEIVED

DEC 21 2006

CALIFORNIA
COASTAL COMMISSION

County File No. : PLN2000-00812

Applicant Name: KERRY BURKE
Owner Name: DAN STERLING

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on December 12, 2006. ~~The County appeal period ended on December 12, 2006.~~ Local review is now complete.

Board of Supervisors

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

If you have any questions about this project, please contact D. HOLBROOK at (650) 363-~~4841~~ ¹⁸³⁷.

D. HOLBROOK

Project Planner

EXHIBIT NO.	7
APPLICATION NO.	A-2-SMC-07-001
DAN & DENISE STERLING	
Notice of Final	
Local Action	
(Page 1 of 10 pages)	

fplnfinlocdcsn



Please reply to: Dave Holbrook
(650) 363-1837

December 18, 2006

**ENVIRONMENTAL
SERVICES
AGENCY**

Dan and Denise Sterling
P.O. Box 2795
El Granada, CA 94018

Subject: PLN 2000-00812
Location: 300 San Juan Avenue, El Granada

Dear Mr. and Mrs. Sterling:

Agricultural
Commissioner/ Sealer of
Weights & Measures

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

Parks & Recreation

Planning & Building

On December 12, 2006, the San Mateo County Board of Supervisors considered (1) a Planned Agricultural District Permit and Coastal Development Permit, pursuant to Sections 6353 and 6328.4, respectively, of the San Mateo County Zoning Regulations, (2) a Grading Permit, pursuant to Section 8602.1 of the County Ordinance Code, and (3) Certification of a Mitigated Negative Declaration pursuant to the California Environmental Quality Act, to convert an agricultural well to domestic use, construct a new 6,456 sq. ft. single-family residence, place up to seven water storage tanks for fire suppression, install a septic system, construct and grade a private access driveway, and legalize an existing mobile home as temporary housing during construction, on a legal 143-acre parcel located east of the unincorporated El Granada area of San Mateo County. (Appeal of the Planning Commission's denial of a more ambitious project).

Based on information provided by staff and evidence presented at the hearing, the Board of Supervisors certified the Negative Declaration, approved the Planned Agricultural District Permit, Coastal Development Permit and Grading Permit for the construction of a new residence, access road, water tanks and associated grading, made the findings and adopted conditions of approval with revisions as attached.

This Board of Supervisors' approval is appealable to the California Coastal Commission. Any aggrieved person who has exhausted local appeals may appeal this decision to the California Coastal Commission within 10 working days following the Coastal Commission's receipt of the Board decision. Please contact the Coastal Commission's North Central

PLANNING AND BUILDING

455 County Center, 2nd Floor • Redwood City, CA 94063 • Phone (650) 363-4161 • FAX (650) 363-4849

Dan and Denise Sterling
December 18, 2006
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Coast District Office at (415) 904-5260 for further information concerning the Commission's appeal process. A project is considered approved when the appeal period has expired and no appeals have been filed.

If you have questions regarding this matter, please contact the project planner listed above.

Sincerely,

Kan Dee Rud
Planning Commission Secretary
Bosdec1212Q_kr_sterling.doc

cc: Ashnita Narayan, Agenda Coordinator
Jim Eggemeyer, Deputy Director
Bill Cameron, Building Inspection Manager
Lisa Ekers, Department of Public Works
Lennie Roberts, Committee for Green Foothills
Dave Byers
Kerry Burke

Dan and Denise Sterling
December 18, 2006
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Attachment

COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY

FINDINGS AND CONDITIONS OF APPROVAL

Permit File Number: PLN 2000-00812 Board Meeting Date: December 12, 2006

Prepared By: Dave Holbrook, Senior Planner For Adoption By: Board of Supervisors

FINDINGS

Regarding the Negative Declaration, Found:

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

Regarding the Planned Agricultural District Permit, Found (as discussed in the staff report in Section A.6.c.):

5. That the encroachment of all development upon land which is suitable for agricultural use is minimized.
 6. That all development permitted on-site is clustered.
 7. That the proposed project conforms to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.
-

Dan and Denise Sterling
December 18, 2006
Page 4

8. That the proposed project meets the substantive criteria for the issuance of a PAD Permit.
9. That the existing availability of an adequate and potable on-site well water source for all non-agricultural uses is demonstrated.
10. That adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished.
11. That all agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable.
12. That continued or renewed agricultural use of the soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.
13. That clearly defined buffer areas are developed between agricultural and non-agricultural uses.
14. That the productivity of any adjacent agricultural lands is not diminished, including the ability of land to sustain dry farming or animal grazing.
15. That public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
16. That for parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

Regarding the Coastal Development Permit, Found (as discussed in the staff report in Section A.5.):

17. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County LCP.
 18. That the project conforms to the specific findings required by the policies of the San Mateo County LCP.
-

Dan and Denise Sterling
December 18, 2006
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Regarding the Grading Permit, Found (as discussed in the staff report in Section A.7.):

19. That the granting of the permit will not have a significant adverse effect on the environment.
20. That the project conforms to the criteria of the Grading Regulations, including the standards referenced in Section 8605.
21. That the project is consistent with the General Plan.

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Board of Supervisors on December 12, 2006. Minor revisions or modifications to the project may be approved by the Community Development Director if they are consistent with the intent of and in substantial conformance with this approval.
 2. The Coastal Development Permit, PAD Permit and Grading Permit are valid for one year from the date of approval, until December 12, 2007, on or before which time the applicant shall be issued a building permit. Any extension requests shall be submitted in writing at least sixty (60) days prior to the expiration date, with the applicable extension fee paid.
 3. The applicant shall apply for and be issued a building permit prior to the start of construction of the residence and/or water tanks and develop in accordance with the approved plans as well as install all structures to current building codes.
 4. The applicant shall submit a detailed erosion and sediment control plan to the Building Inspection Section for review and approval by the Planning Division prior to the issuance of a building or Grading Permit for the new residence, driveway/turnaround and/or water tanks. The plan shall show what types of measures will be included, where they will be installed, and how they will be installed and maintained throughout construction. All erosion control measures must be installed prior to any grading or construction activities beginning on-site.
 5. Design and implement appropriate stormwater pollution control measures during construction and residential use. All stormwater control measures shall be clearly shown as part of any future submittal to the Building Inspection Section. The goal of the stormwater control plan is to minimize the amount of stormwater pollution into the existing water sources on-site such as the reservoir and associated freshwater marsh area.
-

Dan and Denise Sterling
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6. The applicant shall submit two copies of the soils report to the Building Inspection Section upon submittal for a building permit for the new residence and prepare building permit plans in accordance with the recommendations outlined in that report.
 7. The applicant shall design the driveway/turnaround to the proposed residence such that soil/root compaction of any nearby trees (to be preserved) is minimized, that runoff does not create erosion problems for adjacent trees, and that tree sapling removal is held to a minimum.
 8. This approval includes the removal of the subject eight significant trees. Tree replacement shall occur with 15-gallon sized trees of an indigenous species suitable to this local environment, at a 1:1 ratio for each tree removed. The proposed location of the replacement trees shall be included and clearly indicated on the required revegetation plan, as stipulated in Condition Number 9.
 9. At the time of application for a building permit, the applicant shall submit a revegetation and landscape plan for review and approval by the Planning Division. The plan shall include a site plan showing the areas to be disturbed and the types of vegetation that will be used to revegetate the areas, clearly indicating the location, size and species of the required replacement trees as required in Condition Number 8. The goal of the revegetation element of the plan is to minimize the visual impacts resulting from the construction of the driveway, turnaround, new residence, and water tanks as seen from adjacent properties. The goal of the landscaping element of the plan is to create a transition between the residence and the pre-existing characteristics of the site helping to blend the structure with its environment. All proposed plantings shall be native and of a type and size to continue to grow and provide this natural buffer. All approved and installed revegetation and landscaping shall be maintained for the life of the structure. Prior to a final inspection on the project, all denuded areas resulting from the construction activities shall be revegetated and landscaped in accordance with the approved plan.
 10. The applicant shall isolate the construction area with a fence made of plywood, or other impenetrable material, and metal posts in order to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS). Fence materials shall be 4 feet tall with the bottom trenched 3-6 inches deep and covered with soil. This fence shall be maintained throughout the construction period.
 11. The applicant shall have a qualified biologist conduct a pre-construction survey within the fenced off area for the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS) and remove any vegetation that may provide
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Dan and Denise Sterling
December 18, 2006
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cover or conceal these species.

12. The applicant shall have a qualified biologist brief construction workers on how to identify the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS). If any are found during work, they are to stop construction activities and contact both the San Mateo County Planning Division and the U.S. Fish and Wildlife Service.
 13. The applicant shall have a qualified biologist inspect the work site at least three times per month to ensure the exclusion fence is not damaged and is functioning properly to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS). The applicant shall submit the findings of the biologist to the Planning Division throughout construction. Receipt of these findings shall be confirmed prior to a building permit final inspection by the Planning Division.
 14. During the construction and grading, the applicant shall adhere to the Construction Noise Standards as stipulated in the County Noise Ordinance.
 15. At the time of the building permit application, the applicant shall submit information to the Building Inspection Section related to the septic system for review and approval by the Environmental Health Division prior to the issuance of a building permit.
 16. The applicant shall employ natural colors and materials for the proposed residence to help blend the proposed structure with the natural vegetative characteristics of the site. The water tanks shall be painted a dark green. Two copies of color/ material samples shall be submitted to the Building Inspection Section at the time of application for a building permit.
 17. No project-related grading or land clearing is permitted until a Grading Permit hard card is issued from the Planning and Building Division and all erosion/sedimentation controls are fully implemented.
 18. All utilities serving all project elements shall be placed underground from the nearest existing utility pole. No new utility poles are to be installed or shall be allowed.
 19. In the event the applicant wishes to convert the existing trailer to an affordable housing unit, then prior to the final building inspection approval of the main house, the applicant shall submit the required Coastal development Permit and Planned Agricultural District permit for the proposed affordable housing unit for consideration before the Zoning Hearing Officer, and approval of the affordable housing contract by the Board of Supervisors.
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20. By no later than February 28, 2007, the applicants shall have followed through with any required plans or other information as stipulated in the Building Inspection's "Pre-Site Inspection" letter dated September 3, 2002 and reflected in the building permit application (BLD 2003-01313) necessary to have the building permit issued and finalized, effectively legalizing the mobile structure currently inhabited by the applicants. In any event, the mobile home shall have been legalized prior to issuance of any project related building or grading permits on the subject property. Any deviation to this requirement may only be granted by the Community Development Director, in consultation with the Building Inspection Manager, upon submittal from the applicants – in writing – why this timetable cannot be met. In the event that the applicant is unable to obtain the necessary permits for affordable housing, as required under condition of approval number 19 above, the applicant shall obtain a demolition permit from the Building Inspection Section and remove the mobile within sixty (60) days of a decision on those permits from the project site.

Building Inspection Section

21. A site drainage plan will be required which can demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
22. Sediment and erosion control measures shall be installed prior to beginning any earth work. These controls shall be maintained through the entire project and permanent measures shall be installed prior to finalizing the permit.
23. All proposed water tanks shall be shown on the building plans, including elevations relative to surrounding and immediate topography.

Department of Public Works

24. Prior to the issuance of the building permit for the new residence, the applicant shall provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.
 25. The applicant shall submit, for review by the Department of Public Works and the appropriate Fire District, a plan and profile of both the existing and the proposed access from the nearest "publicly" maintained roadway (San Juan Avenue or Columbus Avenue) to the proposed building site.
 26. The provisions of San Mateo County Grading Ordinance shall govern all grading on and adjacent to this site. Unless exempted by the Grading Ordinance, the applicant may be required to apply for a Grading Permit upon completion of their review of the plans and should access construction be necessary.
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Dan and Denise Sterling
December 18, 2006
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27. The applicant shall submit a driveway "plan and profile" to the Department of Public Works, showing the driveway access to the parcel complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage.
28. The applicant shall submit detailed drawings and plans indicating the "source of" and the "installation location for" the undergrounding of all utilities.
29. No construction work within the County right-of-way shall begin until Public Works requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

Environmental Health Division

30. Prior to the issuance of a building permit, the applicant shall submit to the Planning and Building Department two copies of a site plan showing: topography and location of each percolation test holes for the proposed residence at a scale of 1 inch to 20 feet or larger.
31. Prior to issuance of a building permit, the applicant shall demonstrate to the satisfaction of Environmental Health an adequate water supply for domestic service.

County Fire/Half Moon Bay Fire Protection District

32. Prior to issuance of any project-related building or grading permits, the applicant shall comply with all requirements stipulated by the applicable Fire Authority regarding construction of the main house, access driveway and water storage tanks located on the private property.

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STATE OF CALIFORNIA — THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260
www.coastal.ca.gov



COMMISSION NOTIFICATION OF APPEAL

DATE: January 8, 2007
TO: David J. Holbrook, Senior Planner
County of San Mateo, Building & Planning
455 County Center
Redwood City, CA 94063
FROM: Ruby Pap, Coastal Program Analyst *RP*
RE: **Commission Appeal No. A-2-SMC-07-001**

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

Local Permit #: **PLN2000-00812**
Applicant(s): **Dan & Denise Sterling**
Description: **Conversion of an agricultural well to domestic use, construction of a new 6,456 square foot single family residence, placement of up to seven water storage tanks for fire suppression, installation of a septic system, construction and grading of a private access driveway, and legalization of an existing mobile home as temporary housing during construction, on a legal 143-acre parcel located east of the unincorporated El Granada area of San Mateo County.**
Location: **300 San Juan Ave, El Granada (San Mateo County) (APN(s) 047-320-060)**
Local Decision: **Approved w/ Conditions**
Appellant(s): **Commissioner Meg Caldwell; Commissioner Pat Kruer**
Date Appeal Filed: **1/8/2007**

The Commission appeal number assigned to this appeal is A-2-SMC-07-001. The Commission hearing date has been tentatively set for February 14-16, 2007 in San Diego. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Mateo's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

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

CALIFORNIA COASTAL COMMISSION

EXHIBIT NO.	8
APPLICATION NO.	A-2-SMC-07-001
DAN & DENISE STERLING	
APPEAL	
(Page 1 of 12 pages)	

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED

JAN 08 2007

CALIFORNIA
COASTAL COMMISSION

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Commissioner Meg Caldwell

45 Fremont St., Ste. 2600

San Francisco, CA 94105

(415) 904-5260

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Mateo

2. Brief description of development being appealed:

Conversion of agricultural well to domestic use, construction of 6,456 square-foot residence, placement of 7 water storage tanks for fire suppression, installation of septic system, construction of private access driveway/turnaround, and legalization of mobile home as temporary housing during construction, on a 143-acre parcel.

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

300 San Juan Avenue, El Granada, San Mateo County

APN 047-320-060

4. Description of decision being appealed:

a. Approval; no special conditions:

b. Approval with special condition: X

c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-2-SMC-07-001

DATE FILED:

1/8/07

DISTRICT:

North Central Coast

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

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

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☒ City Council/Board of Supervisors d. ☐ Other

6. Date of local government's decision: December 12, 2006

7. Local government's file number (if any): PLN 2000-00812

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:

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) _____

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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.)

See Attachment A

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: Meg Caldwell
Appellant or Agent

Date: 1/8/2007

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

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

SECTION I. Appellant(s)

JAN 08 2007

CALIFORNIA
COASTAL COMMISSION

Name, mailing address and telephone number of appellant(s):

Commissioner Pat Krueer
45 Fremont St., Ste. 2600
San Francisco, CA 94105 (415) 904-5260
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Mateo

2. Brief description of development being appealed:

Conversion of agricultural well to domestic use, construction of 6,456 square-foot residence, placement of 7 water storage tanks for fire suppression, installation of septic system, construction of private access driveway/turnaround, and legalization of mobile home as temporary housing during construction, on a 143-acre parcel.

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

300 San Juan Avenue, El Granada, San Mateo County
APN 047-320-060

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special condition: X _____
- c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-SMC-07-001
DATE FILED: 1/8/07
DISTRICT: North Central Coast

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

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- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☒ City Council/Board of Supervisors d. ☐ Other

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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.

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(3) _____

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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See Attachment A

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: 
Appellant or Agent

Date: 1/8/2007

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

Signed: _____

Date: _____

Sterling
Page 1 of 5

Sterling Appeal Attachment A

Applicable LCP Policies

LUP Policy 1.8:

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

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

[Emphasis added.]

LUP Policy 5.10

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

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

[Emphasis added.]

Zoning Regulation Section 6350. Purpose of the Planned Agricultural District

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

Sterling
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- (a) *establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas,*
- (b) *limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development,*
- (c) *developing available lands not suitable for agriculture before converting agricultural lands,*
- (d) **assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and**
- (e) *assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.*

[Emphasis added.]

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

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

A. General Criteria

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

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

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

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

[Emphasis added.]

Zoning Regulation Section 6361(C). Agricultural Land Management Plan

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

Discussion

LCP Policy 1.8 *Land Uses and Development Densities in Rural Areas* allows new development in rural areas only if it is demonstrated that it will not have significant adverse impacts on coastal resources and will not diminish the ability to keep agricultural lands in agricultural production. County findings of approval lack substantial evidence with which to make this finding, and other findings required to approve conditional uses, such as the approved 6,456-square foot residence, in the planned agriculture district (PAD) zone (Chapter 21A of the certified Zoning Regulations), as outlined below.

Section 6361(C) of the zoning regulations requires that the agricultural productivity of the land be fostered and preserved through an Agricultural Land Management Plan (Plan) (emphasis added). The applicant's Plan states that the subject property has supported cattle grazing for approximately ten years, portions of the site contain prime soils, and a majority of the site contains lands suitable for agriculture. The Plan goes on to say that 143-acres of the property will be "available" for rotational grazing of approximately 10 head of cattle and that pumpkins, squash, and other "appropriate agricultural products" will be planted. There is no evidence that an economic agricultural

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viability and conversion analysis that evaluates existing and potential agricultural productivity on the site, as required by Section 6361(C) was conducted as part of the agricultural management plan. Without this analysis, it is impossible to conclude whether the project would foster and preserve agricultural productivity of the land. Therefore, absent evidence that the project would foster and preserve existing or potential future agricultural productivity of the land, the project as approved by the County is inconsistent with Section 6361(C). Further, while the applicants did submit an agricultural management plan, indicating their desire to continue these farming activities, the County's approval of the 6,456-square-foot residence does not include special conditions designed to ensure that the lands are kept in agricultural production. Thus, the approved project is inconsistent with LCP Policy 1.8 and Chapter 21A of the certified Zoning Regulations.

Section 6355 of the certified Zoning Regulations provides substantive criteria for approval of conditional uses on PAD zoned lands, both for conversion of prime agricultural lands and lands suitable for agriculture, including "water supply criteria." The County findings of approval, however, do not provide substantial evidence of whether the conversion of one agricultural well to domestic use to serve the proposed residence provides a safe and adequate source of water, such as whether County environmental health has reviewed and approved the proposal, and whether adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished. The staff report states that the other wells on the property can be used to provide a water supply for existing and agricultural uses on site. It is not stated, however, what the water demand is for potential agriculture on the site. This should be determined through an agricultural economic viability analysis on the applicant's property as well as on neighboring properties in the watershed is. In addition, County findings of approval do not explain how the conversion of the well would affect the water supply. Therefore, due to all of the above, the County's action to approve the development is inconsistent with Section 6355(B) of the certified Zoning Regulations.

If the project area is indeed located on "lands suitable for agriculture," as stated in the staff report, the findings also do not adequately evaluate whether continued or renewed agricultural use of the soils is not capable of being accomplished, whether the productivity of any adjacent agricultural lands would be diminished by the proposal, or whether the proposed use would not impair the viability of agriculture, which are all required findings the County must make before approving residential development on these lands, as per Section 6355(F) of the certified Zoning Regulations. Therefore, the County action to approve the proposal is inconsistent with Section 6355(F) of the certified Zoning Regulations.

Moreover, Section 6350 of the Certified Zoning Ordinance states that the overall purpose of the PAD district is to keep the maximum amount of prime agricultural land and all lands suitable for agriculture in agricultural production, by among others, limiting conversion of agricultural lands (e.g., converting to residential use) around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses. With the absence of an agricultural viability economic analysis to determine if the viability is limited, the County's action is inconsistent with this requirement. Additionally, 6350(c) requires that lands not suitable for agriculture be converted before converting agricultural lands. Because there is no

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evidence in the County findings that the economic viability and productivity of the lands has been adequately determined, the County's action to approve the development is inconsistent with Section 6350(c).

Further, Section 6350(d) of the certified Zoning Regulations requires that non-agricultural development assure that it will not impair agricultural viability, either through increased assessment costs or degraded air or water quality. In the absence of an agricultural economic viability analysis, as well as an analysis of how the residence would increase assessment costs on the property and surrounding properties, the County's action is inconsistent with this requirement. Therefore, the County's action to approve the development is inconsistent with Section 6350 of the certified Zoning Ordinance.
