

Henderson LLA (A-3-SLO-04-056)

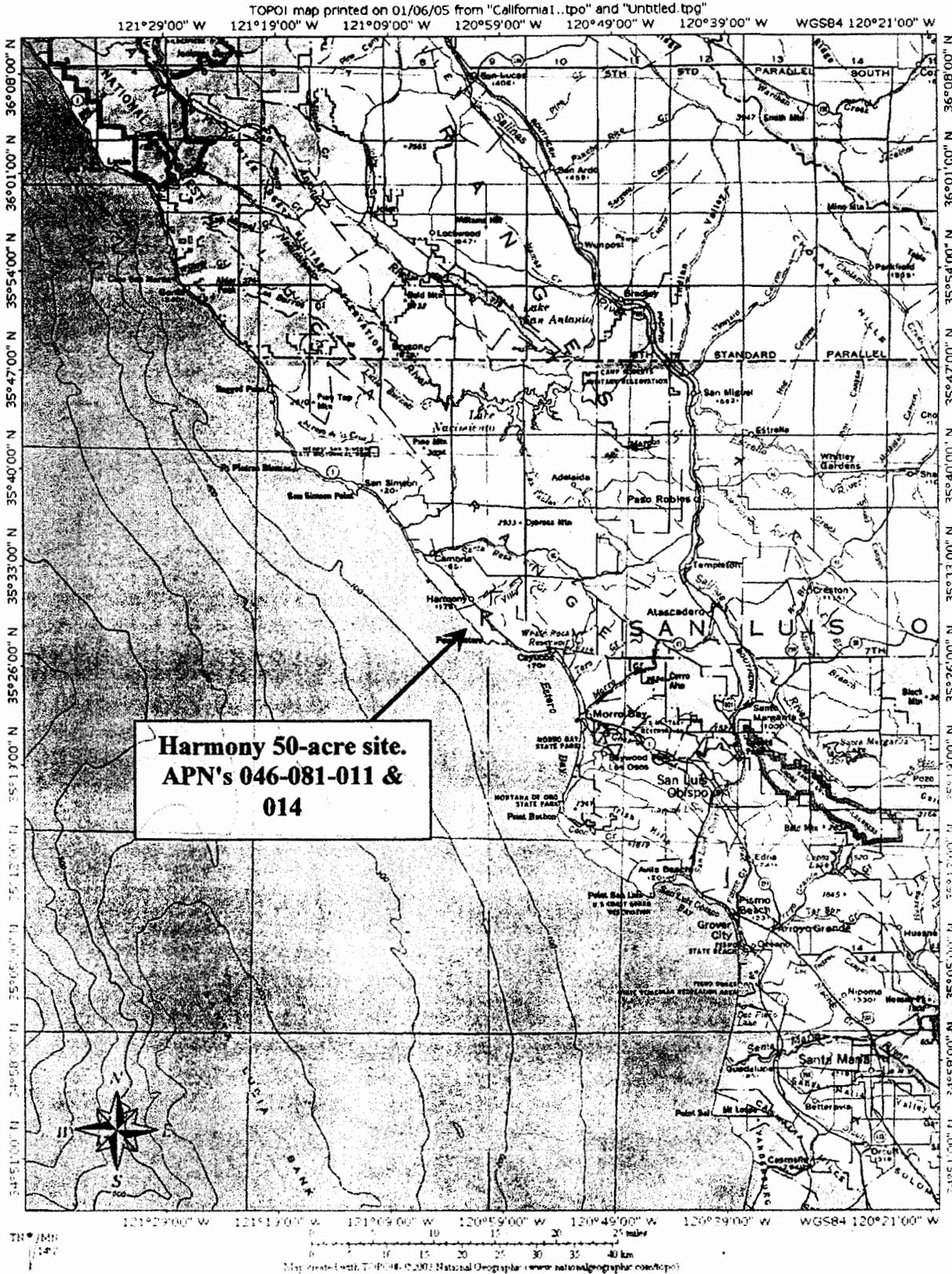


Exhibit A (1 of 2)
Regional Vicinity Map: Harmony Area

A-3-SLO-04-056
Henderson LLA

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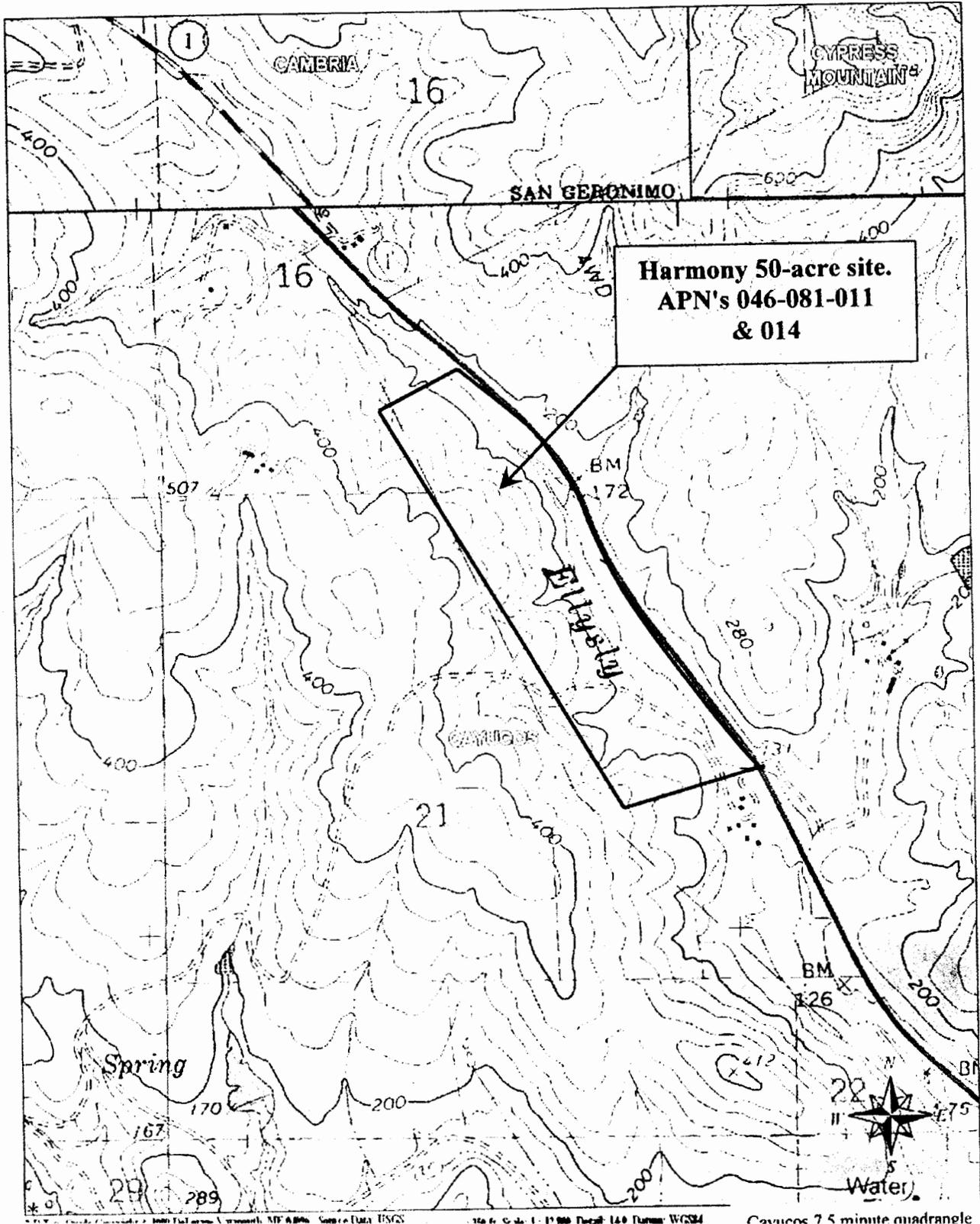


Exhibit A (2 Of 2)
Project Location

A-3-SLO-04-056
Henderson LLA





**SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING**

VICTOR HOLANDA, AICP
DIRECTOR

**FINAL LOCAL
ACTION NOTICE**
REFERENCE # 3-SLO-04-255
APPEAL PERIOD 8/2-8/13/04

RECEIVED

JUL 30 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

July 16, 2004

Country Enterprises
c/o Rory Muniz
150 Vaquero
Templeton CA 93465

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: JULY 12, 2004

SUBJECT: Document Number: 2004-049
**COAL 04-0243/SUB2003-00217-
COUNTRY ENTERPRISES/RORY MUNIZ**

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved on the above-referenced date by the San Luis Obispo County Subdivision Review Board. A copy of the findings and conditions are enclosed. The conditions of approval must be completed as set forth in this document.

An approved or conditionally approved lot line adjustment shall expire unless completed and finalized within two years after its approval or conditional approval. The expiration of an approved or conditionally approved lot line adjustment shall terminate all proceedings and no certificate of compliance recognizing the lot lines described in said lot line adjustment shall be recorded without first processing a new lot line adjustment application. Upon application by the applicant, filed prior to the expiration of the approved or conditionally approved lot line adjustment, the time at which the lot line adjustment expires may be extended by the Subdivision Review Board for a period or periods not exceeding a total of one year. (Sec 21.02.040 (f))

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non coastal issues there is a fee of \$578.00. This action may also be appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.



Subdivision Review Board
COAL04-0243/SUB2003-00217/Country Enterprises/Rory Muniz

FINDINGS - EXHIBIT A

Lot Line Adjustment

- A. The proposed Lot Line Adjustment is consistent with the provisions of Section 21.02.030 of the Real Property Division Ordinance.
- B. The proposal will have no adverse effect on adjoining properties, roadways, public improvements, or utilities.
- C. Compliance with the attached conditions will bring the proposed adjustment into conformance with the Subdivision Map Act and Section 21.02.030 of the Real Property Division Ordinance.

Coastal Access

- D. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.

Archaeological Sensitive Area

- E. The site design and development incorporate adequate measures to ensure that archaeological resources will be acceptably and adequately protected because no development is proposed within the archaeologically sensitive area.

CEQA

- F. Environmental Coordinator issued a Negative Declaration (ED02-524) on May 23, 2003 for Lot Line Adjustment/Coastal Development Permit COAL04-0243/ SUB2003-00217, which was subsequently approved by the Subdivision Review Board on July 7, 2003. The Environmental Coordinator has determined that the changes proposed in the current application were not significant enough to require a new environmental determination.

Streams and Riparian Vegetation

- G. The project or use will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the lot line adjustment moves existing Parcels 2 and 3 completely out of the creek and places building envelopes for both parcels over 100 feet from wetlands and 300 feet from Ellyslly Creek.
- H. Natural features and topography have been considered in the design and siting of all proposed physical improvements, because the lot line adjustment moves existing Parcels 2 and 3 completely out of the creek and places building envelopes for both parcels over 100 feet from wetlands and 300 feet from Ellyslly Creek.
- I. Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource because no development is proposed at this time and the building envelopes have been placed in the least sensitive area of the site.



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Subdivision Review Board
COAL04-0243/SUB2003-00217/Country Enterprises/Rory Muniz

- J. The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff, because the proposed building sites are setback a minimum of 100' from any wetland area, a storm-water pollution prevention plan is required for any soil disturbance over 0.1 acre, disturbed soils are to be protected from erosion and permanently revegetated, and native grassland buffers between wetlands and disturbed areas are to be maintained as biofilters with at least four inches of vegetation.
- K. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- L. The proposed use will not significantly disrupt the habitat because the building envelopes are placed in the least sensitive area of the site.



CONDITIONS - EXHIBIT B
Lot Line Adjustment COAL 04-0243/SUB2003-00217

1. This adjustment may be effectuated by recordation of a parcel map or recordation of certificates of compliance. If a map is filed, it shall show:
 - a. All public utility easements.
 - b. All approved street names.
2. Any private easements described in the title report must be shown on the map, with recording data.
3. When the map is submitted for checking, or when the certificate of compliance is filed for review, provide a preliminary title report to the County Engineer or the Planning Director for review.
4. All conditions of approval herein specified are to be complied with prior to the recordation of the map or certificates of compliance which effectuate the adjustment. Recordation of a map is at the option of the applicant. However, if a map is not filed, recordation of a certificate of compliance is mandatory.
5. The map or certificates of compliance shall be filed with the County Recorder prior to transfer of the adjusted portions of the property or the conveyance of the new parcels.
6. In order to consummate the adjustment of the lot lines to the new configuration when there is multiple ownerships involved, it is required that the parties involved quitclaim their interest in one another new parcels. Any deeds of trust involving the parcels must also be adjusted by recording new trust deeds concurrently with the map or certificates of compliance.
7. If the lot line adjustment is finalized using certificates of compliance, prior to final approval the applicant shall prepay all current and delinquent real property taxes and assessments collected as real property taxes when due prior to final approval.
8. The lot line adjustment will expire two years (24 months) from the date of the approval, unless the map or certificates of compliance effectuating the adjustment is recorded first. Adjustments may be granted a single one year extension of time. The applicant must submit a written request with appropriate fees to the Planning Department prior to the expiration date.
9. All time frames on completion of lot line adjustments are measured from the date the Review Authority approves the lot line adjustment map, not from any date of possible reconsideration action
10. Land Use Permit approval is required for all future development on the property. The land use permit shall determine the precise building site location within the development envelopes shown on the approved lot configuration map
11. **Prior to recordation of the parcel map or certificates of compliance finalizing the lot line adjustment**, the applicant shall enter into an agreement, in a form approved by County Counsel, which includes the following:



Henderson LLA (A-3-SLO-04-056)

Subdivision Review Board
COAL04-0243/SUB2003-00217/Country Enterprises/Rory Muniz
Page 2

AESTHETICS

- a. Building envelopes shall be shown on an Exhibit A attached to the agreement. Envelopes shall be consistent with the approved tentative map with the building envelope on Parcel 1 revised to show a maximum elevation of 231'. The building envelope is to be located approximately 50 feet east and 20 feet south of the currently proposed location as shown on the attached exhibit "Revised Building Envelope for Proposed Parcel 1".
- b. **At the time of future application for land use or construction permit**, a detailed visual analysis shall be submitted for review and approval by the County.
- c. **At the time of future application for land use or construction permit**, the applicant shall clearly delineate the building envelope on the project plans, as shown on the attached exhibit "Revised Building Envelope for Proposed Parcel 1". All new development (e.g. residences, detached garages, guest houses, sheds) shall be located within the building envelope.
- d. **At the time of future application for land use or construction permit**, the applicant shall provide cross sectional drawings that clearly illustrate the relationship between the proposed development and ridgeline when viewed from Highway 1. All new development shall be located so that no portion of the structure silhouettes against the sky when viewed from Highway 1.
- e. **At the time of future application for land use or construction permit**, the applicant shall clearly delineate the height of new development above the existing natural ground surface on the project plans. All new development shall be located so that no portion of the structure silhouettes against the sky when viewed from Highway 1 and shall not exceed 18.5 feet in height above the existing ground surface or the 246.5' elevation, whichever is lower.
- f. **At the time of future application for land use or construction permit**, the applicant shall submit architectural elevations of all proposed structures to the Department of Planning and Building for review and approval in consultation with the Environmental Coordinator. The elevations shall show exterior finish materials, colors, and height above the existing natural ground surface. Colors shall minimize the structure massing of new development by reducing the contrast between the proposed development and the surrounding environment. Colors shall be compatible with the natural colors of the surrounding environment, including vegetation, rock outcrops, etc.. Darker, non-reflective, earth tone colors shall be selected for walls, chimneys etc. and darker green, grey, slate blue, or brown colors for the roof structures.
- g. **At the time of future application for land use or construction permit**, the applicant shall submit landscape, irrigation, landscape maintenance plans and specifications to the Department of Planning and Building for review and approval in consultation with the Environmental Coordinator. The landscape plan shall be prepared as provided in Section 23.04.186 of the San Luis Obispo County Coastal Zone Land Use Ordinance and shall provide vegetation that will adequately screen the new development, including driveways, access roads, outbuildings, water tanks, etc., when viewed from Highway 1 and blend the new development, including driveways, access roads, outbuildings, water tanks, etc., into the surrounding environment.



BIOLOGICAL RESOURCES

- h. **At the time of future application for land use or construction permit**, a biological report shall be submitted for review and approval by the County. The biological report shall address areas to be disturbed as a result of buildings and any road or culvert improvements and recommend a mitigation and monitoring plan.
- i. **The following requirements apply to any future construction activities on the site:**
 - 1. Protect disturbed soils from erosion and permanently revegetate disturbed areas,
 - 2. Maintain native grassland buffers between wetlands and disturbed areas as biofilters with at least four inches of vegetation.
- j. Native grassland buffers 100' around wetland areas shall be maintained.
- k. **At the time of future application for land use or construction permit**, a sedimentation and erosion control plan and a storm-water pollution prevention plan for any soil disturbance over 0.1 acre shall be prepared that minimizes project sediment from reaching the creek.



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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COMMISSION NOTIFICATION OF APPEAL

DATE: August 13, 2004
TO: Martha Neder, Planner
County of San Luis Obispo, Planning & Building Department
County Government Center
San Luis Obispo, CA 93408
FROM: Steve Monowitz, Permit Supervisor
RE: Commission Appeal No. A-3-SLO-04-056

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 #: COAL 04-0243/SUB2003-00217
Applicant(s): Country Enterprises, Attn: Rory Muniz
Description: Lot line adjustment between three parcels of 41.48, 1.75 and 6.90 acres each resulting in two parcels of 43.60 and 6.53 acres respectively to provide potential building envelopes.
Location: Highway 1 (North Coast planning area), Harmony (San Luis Obispo County) (APN(s) 046-081-011, 046-081-014)
Local Decision: Approved w/ Conditions
Appellant(s): California Coastal Commission, Attn: Commissioner Mike Reilly; Commissioner Sara J. Wan
Date Appeal Filed: 8/13/2004

The Commission appeal number assigned to this appeal is A-3-SLO-04-056. The Commission hearing date has been tentatively set for September 8-10, 2004 in Eureka. 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 Luis Obispo's consideration of this coastal development permit must be delivered to the Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

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



Reasons for Appeal: San Luis Obispo County Coastal Development Permit COAL 04-0243/SUB2003-00217 – (Country Enterprises/Rory Muniz)

Proposal by Country Enterprises/Rory Muniz for a Lot Line Adjustment/Coastal Development Permit to adjust the lot lines between three parcels of 41.48, 1.75 and 6.90 acres each. The adjustment will result in two parcels of 43.60 and 6.53 acres, respectively. The adjustment is inconsistent with the policies and ordinances of the San Luis Obispo County Local Coastal Program, as detailed below.

1. Legal Lot Status –The County's findings for approval do not adequately address the history of lot creation, and as a result, the legal status of the lots proposed for adjustment and the development potential of each parcel remains in question. These issues warrant a further analysis and review by the Coastal Commission of the proposed project, particularly because the proposed establishment of two residential building envelopes will intensify the level of non-agricultural development on the site in conflict with LCP agricultural protection policies (1 and 2), and poses significant adverse impacts to coastal resources, as discussed below.
2. LCP Policy 1 for Agriculture requires that lands suitable for agriculture be maintained in or available for agricultural production unless, among other reasons, the permitted conversion will not adversely affect surrounding agricultural uses. Allowable non-agricultural uses on agricultural lands may only be permitted where the least amount of agricultural land is converted. LCP Policy 2 prohibits land divisions in agricultural areas that would limit existing or potential agricultural capability. The purpose of this lot line adjustment is to create residential building sites on agricultural parcels with a history of cattle grazing. The project is in conflict with Policy 1 and 2 requirements protecting agriculture. The proposed lot line adjustment is also inconsistent with these requirements because the location and size of the newly created lots in conjunction with the desired building envelopes will convert more agricultural land than is necessary to accommodate residential development. Due to the excessive conversion of agricultural land for non-agricultural purposes, the agricultural capability of the site will be reduced. In addition, increased development pressures may adversely affect surrounding agricultural lands.
3. As discussed, Policies 1 and 2 for Agriculture require protection of agricultural lands. Policy 3 for Agriculture identifies requirements to protect agricultural lands when non-agricultural supplemental uses are approved to support agriculture. As opposed to such supplemental uses, single-family residences are specifically allowed by the LCP on agricultural lands, and are considered to be a part of, rather than supplementary to agricultural use. The objective of Policy 3 is to minimize the conversion of agricultural lands to non-agricultural uses. The proposed project is not intended to protect agricultural lands, but is intended for single-family residential development. This is neither agricultural nor supplemental non-agricultural use. The intensification of residential development on agricultural land enabled by the lot line adjustment contradicts this policy objective. In any case, the proposed project does not include necessary protections, for example agricultural easements.
4. Section 23.04.024b of the Coastal Zone Land Use Ordinance (CZLUO) establishes a minimum parcel size of 320 acres for land divisions on parcels where there is an existing agricultural use of grazing. The lot line adjustment approved by the County established two lots for residential use, both of which are inconsistent with the 320 acre minimum parcel size

Exhibit E
Appeal Contentions
(2 of 3)

Henderson LLA (A-3-SLO-04-056)

COAL 04-0243/SUB2003-00217 (County Enterprises/Rory Muniz)

Contentions of Appeal

Page 2

- requirement. While it is recognized that the number and size of existing lots preclude strict compliance with minimum parcel size requirements, there are alternative lot configurations that would better meet the intent of this policy. Such alternatives involve increasing the area designated for agricultural use and reducing the area designated for residential use.
5. CZLUO Section 23.04.024(f) requires that approval of land divisions on non-prime agricultural soils include a finding that the division will maintain or enhance the agricultural viability of the site. The local approval finds that the lot line adjustment is a betterment of the existing situation because the parcel sizes are below minimum parcel size as set through the LCP and will remain so after the adjustment. In addition the County approval states that the adjustment will result in the reconfiguration of the two parcels to move building envelopes into areas least likely to impact coastal resources and the agricultural viability of the site. There may be alternatives that would better protect sensitive resources as well as maintain and enhance the agricultural viability of the site that would cluster and reduce the size of the residential development, while increasing the area designated for agricultural use.
 6. Visual Resource Policy 1 requires that unique and attractive features of the landscape, including natural landforms, scenic vistas, and sensitive habitats are to be preserved and protected. In addition, Section 23.04.021c of the CZLUO establishes overriding land division requirements. Among these requirements, part 6 of this section prohibits new land divisions where the only feasible building site would be on slope or ridgetop where a building would be silhouetted against the skyline as viewed from a public road. While the building envelopes designated by the lot line adjustment have been designed to minimize visibility from Highway One, their locations may be visible from Highway 46, especially in the morning hours when the sun would be reflected off of the future residences. In addition, the proposed building envelopes would be visible from Highway One.
 7. Policy 7 for Agriculture requires that the highest priority for the use of new water extractions, which must be consistent with habitat protection, is to preserve available supplies for existing or expanded agricultural uses. CZLUO Section 23.04.430b states that development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems. Water to serve future residential development will be obtained from an on-site well, and wastewater treatment will be provided by on-site septic systems. The County's approval of this lot line adjustment does not contain the information necessary to determine if the on-site water supply is adequate to serve future residential development without adversely impacting agriculture or natural habitats, or if the designated building sites contain soils suitable for septic system use.
 8. San Luis Obispo County LCP Environmentally Sensitive Habitats Policies 1, 2, and 27, and Coastal Zone Land Use Ordinance (CZLUO) Section 23.07.170 (d) prohibit new development proposed within or adjacent to locations of environmentally sensitive habitats from significantly disrupting the resource, and within an existing resource, allows only those uses dependent on such resources. In addition, Environmentally Sensitive Habitats Policies 28 and 33 require that native trees and plant cover, and vegetation which is rare or endangered, shall be protected against significant disruption of habitat value. The parcels contain an extensive wetland complex and may contain, among others, environmentally sensitive coastal prairie habitat. The proposed building envelopes will disturb plant cover and vegetation that may include sensitive plant species. It is possible that an alternative development envelope configuration would avoid disruption of these environmentally sensitive habitats.

ibit E
Appeal Contentions
(3 of 3)



California Coastal Commission

A-3-SLO-04-056
Henderson LLA



Photo 1. View south of Ellyslly Creek and Highway 1.

Exhibit F
Site Photos
(1 of 2)

Henderson LLA (A-3-SLO-04-056)



Photo 2. View west of the northern tributary. Coastal scrub habitat occurs on the steep hillsides.



Photo 3. The upland habitat is valley needlegrass grassland habitat, dominated by purple needlegrass.



Photo 4. Wetlands occur in Ellysy Creek and its primary tributaries.

Exhibit F
Site Photos
(2 of 2)



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JUL 21 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

July 20, 2006

Mr. Steve Monowitz
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

Re: *Henderson project, Appeal A-3-SLO-04-056, Harmony Coast, North Coast Planning Area, San Luis Obispo County*

Dear Mr. Monowitz:

I am writing on behalf of our client, Mr. Richard Henderson, current owner of the property in the Harmony Coast area of San Luis Obispo County that is the site of the above-referenced project that was the subject of the Coastal Commission staff report dated December 29, 2005 (formerly known as the "Muniz" project). Mr. Henderson has retained our firm to represent him in this matter.

The Coastal Commission staff filed an appeal of the County approval for this project in late 2004. The Commission held a hearing in January 2006 and found that a "Substantial Issue" exists in this matter. The staff report at the time recommended denial of the project. We are now in the *de novo* phase of review and wish to submit additional information regarding the project before proceeding to a hearing.

The project proposal for a lot line adjustment from three parcels to two has not changed. However, Mr. Henderson, in seeking to work cooperatively with staff, has made significant design revisions to the project based on concerns raised in the December staff report (hereinafter "staff report"). This letter will demonstrate that with these project changes the proposed lot line adjustment reconfiguration meets all the standards set forth in the San Luis Obispo LCP, including the "equal or better" standard in regard to agricultural uses, visual and scenic resources, ESHA, and archeological resources.

Project Description

The lot line adjustment proposal will still combine three parcels 43.75 acres, 4.93 acres, and 1.45 acres each, resulting in two parcels of 43.60 acres and 6.53 acres. However, now, the applicant wishes to propose two 10,000 square foot residential building envelopes; this significant downsizing from the previously submitted and analyzed two

CCC Exhibit G
(page 1 of 5 pages)

15,000 square foot envelopes is the result of our consultation with our experts on biological resources, visual resources, and the analysis of our agricultural experts.

Agricultural Resources

As mentioned above, we have obtained an analysis of the agricultural viability of the site from Mark Swisher, B.S. and Michael Hall, M.S. of the Animal Science Department of the California Polytechnic State University in San Luis Obispo (see Exhibit A, "Agricultural Viability of APNs 046-081-011 and 014" dated June 2006). These agricultural specialists analyzed the parcels in the current configuration and compared the agricultural viability to the configuration after the lot line adjustment. Among their findings, the proposed lot line adjustment:

- Does not diminish long-term viability of the parcels;
- Results in *superior* agricultural productivity due to combination of lands and a proposed reciprocal grazing agreement;
- Will not change the fact that cattle grazing on this site is not an economically feasible enterprise.

In the staff report, it is suggested that the lot line adjustment will "fragment the agricultural lands" and will remove "excess acreage" available for agricultural uses. On the contrary, it will allow the combination of land so that development can occur on the *least* productive soils, rather than in the current configuration where more productive soils would be highly impacted. In addition, an agricultural conservation easement on the property would be included as part of this current proposal.

Lot Line Adjustment Results in Equal or Better Agricultural Productivity

Recognizing site constraints, the consultants were directed to analyze the agricultural viability of the property in its current configuration with two envelopes: one 2,500 square foot building envelope and another envelope sized at either 5,000, 10,000 or 15,000 square feet. As shown in the agricultural viability study, when one 2,500 square foot building envelope and one 15,000 square foot envelope are analyzed, the total number of cattle that could graze is 5.84. The .84 has no practical impact on the number of cows, since cows only come in whole units, not fractions thereof, and therefore the number of cows that could graze is five. When using the most conservative envelope size combination (2,500 and 5,000 square feet), the result is a mere .02 increase of capacity, to total 5.86 cows. Hence, in the current configuration, the carrying capacity is five cows, dealing as we must, with whole cows.

In our revised lot line adjustment proposal, the two 10,000 square-foot building envelopes will result in a carrying capacity of 5.86 cows, the same fraction and the same number of whole cattle, i.e., five cows, as the current configuration in the example above. Thus, the project meets the "equal or better" standard set forth in Section 21.02.030(c) of the San Luis Obispo County Certified LCP and cited in the staff report.

Cattle Grazing On This Site Is Not Commercially Viable Operation

Included in the analysis was the fact that the applicant has proposed a reciprocal grazing agreement with the neighboring property owner that would increase the cattle carrying capacity potential. It bears noting however that, in any case, the small number of cattle (under 20 animal units) that could be grazed on this property would not qualify as a commercially viable operation and this livestock ownership would be considered "hobby" ranching. To illustrate the economic infeasibility of the project, consider the costs to repair and maintain the perimeter fence that separates the parcel from the roadside and other necessary infrastructure, which would amount to \$42,000. Even if the applicant could secure \$850 a year for a grazing lease on the property, the economic return would be *negative* \$3,966.33 annually as explained in the agricultural report (Swisher and Hall, June 2006).

Archeological Resources

The staff report appears to mistakenly locate the building envelopes in the archeological resource area. As previously submitted in our site plan, the lot line adjustment would allow the proposed development envelopes to entirely avoid the archeological resources. On Parcel 1, the proposed development is 50 feet from the archeological site, and on Parcel 2, the proposed development is 150 away from the archeological site. However, in either configuration, existing or with the lot line adjustment, the proposed development will not impact archeological resources.

Biological Resources

We have retained a biological expert, Dr. Lynn Dee Althouse, a biologist who has created an analysis of the purple needlegrass that would be impacted by the project as well as a resource management plan, including repropagation efforts (Exhibit B, "Biological Resource Update to the Biological Assessment for APNs 046-081-011 & 014" Althouse & Meade, Inc., July 2006). With the implementation of the mitigation measures recommended in her report, we believe the following conclusions can be made about the lot line adjustment from a biological perspective:

- It will provide greater environmental protection for the biological resources than unrestricted grazing;
- It will not entail development that would force grazing animals into riparian area;
- It will allow currently degraded habitat and native grasses to return and be restored.

As mentioned above, currently the applicant could graze cattle on this property with no requirement for fencing of the wetland and riparian habitat. In that case, the cows could degrade, damage, and possibly destroy the sensitive resources on the small parcels. With the proposed project, the applicant will have a 100-foot wetland and ~~300-foot~~ riparian buffer and will fence off the sensitive habitats to prevent such impacts. The lot line adjustment would thus lead to a better outcome for the resources.

The staff report suggests that road widening will negatively impact the resources, however, there is no road widening associated with this project. If the applicant elected to develop the parcels in the current configuration, an access road and new driveway would be required, however, with the proposed lot line adjustment, there is already access from the existing road.

This lot line adjustment will allow development to be moved out of the sensitive areas of the site and into the least productive soils on the property. In the current configuration, the potentially developable sites would be located in and near sensitive resources; the lot line adjustment relocates development away from these areas. With the lot line adjustment and the proposed reduction in development envelopes, the biological resources will not be more impacted. In fact, the impact to biological resources is lessened resulting in a better situation due to the lot line adjustment.

Visual Resources

To address concerns regarding the visibility of the structures from Highway 1, the proposed residences have been redesigned and lowered in height from the previously proposed 18.5 feet to 12 feet, a significant change. The attached renderings demonstrate how the houses will be screened with native vegetation and with a berm, screening it from public view and allowing them to blend into the environment (Exhibit C, Project Renderings, SB Planning, June 2006). Additionally, the roofline and roof pitch of the buildings will be consistent with the slope of the hillside and designed in a manner, shape, style and size compatible with rural agricultural structures.

Due to these project alterations, there will be less earth moving or grading compared to the previous proposal to sink the buildings into the hillside in order not to break the ridgeline. In addition to the lowering of the height and the vegetative screening and berming, we are amenable to a project condition that limits the palette of colors for the buildings, if the Commission should choose to apply one. Additionally, the applicant would agree to a landscaping condition that restricts both the type of plants and areas to be landscaped to address staff's concerns regarding "extensive landscaping" on the site.

Whereas the staff suggests that the residences on the hillside would be more visually intrusive since they would be visible for a longer time while passing by in a moving vehicle from the road, it must be noted that in the current configuration, one residence would have to be built right along the road frontage, impossible not to notice when driving by since it would sit directly facing the roadway (Exhibit D, SB Planning, June 2006). In either case, any development on this site will impact viewshed. Arguably, two residences screened on a hillside would appear smaller, be more blended with the environment due to screening, more visually pleasing, and be less visually intrusive than the current alternative. Therefore, the proposed lot line adjustment results in residences that are equal or better visually than the current situation.

With the significant changes proposed by the applicant, the residences will be less visible on the hillside than previously proposed, and they will be less visually intrusive than

potential development in the current configuration. Regarding visual resources, the lot line adjustment will result in an equal or better situation than the current one.

Additional Issues and Clarifications

There are a few remaining issues that were raised in the December 2005 staff report to address. To demonstrate that there will be no well impacts on surface water, please find a letter from Certified Hydrogeologist Timothy Cleath (Exhibit E, Cleath & Associates, May 11, 2006). Also attached are percolation tests that demonstrate there will be no impacts to the wetlands or surface water (Exhibit F, Percolation Data Report, Mid-Coast Geotechnical, Inc., June 3, 2002). In order to allay staff concerns regarding soil erosion and sedimentation, the applicant would be amenable to a drainage and erosion control plan condition that would require BMPs to control runoff from the site.

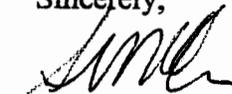
The staff report bases many concerns on the premise that "if not properly designed" the installation of the wells and septic system for residential uses can have adverse impacts to water quality. Again, the applicant would be amenable to a condition that would assure all applicable water quality standards are met.

Conclusion

With the project revisions, the lot line adjustment is an improvement over the current lot configuration and meets the standard of creating an "equal or better" situation in regards to agricultural resources, biological resources, visual resources, and archeological resources, as demonstrated in this letter.

I hope this new information, the substantial changes made by the applicant, and his willingness to work to find a mutually agreeable resolution, will be helpful as you assess these issues for the *de novo* review of this project. I will contact you shortly to schedule a meeting to discuss our revised proposal.

Sincerely,



Susan McCabe

cc: Jonathon Bishop, Coastal Commission staff

*Attachments referenced in this letter are available upon request at the public hearing