

CALIFORNIA COASTAL COMMISSION

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

**ADDENDUM****M13b&c**

DATE: July 6, 2007
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Addendum to Agenda Items M13b&c, De Novo Review of Appeal (Chase), for the Monday, July 9, 2007 Commission Hearing

The purpose of this addendum is to: (1) allow the open space area to be offered for dedication to a public agency or private association approved by the Executive Director; (2) clarify that the on-site wetland enhancement shall occur within the delineated wetland boundaries; (3) attach the applicant's proposed February 19, 2007 architectural drawings; (4) attach correspondence from the appellants and other opponents and (5) attach the July 5, 2007 correspondence from the applicants' representative, Jeffrey Nelson.

Note: Strikethrough indicates text to be deleted from the June 29, 2007 staff report and Underline indicates text to be added to the June 29, 2007 staff report.

1. Special Condition 15 of CDPs A-4-STB-06-054 and -055 on Pages 25 and 39 of the staff report shall be modified as follows:

15. Open Space

The applicants shall implement either: (A) Open Space Deed Restriction or (B) an Offer To Dedicate An Open Space And Conservation Easement prior to issuance of the Coastal Development Permit as specifically described below:

A. Open Space Deed Restriction

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

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

B. Prior to the issuance by the Executive Director of the NOI for this permit, the applicants shall submit for the review and approval of the Executive Director, and upon such approval,

for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction, prepared by a licensed surveyor, of the portion of the subject property affected by this condition, as generally described on Exhibit 6~~6~~ attached to the findings in support of approval of this permit.

OR

B. Offer To Dedicate An Open Space And Conservation Easement

No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur outside of the approved development area, as generally shown in Exhibit 6 except for:

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

Prior to issuance of the Coastal Development Permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director on behalf of the people of the State of California, an open space and conservation easement over the open space area described above, for the purpose of habitat protection. The recorded document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space and conservation easement area, as generally shown on Exhibit 6. The recorded document shall reflect that no development shall occur within the open space and conservation easement area except as otherwise set forth in this permit condition. The irrevocable offer to dedicate shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. Such offer to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assigns, and any such offer to dedicate shall be irrevocable for a period of 21 years, such period running from the date of recordation.

2. Special Condition 5 of CDPs A-4-STB-06-054 and -055 on Pages 14 and 29 of the staff report shall be modified as follows:

5. Wetland Mitigation

Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, an Onsite Wetland Enhancement Plan and an Offsite Restoration Plan subject to the following provisions. Said plans shall be prepared

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

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

The onsite wetland enhancement shall include, at a minimum, the removal of any and all invasive plant species on the site; the removal of all non-native, non-wetland indicator plants within the boundary of the delineated wetland (FLx, 1997); (the same activities may occur within and the adjacent open space area(s) on-site as part of the off-site mitigation required in Subsection B, below) within the required wetland protection fencing; revegetation of all disturbed areas with appropriate native species, including areas where invasive and non-native plants were removed within and adjacent to the delineated wetland; and the installation of a permanent split-rail fence and educational and instructional signage to protect the remaining wetland habitat against impacts from humans, vehicles and pets as required in **Special Condition One and Special Condition Eleven**. The wetland enhancement plan shall include implementation of procedures to provide formal written notice to all occupant(s) and future occupants of the dwelling describing the wetland protection goals and objectives and statement that any activities, with the exception of restoration maintenance activities listed below, within the wetland are strictly prohibited. The written notice shall be a separate notice given to each occupant 18 years of age or older at the time of lease signing.

...

3. The February 19, 2007 architectural drawings shall be appended to Exhibit 5 of the staff report.
4. Correspondence from four appellants (Edward Maguire, Rick Stich, Janet Stich, Bruce Murdock) and one member of the public (Paul H. Lee) in opposition to the staff recommendation shall be attached to the staff report.
5. Correspondence from Jeffrey Nelson on behalf of Kathy and Chris Chase in opposition to the staff recommendation shall be attached to the staff report.

KARI
ARCHITECT

LORI A KARI
ARCHITECT
AIA

305
SANTA
BARBARA
STREET
SUITE A
SANTA
BARBARA
CA
93101

TEL
805
943-0560

FAX
87
943-7361

NEW
RESIDENCES

FOR
KATHY
AND
CHRIS
CHASE

LOTS
22 & 23
DEL PLAYA
DRIVE
ISLA VISTA
CA

LOT 22 & 23
FLOOR
PLANS
&
ELEVATIONS



All design ideas and interpretations
represented on these drawing plans
were created by the architect in connection
with the specific project and are
the exclusive copyright and property
of Lori A. Kari, Architect.
These plans are not to be reproduced,
changed, or copied for any purpose
without the written
permission of Lori A. Kari, Architect.

LORI A. KARI
ARCHITECT

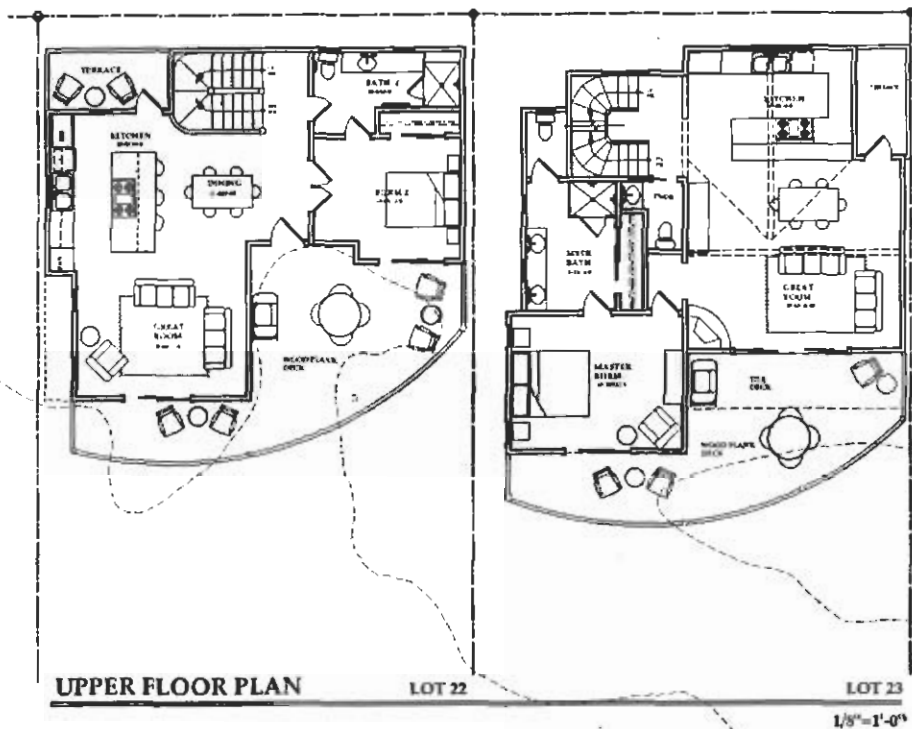
DATE

08.05.2008
12.12.2008
01.03.2009
02.19.2009
CC UPDATE
DRAWINGS
VERSION 2

REVISIONS

SHEET

A-2

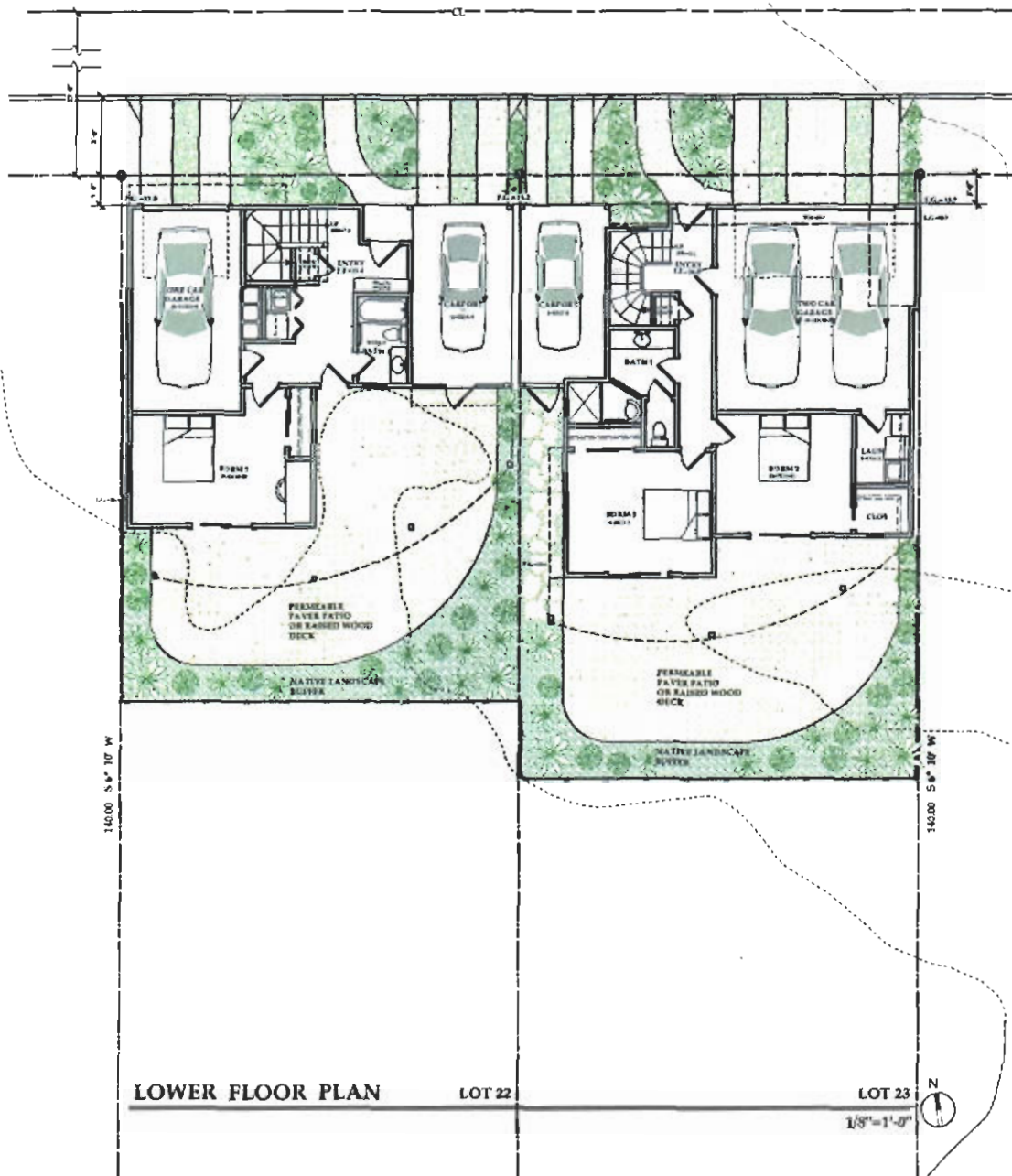


UPPER FLOOR PLAN

LOT 22

LOT 23

1/8"=1'-0"

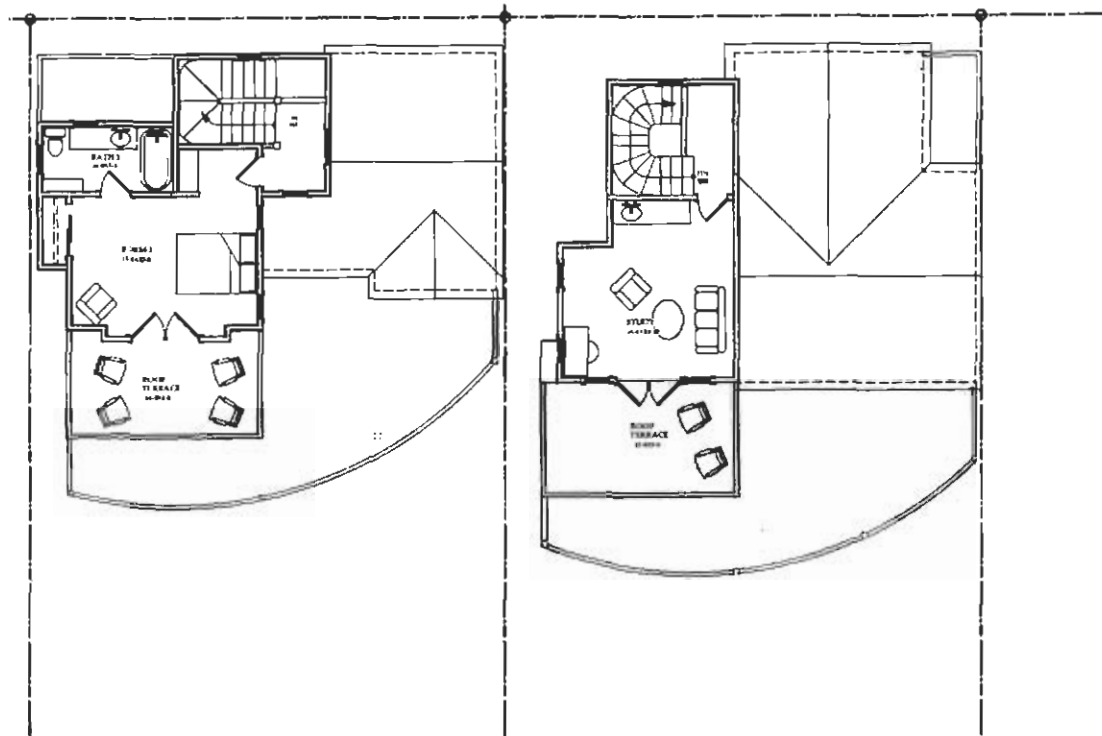


LOWER FLOOR PLAN

LOT 22

LOT 23

1/8"=1'-0"



LOFT FLOOR PLAN

LOT 22

LOT 23

1/8"=1'-0"



NORTH ELEVATION

LOT 22

LOT 22

FACING STREET

1/8"=1'-0"



SOUTH ELEVATION

LOT 22

LOT 23

FACING BLUFFS

1/8"=1'-0"

Edward F. Maguire
1774 Cousino Way
Rancho San Diego, CA 92019-3833
Phone: 619-444-6690
Fax: 619-444-7589
Cell: 619-993-6850

RECEIVED
JUL 06 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

July 4, 2007

California Coastal Commission
89 South California St. Suite 200
Ventura, CA 93001
Attn: Shana Gray, Coastal Program Analyst

Re: Permit Number A-4-STB-06-054 and Permit Number A-4-STB-06-055

Dear Members of the California Coastal Commission:

As an appellant I respectfully request the consideration of the above Permits be denied and the applicants directed to resubmit their application to the appropriate agencies with proper regulatory review and notice to adjacent property owners. The purpose of the California Coastal Commission is not to avoid lawsuits for a taking but rather to preserve and protect the remaining Coastal Resources. The staff recommendations do not reasonably accomplish this mission, particularly recommending development in Environmentally Sensitive Habitat with incomplete biological review of the project property and adjacent property and limited resources to review and supervise this project.

The concerns and issues raised by the limited numbers of appellants who have been properly noticed of this project have not been addressed in the public notice and staff report, recommendations and mitigation requirements as drafted. The written material mailing to the appellants is dated June 29, 2007 for a meeting to be held on July 9, 2007. Considering usual mailing delivery times, a national holiday during this 10 day period, and weekends, the appellants are allowed only 1 to 3 working days for review of the relevant issues and to make arrangements for mailing and to attend the meeting in another county.

There have been material changes to the application and staff recommendations since the last hearing, which the appellants and interested parties have not had a chance to analyze. The staff has had in its possession plans submitted by the developer since February and have not included copies for review by appellants. There has been inadequate time for consultation with legal counsel and experts and related government entities. The appellants would like to have time to review the many legal, environmental and related issues and review of the many mitigation strategies involved in this development.

Likewise there have been community efforts to find alternatives to this disastrous violation of the purpose of the Coastal Commission, which cannot be reviewed in the time permitted. Why the Coastal Commission staff continues to recommend a project larger and more obtrusive than that permitted by the County of Santa Barbara remains a mystery, particularly after the chair directed the staff to downsize the last recommendation to meet the local will of elected officials. This development, as recommended, amounts to a larger, more obtrusive barrier, ignores environmental, air, water, view and light issues and creates what amounts to an 80 foot long and 25 foot high two home physical barrier that is not in keeping with the single family nature of the zoning.

Please refer to the documents presented at the last hearing regarding the documentation of the many concerns from appellants that are not addressed. In addition there are Coastal Commission Recordings of pictures showing the drainage of the property into the Pacific Ocean in direct conflict with the review letter from the U. S. Army Corps of Engineers (based on input documents presented by the attorney for the applicant), verbal testimony regarding the inadequacy of the environmental studies. Then, as now, there were appellant concerns regarding the changes in the project, public notice and opportunity to participate in the hearing.

We believe all affected parties should have adequate time and opportunity to have input and legal consideration of their concerns. We believe that the Coastal Commission Staff has labored hard and long to try and avoid a takings law suit, however, in doing so they have compromised the very purpose of the Coastal Commission and the public interest in protecting the fragile and limited coastal resources that are left to protect. Proper consideration of the many issues with input from appropriate experts should be completed before final consideration on this project. The Coastal commission Staff should not be the sole judge of what is appropriate based on private discussions and intimidation from developers. The courts may ultimately have to be involved in this judgment, however a preferable alternative would be to send this project back for resubmission with proper notice to all the owners of Orilla del Mar, the rapidly eroding property westward of the two housing sites and review by the Army Corps of Engineers based on the fact that this property does indeed drain into a navigable US Water, the Pacific Ocean and therefore should qualify for federal review and jurisdiction including a survey for endangered Fairy Shrimp for which federal monies have been allocated. .

Since I will be unable to attend this meeting I wish to grant the time I would be allocated to present to my fellow appellants, to include Janet and Rich Stich and or Bruce Murdock.

Thank you for your patience and consideration of this request.

Sincerely,

A handwritten signature in dark ink, appearing to read "Edward F. Maguire". The signature is fluid and cursive, with a large initial "E" and "M".

Edward F. Maguire, Appellant

Agenda #: 13b and 13c
Appeal #: A-4-STB-06-054 and 055
Chase Property

Position: Opposition

July 3, 2007

RECEIVED
JUL 05 2007

California Coastal Commission
89 South California Street, 2nd Floor
Ventura, California 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Commissioners,

In regard to the proposed Chase project on the 6800 block of Del Playa in Isla Vista, we offer the following comments:

This project is at a crucial turning point. You are being presented with a revised project at what will be the third meeting on the subject. It is our hope that the Commission will realize that the current proposal still does not meet The Coastal Act requirement to afford the wetland, upon which it is sited, the "maximum protection possible".

We feel the following are the most substantial issues regarding this proposal:

Protection of the wetland and adjacent vernal pool: The vernal pool at the core of the discussion for this project is one of the last **natural** pools on the Isla Vista sea bluffs. It is very alive and very viable. Funds are being provided by the Southern California Wetland Recovery Program and the UCSB Shoreline Preservation Fund to maintain it. It supports the full complement of wetland habitat plants and animals. It is a valuable community and environmental resource enjoyed by residents. The vernal pools and wetlands are also used as a frequent site for University wetland education and restoration classes and for seed-collecting to benefit other wetland sites.

As you know, the Coastal Act establishes that no building is allowed within a 100 ft. buffer zone for a vernal pool, such as this, in order to protect the delicate drainage patterns that create this thriving, fragile, protected, wetland habitat.

Because of the threat of a "takings", this project, **sited entirely within the 100 ft. buffer**, has been allowed to be considered.

If structures are allowed, it then becomes incumbent to create a footprint and design that impacts the wetlands/pool the least. **This is where the current project falls short.**

The staff did an excellent job with the "Conditions" the Chases are required to fulfill regarding the **undeveloped** portions of the proposal. However, in regard to the structures, the considerations and conditions are focused entirely on how to get the **"greatest"** square footage jammed onto this area rather than recommending a proposal design that will impact the wetlands the least. The current project is much larger than what is required to avoid a "taking" and every additional square foot, in fact, impacts the wetland and vernal pool more. The project should be modest, respectful of it's location in the buffer, and should not, as proposed, overwhelm the site.

The Chases have not taken responsibility for a design protective of its location, as each successive proposed design they've submitted has been larger than the previous one that had been denied. Therefore, it falls to the Coastal Commission to assume the responsibility of placing the primary design focus for the structures **back** onto the protection of the wetland.

Prior to the project reaching the Commission, the Santa Barbara County Board of Supervisors and staff spent countless, grueling hours, publicly and privately, hammering out the footprint, general design and square footage they felt were appropriate to this constrained site. We request that the Commission take into consideration these efforts of the local governing entity and reconsider their recommendations. While we feel that ultimately there should be no building at all in this buffer, the Supervisors' plan does more closely follow The Coastal Act and the LCP requirements for the wetland protection than the current Chase proposal, which is what is required in this case.

Please do not approve the project as proposed. We need a project that is more suited to the site, one more in keeping with the neighborhood, and especially one which has a greater chance of protecting one of the few remaining California wetland and vernal pool resources. It is worth the time spent to get it right.

Respectfully,

A handwritten signature in cursive script, appearing to read "Janet Stich".

Rick and Janet Stich

RECEIVED
JUL 05 2007

Item # W 13b+c
Permit # A-4-SIB-04-03 06-057
Position: Opposed

California Coastal Commission
89 South California Street, Suite 200
Ventura, California 93001

January 6, 2005

Dear Commissioners,

There is no doubt in anyone's mind who lives on our street, that the proposed Chase building site will destroy a bonafide wetland. This precious and rare site represents a wetland in its natural state of which less than 5% remain. Sadly, the fact that this is a wetland has been usurped in the clever use of a legal loophole, called a taking. Backed against a wall by the threat of a lawsuit in this regard, Santa Barbara County chose to ignore setbacks, buffer zones for the wetland and an entire ecosystem of rare and protected plant species. In granting the Chase building permit, Santa Barbara County did not say that building on a wetland is a violation of the Coastal Act. In granting this permit, the County did not say to the Chases, "You'll have to accept the offers from agencies willing to buy their land"for an estimated five times what they were originally purchased for. In anyone's book, that's not a bad return on an investment.

The statements that I am submitting are what experts have had to say about these wetlands for more than fifty years:

"After surveying this land, which is an active vernal pool, the idea of building on it should be out of the question."

-Beatrice Sweeney, 1968
Professor of Biology, UCSB
President, Institute of Biological Sciences
Plant Physiologist
Founder, Coal Oil Point Reserve, UCSB

"Based on the presence of the obligatory number of wetland plants and vegetation alone, the area in question that I have examined should be considered a wetland."

-Cristina Sandoval
Wetland Biologist
Manager, Coal Oil Point Reserve, UCSB

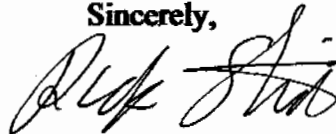
"The study area (Parcels 21-27) is dominated by a vernal pool wetland characterized by various hydrophytes and facultative species that generally reflect variations in flooding regimes. The site has been fragmented by several north-south trending trails, but this has not obscured the east-west trending nature of the wetland that virtually extends along the entire east-west axis of the topographic depression."

-Wayne R. Ferrin, Jr.
Jacqueline Bowland
From "Del Playa Vernal Pool
Study, Chase Property, Isla Vista,
California, Final Report

In conclusion, this precious area should be preserved for study and appreciation of its natural coastal environment. Other building sites were offered to the Chases in exchange for the two lots in question. They refused them. The Chases want to say that it is within their legal rights to build on a wetland, when, in fact, it's a violation of the Coastal Act to do so. The Chases knew this was a wetland when they bought it. Others, the Sweeney-Lee family, for instance, had it surveyed in the late 60's, as mentioned, found it to be a wetland, and declined to purchase it.

Respectfully, the Coastal Commission should decline to approve any building on this site for the same reason. Knowing beforehand that one is buying a wetland, what should your expectations for returns be? This is the question.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Stich", written in a cursive style.

Rick Stich

RECEIVED
JUL 05 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Richard and Janet Stich
6865 Del Playa
Isla Vista, CA 93117

Dear Commission Members,
Please note the marked areas
of this letter I previously
sent. I could not have
said it better.
Thanks so much

July 4, 2006

Via Federal Express Item 13 B+C

California Coastal Commission
South Central Coast Area
89 South California Street Suite 200
Ventura, California 93001

Re: CDP/Appeal No: A-4-STB-06-054 (Parcel 22) (Subs. Issue Appeal # A-4-STB-04-035)
Chase Property

CDP/Appeal No: A-4-STB-06-055 (Parcel 23) (Subs. Issue Appeal # A-4-STB-04-035)
Chase Property

Dear Coastal Commissioners:

Having reviewed the proposed project for the 6800 block of Del Playa in Isla Vista, the EIR, and the staff report, we offer, as local residents and Appellants, the following comments:

These comments center around two of the main issues dictating this project: (1) The fact that the project is entirely within the 100 foot buffer zone for the vernal pool and wetland, requiring that the numerous protections afforded such land by the Coastal Act be enforced to the maximum extent possible, and (2) the issue of a taking occurring when the Coastal Act is enforced.

We respectfully disagree with the recommendation of the staff and request that the Coastal Commission deny this project. The project needs revision to more adequately and legally reflect the provisions of the Coastal Act and the County LCP which apply to this unique wetland area.

The scale of the project is too large: As you know, LCP Policy 4-4 states that "...new structures shall be in conformance with the scale and character of the existing community."

The Chases original proposal, which was considered too large by members of the Commission, had a *smaller* living area than the current proposal. This project will be

taller, larger, and have more massing than our community can tolerate. The staff report itself acknowledges that it is out of character.

The staff's proffered reasons for approving the project despite these concerns are flawed. First, the staff reports that this large project is the "*minimum requirement*" necessary to allow the Chases feasible economic return on their investment and avoid a "taking".

The Chases invested \$30,000/lot in 1988 to purchase a known ESH, while neighbors four houses down the block purchased a vacant lot within the same time period for the true average price more than of \$180,000. This project would be a maximum return, *not in any way a minimum return*, on a \$30,000 investment. It does not need to be this big in order to recoup a relatively small investment, which the Chases made with full knowledge of the environmental restrictions on the property. As stated in the project EIR, the Supreme Court, in a takings case, concluded: "**The governing entity is not required to permit a landowner to develop the property to the full extent he might desire or be charged with an unconstitutional taking of property.**"

The staff states that by approving the loss of visual resources and community character, they are more adequately protecting the wetlands. We feel there is no reason why maintenance of visual resources, community character, and wetland protection cannot be accomplished in one project. More appropriate two-story designs in keeping with the community protect the wetland equally as well as these proposed, over-large, three-story projects do.

The staff also states that a similar project was approved in 2000, further down the I.V. bluff top. It is imperative that you understand this was in a "multiple-residential" zone, already full of apartment buildings and density. The approval of that project should have no bearing on the consideration of the appropriateness of this project for our neighborhood which is in the "single-family residential" zone. We have no large, apartment-type massing, and have very light density. The character of our neighborhood, which we would like to preserve, is entirely unlike the rest of Isla Vista.

As no project at all should be built on this wetland buffer, at the very least, approval should not be given to a project that is larger than the community standard.

Wetland Restoration: We thank the Commission for requiring the restoration of the remainder of the wetland not planned to be built upon. It may be a point of interest to the Commissioners that the vernal pools and wetlands in the lots immediately adjacent to the Chase properties are currently under restoration, at great expense, by a wetland specialist hired by the owners of these properties. Please consider this effort this community is actively engaged in to protect our wetland resource.

California Coastal Commission

July 4, 2006

Page - 3 -

We hope you do not approve this project, particularly because a project that not only is more in keeping with the neighborhood, but which more closely conforms with the Coastal Act and with the County LCP can be designed and implemented for this site. If a project is going to be built, we should get it right.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Janet Stich".

Richard and Janet Stich

Bruce K. Murdock
POB 8583
Goleta, CA 93118
3 July 2007

California Coastal Commission
89 South California Street
Ventura, CA 93001
Attn: Shana Gray, Coastal Program Analyst

Dear Members of the California Coastal Commission,

This letter regards items M13b&c to be heard on 9 July 2007. I am an appellant in this action.

I oppose the approval of the Chase development for the following reasons:

- 1) The County of Santa Barbara is required to apply the policies of the Coastal Act, as reflected in its LCP, and most particularly Section 30233 and Section 30240 to the maximum extent feasible. I respectfully suggest that this standard has not been met by the County's approval, or by the recommendations of Staff in its report to the Commission, or by the Commission's Staff.

The applicant, and not the public, or the County, or Coastal Commission, must bear the burden of producing evidence, and the burden of proof, that what has been approved has protected ESH and wetland *to the maximum extent feasible*, while avoiding a taking.

In other words, the Chases must show how small a development they can make to minimize wetland impact and still avoid a taking. The Chases have not done same. The opposite tack is taken, i.e., how large a development can they get away with.

- 2) The proposed split rail fences has the potential to seriously and permanently damage the geology that allows vernal pools to exist.

The geology of this coastal mesa is a marine uplift. The first 13 to 18 inches are a dense clay layer that inhibits water permeation (Coast Valley Testing Soils Report 5337-04 appendices 2 & 3 as appended). Below that layer, the soil permeability increases becoming very porous when sand is reached at 3 foot depth.

The split rail fence postholes will puncture the dense clay layer and provide a drain for the standing vernal pool water. This water drain will damage the vernal pool by more quickly reducing its water level and allowing it to dry out.

Another method must be found to protect the wetland.

Please deny the Chase development as it now exists.

Regards,



Bruce K. Murdock

*Coast-Valley
Testing, Inc.*

Order Number

42879

Reference Number

04-5337

Foundation Exploration

For

Bruce Murdock

6875 Sabado Tarde Road

Goleta, California 93117

Proposed

Residence

6870 Del Playa

Goleta, California 93117

January 14, 2004

360 South Fairview Avenue Suite A, Goleta, California 93117
Goleta Office (805) 964-3509 *Los Olivos Office (805) 688-3577*
Fax (805) 964-9897 *Fax (805) 686-5997*

BORING LOG

boring #1

DISTURBANCE
(%)

13.3

8.7

8.1

15.2

28.6

32.0

DEPTHSOIL DESCRIPTION

0	dark brown clayey sand damp porous to moderately firm
1	
2	dark brown sandy clay moist firm
3	
4	light brown/yellow silty fine sand moist firm
5	
6	
7	
8	tan silty fine sand moist to very moist and firm
9	
10	
11	
12	
13	black silty fine sand very moist to saturated moderately firm
14	
15	

groundwater @ 13.0 feet

BORING LOG

boring #2

DISTURBANCE
(%)DEPTHSOIL DESCRIPTION

	0	
	1	light brown silty sand dry porous
10.2	2	dark brown sandy clay damp and moderately firm
	3	
7.5	4	light brown/tan slightly clayey silty sand damp firm
	5	
	6	
7.7	7	
	8	light brown silty fine sand damp firm
	9	
10.1	10	
	11	
28.2	12	
	13	
31.2	14	dark brown silty sand moist firm
	15	

RECEIVED
JUL 05 2007

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Hearing location - San Louis Obispo
Hearing Date - Monday, July 9, 2007
Agendum Number - M 13b & c
Permit Number - A-4-STB-06=054
Name - Paul H. Lee
Position - Opposed

Paul H. Lee
6877 Del Playa Drive
Goleta, CA 93117

California Coastal Commission
South Central Coastal Area
89 South California Street
Ventura, CA 93001

4 July 2007

Dear Commission Members,

I am sorry that I will not be able to speak at your hearing. Due to the short notice, I was unable to reschedule other obligations. Please note that I live on the bluff in Isla Vista about 100 yards west of the building sites to be discussed on Monday. As a resident of Isla Vista since 1968, I have an on-going concern about the protection of the bluffs, naturally occurring wetlands and vernal ponds. These wetlands and vernal ponds are the natural habitats for many forms of wildlife such as frogs, egrets and other small animals. The building of the proposed residences would destroy these fragile environments once and for all.

When investigating properties for the purpose of building our home 40 years ago, my wife and I considered purchasing the properties under discussion. It was through careful research from both my perspective as a physicist and my former wife's perspective, as a biologist, that these properties were deemed unacceptable for building due to the fragility of the environment and our concern about the protection of the wetlands and vernal ponds. As you are aware, wetlands on the coast have become ever more scarce as the years go by. The lots in question were not suitable for building 40 years ago and they are not suitable for building today.

I do not understand why the proposed project should be approved. Even small houses could not be placed on these lots and still preserve access for wildlife. Yet, by IV standards, the houses proposed are so enormous that they threaten the ambiance of our street and our village. Not only are these houses much too big, but the builders plan to place them where there should be no houses at all!

These houses would destroy wildlife access to a natural habitat. This coastal area needs protection not exploitation of its wetlands. It seems to me that preserving our natural treasures is the most important single reason why we have a California Coastal Commission. I hope that you, its members, will have the courage and foresight to carry out your duty responsibly.

Respectfully,



Paul H. Lee
Prof. of Physics, Emeritus, UCSB

Mullen & Henzell L.L.P.

ATTORNEYS AT LAW

e-mail: jnelson@mullenlaw.com



July 5, 2007

J. ROBERT ANDREWS
JEFFREY C. NELSON
JAY L. BECKERMAN
JOSEPH F. GREEN
MACK S. STATON
GREGORY F. FAULKNER
RICHARD G. BATTLES
EDWARD C. THOITS
WILLIAM E. DEGEN
MICHAEL E. CAGE
CHRISTINE P. ROBERTS
LORI A. LEWIS
PAUL K. WILCOX
MONICA M. ROBLES-MUZINICH
RAMÓN R. GUPTA
RAFAEL GONZALEZ
JANA S. JOHNSTON
REBECCA D. EGGEMAN
LINDSAY G. SHINN

DENNIS W. REILLY
CHARLES S. BARGIEL
KIRK R. WILSON
JARED M. KATZ
GRAHAM M. LYONS
OF COUNSEL

THOMAS M. MULLEN
1915-1991
ARTHUR A. HENZELL
RETIRED

California Coastal Commission
c/o Ventura office
89 South California Street
Suite 200
Ventura, CA 93011

Re: Chase Two Single Family Residences

Hearing Date: July 9, 2007

Agenda Item: M 13b & c

**Ref.: Support Approval of Residences but
Object to Footprint and Certain
Conditions**

Dear Coastal Commissioner:

We represent the property owner seeking the permits in this matter, Kathy and Chris Chase.

We agreed that permits should be issued for these lots but disagree with the conditions, including the limits on building envelopes that staff first shared with us only 3 business days ago.

New Settlement Proposal

We are pleased to report that we have been working pro-actively for the last year to endeavor to finally resolve this matter. This involves new compact plans (Exhibit 1) and a settlement proposal to the County (Exhibit 2), a portion of which is to have final plans approved using very restrictive footprints for these lots which footprints are well less than the total amount of upland (non-wetland) on each lot (Exhibit 3). The settlement proposal also involves transferring the balance of the parcels, more than 60% of each, to a public or non-profit agency via deed or conservation easement.

A reduction of the plans prepared by Lori Kari is as shown on Exhibit 1. The settlement proposal and plans have been before the staff since March of 2007. We are hopeful that the plans are approved as submitted so that the settlement agreement and transfer of land can occur, which will help facilitate access to the coastal bluff. The open space parcel can be consolidated with open space parcels that exist on three sides of the open space.



Background

This is now the 10th year since applications were filed for five homes for the Chase parcels. Homes could not be built from 1971 to 1997 because of the Goleta Water Moratorium, but water meters were available in 1997.

This is an example extreme use of governmental power to thwart housing on infill parcels with workforce housing type-building sizes. The Chase family filed five applications for their five lots in 1997. The elder Chase members now aged 80 had this asset of theirs taken from them by a combination of denial of permits and government condemnation of their three lots, leaving only these two lots of the original five.

We were prepared to go to trial in 2002 on all five lots as to a takings suit. The County approached us on negotiating an agreed building plan for these two lots to forestall the takings trial. Those negotiated plans, which the County committed to approving in the court document attached as Exhibit 2 (excerpt) was never approved by the County. The County, in 2003, approved much smaller footprints than it had committed to and that "approval", which was only approval of a building footprint, was unacceptable to the Chases and has been on appeal since then.

We have spent more than two years working with staff on specific design since the Coastal Commission declined in 2004 to accept the staff recommended footprint in the face of the architect expert's letter saying this did not provide an adequate footprint for a house (See Exhibit 4, which shows the little difference between the 2004 staff footprint and the 2007 footprint). The original architect's letter, Exhibit 5, is still applicable to challenge the staff's limited footprint.

The eventual Superior Court trial for the other three Chase lots ended in a determination that the County's action had indeed constituted a taking; there was a subsequent settlement. We have delayed going back to Court on these two lots hoping that acceptable permits would be issued. That would end the litigation.

We have been told the County will communicate to the Commission that these most recent Lori Kari plans would be, from the County staff's perspective, the kind of plans they would support in the County application process.



The New Proposal

The most recent Lori Kari plan occupies significantly less than the combined upland square footage on each parcel (Exhibit 3). Staff has recently suggested the building envelope be further reduced.¹

If the plan provides useable decks off the back that will take the pressure off of the adjacent open space, most of which surrounding area is characterized in studies as “wetlands” but is actually rarely wet and is used by local people and dogs without any limitations at all. The future occupants of these homes could spill over into the open space parcels, or “wetlands” if the homes do not have useable decks in the back.

The decks can be raised on conventional deck piers so that any water can run under them.

Infill Housing

The Coastal Act since 1976 has contemplated that infill housing would take priority over specific wildlife habitat and other resource policies.²

Our settlement proposal included transferring nearly 60% of the total of the two lots to a public agency for open space purposes where the agency could take such action or inaction on remediating the graded wetland consistent with what it does on surrounding lands. Otherwise these parcels would be two isolated, restored but inaccessible parcels out of several other open space parcels.

Our proposal is more permissive of public access to the coast than is the staff’s proposal.

¹ Staff has had the current Lori Kari plans since March of 2007. We asked to meet with them concerning these plans but they respectfully declined until after they had filed their staff report for this hearing with another new proposed building footprint that Staff had not shared with us. In a meeting with Staff on July 3, 2007, the idea of expanding the building footprint to the front property line, which is 8 feet from the street, was raised and that idea has promise. Lori Kari was out of town for that meeting but should return before July 9. Decks on the back are still important to make the house functional.

² “The Legislature further finds and recognizes that conflicts may occur between one or more policies of this division...In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protected, overall, than specific wildlife habitat and other similar resource policies.” Public Resources Code Section 3007.5.



The Staff has suggested the applicants trim off the back of the buildings and the decks even further; the architect has said her most recent plans are “ridiculously small” already.

The plans as submitted do involve modifications of setbacks and a two foot modification of the height limit, but create the most compact building possible.

One of the appellants, during the pendency of this matter, has built a more than 3,000 sq. ft. home across the street which is the standard of what the County would approve under normal circumstances for a new house (he too had standing water during construction in low areas but was not limited by that fact).

There are vast quantities of open space to the north of this property that have been the off-site mitigation bank for other projects and this is the one and only project in the urban area that was thwarted from using that mitigation bank. Thwarting this housing is inconsistent with the County’s obligations under State housing mandates.

Wetlands

There are no endangered or protected species involved in these properties. The property owner has no obligation to have water stand on the property for the rest of time. The applicant could, in theory, lay out perforated pipes to serve as a French drain on the property and drain off any occasional standing water to the adjacent street. There has only been standing water about once in the last 7 years. If the public was held to the same standards as these applicants, the public open space around this property would be closed off and there would be no allowed human use of this space. That is what the staff proposes for the house area, which is actually composed of both upland and wetland, even though staff imposes a condition that inhibits any use of that property and does not allow it to stay as is because it is too degraded to be a reasonable wetland in its current condition.

None of these areas on these two lots meets the literal meaning of environmentally sensitive area as defined in the California Coastal Act Section 30107.5. The Army Corps of Engineers has declined jurisdiction for these parcels. ³

Mitigation of Wetlands

There is no evidentiary proof that two homes built in this location will have a deleterious impact on the vernal pool located to the east or on other “wetlands.” Appellants (Stich) occupy a house to the west that has no buffer between the house and yard and the mapped “wetland.” No one has ever taken action to mitigate this

³ While the Coastal Commission staff has been dismissive of the Tierney study of the proposed footprints, if we return to court we feel it has better evidentiary weight than the Flx study as to that specific location as it alone focused on the proposed building footprint for Lots 22 and 23.

mh

arrangement. Local residents walk, bike, take dogs for walks, and have even driven on the "wetlands." These areas have animal waste and have had burned couches on them with no evident impact as there are no endangered or protected species on the property. Nevertheless, the proposed conditions provide that:

1. The "wetland" must be further avoided yet the proposed footprints, as submitted are only about 20% of the parcels plus 10% raised decks with about 45% of the total land characterized as upland (non-wetland) by FLX.
2. Even though these plans protect against any net loss of "wetlands", the staff proposes both on-site and off-site mitigation. As to on-site, the current "wetlands" are so degraded that they must be re-done, even though no public agency has succeeded in creating pristine wetlands on the adjacent open space.
3. As to off-site mitigation, apparently avoidance and on-site restoration is not considered actual mitigation, consequently staff proposes the applicants must mitigate off-site at a 2 to 1 ratio.

We incorporate by reference to the administrative record all materials submitted to the Coastal Commission staff during the pendency of these proceedings as well as all exhibits to this letter.

Conclusion

It is time, after ten years, for these compact in-fill homes to be built. The public gets new coastal property, the County settles this suit and the neighborhood gets quality designed new homes under the current proposal. We respectfully request that the Coastal Commission approve the two CDPs but specifically amend the conditions of approval so that they are consistent with the current architecture dated February 2007 and applicant's settlement proposal on Exhibit 2.

Very truly yours,



Jeffrey C. Nelson of
Mullen & Henzell L.L.P.

JCN/bmz
Chris and Kathy Chase
Santa Barbara County Counsel – Michael Ghizzoni, Chief Deputy, County Counsel
Appellants
California State Department of Housing



Attachments:

- 1) Current proposed architectural plans (reduced)
- 2) Letter to staff with settlement proposal, March 21, 2007
- 3) Diagram of Upland vs. Wetland area on each lot, if consolidated
- 4) Building footprints compared 2004 and 2007
- 5) Expert architect's letter on necessity of a functional plan, Riffle, Jan. 2005
- 6) Due Process Issues

KARI
ARCHITECT

LORI A KARI
ARCHITECT
AIA

205
SANTA
BARBARA
STREET
SUITE A
SANTA
BARBARA
CA
93101

TEL.
805
965-0560

FAX.
805
965-7361

NEW
RESIDENCES

FOR
KATHY
AND
CHRIS
CHASE

LOTS
22 & 23
DEL FLAYA
DRIVE
ISLA VISTA
CA

LOT 22 & 23
FLOOR
PLANS
&
ELEVATIONS



All design ideas and information represented on these drawing plans were created for use in connection with the specified project and are the exclusive copyright and property of Lori A. Kari Architect. These plans are not to be reproduced, changed, or copied for any purpose whatsoever without the written permission of Lori A. Kari Architect.

LORI A. KARI
ARCHITECT

DATE

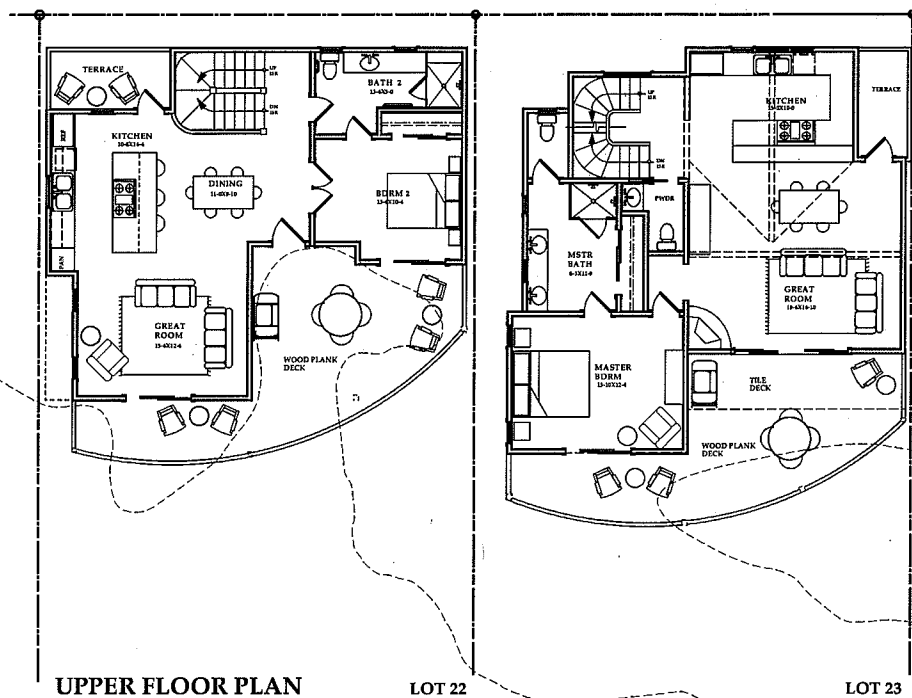
08.05.2005
12.12.2005
01.03.2006
02.19.2007

CC UPDATE
DRAWINGS
VERSION B

REVISIONS

SHEET

A-2

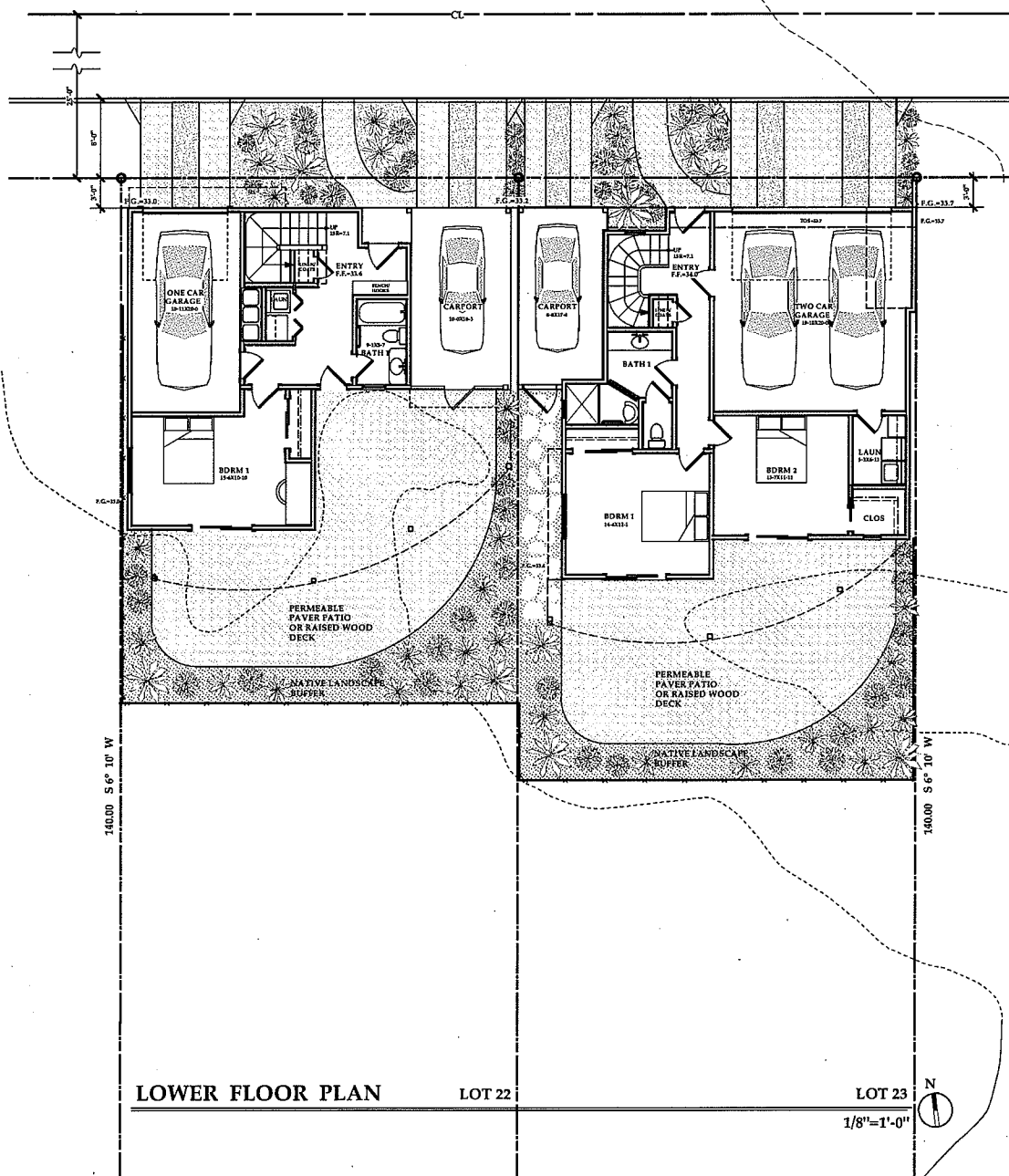


UPPER FLOOR PLAN

LOT 22

LOT 23

1/8"=1'-0"

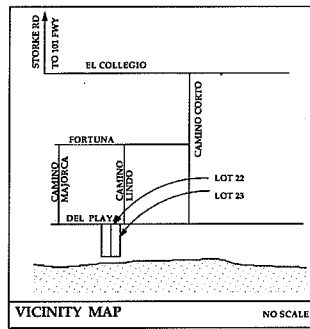
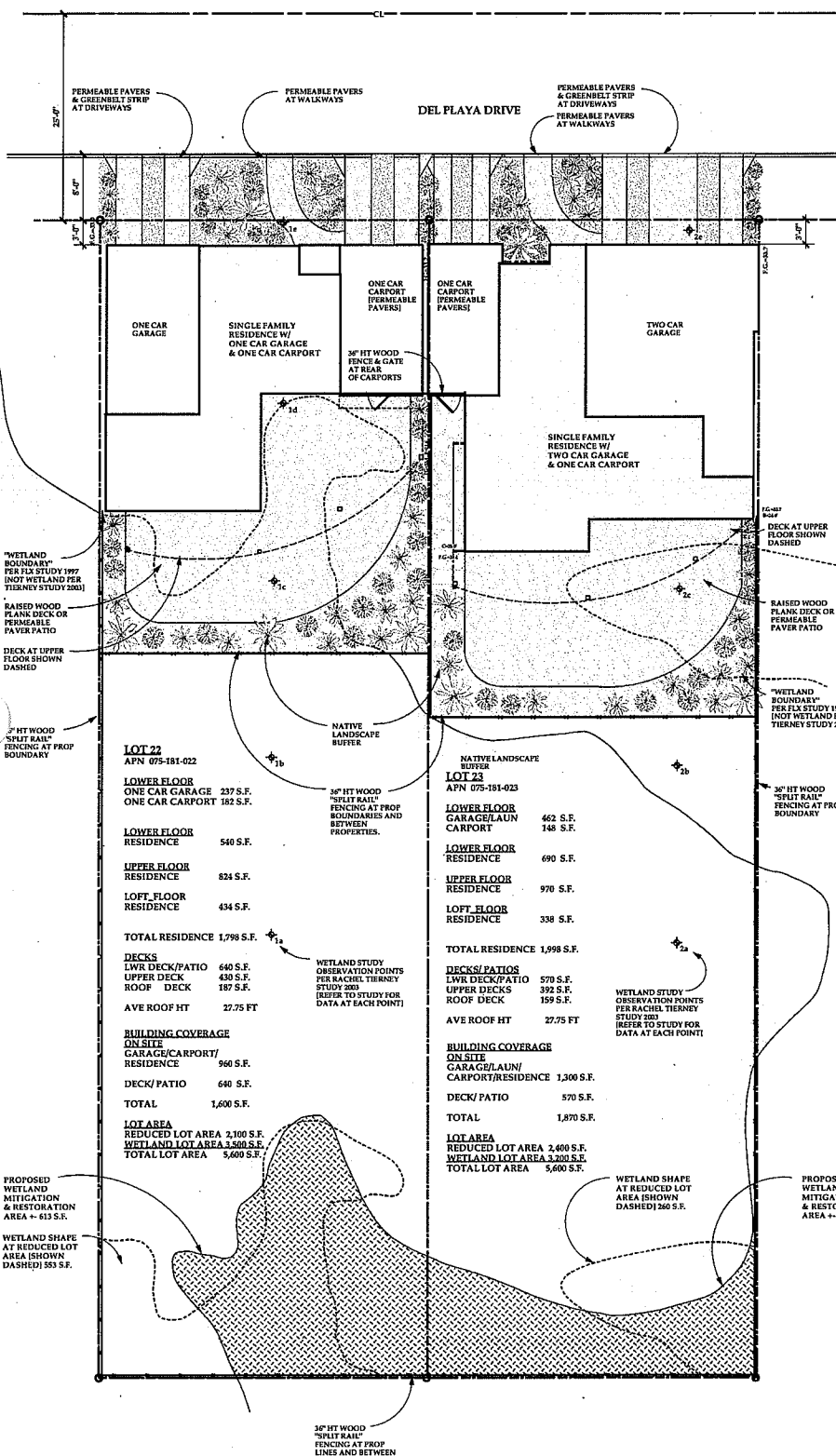


LOWER FLOOR PLAN

LOT 22

LOT 23

1/8"=1'-0"



TABULATIONS	
OWNER	KATHY AND CHRIS CHASE
MAILING ADDRESS	2234 KINGSBRIDGE LANE OXNARD CA 93035
PHONE #	818.346.4878
ASSESSORS PARCEL NO	075.181.022 075.181.023
ZONING DESIGNATION	10-R-1
CONSTRUCTION TYPE	TYPE V-N
OCCUPANCY	R-3
SCOPE OF WORK	TWO NEW HOMES WITH ATTACHED GARAGES AND CARPORT
SITE INFORMATION	
LOT 22: LOT SIZE	5,600 S.F.
COVERAGE OF BUILDING FOOTPRINT	959 S.F. (17 %)
LOT 23: LOT SIZE	5,600 S.F.
COVERAGE OF BUILDING FOOTPRINT	1,300 S.F. (23 %)
AVE SLOPE	2 %
UTILITIES	
GOLETA WATER DISTRICT	
GOLETA SANITARY DISTRICT	
PERMITS	

KARI ARCHITECT

LORI A KARI
ARCHITECT
AIA

205
SANTA
BARBARA
STREET
SUITE A
SANTA
BARBARA
CA
93101

TEL
805
965-0560

FAX
805
965-7341

NEW RESIDENCES

FOR
KATHY
AND
CHRIS
CHASE

LOTS 22 & 23
SITE PLAN
VICINITY MAP



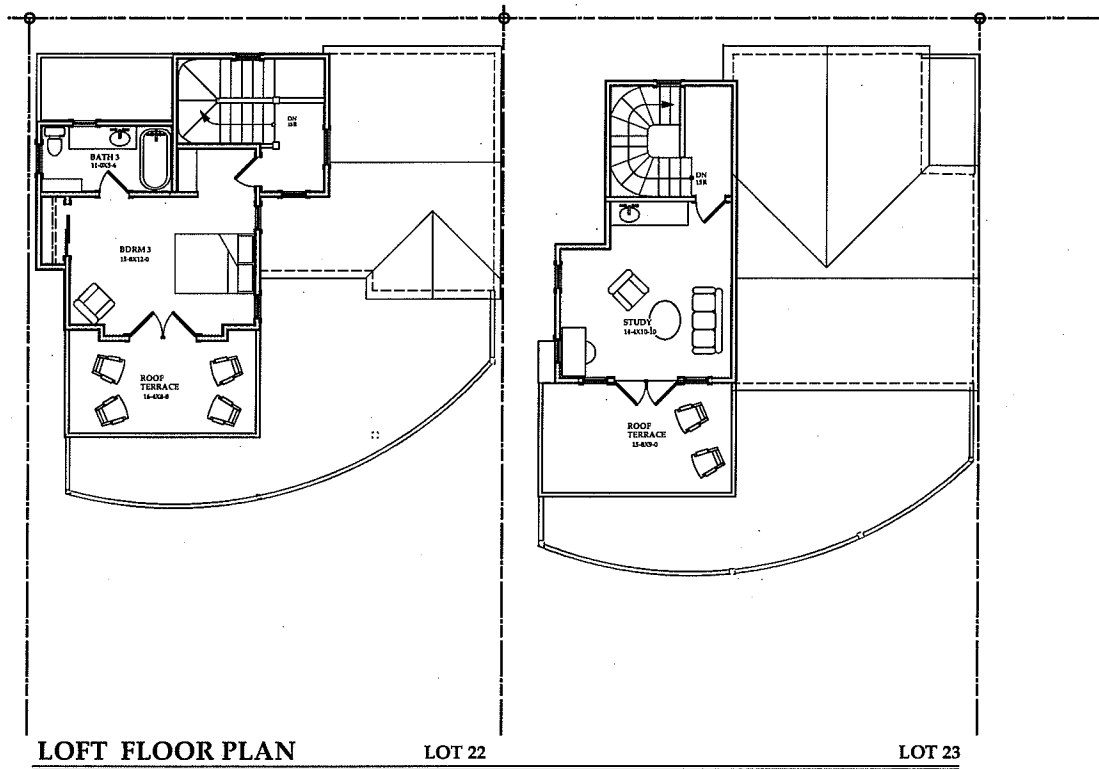
All design ideas and information represented on these drawings were created for use in connection with the specified project and are the exclusive copyright and property of Lori A. Kari, Architect. These plans are not to be reproduced, changed, or copied for any purpose whatsoever without the written permission of Lori A. Kari, Architect.

LORI A. KARI
ARCHITECT

DATE
08.05.2005
12.12.2005
01.03.2006
02.19.2007
CC UPDATE DRAWINGS
VERSION B

REVISIONS

SHEET



Nelson, Jeffrey

From: Nelson, Jeffrey
Sent: Wednesday, March 21, 2007 5:49 PM
To: Shana Gray (E-mail)
Subject: FW: Chase- Coastal Commission

Greetings Shana,

Here is a letter and attachment I sent today by overnight mail to you along with the most recent plans.

If you would like an electronic version of the plans please advise.

I hope we can meet in your offices after you have had a chance to review this.

Thanks.

Jeff Nelson

Mullen & Henzell L.L.P.
112. E. Victoria Street
Santa Barbara, CA 93101
Phone: (805) 966-1501
Fax: (805) 966-9204
email: jnelson@mullenlaw.com
web: www.mullenlaw.com

This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.



LTR TIMM and
RAY with Maps an..

Mullen & Henzell L.L.P.

ATTORNEYS AT LAW

e-mail: jnelson@mullenlaw.com



March 21, 2007

Gary Timm
Shana Gray
South Central Coast Area
California Coastal Commission
89 South California St. Suite 200
Ventura, Ca. 93001

Re: Chase- Isla Vista Lots

Dear Gary and Shana:

As I discussed with Gary, we have been in the process of trying to come up with a basis upon which the permitting and litigation on this case can finally be resolved.

We have most recently been in court on this matter on March 5, 2009 to advise the Judge of the status at the Coastal Commission and this possible avenue of resolution. We will have to go into Court to advise it of the status after attempting this path of resolution

Our proposal is in the form of a unilateral offer to the County of Santa Barbara that, if implemented, will (i) result in over half the property being dedicated to public open space; and (ii) guarantee that if these permits are approved, the litigation with the County will end. Enclosed are the plans and the offer to the County that implements this proposal.

First, a word on the process: pursuant to the MOU between the County and the plaintiffs the ultimate permits have to be acceptable to the property owners to end the litigation. Also, because the newly proposed offer of free oceanfront land to a public or non-profit entity is a voluntary act, that offer is made conditional upon the two lots receiving functional and acceptable permits.

If the Coastal Commission does not approve these permits in a fashion acceptable to the applicants, then the impacts of that action will be that the offer of free oceanfront land will be rescinded and the litigation will continue.

J. ROBERT ANDREWS
JEFFREY C. NELSON
JAY L. BECKERMAN
JOSEPH F. GREEN
MACK S. STATON
GREGORY F. FAULKNER
RICHARD G. BATTLES
EDWARD C. THOITS
WILLIAM E. DEGEN
MICHAEL E. CAGE
CHRISTINE P. ROBERTS
JOSEF D. HOUSKA
LORI A. LEWIS
PAUL K. WILCOX
MONICA M. ROBLES-MUZINICH
RAMÓN R. GUPTA
RAFAEL GONZALEZ
JANA S. JOHNSTON
REBECCA D. EGGEMAN
LINDSEY G. SHINN

DENNIS W. REILLY
CHARLES S. BARGIEL
KIRK R. WILSON
JARED M. KATZ
OF COUNSEL

THOMAS M. MULLEN
1915-1991
ARTHUR A. HENZELL
RETIRED

Gary Timm
Shana Gray
March 21, 2007
Page 2

mh

A few comments are in order as to the small proposed development footprints at this point. First, as you understand, there is a disagreement on the exact extent of the wetlands, as the initial wetlands testers never tested in the current proposed footprint area. Only our biologist did in her more recent study that you have.

All of the prior Coastal Commission cases in which there was an *environmentally sensitive habitat* on a residential lot have provided normal, full building footprints for homes on ESH lots. We previously provided you with a packet of such cases. Also unlike coastal dunes land, which is one of the examples we have provided you of a house permitted on an ESH, these lots are not inevitably dedicated to "wetland functions". As you may know, there has only been standing or puddling in this potential mud puddles on these lots in a few years of the ten years (yes 10 years and one week) these permit application have been pending. Moreover an owner of the lots could take other lawful action to make sure that either: (1) water would not stand on the lots in their undeveloped condition or (2) modify the lots so the FLX study would not be the basis for defining a building footprint.

First, if the Chases were to lay out French drainpipes on these lots so that no water could stand on the land and any water would drain off onto Del Playa, that would preclude the lots from ever having standing water. It would not take a permit to perform that "mitigation" and that action would not be prohibited by the Coastal Act; it would, in fact, promote health and safety by avoiding the identified health and safety risk of West Nile Virus from standing water in the area (see prior submittals on that health concern).

Second, if, ironically, the Chases "created" wetlands in the remaining portions of these lots that are now upland, then the lots would be 100% environmentally sensitive habitat and the County or Coastal Commission would be obliged to give those lots normal, functional footprints to build functional homes on these lots.

So under either of those scenarios, one would end up receiving permits for normal, though compact, homes on the lots; homes that would not appear artificial and unnatural in the long term.

The second of these is what a Hope Ranch property-owner (Jeter) did, inadvertently, when wetland vegetation spread over his site after a lot split was approved. The Jeter house was located on a site containing actual *wet most of the time the time wetlands* unlike the Chase lots; it was approved by the County in 1998, at the same time the Chase lots were denied. The attorneys for the Hope Ranch owner (who now represent a neighbor/appellant in this matter) argued that any further constraint on the large building footprint would constitute a Taking.

Gary Timm
Shana Gray
March 21, 2007
Page 3

mh

We are now passed a 10-year time span since applications were first filed on these existing lots and it is time to reach a conclusion. We would like to meet with you after you have reviewed our proposal and discuss this conclusion further. The County staff has indicated they would express the opinion to the Commission that this is the kind of design and project solution the County staff would look favorably upon for these lots. Our offer does not extend beyond the May Coastal Commission hearings, we would like to discuss timing with you after your have had a chance to review this.

We look forward to hearing from you as we seek to reach a conclusion of this matter. Thank you for your consideration.

Very truly yours,



Jeffrey C. Nelson of
Mullen & Henzell L.L.P.

JCN/bmz

Enclosures

cc: Chris and Kathy Chase
Santa Barbara Deputy County Counsel -Michael Ghizzoni

G:\14086\0016\CORRO\BK3446.DOC

**Offer to the County of Santa Barbara
Regarding Final Settlement of
Chase v. County of Santa Barbara**

(Last draft March 21, 2007)

This **Offer to the County of Santa Barbara** is made on behalf of Chris and Kathy Chase ("Chase") to the County of Santa Barbara ("County") and with respect to the following facts and objectives.

RECITALS and BACKGROUND

1. The Chase Family lots in Isla Vista were comprised of five lots on Del Playa known as Lots 22, 23, 24, 25 and 27, each number consisting of the last two digits of the assessor's parcel number. The full Assessor's Parcel Number is 075-181-22 (161-080-22 is "Lot 22"). The "Chase Family" is composed of John and Barbara Chase, Patricia Peterson (John Chase's sister) and Chris and Kathy Chase. Chris and Kathy Chase own Lots 22 and 23, the subject lots of this Offer.
2. The Chase Family owners, after awaiting the end of the Goleta water moratorium, filed for permits for construction of a house on each of the five lots in 1997. In 1998, the County of Santa Barbara denied each of the five permit applications.
3. The Chase Family members filed a lawsuit challenging the denial in 1998, a bifurcated portion of which suit is still pending; this proposal is intended to finally resolve that remaining part of the case. (Santa Barbara Superior Court action 229404, "(The Chase Case)").
4. In 1998, the Isla Vista Recreation and Park District (IVRPD) acquired ownership of parcels 24, 25 and 27 from John Chase, Barbara Chase and Patricia Peterson by initiating and completing a condemnation action whereby they acquired these lots for the purpose of maintaining them as public open space.
5. Since 2002, Chris and Kathy Chase have been processing a proposal for construction on Lots 22 and 23 pursuant to settlement discussions between the Chases and the County. The specific negotiated plans for Lots 22 and 23, which were based on these

settlement discussions, were ultimately denied by the County in 2004, and the County approved a limited building footprint and imposed a different standard for what could ultimately be developed on those two lots, though no architecture was proposed by the County for such "approved project." That action is not yet final as it is on appeal.

6. The development of Lots 22 and 23 is still pending before the California Coastal Commission. The County's action was appealed by multiple parties including the Chase Family. The action by the Supervisors on Jan. 20, 2004 did not constitute, to the Chases, acceptable final permits for these two lots, as communicated by the Chases' appeal of that action and other communications to the County and the Court. The Coastal Commission has heard this application for approvals for CDP's for over three years now without final action.
7. The Chases hereby make an offer of settlement, which, if implemented, would resolve the permitting and litigation process that has now been ongoing for ten (10) years. Under the terms of the MOU between the Chases and the County dated September 4, 2002, the Chases must "accept permits" finally issued for those two lots to finalize the settlement and resolution of the case. That is, the Chases must find the permits that are ultimately issued for Lots 22 and 23 acceptable.
8. In 2005, the Chase Case was bifurcated and the claims of the Chases as to 24, 25, and 27 went to trial. The Court determined a "Taking" had occurred by the County's action. Subsequently, that claim has been fully settled by the Parties. The bifurcated *Takings* trial as between the Chases, who own Lots 22 and 23, and the County of Santa Barbara, is still pending and has not yet gone to trial. A settlement of this matter will forestall and eliminate such trial. The MOU provides that if the Chases receive acceptable final permits, then the Chases, as claimants, will dismiss and release their claims in the pending action. Such final permits are defined as, "(permits that) are not subject to actual or potential judicial review or Coastal Commission review such that the only remaining act for Claimants (Chases) with the County is to obtain a ministerial building permit for each lot (22 and 23)" (Referred to herein as 'Acceptable Permits').

THEREFORE, THE CHASES MAKE THE FOLLOWING OFFER:

1. The Chases offer to an entity found acceptable to the County of Santa Barbara a conservation easement over the ocean side portion of the two lots of approximately 62 % of Lot 22 and 57% of Lot 23 (see Exhibit ____) if, and only if, all of the following milestones are achieved.
2. The following will constitute Acceptable Permits to the Chases:
 - a. The approval by the California Coastal Commission of permits for the two parcels as submitted by Chases, and the lapse of any statute of limitations for legal challenges to such approved plans, for the two lots, 22 and 23, which plans are as attached on Exhibit _.
 - b. The conditions on the latest Coastal Commission staff report, which is dated July 2006, are to be revised substantially as per Exhibit __ (Note: these are principally conditions numbered 1- revised plans, 5 & 6 wetland mitigation, A-D, 8, 11, (signs would be different), 12, a nonprofit would now control the open space part as the public agencies control the adjacent open space parcels, 15 would instead refer to a voluntary offer of a conservation easement. Many of the conditions in July 2006 relate to the property that would become preserved property and left *as is* under this proposal. A nonprofit or governmental authority will presumably be responsible for any future restoration efforts to this and other adjacent public property, rather than an isolated private restoration of just this portion of the land).
 - c. The County does not impose any other conditions of approval, besides those of the Coastal Commission based on any authority it may have.
 - d. The development of the houses will include backyard decks with 36" high conventional deck "railing" of cable rail with redwood posts railing on the decks toward the south of the property, so that the decks are as shown on Ex. ____.

e. The on and off site mitigation shall be satisfied by the transfer of a portion of the property to the public agencies, along with a payment of ____ \$10,000 per lot ____ to the Goleta Slough Management Committee for its efforts in managing and restoring local wetlands.

f. The permits must be approved by the following dates:

- i. California Coastal Commission by May 11, 2007;
- ii. Final building permits will be processed and issued by the County Building Department such that working drawings will be processed for changes and the County's total turn-around time (for each individual plan) is no more than 30 days after submittal(s) by applicants.

3. As to other matters to complete the settlement:

- a. Neither party shall seek payment from the other for any fees or costs, including attorney fees and costs, nor shall the County Planning & Development Department impose fees and the parks mitigation fee, considering the land donation and other factors.
- b. The County will accept as compromise payments for these two building permits only those mitigation fees that existed in 1998 when the project could have first been approved, but with the fee amount to be the mid-point between the 1998 fees and 2007 fees. If a category of fee did not exist in 1998, that fee will not be collected, if a category of fee did exist in 1998, then it will be charged at the midpoint between the 1998 and the 2007 fee rate.
- c. The owners of Lots 22 and 23 will have a right to cooperation from the County or such other designated agent in seeking a tax deduction for the transfer of the conservation easement. The offer of dedication for the open space conservation easement shall be deposited into escrow with Chicago Title Co. and shall be recorded upon final building permits having been issued as to that lot.

- d. County Public Works shall issue such reasonable encroachment permit for construction staging adjacent to the lots on Del Playa to permit construction of the lots without impacting adjacent area.
5. Upon full implementation of the Settlement contemplated by this Offer, including issuance of building permits, appropriate dismissals will be filed by the plaintiffs, the Chases, as to the remaining claim against the County by Chase as to Lots 22, 23. Prior dismissals were filed by the remainder of the Chase Family as to the claims as to Lots 24, 25 and 27.
6. This Offer shall be binding on, and inure to the benefit of the successors and assigns of the Parties, including any subsequent owners of Lots 22 and 23.

Chases

Chris Chase

Kathy Chase

Mullen & Henzell, L.L.P., Attorneys for Chase Family

By: _____
Jeffrey C. Nelson

The County of Santa Barbara through its County Counsel represented the status of the 1797 square foot settlement project to the Superior Court and to the Chase attorneys in the County's trial brief filed February 20, 2002. The following are quotes from the trial brief.

"For the two remaining parcels, remaining in Plaintiff's ownership, revised development applications, proposing reduced development have been filed with the Planning and Development Department and are undergoing review and processing at this time. The evidence will show that the County has indicated a willingness to approve the reduced development proposals now pending." (emphasis added) (County Trial Brief Page 4.)

....

"County's consideration and staff's declared willingness to recommend approval of the pending reduced applications now on review at Planning and Development demonstrates the point." (emphasis added) (County Trial Brief Page 5.)

....

"As to the two remaining lots, the expected approval of the pending development proposal will forever moot the claim of a permanent taking." (emphasis added) (County Trial Brief Page 18.)

EXHIBIT 2

In a letter to us as the Chases representatives, Santa Barbara County Counsel stressed not only that Staff would support the revised applications of 1797 square feet of living space plus a 2-car garage but also, among other things,

“Advocacy by the County of the value of the compromise in front of the Coastal Commission, should any local environmental group take an appeal: (and) our best efforts to be pro-active with the environmental groups to discourage any such appeal, and to explain to them why this is a reasonable compromise from the resource protection perspective”. (Letter to Mullen & Henzell L.L.P. January 11, 2002 from Senior Deputy County Counsel; cc’s to Alan Seltzer, June Pujo and John Patton among others, emphasis added)

The letter goes on to state,

“We understand that you would be giving up your claims for temporary takings and for attorneys fees by such an agreement. Briefly, our position is that by Planning and Development agreeing to the value and merit of your present applications, we have demonstrated the fact that the previous denial was not final in the constitutional sense, thus that there was always a realistic avenue of mitigated development open to you, and that therefore your claims as to Lot 22 and 23 were never ripe. That being so, it follows that the delay was of your own making, that you could have initiated this exact land use plan by simply amending your proposal in 1998, and thus there has been no temporary taking by the County and no basis for a claim for attorneys’ fees.”

The letter also stated,

“You have the right, and have always had the right, to make a new application proposing mitigated development for these two lots, which would maximize to the extent feasible the protection of the natural resource, by allowing for the best possible economic use consistent with resource

protection. You have submitted applications which do just that. . . . "We would anticipate their ultimate approval by the Z.A. in view of the fact that County Counsel and P&D both recognize that this proposal is workable compromise, and that inconsistent resource policies must be overridden in some cases, such as this, to avoid a constitutional taking of property."

(County Counsel letter January 11, 2002, page 2, emphasis added)

G:\14086\0015\DOCS\926567.DOC

Exhibit 3

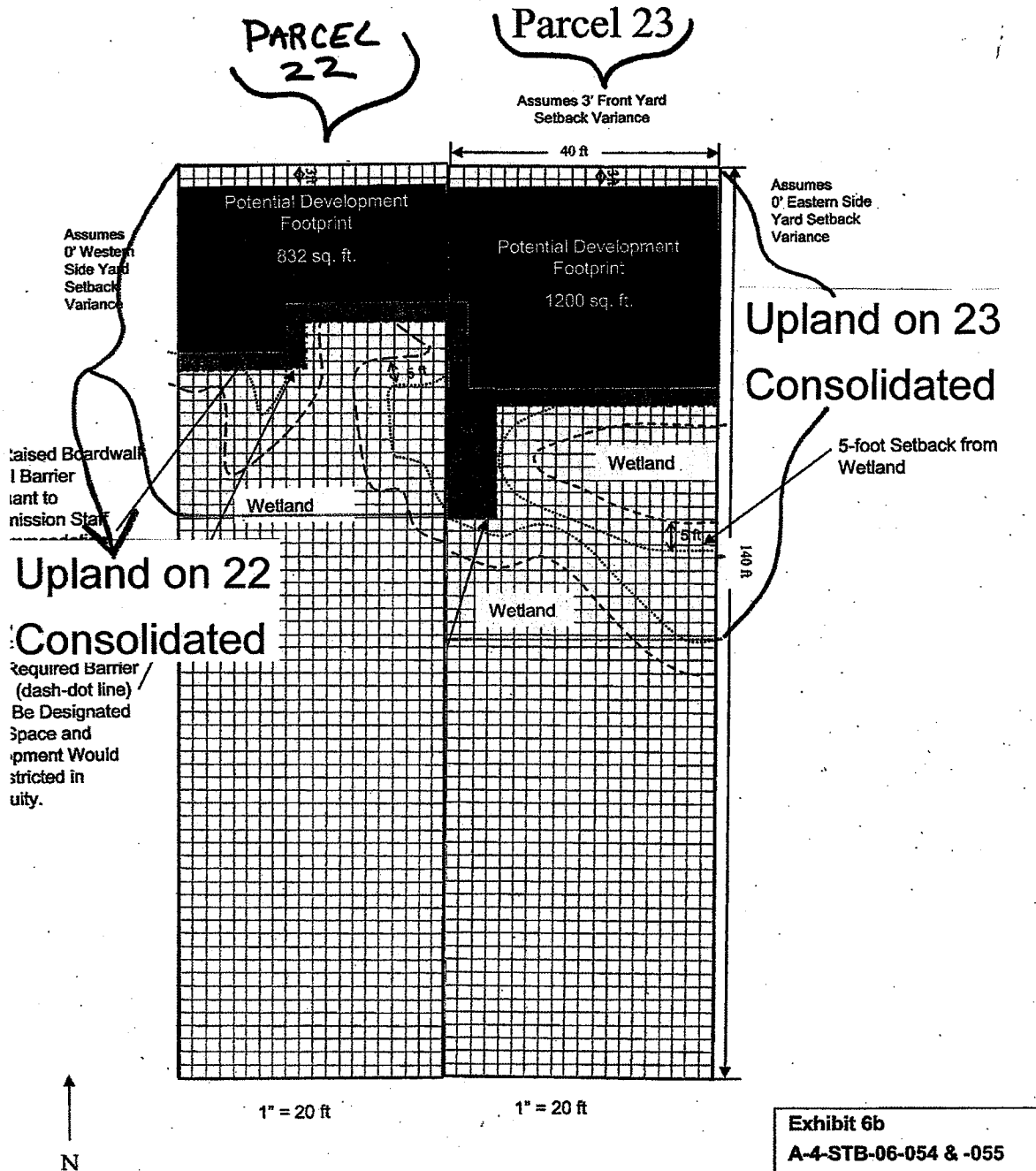
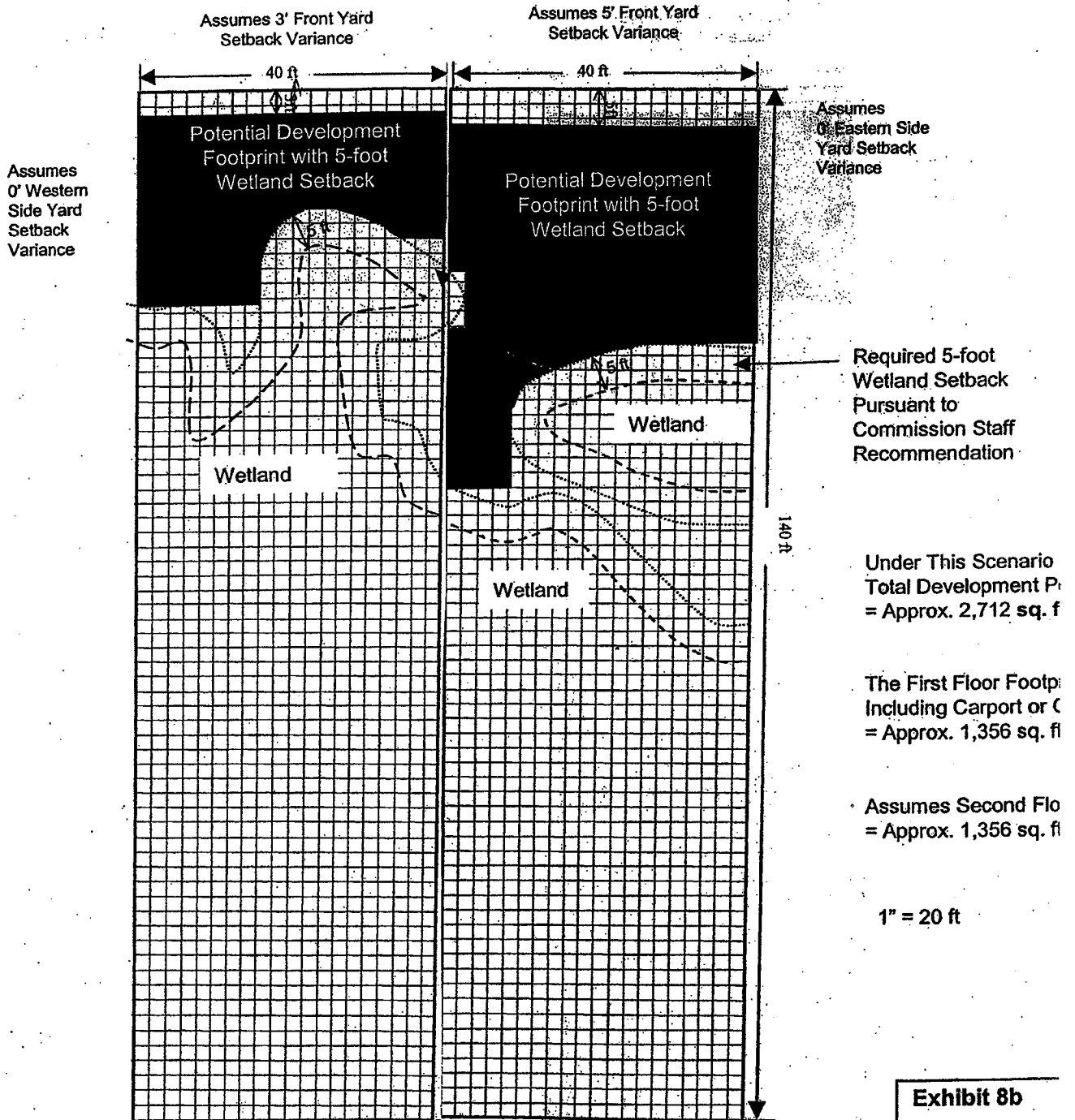


Exhibit 6b
A-4-STB-06-054 & -055
Conceptual Development
Footprint Parcel 23

2004

Parcel 22

Parcel 23



Note: This Configuration Would Require Approval By the County for Elimination of Side Yard Setback, 3 ft. Front Yard Setback, and 100% 2nd Story.

Exhibit 8b
A-4-STB-04-0
Potential
Development
Parcel 23

July 2007

PARCEL
22

Parcel 23

Assumes 3' Front Yard
Setback Variance

Assumes
0' Western
Side Yard
Setback
Variance

Assumes
0' Eastern Side
Yard Setback
Variance

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

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

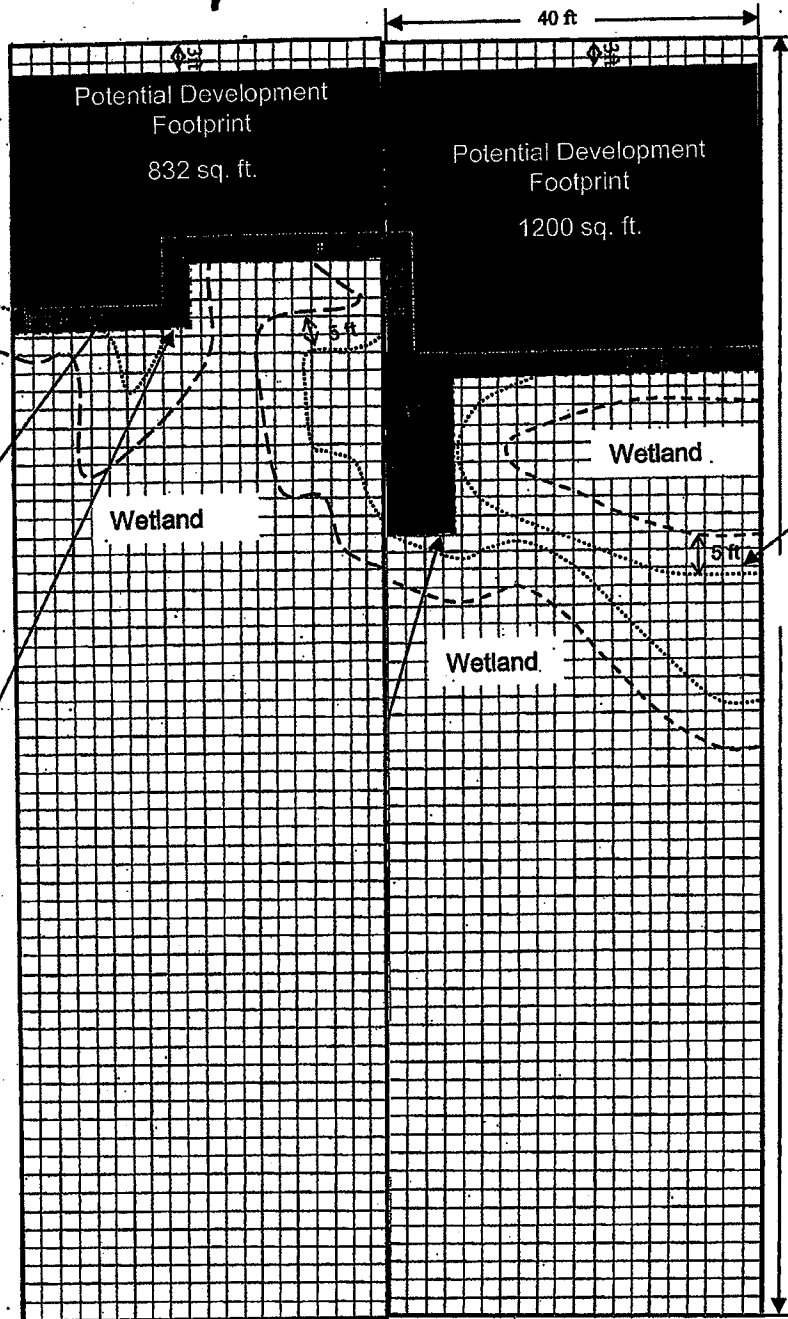


Exhibit 6b
A-4-STB-06-054 &
Conceptual Deve
Footprint Parcel :

January 5, 2005

California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: Chase Homes - Isla Vista
Hearing Date: January 12, 2005
Agenda Item: W14c

**Stan
Riffle**
architect

5441 toltec drive
santa barbara
california 93111
(805) 964-2677

Dear Coastal Commissioners:

I am writing from the perspective of having been the architect on this project for the last seven years. I also am writing from the perspective of an architect who has been licensed and practicing in California for nearly 30 years (California Architects Board License Number 08290).

I originally did plans for the property consistent with staff input and all County code requirements and setback requirements. The County denied these permit applications, which resulted in years of litigation and a determination by the Court that, as to the lots that have gone to trial so far, the denials constituted a "taking."

In 2001, the County Counsel and senior County Planning Staff approached us to work out a negotiated, reduced building plan that the County Staff and attorneys would support. These lots did not go to a scheduled trial in early 2002 because of the commitments by the Staff that it would support these new plans.

These plans were a product of several rounds of architectural revisions with input from County Staff and County Counsel. They reduced the maximum living square footage permitted by zoning from 2,000 square feet to just under 1,800 square feet. The square footage for the garage was in addition to this. (See Exhibits 5a and 5b to the Staff Report.) The Staff promised it

would support these plans before the County and that it would support this compromise before the Coastal Commission.

We subsequently went to the County Board of Architectural Review twice on these plans and modified them to make the architecture more "coastal." (See Exhibit 1 hereto.) This set of plans received their conceptual approval. The BAR suggested modification of side yard setbacks, but the Staff said that such change was not possible.

Subsequently, at the County before the Zoning Administrator and Supervisors, abstract building footprints were suggested by staff and then approved. These footprints whittled the use of the lots down more and more. There was never proof that these footprints were functional. In fact, I wrote to the County with my professional assessment that they were not functional footprints.

The Coastal Commission Staff has now come up with yet further modified footprints, which I view, as to Lot 22, clearly unuseable and a clear "taking." As to Lot 23, it is not evident that the footprint is useable until architectural design proves it otherwise. There is no expert testimony proving it yields a functional house. I am skeptical after an initial analysis. I would submit that the footprint is not functional until proven otherwise. It needs to be expanded at the very least to endeavor to make the house useable.

A fundamental problem is that these footprints are based on wetland delineations for an area that was not even studied by the original biologist and does not have ponding even now after the heaviest rains Santa Barbara has received in decades. There is no substantial evidence in the record to support these limiting these footprints as proposed.

Among functional minimums that are either building code requirements or minimum professional standards are as follows:

1. The minimum habitable bedroom size under the Uniform Building Code is 70 square feet, with a minimum interior room dimension of 7 feet. The southern facing neck of the footprint shown on Lot 23 should provide an interior width of 10 feet as there is no substantial evidence, between the various reports prepared, that this would impact a wetland.
2. A minimum garage shall be 20 by 20 feet of interior space for a two-car stall (two onsite spaces are required for up to 1,800 square feet in this zone) or 12 feet by 20 feet interior space for a one-stall garage. Given the width of walls, the minimum exterior dimensions would be 21 by 21 feet for a two-stall garage and 13 by 21 feet for a one-stall garage. As to Lot 22, there is clearly no room from the Staff's footprint to permit either a two-stall garage or two one-stall garages. The odd shape and small size of the footprint would make construction of a residence on Lot 22 a virtual impossibility. As to Lot 23, the Staff's footprint would dictate the placement of the garage on the east side of the lot and would make it difficult if not impossible to create first-floor rooms with that satisfy the minimum room sizes.

In designing and building a house, there are a variety of functional components all of which must relate together consistently, including where stairs are located, how structural loads are carried and the relationships of related spaces such as bedrooms and bathrooms. Designing a functional house requires more than just placing arbitrary lines and shapes on a piece

of paper. The Commission has no evidence whatever (expert or otherwise) that either of the footprints Staff has proposed would or could result functional residences applying the Building Codes and the other professional and minimum functional standards an architect would employ. My training and experience tells me that a functional, Building Code-compliant residence, could not be designed within the confines of either of the proposed footprints. If the Commission were to "grant" permits for structures confined by these footprints, this would be tantamount to denying the Chases the right to build any residences on Lots 22 and 23. Moreover, even if functional residences were possible using the proposed footprints (and, in my opinion, they are not), I would expect that our plans for 1,800 sq. foot houses that included side yard setbacks and conventional BAR-approved architecture would be more acceptable to most neighbor appellants than are the footprints suggested by staff.

We urge you to provide greater design flexibility for the proposed buildings including larger footprints and perhaps flexibility in vertical modifications also. For example, a three-story house is located just two houses to the west of these lots. Living spaces are on the 2nd and 3rd floors.

With the Court already having ruled against the County in having caused a "taking" for some of the Chase lots, it would be unfortunate if the Commission were essentially to invite the same judgment against it by

California Coastal Commission
January 5, 2005
Page 5

requiring any residences to constructed within completely unworkable
building footprints.



Sincerely,

A handwritten signature in black ink, appearing to read "Stan Riffe", written over a horizontal line.

Stan Riffe

Enclosure

Exhibit

Chase Project History and Due Process Issues

These two applications (Lots 22 & 23) are two of what were five original applications to construct single-family residences on existing lots in a residential area that is an infill area that has been long developed residential within the South Coast Urban Boundary Line. The extraordinary path these have taken is not of the making of these lot owners, but must in logic relate to other motives other parties have had for the property.

- When the owners finally got Goleta Water District meters in 1997 and were prepared to file for building permits, their representative was told at the County that their applications would be “dead on arrival.”
- After the applications were filed the County enlisted a local biological consultant to prepare a biological assessment for the environmental review of the project. Rather than requesting that they do a neutral scientific assessment, their correspondence to the consultant stated, “Thank you for assistance in preserving this valuable resource.”
- The biologic study found that none of the endangered plants that was the predicate for LCP preservation language were present, but that the “wetland” areas were worthy of protection, not because of their own attributes, which could easily be recreated elsewhere, but because there has been a historical loss of wetlands. In fact the recreated wetland in the area represented a large amount of the remaining open space and may exceed the naturally occurring amount of wetland in this specific area, which is not a marshy area.
- One of the parties to the Biological report was Wayne Ferrin who also apparently had consulted with IVRPD, which was the condemnation “beneficiary” of the cheap purchase of the coastal lots based on their value being depressed (per IVRPD appraisers) because of the “wetland”. Mr. Ferrin was also designed as the contact of the local wetland clearing house; in that role he refused/ declined to respond to a request for potential regional wetland mitigation possibility for the Chase parcels.
- It turns out through discovery in litigation that the County Planning files contained a prior County staff report to the County Planning Commission that identified the specific Chase parcels for public acquisition. by the County or IVRPD as open space. The owners (Chases) had not been notified of that proposed action.
- The Five Chase applications were denied by the Supervisors, which prompted litigation to challenge the denial. The Court found a taking as to the three parcels condemned by IVRPD. That litigation is still in process for the last lots 22/23, pending action by the Coastal Commission.
- Based on the denial the Isla Vista Parks District public agency attempted to acquire these by eminent domain offering compensation at an amount that would make them, purportedly, the least valuable land in the Santa Barbara south coast area notwithstanding their rare ocean front location. IVRPD did succeed in acquiring the parcels in the condemnation action.
- In 2001 the litigation, County Counsel contacted the plaintiffs and their attorneys and suggested that a compromise plan be worked out that the County could and would approve for these two lots, 22 and 23. That compromise plan was arrived at

with County attorneys and staff and the litigation was stayed pending processing of those. The processing was to occur in a five to six month period thereafter. That failed "compromise" is now before the Commission..

- At that same time when the County sought to forestall the takings trial with the "settlement" for lots 22/23, the Supervisor for the District in which this property is located, was up for recall with the likely timing of the trial being before the recall election. The County attorneys, making the settlement proposal and essentially guaranteeing its success, thereby forestalled the court trial as to whether the County's action had constituted a taking. The eventual court ruling on whether the County had committed a taking in its earlier denials, come much later, is a matter of public record.
- The County attorneys in inducing the plaintiffs not to proceed to trial at that point stated that the Supervisors would have no reason to not approve the compromised plan and that one of their attorneys could influence whether an appeal to the Coastal Commission was filed or not with potential appellants.
- In fact, after years of processing the "compromise plan" the Supervisors approved a footprint entirely inconsistent with what had been negotiated by the attorneys and which was entirely unacceptable to the Chases, if it had been the County's position at the outset it had resulted in a trial at a earlier date. At the point the County finally acted on the "settlement application" the recall election was long over.
- Each of the other parties who are appealing the reasonable residential use of this parcel (or parties they represent) have received the benefits they seek to deny then owners of these two parcels:
 - The attorneys for the appellant in this case successfully resisted limited development on a "wetland parcel" that was more a true wetland than the Chase parcels. (These attorneys represented the property owner for the other property, Jeter, with a residential development before the County at the time of Chases" (1998). That property had substantial wetland on it and was approved for development with improvements that are more than 400% of what the Chases were seeking, per parcel. The entire Jeter development footprint is on designated wetland. The attorneys for the appellants in this action, on behalf of the landowner in Jeter; got permits from the County, arguing that to deny the permits for this Hope Ranch parcel would constitute a "taking". The prior owner of this parcel had paid a mitigation fee to offset the 3,000 sq. ft. of wetland that had existed before, but in 1998 nearly the whole Hope Ranch large parcel was covered in wetland plants.
 - Another appellant, Mr. Murdock, owns a parcel across the street, which itself has standing water on and rains, which is documented by photos we have of it. He was able to get a quick Local Coastal Permit for his residence, which was in excess of 3000 sq. ft., the construction of which is nearly complete; it is now the established model of what new homes are routinely permitted for in size in the neighborhood. He appeals and seeks to limit or deny houses on these parcels across the street from him.
 - Another property owner to the west (Stich) owns property that is immediately adjacent to land that is designated as wetlands in the FLX studies that have been the County and Coastal Commission's basis for limiting development on these

Chase parcels. In fact, the Stiches routinely use and occupy land that is designated wetlands on that study, and could and in fairness should be subject to condemnation to eliminate their residential use next to these wetlands if the importance of the wetlands and value of condemnation power in this block to serve that purpose is to be applied uniformly and fairly. We could seek to initiate such action.

Neighbors in the area and member of the public routinely walk on land that is designated as wetland and is actually designated as vernal pool area, specifically lots 24 –27, not part of this application. If the standards to deny use of such wetlands is to be applied uniformly, we can seek to have the public banned from occupying or using any of the wetland on the study so that members of the public are adhering to the same standards the County and Coastal Commission seek to impose on these private property owners and their successors in interest. This ban on public use of the bluff-top year round would be ironic consequence of the strained interpretation of Coastal policies of these done to preserve a non-coastal resource, an area that has potential seasonally standing water, to eliminate public use that is a coastal resource, namely access to an open space parcel adjacent to the ocean. The private parties (Chase) should not be held to higher level of restriction than applies to the public on the open space parcel.

- It is undisputed that the Rachael Tierney study done in 2004 is the only site specific study done that specifically address the building footprint of these two new homes on the proposed footprint of lots 22/ 23 and that the that the FLX study did not specifically and separately test and discuss building on these small footprints. FLX has never been asked to defend its application of these two parcels and the Coastal Commission staff has denied us access to the Coastal Commission biologist stating that any communications with him must be in writing only and not directly.

Press reports reflect another County staff actions concerning wetlands during this same time period has resulted in a court decision finding both County staff individually, and The County itself, liable for due process violations in that action.

We have given the Coastal staff a multitude of other ESHA permits up and down the coast of California, none of which have had as restrictive, constrained or artificial a building footprint as is proposed for these two parcels. (See Separate Exhibit) In most cases the ESHA qualities are more unique and are inherently coastal resources unlike what exists

July 6, 2006

Exhibit 6