

CALIFORNIA COASTAL COMMISSION

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

**ADDENDUM****M13.5a&b**

DATE: August 7, 2007
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Addendum to Agenda Items M13.5a&b, Substantial Issue Determination Appeal (Beach Club Family Trust), for the Wednesday, August 8, 2007 Commission Hearing

The purpose of this addendum is to.

Note: ~~Strikethrough~~ indicates text to be deleted from the July 25, 2007 staff report and Underline indicates text to be added to the July 25, 2007 staff report.

- The following new Section G shall be added to the end of page 18 of the staff report:

G. INFORMATION/ACTION NEEDED FOR DE NOVO REVIEW OF APPLICATION

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

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

1. Biological Assessment

As discussed above, based on an initial review of historic photographs, it is apparent that portions of the Toro Canyon Creek riparian woodland and designated monarch butterfly habitat have been removed on the subject site. No permits have been issued for this removal and any such removal would not be eligible to receive a coastal development permit because it would be inconsistent with the provisions of the LCP that require protection of environmentally sensitive habitat.

Because the removal of the ESHA is a violation, setbacks and impacts must be evaluated from the extent of the previously existing ESHA. However, the biological assessment

prepared for this project does not address the removal of riparian woodland and monarch butterfly habitat on the subject property, and therefore it is not adequate to make a determination as to the development's consistency with environmentally sensitive habitat, and riparian and monarch butterfly habitat requirements. To properly address the ESHA impacts associated with the approval of the after-the-fact development, the applicant must submit a biological evaluation that: (1) maps the woodland/eucalyptus canopy prior to any removal; (2) evaluates where and what species of vegetation has been removed; and (3) illustrates setbacks from the previous canopies to each structure in its existing and proposed location.

2. Pre-Coastal Structures

Evaluation as to whether the structures, including the 1940s residence and second residence, were permitted in compliance with the laws in effect at the time the structures were constructed and/or placed on the property.

3. Lot Legality

Background information showing that the subdivision that reportedly occurred in 1981, received all required permits and approvals, including a coastal development permit.

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

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Filed: 7/20/07
 49th Day: 9/07/07
 Staff: Shana Gray
 Staff Report: 7/25/07
 Hearing Date: 8/08/07



W13.5a&b

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of Santa Barbara
LOCAL DECISION: Approval with Conditions
CDP APPEAL NO.: A-4-STB-07-071
CUP APPEAL NO.: A-4-STB-07-073
APPLICANT: Beach Club Family Trust, Contact Tim Hoctor
APPELLANT: Commissioners Patrick Kruer and Sara Wan
PROJECT LOCATION: 2825 Padaro Lane, unincorporated Santa Barbara County
 (Assessor Parcel No. 005-260-009)

CDP PROJECT DESCRIPTION: “Validate” a single family residence including additions and remodeling; demolish and remove five accessory structures; “validate” and relocate four metal shipping containers, “validate” and relocate four accessory structures, and “validate” three other unpermitted structures in existing locations, including a 602 sq. ft. garage with attached 445 sq. ft. carport, 170 sq. ft. storage structure, and an approximately 151 sq. ft. accessory structure to be used as a gym.

CUP PROJECT DESCRIPTION: Validate an existing 413 sq. ft. trailer with a 385 sq. ft. loft as a watchman’s trailer for a period of no more than one year.

MOTION & RESOLUTION: Page 5

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants’ assertions that the approved project is not consistent with the environmentally sensitive habitat area (ESHA), riparian woodland, and monarch butterfly habitat policies of the certified Local Coastal Program (LCP). The standard of review for determining whether the appeal raises a substantial issue is whether the appeal raises a substantial question that the approved development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the Coastal Act.

There are a number of unpermitted structures on the site. The subject coastal development permit (CDP) and conditional use permit (CUP) are intended to bring the

development on the site into conformance with the building code and the LCP by approving, after-the-fact, several previously unpermitted structures on site and allowing the demolition and removal of several unpermitted accessory structures.

The appellants assert that the CDP and CUP approvals are not consistent with the policies of the Local Coastal Plan designed to protect the environmentally sensitive habitat, riparian woodlands, and monarch butterfly habitat. The Commission finds that a substantial issue exists with respect to the grounds on which the appeals have been filed because the appeals raise significant questions about whether the approved project is consistent with policies of the LCP.

The Summerland Community Plan (SCP), a certified component of the County's LCP, illustrates the presence of Willow/Sycamore Riparian Environmentally Sensitive Habitat Area on both the west and east sides of Toro Creek, including the subject property. Additionally, the mouth of Toro Creek is identified as Site 96 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* (Meade, November 1999). The site is reported to include riparian woodland habitat, including eucalyptus, sycamore, cottonwood, and willows with a rating of "good" regarding habitat health.

Based on a review of historical aerial photographs of the subject site, it appears that a substantial area of vegetation has been removed within the riparian corridor along Toro Creek. In fact, significant vegetation removal appears to have occurred without the required coastal permits between 2002 and the latter part of 2004 across the subject property, particularly at the mouth of Toro Creek adjacent to the unpermitted structures. Though the County's staff report asserts that the project will be in conformance with the provisions of the certified LCP, the County's staff report failed to analyze the loss of riparian woodland and monarch butterfly habitat that may have resulted from the original construction of the unpermitted structures.

Although the County determined that the structures on site are located at least 100 ft. from the top of creek bank (except for the garage/carport structure); the County's analysis failed to address the distance of the proposed development from either the existing riparian ESHA located along the creek or the riparian ESHA as it existed prior to its unpermitted removal. The currently existing riparian ESHA on site is located on either side of Toro Creek and is significantly wider than the creek itself. In addition, based on an initial review of the 2002 aerial photographs of the subject site, approved development is also located less than 100 ft. from the riparian habitat that previously existed on site and would not provide for an adequate setback. The ESHA policies must be applied to the extended footprint of the ESHA prior to its unpermitted removal.

Note, the unpermitted ESHA removal that occurred independent of the unpermitted construction of the subject development is not included as part of the development approved by the County that is now on appeal. This issue has been reported to the Commission's Enforcement Unit and will be addressed as a separate matter.

Thus, for the reasons discussed above, the appeals raise substantial issues with regard to the consistency of the approved project with environmentally sensitive habitat areas, riparian woodland and monarch butterfly habitat.

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EXHIBITS

- Exhibit 1.** Vicinity Map
 - Exhibit 2.** Parcel Map
 - Exhibit 3.** Project Plans
 - Exhibit 4.** Site Photograph
 - Exhibit 5.** Final Local Action Notice
 - Exhibit 6.** Commissioner Appeals
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SUBSTANTIVE FILE DOCUMENTS: Santa Barbara County Coastal Plan (January 1982; with updates through 1999); Santa Barbara County Coastal Zoning Ordinance, Article II, Chapter 35 of the County Code.

I. APPEAL JURISDICTION AND PROCEDURES

A. APPEAL JURISDICTION

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

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

B. APPEAL PROCEDURES

The Coastal Act provides that after certification of Local Coastal Programs, a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of 10 working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

1. Grounds for Appeal

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

2. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. Pursuant to Section 13117 of

the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised by the appeal.

3. De Novo Permit Review

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

C. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On June 18, 2007, the Zoning Administrator for the County of Santa Barbara approved Coastal Development Permit No. 07CDH-00000-00007 and 07CUP-00000-00019 to validate the remodel and construction of an addition to an existing residence, demolish several unpermitted structures, relocate existing unpermitted structures, validate several unpermitted structures, and allow a watchman's trailer to remain in its location for up to one year. The Notice of Final Action for the project was received by Commission staff on July 6, 2007 (Exhibit 5). A ten working day appeal period was set and notice provided beginning July 9, 2007 and extending to July 20, 2007.

An appeal of the County's action was filed by Commissioner Patrick Kruer on July 19, 2007 and Commissioner Sara Wan on July 20, 2007 (Exhibit 6), during the appeal period. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals. On July 20, 2007 Commission staff sent a request that the County provide its administrative record for the permits. The administrative record has not been received as of the date of this report.

II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE (A-4-STB-07-071, COASTAL DEVELOPMENT PERMIT)

MOTION I: *I move that the Commission determine that Appeal No. A-4-STB-07-071 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-STB-07-071 presents a substantial issue with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**III. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE
(A-4-STB-07-073, CONDITIONAL USE PERMIT)**

MOTION II: *I move that the Commission determine that Appeal No. A-4-STB-07-073 raises **NO** substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-STB-07-073 presents a substantial issue with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

**IV. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL
ISSUE**

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

On June 18, 2007, the Zoning Administrator of the County of Santa Barbara undertook final discretionary action to validate, relocate, and/or remove various unpermitted structures at 2825 Padaro Lane, Carpinteria (unincorporated Santa Barbara County).

The project description approved for Coastal Development Permit Case No. 07CDH-00000-00007 includes the following four components:

- a. The “validation” of a 170 sq. ft. addition to, and interior remodel of, an existing approximately 1,350 sq. ft., previously unpermitted single-family residence. The average height of the residence would be 11 feet, 3 inches;
- b. The demolition and removal of five accessory structures totaling 850 sq. ft. including a 144 sq. ft. tree-house, a 593 sq. ft. cross-shaped trellis, a 468 sq. ft. gazebo, a 173 sq. ft. free-standing deck and approximately 4,538 sq. ft. of miscellaneous hardscape;
- c. The “validation” and relocation of four metal shipping containers totaling 1,169 sq. ft. and four accessory structures totaling 680 sq. ft. (all structures previously unpermitted); and
- d. The “validation” of existing, previously unpermitted structures including a 602 sq. ft. garage with attached 445 sq. ft. carport, a 170 sq. ft. storage structure and an approximately 151 sq. ft. accessory structure attached to the detached residential second unit (DRSU) to be used as a gym.

Additionally, Conditional Use Permit (CUP) Case No. 07CUP-00000-00019 validates an existing 413 sq. ft. trailer with a 385 sq. ft. loft for use as a watchman’s trailer for a period of no more than one year.

B. BACKGROUND

The subject parcel is located at 2825 Padaro Lane, within the Summerland Community Plan area, Santa Barbara County (Exhibit 1). The 17.25-acre bluff top parcel (Assessor Parcel No. 005-260-009, Exhibit 2) is zoned *Residential*, 3 acre minimum lot size (3-E-1).

There are a number of unpermitted structures on the site. The subject permit is intended to bring the development on the site into conformance with the building code and the LCP by approving, after-the-fact, several previously unpermitted structures on site and allowing the demolition and removal of several unpermitted accessory structures. The County’s analysis reported the following with regard to the permit history of the site:

According to a Historic Resources Report drafted by San Buenaventura Research Assoc. and dated March, 2007, the existing main residence and accessory structure (to be validated as a [Detached Residential Second Unit] DRSU under separate permit) were probably constructed between 1942 and 1944 and subsequently moved to the subject property sometime in the late 1940’s (before zoning was required in this area.)

According to the same report, the existing garage/carport was probably constructed during the 1970's or 1980's. No permit history can be found in the County files for any of the structures onsite...

The County's staff report states that all of "the existing structures are set back a sufficient distance so as not to be within the 75 year cliff retreat distance."

Toro Canyon Creek is a blue-line stream that crosses the eastern side of the subject property and outlets to the ocean east of the approved development. The Summerland Community Plan states that the mouth of Toro Canyon Creek supports a structurally diverse riparian community, identified as Willow/Sycamore Woodland, dominated by western sycamore, arroyo willow, and coast live oak. This riparian woodland is specifically identified as environmentally sensitive habitat in the Summerland Community Plan.

Additionally, the mouth of Toro Creek is identified as Site 96 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* (Meade, November 1999). The site is reported to include riparian woodland habitat, including eucalyptus, sycamore, cottonwood, and willows with a rating of "good" regarding habitat health. The Meade report describes the site as "transitory." During the survey "a few patrolling butterflies were observed at this site, but no clusters of butterflies were found." The term "transitory" is defined in the Mead report as (pg. 6):

Transitory – Butterflies that are moving along the coast but stop in locations nightly are called transitory. Transitory clusters are formed from butterflies that move during the day and find a roosting site at night that is different from the previous night. Transitory aggregation sites may form and disperse in a particular tree or location within the course of one week.

Based on a review of historical aerial photographs of the subject site, it appears that a substantial area of vegetation has been removed within the riparian corridor along Toro Creek. In fact, significant vegetation removal appears to have occurred without the required coastal permits between 2002 and the latter part of 2004 across the subject property, particularly at the mouth of Toro Creek adjacent to the unpermitted structures. The unpermitted vegetation removal that occurred independent of the unpermitted construction of the subject structures is not part of the development approved by the County that is now on appeal. This issue has been reported to the Commission's Enforcement Unit and will be addressed as a separate matter.

C. LOCAL PERMIT HISTORY

On June 18, 2007, the Zoning Administrator of the County of Santa Barbara approved a coastal development permit (07CDH-00000-00007) and a conditional use permit (07CUP-00000-00019) to validate, relocate, and/or remove various unpermitted structures subject to 16 conditions of approval.

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

Commission staff received the Notice of Final Action for the Zoning Administrator's approval of the Coastal Development Permit (07CDH-00000-00007) and Conditional Use Permit (07CUP-00000-00019) on July 6, 2007. A 10-working day appeal period was set, extending to July 20, 2007. Appeals were received from Commissioner Patrick Kruer on July 19, 2007 and Sara Wan on July 20, 2007, within the 10-working day appeal period.

D. APPELLANTS' CONTENTIONS

Appeals were filed by Commissioners Kruer and Wan for both the Coastal Development Permit and Conditional Use Permit. The appeals contend that the approved project is not consistent with the provisions of the certified LCP with regard to the protection of environmentally sensitive habitat areas, riparian woodland, and monarch butterfly habitat. The grounds for appeal are summarized below. The full text of each appeal is provided in Exhibit 6.

The appeals contend that the project is inconsistent with the following LCP provisions: Land Use Plan Policies 1-1, 1-2, 9-22, 9-23, 9-35, 9-36; Coastal Act Sections 30107.5 and 30240 as incorporated into the LCP pursuant to Policy 1-1; Article II of the Zoning Code Sections 35-53, 35-97.3, 35-97.7, 35-97.18; and Summerland Community Plan (SCP) Policies BIO-S-1, BIO-S-1.2, BIO-S-1.5, BIO-S-3, BIO-S-3.2, BIO-S-4, BIO-S-4.1, BIO-S-7, and BIO-7.2. Taken together, these policies limit development in and around environmentally sensitive habitat areas, riparian woodlands, and monarch butterfly habitat. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

The appellants contend that unpermitted vegetation removal has occurred in the riparian woodland and monarch butterfly ESHA within and immediately adjacent to the development area sometime between 2002 and the end of 2004 based on photographic records. It is unclear how much of the vegetation removal occurred in conjunction with the development of any of the unpermitted structures; however, at a minimum SCP Action BIO-S-1.2 and Section 30240 of the Coastal Act as incorporated by LCP Policy 1-1, allow only uses dependent on the resource within the ESHA and require structures to be sited and designed to prevent impacts to ESHA.

The appeal further contends that the County analysis failed to address the distance of the approved development from either the previously or currently existing riparian ESHA located along the creek. The currently existing riparian ESHA on site is located on either side of Toro Creek and is significantly wider than the creek itself. In addition, based on a review of the 2002 aerial photographs of the subject site, the approved development is also located less than 100 ft. from the previously existing riparian habitat on site and would not provide for an adequate setback. Further, in its after-the-fact approval of the existing unpermitted structures directly adjacent to the creek, the County failed to analyze the adverse impacts to ESHA that occurred as a result of the original construction of the unpermitted structures.

The appeal contends that the County's analysis for both the coastal development permit and the conditional use permit failed to take into account the requirement for ESHA setbacks, in its approval to validate, relocate, and/or remove various unpermitted structures on the site.

E. ANALYSIS OF SUBSTANTIAL ISSUE

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

The appellants are appealing the project based on the project's impacts to riparian woodland, monarch butterfly habitat, and designated environmentally sensitive habitat. The appellants assert that the project is not consistent with the policies of the Local Coastal Plan designed to protect environmentally sensitive habitat areas, riparian woodlands, and monarch butterfly habitat. The Commission finds that a substantial issue exists with respect to the grounds on which the appeals have been filed because the appeals raise significant questions about whether the approved project is consistent with policies of the LCP for the specific reasons discussed below.

1. Environmentally Sensitive Habitat Area (ESHA) Policies

The appellants contend that the project, as approved by the County does not conform to the policies of the LCP with regard to environmentally sensitive habitat areas (ESHA), riparian woodlands, and monarch butterfly habitat. The appellants identify potential inconsistencies with the following LCP policies, including the Summerland Community Plan (SCP) which is a certified component of the LCP:

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

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

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

Section 30240 of the Coastal Act states:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which

would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Policy 1-2 (Resource Protection):

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

Policy 9-22 Butterfly Trees:

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

Policy 9-23 Butterfly Trees:

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

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

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

Policy 9-36 Native Plant Communities:

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

Sec. 35-53. Overlay District Designations and Applicability. (*in relevant part*)

...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.

Sec. 35-97.3. Identification of Newly Documented Sensitive Habitat Areas.

If a newly documented environmentally sensitive habitat area, which is not included in the ESH Overlay District, is identified by the County on a lot or lots during application review, the provisions of Secs. 35-97.7. - 35-97.19. shall apply. The County will periodically update the application of the ESH Overlay District to incorporate these new habitat areas (including the 250 foot area around the habitat).

Sec. 35-97.7. (Conditions on Coastal Development Permits in ESHA):

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of

the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.

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

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

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

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

Summerland Community Plan (SCP) Policy BIO-S-1 ESHA:

Environmentally Sensitive Habitat areas within the Community Plan Study area shall be protected, and where appropriate, enhanced.

Summerland Community Plan (SCP) Action BIO-S-1.2. ESHA:

All new development within 100' of an Environmentally Sensitive Habitat, including but not limited to, riparian, oak or willow woodlands, and coastal sage scrub shall be required to provide for setbacks or undeveloped buffer zones (possibly through open space easements) from these habitats. Staff shall refer to the Summerland Biological Resources Map for information on the location of native habitats, as well as referring to other available data (i.e., other maps, studies or observations). Installation of landscaping with compatible native species may be required within the buffer zone to offset impacts to sensitive habitats from development and increased human activities onsite. If the project would result in potential disturbance to the habitat, a restoration plan shall be required. When restoration is not feasible onsite, offsite restoration may be considered.

Summerland Community Plan (SCP) Action BIO-S-1.5. ESHA:

In the event that activities determined to be zoning violations result in the degradation of native habitat, the applicant shall be required to prepare and implement a habitat restoration plan. Degraded or disturbed areas of an identified habitat outside of any formal landscaping plan shall be restored with appropriate native species to offset increased development and increased human and domestic animal presence.

Summerland Community Plan (SCP) Policy BIO-S-3. Monarch Butterfly Habitat:

Monarch butterfly roosting habitats shall be preserved and protected.

Summerland Community Plan (SCP) Action BIO-S-3.2. Monarch Butterfly Habitat:

Prior to issuance of a CDP or LUP for development within 200' of known or historic butterfly roosts, RMD shall determine if the proposed project would have the potential to adversely impact monarch butterfly habitat. This shall be determined based on the proximity to known, historic, or potential butterfly trees. The Summerland Biological Resources map shall be considered in determining proximity as well as other available information and maps. In the event the proposed project does have the potential to adversely impact monarch butterfly habitat, the applicant shall submit to

DER a butterfly Roost Protection Plan. This plan shall be developed at the applicant's expense and shall be included on any grading designs. The plan shall include the following information and measures:

a. The mapped location of the windrow or cluster of trees where monarch butterflies are known, or have been known, to aggregate;

b. A minimum setback of 50 feet from either side of the roost shall be noted on the plan. Buffers surrounding potential roosts may be increased from this minimum, to be determined on a case by case basis. A temporary fence shall be installed at the outside of the buffer boundary. All ground disturbance and vegetation removal shall be avoided within this buffer region; and

c. Native vegetation shall be maintained around this buffer.

Summerland Community Plan (SCP) Policy BIO-S-4. Monarch Butterfly Habitat:

Trimming or clearing of vegetation within 50' of the Monarch Butterfly Habitat located adjacent to Via Real and Lambert Road or along riparian habitats shall not occur without the review and approval of the Resource Management Department.

Summerland Community Plan (SCP) Action BIO-S-4.1. Monarch Butterfly Habitat:

A trimming or clean-up plan shall be approved by the County Resource Management Department and shall include supervision by a qualified biologist.

Summerland Community Plan (SCP) Policy BIO-S-7. Riparian Habitat:

Riparian habitat areas shall be protected from all new development and degraded riparian habitats shall be restored where appropriate.

Summerland Community Plan (SCP) Action BIO-S-7.2. Riparian Habitat:

On-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Greenwell and Toro Canyon Creek shall be mandatory. A riparian vegetation plan, approved by the County, shall be developed by a County of approved biologist (or other experienced individual acceptable to the County) and implemented at the applicant's expense. The revegetation plan shall use native species that would normally occur at the site prior to disturbance. The plan shall contain planting methods and locations, site preparation, weed control, and monitoring criteria and schedules.

2. Site Characteristics and LCP Policy Discussion

Toro Creek crosses the eastern side of the subject property and outlets to the ocean east of the proposed development. The Summerland Community Plan states that the mouth of Toro Canyon Creek supports a structurally diverse riparian community, identified as Willow/Sycamore Woodland, dominated by western sycamore, arroyo willow, and coast live oak.

Figure 22 of the Summerland Community Plan (SCP), a certified component of the County's LCP, illustrates the presence of Willow/Sycamore Riparian Environmentally Sensitive Habitat Area on both the west and east sides of Toro Creek, including the subject property. Additionally, the mouth of Toro Creek is identified as Site 96 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* (Meade, November 1999). The site is reported to include riparian woodland habitat, including eucalyptus, sycamore, cottonwood, and willows with a rating of "good" regarding habitat health. This

report describes the site as “transitory.” During the survey “a few patrolling butterflies were observed at this site, but no clusters of butterflies were found.” The term “transitory” is defined in the Mead report as (pg. 6):

Transitory – Butterflies that are moving along the coast but stop in locations nightly are called transitory. Transitory clusters are formed from butterflies that move during the day and find a roosting site at night that is different from the previous night. Transitory aggregation sites may form and disperse in a particular tree or location within the course of one week.

The Meade report (1999) emphasizes the need to protect autumnal and transitory sites in the following manner (pg. 8):

Autumnal aggregation sites (e.g. Canada de Santa Anita, Hollister Ranch, Site 41) and transitory sites (e.g., Cypress Ridge, Site 30) should be protected. Without the autumnal and transitory sites it is likely that Monarch butterfly habitat mortality will increase. These habitats provide valuable layover and shelter locations while the butterflies move along the coast. Even though a site may have only 30 butterflies at a given time, the number of butterflies that move through the site during the season may be in the tens-of-thousands. Autumnal aggregation sites directly contribute individuals to the permanent aggregation sites. If new autumnal and transitory sites are found, they should also be protected.

Though the site is located just outside of the defined boundaries of the Toro Canyon Plan (a recently certified component of the County’s LCP), Toro Creek is also discussed within the Toro Canyon Plan. Specifically, the Toro Canyon Plan states that butterfly trees and riparian woodland at the mouth of Toro Creek (which is partially located on the subject site) is environmentally sensitive habitat. Additionally, the Toro Canyon Plan states “Several birds that are listed as Species of Special Concern, including yellow warbler, yellow breasted chat, Allen’s hummingbird, and Pacific-slope flycatcher, are known to use Toro Creek during migration and/or nesting periods (Kisner 1998).”

The County’s staff report (dated May 25, 2007) indicates that the proposed project will “validate several previously unpermitted structures on the site and allow the demolition and removal of several unpermitted accessory structures.” Additionally the staff report states that “all structures, with the exception of the existing garage/carport, are set back greater than 100 feet from [the top of bank along] West Toro Canyon Creek.”

The LCP does not define the term “validate.” However, such a term implies that the structures were not properly permitted on the subject site in compliance with the laws at the time of the development, and that such development would be legalized, after-the-fact, through the subject action. For instance, component (a) of the project description allows for additions to, and remodel of, a “previously unpermitted single-family residence.” In such cases, to “validate,” or legalize, unpermitted development, the development must meet the current provisions of the LCP.

The staff report indicates that the only structures believed to have been constructed prior to the effective date of the Coastal Act are the existing main residence and accessory structure. Though these structures are thought to have been constructed in the late 1940s, the County did not specify whether they were built in compliance with

the laws in existence at that time. A reference in the project description to validate the “previously unpermitted single-family residence” implies that it may not have received necessary approvals at that time. In addition, the existing garage/carport is believed to have been built during the 1970’s without the required permits and the remaining accessory structures were apparently constructed in the 1970’s or 1980’s without the required permits. The staff report concludes that no permit history can be found in the County files legalizing any of the existing structures onsite.

Under the certified LCP, the riparian woodland along Toro Canyon Creek is specifically described as a diverse willow/woodland and identified as environmentally sensitive habitat. When evaluating development set backs, an “on the ground” determination of ESHA cannot overlook the loss of ESHA that resulted from unpermitted removal; otherwise, the full extent of the ESHA would not be recognized. Such is the case on the subject property.

The ESHA protection policies included in the LCP would need to be applied to the extended footprint of the entire ESHA prior to its removal. The LCP only allows uses dependent on the ESHA within the ESHA. Additionally, the LCP includes policies that require development adjacent to ESHA to be designed and located in a manner that will avoid adverse impacts to habitat resources, including measures such as setbacks, buffers, grading and water quality controls. The LCP also provides specific development standards by ESHA type.

All of the Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LCP. Section 30240 of the Coastal Act, incorporated into the LCP, requires the protection of environmentally sensitive habitat areas against any significant disruption of habitat values, and no development may be permitted within ESHA except for uses that are dependent on the resource. Section 30240 further requires development adjacent to ESHA to be sited and designed to prevent impacts that would significantly degrade ESHA and to be compatible with the continuance of the habitat areas.

In addition, the policies and provisions of the Summerland Community Plan (SCP) require restoration of unpermitted ESHA removal. Policy BIO-7 requires that riparian habitat areas be protected from all new development and degraded riparian habitats shall be restored where appropriate.

The LCP policies applied together require measures to restore and protect environmentally sensitive habitat areas, riparian woodlands, and monarch butterfly habitat. LCP Policies 1-2, 9-22, 9-23, 9-36, and Coastal Act Section 30240, as incorporated by LCP Policy 1-1; Zoning Ordinance Sections 35-97.7 and 35-97.18; and Summerland Community Plan policies BIO-S-1, BIO-S-1.2, BIO-S-3, BIO-S-3.2, BIO-S-4, and BIO-S-4.1 necessitate measures including siting the project with setbacks and buffers to prevent impacts which would degrade these sensitive resources.

3. Project Impacts

As discussed previously, the approvals of the coastal development permit and conditional use permit “validate,” relocate, and/or remove various unpermitted structures on the subject site.

Based on a review of historical aerial photographs of the subject site, it appears that a substantial area of vegetation has been removed within the riparian corridor along Toro Creek. In fact, significant vegetation removal appears to have occurred without the required coastal permits between 2002 and the latter part of 2004 across the subject property, particularly at the mouth of Toro Creek adjacent to the unpermitted structures. Though the County’s staff report asserts that the project will be in conformance with the provisions of the certified LCP, the County’s staff report failed to analyze the loss of riparian woodland and monarch butterfly habitat on the site that resulted from the original construction of the unpermitted structures.

Further, although the County found that the main residence and second residence are located at least 100 ft. from the top of creek bank; the County’s analysis failed to address the distance of the proposed development from either the currently or previously existing riparian ESHA located along the creek. The currently existing riparian ESHA on site is located on either side of Toro Creek and is significantly wider than the creek itself. In addition, based on a review of the 2002 aerial photographs of the subject site, the proposed development is located less than 100 ft. from the previously existing riparian habitat on site and would not provide for an adequate setback. Further, in its after-the-fact approval of the existing unpermitted structures directly adjacent to the creek, the County failed to analyze the adverse impacts to ESHA that occurred as a result of the original construction of the unpermitted structures.

The County’s analysis concludes that some of these structures may be “validated” because this “would not result in additional impacts to biological resources over existing conditions.” However, this analysis is based on the incorrect premise that the current disturbed condition of the site should be used as a baseline for assessing impacts to ESHA. However, since the County has determined that these structures are unpermitted, then these structures would not be considered vested development. Thus, the after-the-fact approval of the structures must include an analysis of the impacts to ESHA that occurred at the time of construction. However, in its approval of the project, the County incorrectly found that no adverse impacts to ESHA were expected to result from the “validation” of the unpermitted structures since any impacts to ESHA had already occurred. Any development on the property must be set back 100 feet from ESHA as required by SCP Action BIO-S-1.2. In this case, the approved CDP does not prohibit the placement of residential structures within ESHA or provide for adequate setback from riparian vegetation.

As a result, all structures need to meet the 100-ft. buffer from the *pre-disturbed* riparian canopy. Though additional investigation will need to be undertaken to assess and map the previous ESHA canopy, preliminary review of the site plan (Exhibit 3) and historic photos demonstrate that multiple structures would clearly be within this 100-ft. buffer, inconsistent with the provisions of the certified LCP.

The project description specifically states that no grading or vegetation would be removed to carry out the project. However, grading and vegetation removal appear to have already occurred as a direct result of the original construction of the unpermitted structures approved by the County. Since these were unpermitted activities, these impacts must be addressed by the permit.

With regard to butterfly habitat, the County's analysis indicates that a stand of eucalyptus trees located at the mouth of West Toro Canyon Creek is identified in the Summerland Community Plan as sensitive habitat and as Monarch Butterfly Site #96 by Dr. Dan Meade. The analysis concludes that this is insignificant because:

However, the project components would be located approximately 200 feet from the eucalyptus stand. A site assessment drafted by Dr. Meade (May, 2006) states: "Since a monarch butterfly aggregation is not known at the site presently, and has not been known to occur at the site for fifteen years, it is likely that the proposed project will result in no significant impact to monarch butterflies. Additionally, the designated historic aggregation site #96 at Loon Point is within the sensitive habitat associated with the creek, and would not be affected by anticipated project activities that are outside of the riparian tree canopy."

LUP Policy 9-22 states that "Butterfly trees shall not be removed except where they pose a serious threat to life of property..." and LUP Policy 9-23 states that "Adjacent development shall be set back a minimum of 50 feet from the trees." The County's ESHA setback analysis for "validation" of all of the unpermitted structures on the site did analyze the distance of the proposed development from the existing or previous extent of monarch butterfly ESHA that existed on site prior to the unpermitted development. However, based on a review of historical aerial photographs of the site from 2002, 2004, and 2006, it appears that at least some of the structures approved by the County would be located less than 50 ft. from monarch butterfly habitat. Therefore, the approved development would not be consistent with the LCP ESHA protection requirements.

Further, there is an associated conditional use permit (CUP) to "validate" an existing trailer as a watchman's trailer for a period of no more than one year. There are no conditions placed on the CUP to relocate the trailer and therefore, it is assumed that the trailer will remain in the location shown on the project plans. If this is the case, it appears that it would also be located less than the required 100-ft setback from the previously existing riparian woodland ESHA on site. Therefore retention of this structure would not be consistent with the provisions of the certified LCP for all of the same reasons described above.

Thus, for the reasons discussed above, a substantial issue exists regarding the approved development's consistency with the LCP policies regarding environmentally sensitive habitat areas, riparian woodland and monarch butterfly habitat.

4. Alternatives Analysis

Given that the development includes several accessory structures in addition to the main residence, and that the project site encompasses more than 17 acres, the Commission finds that there are alternative configurations, locations, or designs that

would be consistent with the provisions of the LCP that would not adversely impact environmentally sensitive habitats. Alternative configurations could include the placement of structures further from the ESHA to avoid the impacts to sensitive coastal resources.

Therefore, for all of these reasons, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the approved development does not meet provisions of the certified Local Coastal Program regarding riparian woodland, monarch butterfly habitat, and ESHA protection.

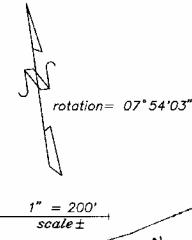
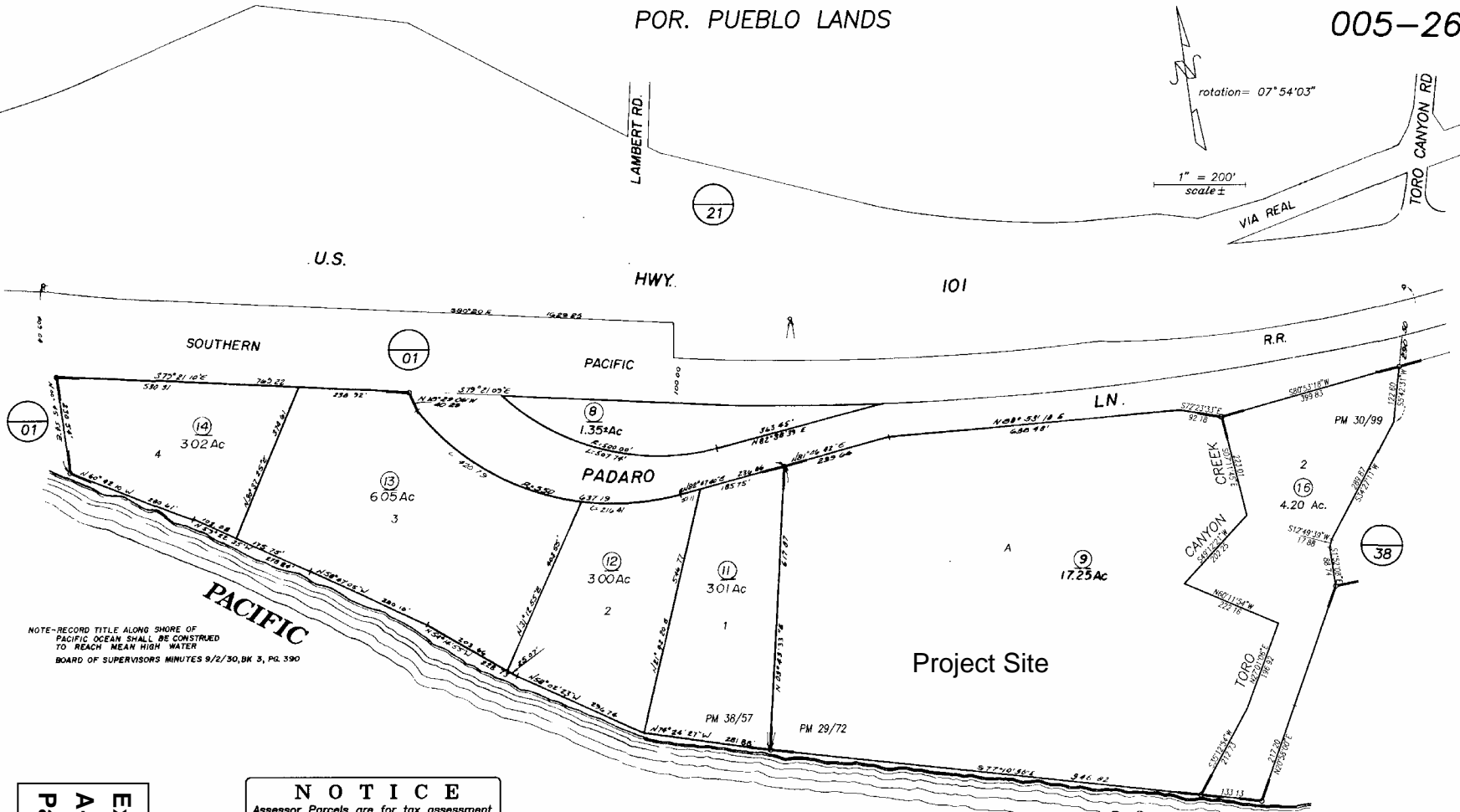
F. CONCLUSIONS REGARDING SUBSTANTIAL ISSUE

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



Project Site

Exhibit 1
 A-4-STB-07-071 & -073
 Vicinity Map



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

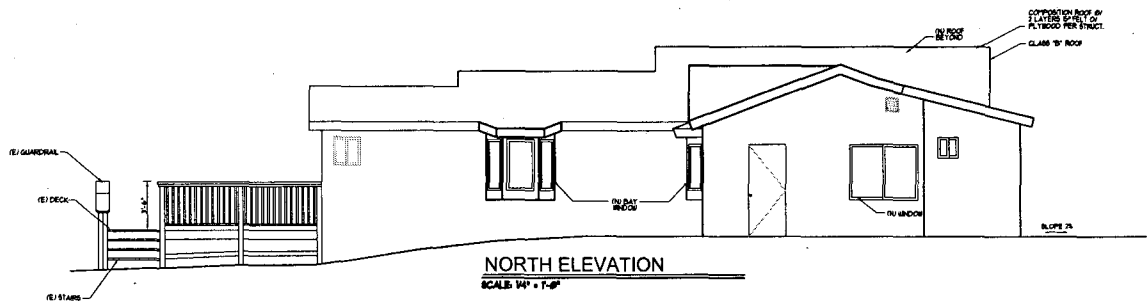
NOTICE
Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

Assessor's Map Bk, 005-Pg, 26
County of Santa Barbara, Calif.

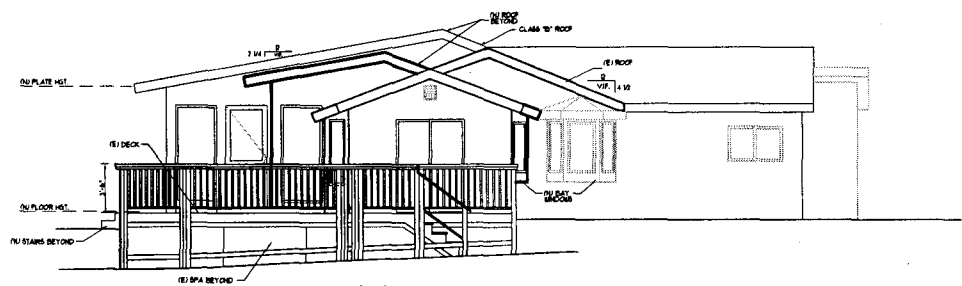
OCEAN

10/02 010 & 390-32 into 016 & 390-038

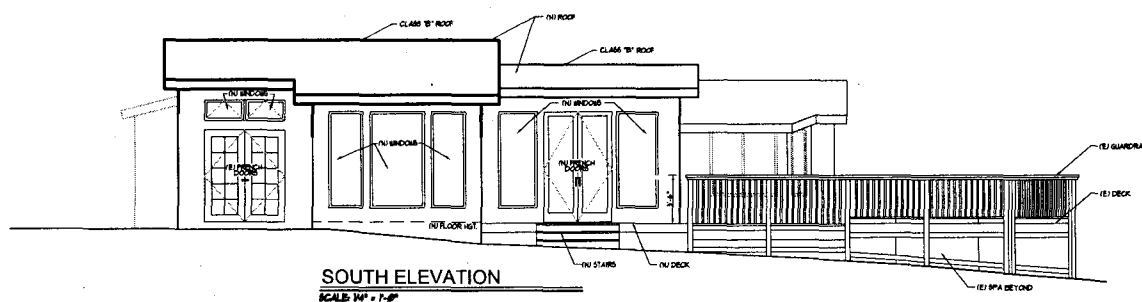
Exhibit 2
A-4-STB-07-071 & -073
Parcel Map



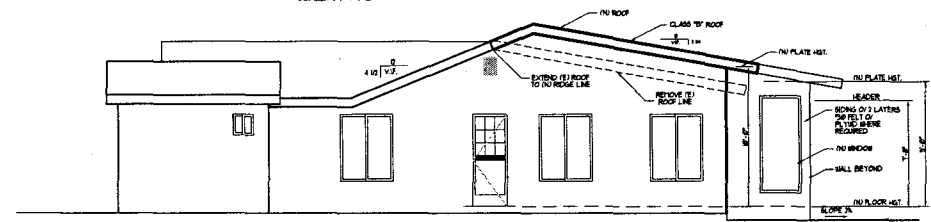
NORTH ELEVATION
SCALE 1/4" = 1'-0"



EAST ELEVATION
SCALE 1/4" = 1'-0"



SOUTH ELEVATION
SCALE 1/4" = 1'-0"



WEST ELEVATION
SCALE 1/4" = 1'-0"

- NOTES - ELEVATION & SECTIONS**
- FOUNDATION SHALL SUPPORTING ROOF SHALL EXTEND AT LEAST 6 INCHES ABOVE THE FINISHED GRADE ADJACENT TO THE WALL AT ALL POINTS (SECTION 1306.9 IBC)
 - PROVIDE A MINIMUM 2" CLEARANCE BETWEEN INSULATION AND ROOF FLASHING FOR THE RAFTER SPACE. VENTILATION SHALL HAVE SUFFICIENT CLEARANCE AT FINISH PROVIDER: R-30-1/2", R-19-1/2" AND R-13-1/2"
 - ROOF VALLEY FLASHING SHALL BE PROVIDED OF NOT LESS THAN NO. 30 GALVANIZED SHEET GABLE CORROSION-RESISTANT METAL AND SHALL EXTEND AT LEAST 8 INCHES FROM THE CENTER LINE EACH WAY. SECTIONS OF FLASHING SHALL HAVE AN END LAP OF NOT LESS THAN 4 INCHES. ALTERNATIVELY, THE VALLEY SHALL CONSIST OF MOVING ADHESIVE TANGLES APPLIED IN ACCORDANCE WITH MANUFACTURER'S PRINTED INSTRUCTION (SECTION 905 IBC)
 - ATTIC VENTS (IBC SECTION 905.3): PROVIDE EQUAL ATTIC VENT EQUAL TO ONE SQUARE FOOT PER 150 SF OF ATTIC AREA OR ONE SQUARE FOOT PER 100 SF OF ATTIC AREA WITH 10% OF THE VENT NEAR THE RIDGE. AT LEAST THREE FEET HIGHER AND THE REMAINDER OF THE AREA AT EACH OR CORNER VENTS OR ONE SQUARE FOOT PER 300 SF OF ATTIC AREA PROVIDED A VAPOR BARRIER NOT EXCEEDING 1 PERYFT INSTALLED ON THE WARM SIDE OF THE ATTIC INSULATION
 - ATTIC VENTS ARE REQUIRED TO BE PROTECTED BY 1/4 INCH CORROSION RESISTANT METAL FLASH (SECTION 905.3 IBC)
 - ADJACENT MEMBERS SHALL BE A MINIMUM OF 1/4" HIGH AND SHALL BE CONTRASTING COLOR TO THEIR BACKGROUND
 - FINISH GRADE SHALL SLOPE AWAY FROM BASE OF HOUSE AT 2% SLOPE FOR AT LEAST 5 FEET.

LEGEND
NEW CONSTRUCTION



Michael J. Lilly, Owner/Designer
161 N. Ventura Avenue, Suite L, Ventura, CA, 93001
Phone: 805.655.5225 mjl@one-design.com

Michael J. Lilly, Designer

FOR THESE: **PADARO LANE RENOVELS**
2825 PADARO LANE
CARPENTERIA, CA
0701 05-04-07
ELEVATIONS (RESIDENCE)

THE QUALITY OF A BUILDING PROJECT SHALL NOT BE COMPROMISED AS A GUARANTEE THAT ALL CODE REQUIREMENTS ARE REFLECTED IN THE DOCUMENT. THE CREATOR/CONTRIBUTOR FOR THE PROJECT SHALL BE ULTIMATELY RESPONSIBLE FOR INSURING THAT THE PROJECT COMPLETION COMPLES WITH ALL REGULATIONS, LAWS AND CODE REQUIREMENTS.

B.A.R. DRAWINGS

revisions:

NO.	REVISION	DATE
1	REVISION	02/20/07
2	REVISION	
3	REVISION	

Sheet Title/Number:

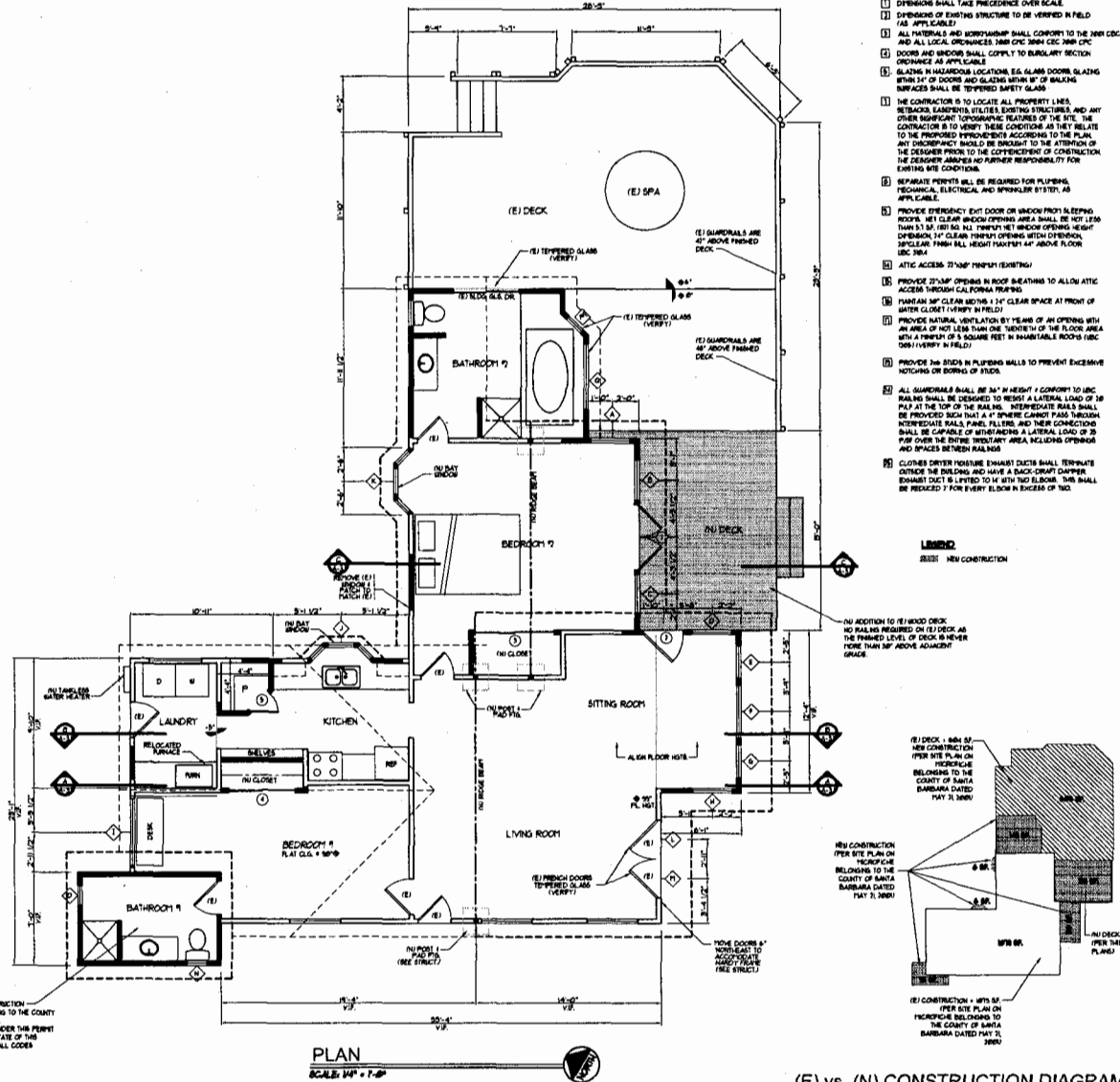
A-2.1

WINDOW SCHEDULE			
SYMBOL	SIZE WIDTH x HEIGHT	TYPE	REMARKS
A	3'-0"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
B	3'-0"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
C	3'-0"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
D	3'-0"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
E	2'-6"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
F	4'-0"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
G	2'-6"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
H	3'-0"x7'-0"	FIXED	8'-0" HEADER HEIGHT / TEMP.
I	3'-0"x4'-0"	FIXED	8'-0" HEADER HEIGHT
J	(1) 7'-0"x3'-0"	DBL. HUNG	BAY WINDOW
K	(1) 7'-0"x3'-0"	DBL. HUNG	BAY WINDOW
L	1'-6"x3'-0"	AWNING	TRANSOM 8'-10" HDR. HEIGHT / TEMP.
M	1'-6"x3'-0"	AWNING	TRANSOM 8'-10" HDR. HEIGHT / TEMP.
N	1'-6"x7'-6"	SLIDER	(E) WINDOW IN (N) WALL
O	1'-6"x7'-6"	SLIDER	(E) WINDOW IN (N) WALL
P	4'-6"x7'-6"	FIXED	(E) WINDOW IN (N) WALL / TEMP. (V.I.F.)
Q	5'-0"x4'-6"	FIXED	(E) WINDOW IN (N) WALL / TEMP. (V.I.F.)

WINDOW NOTES:
 1. ALL WINDOWS SHALL BE CHOSEN BY OWNER.
 2. ALL WINDOWS INDICATED AS "(E) WINDOW IN (N) WALL" INDICATES THE WALL IS BEING NEWLY RESURFACED BUT THE WINDOW IS EXISTING IN THAT WALL AS AN AS-BUILT CONDITION.

DOOR SCHEDULE		
SYMBOL	SIZE WIDTH x HEIGHT	REMARKS
1	(1) 2'-6"x8'-0"	FRENCH DOORS W/ TEMP. GLASS
2	3'-0"x8'-0"	DUTCH DOOR W/ TEMP. GLASS
3	(1) 3'-0"x6'-8"	SLIDERS (HOLLOW CORE)
4	(1) 2'-6"x6'-8"	SLIDERS (HOLLOW CORE)
5	2'-0"x6'-8"	HOLLOW CORE

NOTES:
 1. ALL INTERIOR DOORS SHALL BE PAINT GRADE AND SHALL MATCH EXISTING.
 2. WHERE "(E) DOORS / WINDOWS BEING DEMOLISHED, CARE SHALL BE TAKEN TO REMOVE DOOR / FRAME WHERE APPLICABLE.
 3. WHERE APPLICABLE, (E) DOOR BEING REMOVED MAY BE RELOCATED AT OWNERS REQUEST.



- REVISIONS - PLAN**
- DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALE.
 - DEMOLITION OF EXISTING STRUCTURE TO BE VERIFIED IN FIELD (AS APPLICABLE).
 - ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE 2009 CBC AND ALL LOCAL ORDINANCES 1989 CBC 300A CBC 300B CBC 300C 300D AND ALL LOCAL ORDINANCES 1989 CBC 300A CBC 300B CBC 300C 300D AS APPLICABLE.
 - DOORS AND WINDOWS SHALL COMPLY TO BUDGETARY SECTION ORDINANCE AS APPLICABLE.
 - GLAZING IN HAZARDOUS LOCATIONS (E.G. GLASS DOORS, GLAZING WITHIN 5' OF DOORS AND GLAZING WITHIN 5' OF WALKING SURFACES SHALL BE TIPPED SAFETY GLASS.
 - THE CONTRACTOR IS TO LOCATE ALL PROPERTY LINES, EASEMENTS, EAVESMENTS, UTILITIES, EXISTING STRUCTURES, AND ANY OTHER SIGNIFICANT TOPOGRAPHIC FEATURES OF THE SITE. THE CONTRACTOR IS TO VERIFY THESE CONDITIONS AS THEY RELATE TO THE PROPOSED IMPROVEMENTS ACCORDING TO THE PLAN. ANY DISCREPANCY SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGNER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE DESIGNER ASSUMES NO FURTHER RESPONSIBILITY FOR EXISTING SITE CONDITIONS.
 - SEPARATE PERMITS WILL BE REQUIRED FOR PLUMBING, MECHANICAL, ELECTRICAL, AND FIREPROTECTION SYSTEMS, AS APPLICABLE.
 - PROVIDE EMERGENCY EXIT DOOR ON WALKOFF FRONT SLEEPING PORCH. NET CLEAR WALKOFF AREA SHALL BE NOT LESS THAN 5' x 3'. (NET 5'0" x 3'0" MINIMUM NET WALKOFF OPENING HEIGHT DIMENSION 5'4" CLEAR THROUGH OPENING WITH OVERHEAD. SPECULAR FINISH BALL HEIGHT MAXIMUM 4" ABOVE FLOOR FIN. SURF.)
 - ATTC ACCESS 22" MIN. FINISH (MINIMUM)
 - PROVIDE 22" MIN. OPENING IN ROOF SHEATHING TO ALLOW ATTC ACCESS THROUGH CALIFORNIA PERMITS.
 - FINISH SURF. CLEAR WIDTH 3' 1" CLEAR SPACE AT FRONT OF WALKOFF AREA AT FRONT OF WALKOFF AREA.
 - PROVIDE NATURAL VENTILATION BY MEANS OF AN OPENING WITH AN AREA OF NOT LESS THAN ONE TWENTY (1/20) OF THE FLOOR AREA WITH A MINIMUM OF 3 SQUARE FEET IN HABITABLE ROOMS (CBC 1009.1 VERIFY IN FIELD).
 - PROVIDE TWO BRIDS IN PLUMBING WALLS TO PREVENT EXCESSIVE ROTATION OR BOWING OF BRIDS.
 - ALL GUARDRAILS SHALL BE 36" IN HEIGHT / CONFORM TO IBC. RAILS SHALL BE DESIGNED TO RESIST A LATERAL LOAD OF 150 PLF AT THE TOP OF THE RAILING. INTERMEDIATE RAIL SHALL BE PROVIDED SUCH THAT A SPINDLE CANNOT PASS THROUGH INTERMEDIATE RAIL PANEL FILLERS AND THEIR CONNECTIONS SHALL BE CAPABLE OF WITHSTANDING A LATERAL LOAD OF 30 PLF OVER THE ENTIRE WALKWAY AREA INCLUDING CORNERS AND SPICES BETWEEN RAILINGS.
 - CLOSET DRYER VENTILATION EXHAUST DUCTS SHALL TERMINATE OUTSIDE THE BUILDING AND HAVE A BACK-DRAFT DAMPER EXHAUST DUCT RELIEVED TO 14" WITH TWO ELBOWS. THIS SHALL BE PROVIDED 7' FOR EVERY ELBOW IN EXCESS OF TWO.

ONE

Michael J. Lilly, Owner/Designer
 44 S. Ventura Avenue, Suite L, Moorpark, CA 93021
 phone: 805.855.5500 fax: 805.855.5501

Michael J. Lilly, Designer

FLOOR PLAN (RESIDENCE)

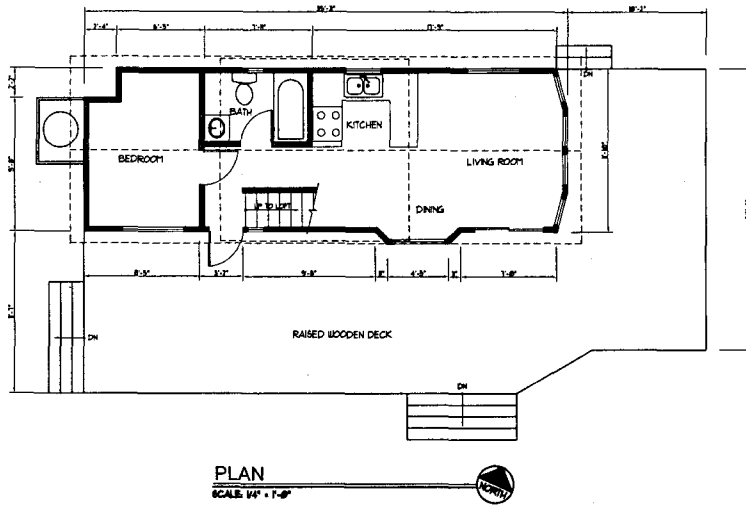
PADARO LANE RENOVELS
 2825 PADARO LANE
 CARPENTERIA, CA
 07/01 05-09-07

THE ISSUANCE OF A BUILDING PERMIT SHALL NOT BE CONSIDERED AS A GUARANTEE THAT ALL CODE REQUIREMENTS ARE REFLECTED IN THE DOCUMENT. THE CLIENT/CONTRACTOR FOR THE PROJECT SHALL BE ULTIMATELY RESPONSIBLE FOR INSURING THAT THE IMPROVED PROJECT COMPLIES WITH ALL REGULATORY, LAWS AND CODE REQUIREMENTS.

B.A.R. DRAWINGS

REVISION	DATE
REVISION #1	02/20/07

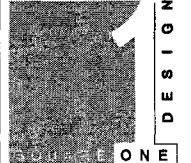
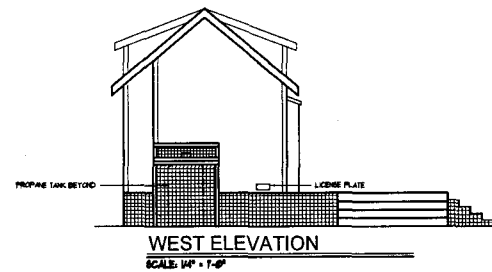
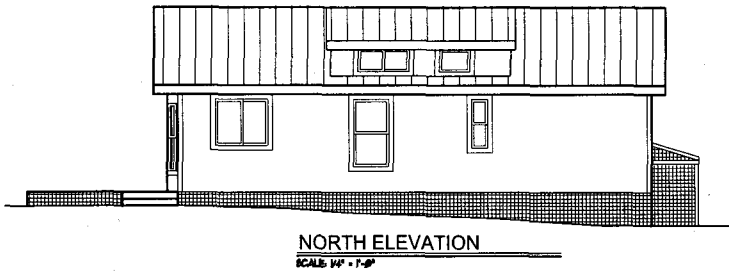
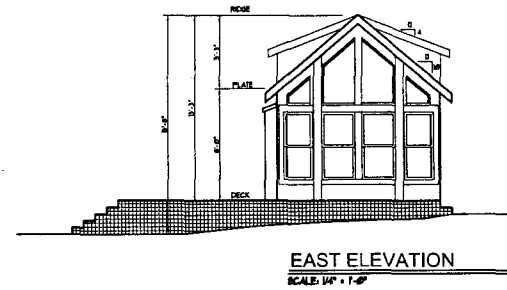
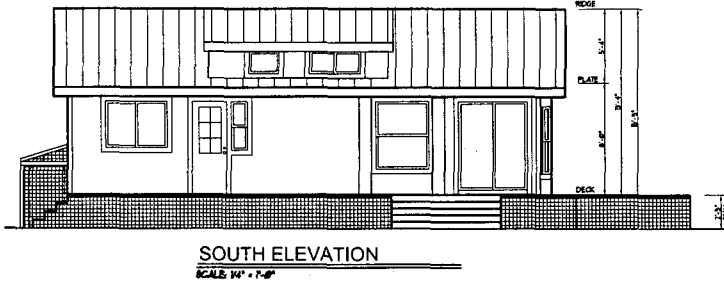
A-1.1



NOTE:
THIS IS NOT A PERMANENT STRUCTURE. THIS STRUCTURE IS A TRAILER CAPABLE OF BEING MOVED WITH WHEELS CONCEALED BY LATTICE WORK.

- REVISIONS - PLAN**
- 1) DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALE.
 - 2) DIMENSIONS OF EXISTING STRUCTURE TO BE VERIFIED IN FIELD (AS APPLICABLE).
 - 3) ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE 2008 CBC AND ALL LOCAL ORDINANCES 2008 CFC 2008 CEC 2008 CFC.
 - 4) DOORS AND WINDOWS SHALL COMPLY TO BULGARIY SECTION ORDINANCE AS APPLICABLE.
 - 5) GLAZING IN HAZARDOUS LOCATIONS (E.G. GLASS DOORS, GLAZING WITHIN 24" OF DOORS AND GLAZING WITHIN 8" OF WALKING SURFACES SHALL BE TOPPED SAFETY GLASS.
 - 6) THE CONTRACTOR IS TO LOCATE ALL PROPERTY LINES, SETBACKS, EASEMENTS, UTILITIES, EXISTING STRUCTURES, AND ANY OTHER SIGNIFICANT TOPOGRAPHIC FEATURES OF THE SITE. THE CONTRACTOR IS TO VERIFY THESE CONDITIONS AS THEY RELATE TO THE PROPOSED IMPROVEMENTS ACCORDING TO THE PLAN. ANY DISCREPANCY SHOULD BE BROUGHT TO THE ATTENTION OF THE DESIGNER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION. THE DESIGNER ASSUMES NO FURTHER RESPONSIBILITY FOR EXISTING SITE CONDITIONS.
 - 7) SEPARATE PERMITS WILL BE REQUIRED FOR PLUMBING, MECHANICAL, ELECTRICAL AND OPERATOR SYSTEMS AS APPLICABLE.
 - 8) PROVIDE EMERGENCY EXIT DOOR OR WINDOW FROM SLEEPING ROOMS. NET CLEAR WINDOW OPENING AREA SHALL BE NOT LESS THAN 5.7 SQ. FT. (20" BY 30"). TRIPLET NET WINDOW OPENING HEIGHT DIMENSION 24" CLEAR. TRIPLET OPENING WITH DIMENSION 30" CLEAR. TRIPLET NET HEIGHT 44" ABOVE FLOOR LIRC 304.
 - 9) TRIPLET NET CLEAR WIDTH 30" CLEAR SPACE AT FRONT OF WATER CLOSET (VERIFY IN FIELD).
 - 10) PROVIDE NATURAL VENTILATION BY MEANS OF AN OPENING WITH AN AREA OF NOT LESS THAN ONE TENTH (1/10) OF THE FLOOR AREA WITH A MINIMUM OF 5 SQUARE FEET IN HABITABLE ROOMS (SEE DISCOVERY IN FIELD).

LEGEND
[Symbol] NEW CONSTRUCTION



Michael J. Lilly, Owner/Designer
1618 N. Ventura Avenue Suite L, Ventura, CA 93001
Phone: 805.468.5200 Website: www.mjl-design.com

Michael J. Lilly, Designer

BY ORDER: PADARO LANE REMODELS
2825 PADARO LANE
CITY CENTER
CARPENTERSIA, CA
91010
05-04-07
Sheet 1 of 1

FLOOR PLAN & ELEVATIONS
WATCHMAN'S TRAILER

THE ISSUANCE OF A BUILDING PERMIT SHALL NOT BE CONSIDERED AS A GUARANTEE THAT ALL CODE REQUIREMENTS ARE REFLECTED IN THE DOCUMENT. THE CLIENT/CONTRACTOR FOR THE PROJECT SHALL BE ULTIMATELY RESPONSIBLE FOR INSURING THAT THE FINISHED PROJECT COMPLIES WITH ALL REGULATORY, LAW, AND CODE REQUIREMENTS.

B.A.R. DRAWINGS

REVISIONS:

NO.	REVISION	DATE
1	REVISION	02/20/07
2	REVISION II	

Sheet Title/Number:

A-1.3



Project Site

Toro Canyon Creek

2002

Exhibit 4
A-4-STB-07-071 & -073
Site Photos, 2002 & 2004

Source: California Coastal Records Project



Project Site

Toro Canyon Creek

2004

Source: California Coastal Records Project

Appeal period start July 9, 2007



4-STB-07-179
County of Santa Barbara
Planning and Development

John Baker, Director

Dianne Black, Director Development Services

John McInnes, Director Long Range Planning

NOTICE OF FINAL ACTION

RECEIVED
JUL 06 2007

DATE: June 29, 2007

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

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

On June 18, 2007 Santa Barbara County took final action on the appealable development described below:

- X Appealable Coastal Development Permit 07CDH-00000-00007
- Appealable Coastal Development Permit [case number] following discretionary case [#]
- X Discretionary action on case no. 07CUP-00000-00019

Project Applicant:

Jessican Kinnahan
Penfield & Smith
P.O. Box 98
Santa Barbara, CA 93102

Property Owner:

Tim Hctor
Trustee for the Beach Club Family Trust
3705 Telegraph Rd.
Ventura, CA 93003

Project Description: The request of Jessica Kinnahan, agent for the owner Beach Club Family Trust, to consider the following:

- a. **07CDH-00000-00007**, [application filed on February 9, 2007] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 3-E-1 to allow a remodel and addition to an existing single-family residence, the demolition of several unpermitted structures, the relocation of existing storage structures and the validation of several unpermitted structures;
- b. **07CUP-00000-00019**, [application filed on March 14, 2007] for a Conditional Use Permit in compliance with Section 35-172 of the Article II Coastal Zoning Ordinance, to allow a watchman's trailer on property zoned 3-E-1; and

to accept the exemption pursuant to Sections 15301(e), 15301(l) & 15303 of the State Guidelines for the Implementation of the California Environmental Quality Act.

Location: The application involves AP No. 005-260-009, located at 2825 Padaro Lane, in the Summerland area, First Supervisorial District.

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

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

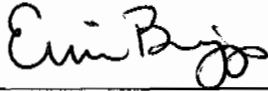
Building & Safety
185 West Hwy 246, Ste 101
Buellton, CA 93427
Phone: (805) 686-5020
FAX: (805) 686-5028

EXHIBIT 5
A-4-STB-07-071 & -073
Final Local Action Notice

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

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

Please contact Errin Briggs, the case planner at (805) 568-2047 if you have any questions regarding the County's action or this notice.



6/29/07

Errin Briggs, Project Planner

Date

Attachment: Final Action Letter dated June 20, 2007

cc: Case File: 07CDH-00000-00007, 07CUP-00000-00019
Cintia Mendoza, Hearing Support

G:\GROUP\PERMITTING\Case Files\CDH\07_cases\07CDH-00000-00007 Beach Club\nofa.doc



County of Santa Barbara Planning and Development

John Baker, Director

Dianne Black, Director Development Services

John McInnes, Director Long Range Planning

June 20, 2007

Jessica Kinnahan
Penfield & Smith
P.O. Box 98
Santa Barbara, CA 93102

ZONING ADMINISTRATOR
HEARING OF JUNE 18, 2007

RE: Beach Club Addition, Demolition, Detached Residential Second Unit and Watchman's Trailer, 07CDH-00000-00007, 07CUP-00000-00019

Hearing on the request of Jessica Kinnahan, agent for the owner Beach Club Family Trust, to consider the following:

- a) **07CDH-00000-00007** [application filed on February 9, 2007] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 3-E-1 to allow a remodel and addition to an existing single-family residence, the demolition of several unpermitted structures, the relocation of existing storage structures and the validation of several unpermitted structures;
- b) **07CUP-00000-00019** [application filed on March 14, 2007] for a Conditional Use Permit in compliance with Section 35-172 of the Article II Coastal Zoning Ordinance, to allow a watchman's trailer on property zoned 3-E-1;

and to accept the Exemption pursuant to Sections 15301(e), 15301(l) & 15303 of the State Guidelines for the Implementation of the California Environmental Quality Act. The application involves AP No. 005-260-009, located at 2825 Padaro Lane, in the Summerland area, First Supervisorial District.

Dear Ms. Kinnahan:

At the regular hearing of the Santa Barbara County Zoning Administrator on May 18, 2007, Case Nos. 07CDH-00000-00007 and 07CUP-00000-00019 marked "Officially Accepted, County of Santa Barbara May 18, 2007, Zoning Administrator Exhibit #1" was conditionally approved, based upon the project's consistency with the Comprehensive Plan including the Coastal Land Use Plan and the Summerland Community Plan and based on the ability to make the required findings. The Zoning Administrator also took the following action:

1. Adopted the required findings for the project specified in Attachment A of the staff report dated May 25, 2007, including the California Environmental Quality Act (CEQA) findings;
2. Accepted the Exemption, included as Attachment B of the staff report dated May 25, 2007, pursuant to CEQA Guidelines Sections 15301(e), 15301(l) & 15303; and

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

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

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

Development Review
Building & Safety
Agricultural Planning
624 W. Foster Road
Santa Maria, CA 93455
Phone: (805) 934-6250
FAX: (805) 934-6258

Approved the project subject to the conditions included as Attachments C & D of the staff report dated May 25, 2007.

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

- The Zoning Administrator's decision may be appealed locally by the applicant, an aggrieved person, as defined under Section 35-58, or any two members of the Coastal Commission within 10 calendar days of the date of the Administrator's decision.
- If a local appeal is filed, it shall be processed in accordance with all provisions of Section 35-182.3 of the Coastal Zoning Ordinance, and shall be taken to the Santa Barbara County Clerk of the Board, 105 East Anapamu Street - Room 407, Santa Barbara, California before the appeal period expires.
- No filing fee is required for an appeal since this project may ultimately be appealed to the Coastal Commission under Section 35-182.4.2.
- Please be advised that if a local appeal is filed, the final action on the appeal by the Board of Supervisors may be appealed to the California Coastal Commission if that final action includes the approval of a permit.
- **Local appeal period expires on Thursday, June 28, 2007 at 5:00 P.M.**

Sincerely,

ZORAIDA ABRESCH
Zoning Administrator

xc: Case File: 07CDH-00000-00007, 07CUP-00000-00019
Hearing Support Zoning Administrator File
Petra Leyva
Records Management
Architect: Michael Lilly, 1255 E. Santa Clara St. Ventura, CA 93001
Owner: Tim Hctor, Trustee for the Beach Club Family Trust, 3705 Telegraph Rd., Ventura, CA 93003
Address File: 2825 Padaro Ln, Summerland, CA
Shana Gray, California Coastal Commission, 89 South California St., Ste 200, Ventura, CA 93001
Summerland Citizens Association; PO Box 508; Summerland, CA 93067
APCD
County Surveyor's Office
Supervisor Carbajal, First District
Errin Briggs, Planner

**Attachments: Attachment A – Findings
 Attachment C – Conditions of Approval (07CDH-00000-00007)
 Attachment D – Conditions of Approval (07CUP-00000-00019)**

ZA/ah

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

The project can be found exempt from environmental review pursuant to CEQA Guidelines Sections 15301(e) [Additions to existing structures], Section 15301(l)(4) [Demolition of Accessory Structures] and 15303 [New Construction]. See Attachment B for details.

2.0 ADMINISTRATIVE FINDINGS

2.1 Coastal Development Permit Findings

Pursuant to Section 35-169.5, a Coastal Development Permit shall only be issued if all of the following findings are made:

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

As discussed in sections 6.2 and 6.3 of this staff report and incorporated herein by reference, the project would be consistent with the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan and the Summerland Community Plan and with the applicable provisions of Article II (Coastal Zoning Ordinance.) The project would have adequate services and resources in place to serve the residential use. No trees or native vegetation would be removed and grading would be minimal. Therefore, this finding can be made.

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

The proposed project is located on a legally created lot. The subject parcel was created in 1981 as Parcel A of Parcel Map 13,069 as approved by the Santa Barbara County Subdivision Committee. Therefore, this finding can be made.

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

As discussed in Section 6.3 of this staff report and incorporated herein by reference, the project would be consistent with all requirements of the 3-E-1 zone district. The outstanding building violation and previously unpermitted structures associated with the subject lot would be brought into conformance with the applicable County policies and Article II provisions by approval of the proposal and implementation of the project. Therefore, this finding can be made.

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

The project site is located on the coastal bluff between the Pacific Ocean and Padaro Lane. The Padaro Lane frontage is landscaped with a thick pittosporum hedge which effectively blocks all public views of the project site and ocean from the adjacent right-of-way. The coastal bluff located within the project site is nearly vertical and blocks views of the existing and proposed structures from the sandy beach below. All structures are located so as not to obstruct any public views to or along the coast. As the proposed project cannot be seen from public viewing places, this finding can be made.

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

The project site is 17.25 acres in size and the project comprises a new watchman's trailer, a remodel and addition to an existing single-family residence for a total square footage of 1350, the demolition of several unpermitted structures, the relocation of existing storage structures and the validation of an unpermitted garage and accessory structure. The surrounding neighborhood consists of single-family estates on lots ranging from 1 to 20 acres in size. Surrounding homes range from approximately 1,300 square feet (project site) to over 7,000 square feet (directly adjacent to the west) in size. Therefore, the development is compatible with the established physical scale of the area and this finding can be made.

2.1.6 *That the development is in conformance with the public access and recreation policies of this Article and the Coastal Land Use Plan.*

The project would be in conformance with the public access and recreation policies of Article II and the Coastal Land Use Plan. The proposed project involves the construction of a minor addition to an existing 1,350 square foot residence, the remodel and change of use of an existing accessory structure and the placement of a temporary watchman's trailer on the property and thus would not affect public access to the beach or public recreation in the area. A vertical trail for public beach access is identified within the creek bank of West Toro Canyon Creek in the Summerland Community Plan. Because staff is currently reviewing an application for a lot split on the subject property (Case No. 06TPM-00000-00027), the trail would be exacted as part of that project. Only limited views of the residence would be seen from the trail easement due to the structure's height (11 ft.) and no impacts to visual resources would be expected. Therefore, this finding can be made.

2.2 CONDITIONAL USE PERMIT FINDINGS

Pursuant to Section 35-172.8, a Conditional Use Permit shall only be approved if all of the following findings are made:

2.2.1 *That the site for the project is adequate in size, shape, location and physical characteristics to accommodate the type of use and level of development proposed.*

The proposed project involves the placement of a temporary watchman's trailer on the property. The project site is approximately 17 acres in size and is adequate for the proposed project. Therefore, this finding can be made.

2.2.2 *That adverse environmental impacts are mitigated to the maximum extent feasible.*

The project would not create any adverse environmental impacts. Placement of the watchman's trailer would not impede public access to the beach or affect views from public areas. The project would not require grading and would not require the removal of native vegetation or specimen trees and would not impact the ESH associated with West Toro Canyon Creek. There are adequate public facilities to serve the project.

2.2.3 *That streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.*

The proposal includes the placement of a watchman's trailer on the subject property. The surrounding road network including Padaro Lane and US 101 is adequate and properly designed to carry the type and quantity of traffic generated by this use. Therefore, this finding can be made.

2.2.4. *That there are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.*

Adequate services are in place to serve the proposed project. The site is currently served by the Montecito Water District, a private septic system and the Carpinteria/Summerland Fire Department. Access is taken from Padaro Lane.

2.2.5. *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.*

The proposed project involves the placement of a temporary watchman's trailer on the 17-acre property. The proposal would be compatible with the surrounding neighborhood and would not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood.

2.2.6. *That the project is in conformance with the applicable provisions and policies of this Article and the Coastal Land Use Plan.*

As discussed in sections 6.2 and 6.3 of this staff report and incorporated herein by reference, the proposed project would be consistent with the Comprehensive Plan, including the Coastal Land Use Plan and the Summerland Community Plan and the Article II zoning requirements. This CDP/CUP application was submitted in order to resolve an open building violation (Case No. 06BDV-00000-00083) filed on May 16, 2006. The issuance of this Coastal Development Permit and Minor CUP will formally close the building violation and bring the existing development into conformity with the County's Coastal Zoning Ordinance, Article II.

2.2.7. *That in designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.*

The proposed project includes the placement and use of a temporary watchman's trailer on the 17-acre subject property. The height of the trailer would be approximately 12.5 feet and it would be in the style of a log cabin. As such, the project would be subordinate to the scenic and rural character of the area. Therefore, this finding can be made.

2.2.8. *That the project will not conflict with any easements required for public access through, or public use of the property.*

An existing easement for horizontal beach access on the sandy beach below the property would be unaffected by project implementation. There are no vertical easements for public beach access, nor any other easements for public use on the subject property. Therefore, this finding can be made.

2.2.9. *That the proposed use is not inconsistent with the intent of the zone district.*

The project site is located within the 3-E-1 zone district. The temporary trailer would allow a watchman to reside on the property during construction of the residence and accessory structures in order to provide security. The use of the trailer by a watchman would not conflict with the intent of the 3-E-1 zone district which is to "protect the residential characteristics of an area and to promote a suitable environment for family life." Therefore, this finding can be made.

**ATTACHMENT C
PROJECT SPECIFIC CONDITIONS**

Case No.: 07CDH-00000-00007

Project Name: Beach Club Trust Addition and Demolition

Project Address: 2825 Padaro Lane

APN: 005-260-009

This permit is subject to compliance with the following conditions:

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the hearing exhibits marked A-F, dated June 18, 2007, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

A Coastal Development Permit (07CDH-00000-00007) with hearing to allow:

- a. **The validation of, 170 square feet addition to, and interior remodel of an existing, approximately 1,350 square foot, previously unpermitted single-family residence. The average height of the residence would be 11 feet, 3 inches;**
- b. **The demolition and removal of 5 accessory structures totaling 850 square feet including a 144 square foot tree-house, a 593 square foot cross-shaped trellis, a 468 square foot gazebo, a 173 square foot free-standing deck and approximately 4,538 square feet of miscellaneous hardscape;**
- c. **The validation and relocation of 4 metal shipping containers totaling 1,169 square feet and 4 accessory structures totaling 680 square feet (all structures previously unpermitted); and**
- d. **The validation of existing, previously unpermitted structures including a 602 square foot garage with attached 445 square foot carport, a 170 square foot storage structure and an approximately 151 square foot accessory structure attached to the DRSU to be used as a gym.**

No grading would be necessary and no vegetation would be removed as part of the project. The site would continue to be served by the Carpinteria/Summerland Fire District, the Montecito Water District and private septic systems. Access would continue to be taken via a private drive from Padaro Lane.

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

Plans) must be submitted for review and approval and shall be implemented as approved by the County.

2. **Fees:** Prior to final building permit inspection, all development impact mitigation fees shall be paid in accordance with the ordinances and resolutions in effect when paid.
3. **Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 07BAR-00000-00088. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects.
4. **Night Lighting:** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the SBAR prior to issuance of the Coastal Development Permit.
5. **Construction Fencing:** A temporary protective fence shall be installed along the outer edge of the 100-foot buffer associated with West Toro Canyon Creek. Storage of equipment, supplies, vehicles, or placement of fill or refuse, shall not be permitted within the fenced buffer region. **Requirement and Timing:** Protective fencing shall be in place prior to demolition/construction related activities. Only activities associated with relocating the storage containers shall be permitted within the 100-foot buffer. Fencing shall remain in place until the completion of demolition/construction related activities. **Monitoring:** Building inspectors shall check prior to construction and spot check in the field.
6. **Wash-Out Area:** During construction, wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. **Plan Requirements:** The location(s) of the washing area(s) shall be clearly noted on all project plans and at the construction site with signs.
7. **Construction Hours:** Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Three (3) signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits.

MONITORING: Building inspectors shall spot check and respond to complaints.

COASTAL DEVELOPMENT PERMIT CONDITIONS

8. If the Zoning Administrator determines at a noticed public hearing that the permittee is not in compliance with any conditions of this permit pursuant to the provisions of section 35-169.9 of Article II of the Santa Barbara County Code, the Zoning Administrator may, in addition to

revoking the permit pursuant to said section, amend, alter, delete or add conditions to this permit.

9. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
10. The Zoning Administrator's approval of this Appealable CDP shall expire one year from the date of approval or, if appealed, the date of action by the Board of Supervisors or the California Coastal Commission on the appeal, if the permit for use, building or structure permit has not been issued.
11. The use and/or construction of the building or structure, authorized by this approval cannot commence until the Coastal Development Permit has been issued. Prior to the issuance of the Coastal Development Permit, all of the project conditions that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Plans accompanying this Coastal Development Permit shall contain all project conditions.
12. **Time Extension:** If the applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.

COUNTY RULES AND REGULATIONS

13. Compliance with the following Departmental Condition letters:

- a. Air Pollution Control District dated February 14, 2007

14. **Print & illustrate conditions on plans:** All applicable final conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
15. **Indemnification:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
16. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

ATTACHMENT D: CONDITIONS OF APPROVAL

PRELIMINARY DRAFT SANTA BARBARA COUNTY CONDITIONAL USE PERMIT COASTAL ZONING ORDINANCE, CHAPTER 35 CASE NO. 07CUP-00000-00019

I. A Conditional Use Permit is Hereby Granted:

TO: Beach Club Family Trust

APN: 005-260-009

PROJECT ADDRESS: 2825 Padaro Lane

ZONE: 3-E-1

AREA/SUPERVISORIAL DISTRICT: Summerland Area, First Supervisorial District

FOR: Watchman's Trailer

II. This permit is subject to compliance with the following condition(s):

1. This Conditional Use Permit is based upon and limited to compliance with the project description, the Zoning Administrator exhibits marked A-F, dated June 18, 2007, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the Planning & Development Department for conformity with this approval. Deviations may require modification to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

A Conditional Use Permit (07CUP-00000-00019) to validate an existing trailer as a watchman's trailer for a period of no more than one year. The trailer would be approximately 413 square feet in size with a 385 square foot loft. The average height of the trailer would be 12.5 feet. No grading would be necessary and no vegetation would be removed as part of the project. The site would continue to be served by the Carpinteria/Summerland Fire District, the Montecito Water District and private septic systems. Access would continue to be taken via private drive from Padaro Lane.

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

PROJECT SPECIFIC CONDITIONS

2. **Fees:** Prior to final building permit inspection, all development impact mitigation fees shall be paid in accordance with the ordinances and resolutions in effect when paid.
3. **Board of Architectural Review:** Exterior elevations, colors, materials and landscaping to conform to that approved by the SBAR as part of 07BAR-00000-00088. Final SBAR review and approval shall be obtained prior to Coastal Development Permit issuance. The project shall conform to final SBAR approval in all respects.
4. **Night Lighting:** Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and approval by the SBAR prior to issuance of the Coastal Development Permit.
5. **Construction Fencing:** A temporary protective fence shall be installed along the outer edge of the 100-foot buffer associated with West Toro Canyon Creek. Storage of equipment, supplies, vehicles, or placement of fill or refuse, shall not be permitted within the fenced buffer region. **Requirement and Timing:** Protective fencing shall be in place prior to demolition/construction related activities. Only activities associated with relocating the storage containers shall be permitted within the 100-foot buffer. Fencing shall remain in place until the completion of demolition/construction related activities. **Monitoring:** Building inspectors shall check prior to construction and spot check in the field.
6. **Wash-Out Area:** During construction, wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be at least 100 feet from any storm drain, water body or sensitive biological resources. **Plan Requirements:** The location(s) of the washing area(s) shall be clearly noted on all project plans and at the construction site with signs.
7. **Construction Hours:** Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Three (3) signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits.

MONITORING: Building inspectors shall spot check and respond to complaints.

CONDITIONAL USE PERMIT CONDITIONS

8. This Conditional Use Permit is not valid until a Coastal Development Permit for the development and/or use has been obtained. Failure to obtain said Coastal Development Permit shall render this Conditional Use Permit null and void. Prior to the issuance of the Coastal Development Permit, all of the conditions listed in this Conditional Use Permit that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Upon issuance of the Coastal Development Permit, the Conditional Use Permit

shall be valid. The effective date of this Permit shall be the date of expiration of the appeal period, or if appealed, the date of action by the Board of Supervisors.

9. If the Zoning Administrator determines at a Noticed Public Hearing, that the permittee is not in compliance with any permit condition(s), pursuant to the provisions of Sec. 35-172 of Article II, the Zoning Administrator or Planning Commission is empowered, in addition to revoking the permit pursuant to said section, to amend, alter, delete, or add conditions to this permit.
10. Any use authorized by this CUP shall immediately cease upon expiration (1 year from the date of approval) or revocation of this CUP. Any CDP issued pursuant to this CUP shall expire upon expiration or revocation of the CUP. CUP renewals must be applied for prior to expiration of the CUP.
11. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed to be acceptance by the permittee of all conditions of this permit.
12. Within 18 months after the effective date of this permit, construction and/or the use shall commence. Construction or use cannot commence until a Coastal Development Permit has been issued.
13. If the applicant requests a time extension for this permit/project, the permit/project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts. Mitigation fees shall be those in effect at the time of issuance of land use clearance.

COUNTY RULES AND REGULATIONS

14. Compliance with the following Departmental Condition letters:
 - a. Air Pollution Control District dated February 14, 2007
15. **Print & illustrate conditions on plans:** All applicable final conditions of approval *Zoning Administrator* shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
16. **Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.
17. **Indemnity and Separation Clauses:** Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Conditional Use Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

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

III. This permit is issued pursuant to the provisions of Section 35-172 of the Coastal Zoning Ordinance of Santa Barbara County and is subject to the foregoing conditions and limitations; and this permit is further governed by the following provisions:

- a. If any of the conditions of the Conditional Use Permit are not complied with, the Planning Commission, after written notice to the permittee and a noticed public hearing, may in addition to revoking the permit, amend, alter, delete or add conditions to this permit at a subsequent public hearing noticed for such action.
- b. A Conditional Use Permit shall become null and void and automatically revoked if the use permitted by the Conditional Use Permit is discontinued for more than one year.
- c. Said time may be extended by the Planning Commission one time for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with Planning and Development prior to the expiration date.

CALIFORNIA COASTAL COMMISSION

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

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Chair Patrick Kruer, California Coastal Commission

Mailing Address: 89 So. California St.

City: Ventura

Zip Code: 93001

Phone: 805-585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Proposal to "validate" a single family residence including additions and remodeling; demolish and remove five accessory structures; "validate" and relocate four metal shipping containers, "validate" and relocate four accessory structures, and "validate" three other unpermitted structures in existing locations, including a 602 sq. ft. garage with attached 445 sq. ft. carport, 170 sq. ft. storage structure, and an approximately 151 sq. ft. accessory structure attached to the DRSU to be used as a gym. Additionally, this is an appeal of the decision by Santa Barbara County granting a Conditional Use Permit for a 413 sq. ft. trailer with a 385 sq. ft. loft to be used as watchman's trailer.

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

2825 Padaro Lane, Santa Barbara County

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

- Approval; no special conditions
 Approval with special conditions:
 Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-STB-07-071 & 073 BR

DATE FILED: 7/29/07 BR

DISTRICT: So Central Coast

EXHIBIT 6
A-4-STB-07-071 & -073
Commissioner Appeals

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 6/18/07

7. Local government's file number (if any): 07CDH-00000-00007/07CUP-00000-00019

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Beach Clud Family Trust, Attn. Tim Hocpo, 3705 Telegraph Road, Ventura, CA 93003

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

(1) ,None

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

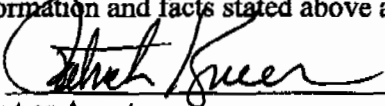
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHED EXHIBIT A.

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: 7/19/07

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

Signed: _____

Date: _____

**Beach Club Trust (2825 Padaro Lane, Santa Barbara County)
Grounds for Appeal**

Exhibit A

Appeal of decision by Santa Barbara County granting a coastal development permit to “validate” a single family residence including additions and remodeling; demolish and remove five accessory structures; “validate” and relocate four metal shipping containers, “validate” and relocate four accessory structures, and “validate” three other unpermitted structures in existing locations, including a 602 sq. ft. garage with attached 445 sq. ft. carport, 170 sq. ft. storage structure, and an approximately 151 sq. ft. accessory structure attached to the DRSU to be used as a gym, located at 2825 Padaro Lane, Santa Barbara County. Additionally, this is an appeal of the decision by Santa Barbara County granting a Conditional Use Permit for a 413 sq. ft. trailer with a 385 sq. ft. loft to be used as watchman’s trailer. The project is appealed on the following grounds:

The project is inconsistent with the County of Santa Barbara’s Local Coastal Program (LCP) policies regarding environmentally sensitive habitat areas, monarch butterfly habitat and riparian habitat. Specifically, LCP Policies 1-1, 1-2, 9-22, 9-23, 9-35, 9-36; Coastal Act Sections 30107.5 and 30240 as incorporated into the LCP pursuant to Policy 1-1; Article II of the Zoning Code Sections 35-53, 35-97.3, 35-97.7, 35-97.18; and Summerland Community Plan Policies BIO-S-1, BIO-S-1.2, BIO-S-1.5, BIO-S-3, BIO-S-3.2, BIO-S-4, BIO-S-4.1, BIO-S-7, and BIO-7.2 (see below) limit development in and around environmentally sensitive habitat areas, riparian and monarch butterfly habitats. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

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

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

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

Section 30240 of the Coastal Act states:

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

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

Policy 1-2 (Resource Protection):

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

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Policy 9-22 Butterfly Trees:

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

Policy 9-23 Butterfly Trees:

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

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

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

Policy 9-36 Native Plant Communities:

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

Sec. 35-53. Overlay District Designations and Applicability. (*in relevant part*)

...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.

Sec. 35-97.3. Identification of Newly Documented Sensitive Habitat Areas.

If a newly documented environmentally sensitive habitat area, which is not included in the ESH Overlay District, is identified by the County on a lot or lots during application review, the provisions of Secs. 35-97.7. - 35-97.19. shall apply. The County will periodically update the application of the ESH Overlay District to incorporate these new habitat areas (including the 250 foot area around the habitat).

Sec. 35-97.7. (Conditions on Coastal Development Permits in ESH):

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.

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

Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual

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oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.

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

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

Summerland Community Plan (SCP) Policy BIO-S-1 ESH:

Environmentally Sensitive Habitat areas within the Community Plan Study area shall be protected, and where appropriate, enhanced.

Summerland Community Plan (SCP) Action BIO-S-1.2. ESH:

All new development within 100' of an Environmentally Sensitive Habitat, including but not limited to, riparian, oak or willow woodlands, and coastal sage scrub shall be required to provide for setbacks or undeveloped buffer zones (possibly through open space easements) from these habitats. Staff shall refer to the Summerland Biological Resources Map for information on the location of native habitats, as well as referring to other available data (i.e., other maps, studies or observations). Installation of landscaping with compatible native species may be required within the buffer zone to offset impacts to sensitive habitats from development and increased human activities onsite. If the project would result in potential disturbance to the habitat, a restoration plan shall be required. When restoration is not feasible onsite, offsite restoration may be considered.

Summerland Community Plan (SCP) Action BIO-S-1.5. ESH:

In the event that activities determined to be zoning violations result in the degradation of native habitat, the applicant shall be required to prepare and implement a habitat restoration plan. Degraded or disturbed areas of an identified habitat outside of any formal landscaping plan shall be restored with appropriate native species to offset increased development and increased human and domestic animal presence.

Summerland Community Plan (SCP) Policy BIO-S-3. Monarch Butterfly Habitat:

Monarch butterfly roosting habitats shall be preserved and protected.

Summerland Community Plan (SCP) Action BIO-S-3.2. Monarch Butterfly Habitat:

Prior to issuance of a CDP or LUP for development within 200' of known or historic butterfly roosts, RMD shall determine if the proposed project would have the potential to adversely impact monarch butterfly habitat. This shall be determined based on the proximity to known, historic, or potential butterfly trees. The Summerland Biological Resources map shall be considered in determining proximity as well as other available information and maps. In the event the proposed project does have the potential to adversely impact monarch butterfly habitat, the applicant shall submit to DER a butterfly Roost Protection Plan. This plan shall be developed at the applicant's expense and shall be included on any grading designs. The plan shall include the following information and measures:

**Beach Club Trust (2825 Padaro Lane, Santa Barbara County)
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a. The mapped location of the windrow or cluster of trees where monarch butterflies are known, or have been known, to aggregate;

b. A minimum setback of 50 feet from either side of the roost shall be noted on the plan. Buffers surrounding potential roosts may be increased from this minimum, to be determined on a case by case basis. A temporary fence shall be installed at the outside of the buffer boundary. All ground disturbance and vegetation removal shall be avoided within this buffer region; and

c. Native vegetation shall be maintained around this buffer.

Summerland Community Plan (SCP) Policy BIO-S-4. Monarch Butterfly Habitat:

Trimming or clearing of vegetation within 50' of the Monarch Butterfly Habitat located adjacent to Via Real and Lambert Road or along riparian habitats shall not occur without the review and approval of the Resource Management Department.

Summerland Community Plan (SCP) Action BIO-S-4.1. Monarch Butterfly Habitat:

A trimming or clean-up plan shall be approved by the County Resource Management Department and shall include supervision by a qualified biologist.

Summerland Community Plan (SCP) Policy BIO-S-7. Riparian Habitat:

Riparian habitat areas shall be protected from all new development and degraded riparian habitats shall be restored where appropriate.

Summerland Community Plan (SCP) Action BIO-S-7.2. Riparian Habitat:

On-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Greenwell and Toro Canyon Creek shall be mandatory. A riparian vegetation plan, approved by the County, shall be developed by a County of approved biologist (or other experienced individual acceptable to the County) and implemented at the applicant's expense. The revegetation plan shall use native species that would normally occur at the site prior to disturbance. The plan shall contain planting methods and locations, site preparation, weed control, and monitoring criteria and schedules.

Toro Creek crosses the eastern side of the subject property and outlets to the ocean to the south. Figure 22 of the Summerland Community Plan, a certified component of the County's LCP, illustrates the presence of Willow/Sycamore Riparian Environmentally Sensitive Habitat Area on both the west and east sides of Toro Creek, including the subject property. Additionally, the mouth of Toro Creek is identified as Site 96 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* (Meade, November 1999). The site is reported to include riparian with eucalyptus, sycamore, cottonwood, and willows with a rating of "good" regarding habitat health. This report describes the site as "transitory." During the survey "a few patrolling butterflies were observed at this site, but no clusters of butterflies were found." The term "transitory" is defined in the Mead report as (pg. 6):

Transitory – Butterflies that are moving along the coast but stop in locations nightly are called transitory. Transitory clusters are formed from butterflies that move during the day and find a roosting site at night that is different from the previous night. Transitory aggregation sites may form and disperse in a particular tree or location within the course of one week.

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The Meade report (1999) emphasizes the need to protect autumnal and transitory sites in the following manner (pg. 8):

Autumnal aggregation sites (e.g. Canada de Santa Anita, Hollister Ranch, Site 41) and transitory sites (e.g., Cypress Ridge, Site 30) should be protected. Without the autumnal and transitory sites it is likely that Monarch butterfly habitat mortality will increase. These habitats provide valuable layover and shelter locations while the butterflies move along the coast. Even though a site may have only 30 butterflies at a given time, the number of butterflies that move through the site during the season may be in the tens-of-thousands. Autumnal aggregation sites directly contribute individuals to the permanent aggregation sites. If new autumnal and transitory sites are found, they should also be protected.

Further, though the site is located just outside of the defined boundaries of the Toro Canyon Plan (a recently certified component of the County's LCP), Toro Creek is discussed within the Toro Canyon Plan. Specifically, the Toro Canyon Plan states that butterfly trees and riparian woodland at the mouth of Toro Creek (which is partially located on the subject site) is environmentally sensitive habitat. Additionally, the Toro Canyon Plan states "Several birds that are listed as Species of Special Concern, including yellow warbler, yellow breasted chat, Allen's hummingbird, and Pacific-slope flycatcher, are known to use Toro Creek during migration and/or nesting periods (Kisner 1998)."

The County's staff report (June 18, 2007) indicates that the proposed project will "validate several previously unpermitted structures on the site and allow the demolition and removal of several unpermitted accessory structures." Additionally the staff report states that "all structures, with the exception of the existing garage/carport, are set back greater than 100 feet from [the top of bank along] West Toro Canyon Creek."

The subject coastal development permit (CDP) appears to address all of the unpermitted development on site. The staff report indicates that the only structures believed to have been constructed prior to the effective date of the Coastal Act are the existing main residence and accessory structure. Though these structures are thought to have been constructed in the late 1940s, the County did not specify whether they were built in compliance with the laws at the time. There is a reference in the project description to validate the "previously unpermitted single-family residence" which implies that it may not have received necessary approvals at that time. In addition, the existing garage/carport is believed to have been built during the 1970's without the required permits and the accessory structures proposed for demolition were apparently constructed in the 1970's or 1980's without the required permits. The staff report concludes that no permit history can be found in the County files for any of the existing structures onsite.

In addition, based on a review of historical aerial photographs of the subject site, it appears that a substantial area of vegetation has been removed within the riparian corridor along Toro Creek. In fact, significant vegetation removal appears to have occurred without the required coastal permits between 2002 and 2004 across the

**Beach Club Trust (2825 Padaro Lane, Santa Barbara County)
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subject property, particularly at the mouth of Toro Creek adjacent to the unpermitted structures. Though the County's staff report asserts that the project will be in conformance with the provisions of the certified LCP, the County's staff report failed to analyze the loss of riparian and monarch butterfly habitat on the site that resulted from either the original construction of the unpermitted structures or from removal adjacent to many of the unpermitted structures.

Further, although the County found that the main residence and second residence are located at least 100 ft. from the top of creek bank; the County's analysis fails to address the distance of the proposed development from the existing riparian environmentally sensitive habitat (ESH) located along the creek. The riparian ESH on site is located on either side of Toro Creek and is significantly wider than the creek itself. Based on a review of aerial photographs of the subject site, the proposed development is located less than 100 ft. from the riparian habitat on site and would not provide for an adequate setback. Further,, in its after-the-fact approval of the existing unpermitted structures directly adjacent to the creek, the County failed to analyze the adverse impacts to ESHA that occurred as a result of the original construction of the unpermitted structures.

The County's analysis concludes that some of these structures may be "validated" because this "would not result in additional impacts to biological resources over existing conditions." However, this analysis is based on the incorrect premise that the current disturbed condition of the site should be used as a baseline for assessing impacts to ESHA. However, since the County has determined that these structures are unpermitted, then these structures would not be considered vested development. Thus, the after-the-fact approval of the structures must include an analysis of the impacts to ESHA that occurred at the time of construction. However, in its approval of the project, the County incorrectly found that no adverse impacts to ESHA were expected to result from the "validation" of the unpermitted structures since any impacts to ESHA had already occurred. In this case, The Summerland Community Plan (SCP) policies specifically requires on-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Greenwell and Toro Canyon Creek, such as the subject site. . Further, any development on the property must be set back 100 feet from ESH as required by SCP Action BIO-S-1.2. In this case, the approved CDP does not provide for adequate setback from riparian vegetation and does not provide for restoration of the disturbed riparian areas on site that resulted from the approved development.

SCP Policy BIO-7 requires that riparian habitat areas be protected from all new development and degraded riparian habitats shall be restored where appropriate. Specifically, SCP Action BIO-S-7.2 requires that on-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Toro Canyon Creek shall be *mandatory*. Further, SCP Action BIO-S-1.5 states that, "in the event that activities determined to be zoning violations result in the degradation of native habitat, the applicant shall be required to prepare and implement a habitat restoration plan. Degraded or disturbed areas of an identified habitat outside of any formal landscaping plan shall be restored with appropriate native species to offset increased development and increased human and domestic animal presence."

**Beach Club Trust (2825 Padaro Lane, Santa Barbara County)
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As a result, all structures need to meet the 100-ft. buffer from the *pre-disturbed* riparian canopy. Though additional investigation will need to be undertaken because the approved plans have not been obtained, the location of multiple structures as seen in aerials would clearly be within this 100-ft. buffer, inconsistent with the provisions of the certified LCP.

The project description specifically states that no grading or vegetation would be removed to carry out the project. However, grading and vegetation removal appear to have already occurred as a result of the original construction of the unpermitted structures. Since these were unpermitted activities, these impacts must be addressed by the permit.

With regard to butterfly habitat, the County's analysis indicates that a stand of eucalyptus trees located at the mouth of West Toro Canyon Creek is identified in the Summerland Community Plan as sensitive habitat and as Monarch Butterfly Site #96 by Dr. Dan Meade. The analysis concludes that this is insignificant because:

However, the project components would be located approximately 200 feet from the eucalyptus stand. A site assessment drafted by Dr. Meade (May, 2006) states: "Since a monarch butterfly aggregation is not known at the site presently, and has not been known to occur at the site for fifteen years, it is likely that the proposed project will result in no significant impact to monarch butterflies. Additionally, the designated historic aggregation site #96 at Loon Point is within the sensitive habitat associated with the creek, and would not be affected by anticipated project activities that are outside of the riparian tree canopy."

Again, the County's staff report for the subject project fails to address the unpermitted removal of monarch butterfly habitat that has occurred immediately adjacent to the proposed structures. LUP Policy 9-22 specifically states that "Butterfly trees shall not be removed except where they pose a serious threat to life of property..." and LUP Policy 9-23 states that "Adjacent development shall be set back a minimum of 50 feet from the trees." Additionally, SCP Action BIO-S-1.5 requires that degraded habitats associated with violations be restored.

These LCP policies require the sensitive riparian and butterfly habitat that was removed along Toro Creek to be restored within its previous footprint. This subsequently impacts the County's ESH setback analysis for "validation" of all of the unpermitted structures on the site. However the County did not require a biological assessment for the subject site in order to determine the previous extent of ESH that existed on site prior to the unpermitted development. However, based on a review of historical aerial photographs of the site from 2002, 2004, and 2006, it appears that at least some of the structures approved by the County would be located less than 50 ft. from monarch butterfly habitat. Therefore, the proposed project would not be consistent with the LCP ESH protection requirements.

Further, there is an associated conditional use permit (CUP) to "validate" an existing trailer as a watchman's trailer for a period of no more than one year. There are no conditions placed on the CUP to relocate the trailer and; therefore, it is assumed that the trailer will remain in the location shown on the project plans. If this is the case, it

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appears that it would also be located less than the required 100-ft setback from the previously existing ESH on site. Therefore retention of this structure would not be consistent with the provisions of the certified LCP for all of the same reasons described above.

Thus, for the reasons discussed above, a substantial issue exists regarding the proposed project relative to its in-consistency with the LCP policies regarding environmentally sensitive habitat areas, monarch butterfly habitat and riparian habitat.

CALIFORNIA COASTAL COMMISSION

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SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Sara Wan, California Coastal Commission

Mailing Address: 89 So. California St.

City: Ventura

Zip Code: 93001

Phone: 805-585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Proposal to "validate" a single family residence including additions and remodeling; demolish and remove five accessory structures; "validate" and relocate four metal shipping containers, "validate" and relocate four accessory structures, and "validate" three other unpermitted structures in existing locations, including a 602 sq. ft. garage with attached 445 sq. ft. carport, 170 sq. ft. storage structure, and an approximately 151 sq. ft. accessory structure attached to the DRSU to be used as a gym. Additionally, this is an appeal of the decision by Santa Barbara County granting a Conditional Use Permit for a 413 sq. ft. trailer with a 385 sq. ft. loft to be used as watchman's trailer.

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

2825 Padaro Lane, Santa Barbara County

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

- Approval; no special conditions
- Approval with special conditions:
- Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-4-STB-07-073^{07/19} BR

DATE FILED:

7/20/07^{BR}

DISTRICT:

So. Central

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 6/18/07

7. Local government's file number (if any): 07CDH-00000-00007/07CUP-00000-00019

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Beach Clud Family Trust, Attn. Tim Hocpo, 3705 Telegraph Road, Ventura, CA 93003

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

(1) ,None

(2)

(3)

(4)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHED EXHIBIT A

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

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: 7/20/07

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

Signed: _____

Date: _____

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Exhibit A

Appeal of decision by Santa Barbara County granting a coastal development permit to “validate” a single family residence including additions and remodeling; demolish and remove five accessory structures; “validate” and relocate four metal shipping containers, “validate” and relocate four accessory structures, and “validate” three other unpermitted structures in existing locations, including a 602 sq. ft. garage with attached 445 sq. ft. carport, 170 sq. ft. storage structure, and an approximately 151 sq. ft. accessory structure attached to the DRSU to be used as a gym, located at 2825 Padaro Lane, Santa Barbara County. Additionally, this is an appeal of the decision by Santa Barbara County granting a Conditional Use Permit for a 413 sq. ft. trailer with a 385 sq. ft. loft to be used as watchman’s trailer. The project is appealed on the following grounds:

The project is inconsistent with the County of Santa Barbara’s Local Coastal Program (LCP) policies regarding environmentally sensitive habitat areas, monarch butterfly habitat and riparian habitat. Specifically, LCP Policies 1-1, 1-2, 9-22, 9-23, 9-35, 9-36; Coastal Act Sections 30107.5 and 30240 as incorporated into the LCP pursuant to Policy 1-1; Article II of the Zoning Code Sections 35-53, 35-97.3, 35-97.7, 35-97.18; and Summerland Community Plan Policies BIO-S-1, BIO-S-1.2, BIO-S-1.5, BIO-S-3, BIO-S-3.2, BIO-S-4, BIO-S-4.1, BIO-S-7, and BIO-7.2 (see below) limit development in and around environmentally sensitive habitat areas, riparian and monarch butterfly habitats. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

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

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

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

Section 30240 of the Coastal Act states:

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

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

Policy 1-2 (Resource Protection):

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

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Policy 9-22 Butterfly Trees:

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

Policy 9-23 Butterfly Trees:

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

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

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

Policy 9-36 Native Plant Communities:

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

Sec. 35-53. Overlay District Designations and Applicability. (*in relevant part*)

...If any of the provisions of the overlay district conflict with provisions of the zoning district regulations, the provisions which are most restrictive shall govern... The provisions of the ESH Overlay District are more restrictive than any base zone district and therefore the provisions of the ESH shall govern over the regulations of any base zone or other overlay district.

Sec. 35-97.3. Identification of Newly Documented Sensitive Habitat Areas.

If a newly documented environmentally sensitive habitat area, which is not included in the ESH Overlay District, is identified by the County on a lot or lots during application review, the provisions of Secs. 35-97.7. - 35-97.19. shall apply. The County will periodically update the application of the ESH Overlay District to incorporate these new habitat areas (including the 250 foot area around the habitat).

Sec. 35-97.7. (Conditions on Coastal Development Permits in ESH):

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s). Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the development to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements. Any regulation, except the permitted or conditionally permitted uses, of the base zone district may be altered in furtherance of the purpose of this overlay district by express condition in the permit.

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

Examples of such native plant communities are: coastal sage scrub, chaparral, coastal bluff, closed cone pine forest, California native oak woodland (also individual

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oak trees), endangered and rare plant species as designated by the California Native Plant Society, and other plants of special interest such as endemics.

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

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

Summerland Community Plan (SCP) Policy BIO-S-1 ESH:

Environmentally Sensitive Habitat areas within the Community Plan Study area shall be protected, and where appropriate, enhanced.

Summerland Community Plan (SCP) Action BIO-S-1.2. ESH:

All new development within 100' of an Environmentally Sensitive Habitat, including but not limited to, riparian, oak or willow woodlands, and coastal sage scrub shall be required to provide for setbacks or undeveloped buffer zones (possibly through open space easements) from these habitats. Staff shall refer to the Summerland Biological Resources Map for information on the location of native habitats, as well as referring to other available data (i.e., other maps, studies or observations). Installation of landscaping with compatible native species may be required within the buffer zone to offset impacts to sensitive habitats from development and increased human activities onsite. If the project would result in potential disturbance to the habitat, a restoration plan shall be required. When restoration is not feasible onsite, offsite restoration may be considered.

Summerland Community Plan (SCP) Action BIO-S-1.5. ESH:

In the event that activities determined to be zoning violations result in the degradation of native habitat, the applicant shall be required to prepare and implement a habitat restoration plan. Degraded or disturbed areas of an identified habitat outside of any formal landscaping plan shall be restored with appropriate native species to offset increased development and increased human and domestic animal presence.

Summerland Community Plan (SCP) Policy BIO-S-3. Monarch Butterfly Habitat:

Monarch butterfly roosting habitats shall be preserved and protected.

Summerland Community Plan (SCP) Action BIO-S-3.2. Monarch Butterfly Habitat:

Prior to issuance of a CDP or LUP for development within 200' of known or historic butterfly roosts, RMD shall determine if the proposed project would have the potential to adversely impact monarch butterfly habitat. This shall be determined based on the proximity to known, historic, or potential butterfly trees. The Summerland Biological Resources map shall be considered in determining proximity as well as other available information and maps. In the event the proposed project does have the potential to adversely impact monarch butterfly habitat, the applicant shall submit to DER a butterfly Roost Protection Plan. This plan shall be developed at the applicant's expense and shall be included on any grading designs. The plan shall include the following information and measures:

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a. The mapped location of the windrow or cluster of trees where monarch butterflies are known, or have been known, to aggregate;

b. A minimum setback of 50 feet from either side of the roost shall be noted on the plan. Buffers surrounding potential roosts may be increased from this minimum, to be determined on a case by case basis. A temporary fence shall be installed at the outside of the buffer boundary. All ground disturbance and vegetation removal shall be avoided within this buffer region; and

c. Native vegetation shall be maintained around this buffer.

Summerland Community Plan (SCP) Policy BIO-S-4. Monarch Butterfly Habitat:

Trimming or clearing of vegetation within 50' of the Monarch Butterfly Habitat located adjacent to Via Real and Lambert Road or along riparian habitats shall not occur without the review and approval of the Resource Management Department.

Summerland Community Plan (SCP) Action BIO-S-4.1. Monarch Butterfly Habitat:

A trimming or clean-up plan shall be approved by the County Resource Management Department and shall include supervision by a qualified biologist.

Summerland Community Plan (SCP) Policy BIO-S-7. Riparian Habitat:

Riparian habitat areas shall be protected from all new development and degraded riparian habitats shall be restored where appropriate.

Summerland Community Plan (SCP) Action BIO-S-7.2. Riparian Habitat:

On-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Greenwell and Toro Canyon Creek shall be mandatory. A riparian vegetation plan, approved by the County, shall be developed by a County of approved biologist (or other experienced individual acceptable to the County) and implemented at the applicant's expense. The revegetation plan shall use native species that would normally occur at the site prior to disturbance. The plan shall contain planting methods and locations, site preparation, weed control, and monitoring criteria and schedules.

Toro Creek crosses the eastern side of the subject property and outlets to the ocean to the south. Figure 22 of the Summerland Community Plan, a certified component of the County's LCP, illustrates the presence of Willow/Sycamore Riparian Environmentally Sensitive Habitat Area on both the west and east sides of Toro Creek, including the subject property. Additionally, the mouth of Toro Creek is identified as Site 96 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* (Meade, November 1999). The site is reported to include riparian with eucalyptus, sycamore, cottonwood, and willows with a rating of "good" regarding habitat health. This report describes the site as "transitory." During the survey "a few patrolling butterflies were observed at this site, but no clusters of butterflies were found." The term "transitory" is defined in the Mead report as (pg. 6):

Transitory – Butterflies that are moving along the coast but stop in locations nightly are called transitory. Transitory clusters are formed from butterflies that move during the day and find a roosting site at night that is different from the previous night. Transitory aggregation sites may form and disperse in a particular tree or location within the course of one week.

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The Meade report (1999) emphasizes the need to protect autumnal and transitory sites in the following manner (pg. 8):

Autumnal aggregation sites (e.g. Canada de Santa Anita, Hollister Ranch, Site 41) and transitory sites (e.g., Cypress Ridge, Site 30) should be protected. Without the autumnal and transitory sites it is likely that Monarch butterfly habitat mortality will increase. These habitats provide valuable layover and shelter locations while the butterflies move along the coast. Even though a site may have only 30 butterflies at a given time, the number of butterflies that move through the site during the season may be in the tens-of-thousands. Autumnal aggregation sites directly contribute individuals to the permanent aggregation sites. If new autumnal and transitory sites are found, they should also be protected.

Further, though the site is located just outside of the defined boundaries of the Toro Canyon Plan (a recently certified component of the County's LCP), Toro Creek is discussed within the Toro Canyon Plan. Specifically, the Toro Canyon Plan states that butterfly trees and riparian woodland at the mouth of Toro Creek (which is partially located on the subject site) is environmentally sensitive habitat. Additionally, the Toro Canyon Plan states "Several birds that are listed as Species of Special Concern, including yellow warbler, yellow breasted chat, Allen's hummingbird, and Pacific-slope flycatcher, are known to use Toro Creek during migration and/or nesting periods (Kisner 1998)."

The County's staff report (June 18, 2007) indicates that the proposed project will "validate several previously unpermitted structures on the site and allow the demolition and removal of several unpermitted accessory structures." Additionally the staff report states that "all structures, with the exception of the existing garage/carport, are set back greater than 100 feet from [the top of bank along] West Toro Canyon Creek."

The subject coastal development permit (CDP) appears to address all of the unpermitted development on site. The staff report indicates that the only structures believed to have been constructed prior to the effective date of the Coastal Act are the existing main residence and accessory structure. Though these structures are thought to have been constructed in the late 1940s, the County did not specify whether they were built in compliance with the laws at the time. There is a reference in the project description to validate the "previously unpermitted single-family residence" which implies that it may not have received necessary approvals at that time. In addition, the existing garage/carport is believed to have been built during the 1970's without the required permits and the accessory structures proposed for demolition were apparently constructed in the 1970's or 1980's without the required permits. The staff report concludes that no permit history can be found in the County files for any of the existing structures onsite.

In addition, based on a review of historical aerial photographs of the subject site, it appears that a substantial area of vegetation has been removed within the riparian corridor along Toro Creek. In fact, significant vegetation removal appears to have occurred without the required coastal permits between 2002 and 2004 across the

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subject property, particularly at the mouth of Toro Creek adjacent to the unpermitted structures. Though the County's staff report asserts that the project will be in conformance with the provisions of the certified LCP, the County's staff report failed to analyze the loss of riparian and monarch butterfly habitat on the site that resulted from either the original construction of the unpermitted structures or from removal adjacent to many of the unpermitted structures.

Further, although the County found that the main residence and second residence are located at least 100 ft. from the top of creek bank; the County's analysis fails to address the distance of the proposed development from the existing riparian environmentally sensitive habitat (ESH) located along the creek. The riparian ESH on site is located on either side of Toro Creek and is significantly wider than the creek itself. Based on a review of aerial photographs of the subject site, the proposed development is located less than 100 ft. from the riparian habitat on site and would not provide for an adequate setback. Further,, in its after-the-fact approval of the existing unpermitted structures directly adjacent to the creek, the County failed to analyze the adverse impacts to ESHA that occurred as a result of the original construction of the unpermitted structures.

The County's analysis concludes that some of these structures may be "validated" because this "would not result in additional impacts to biological resources over existing conditions." However, this analysis is based on the incorrect premise that the current disturbed condition of the site should be used as a baseline for assessing impacts to ESHA. However, since the County has determined that these structures are unpermitted, then these structures would not be considered vested development. Thus, the after-the-fact approval of the structures must include an analysis of the impacts to ESHA that occurred at the time of construction. However, in its approval of the project, the County incorrectly found that no adverse impacts to ESHA were expected to result from the "validation" of the unpermitted structures since any impacts to ESHA had already occurred. In this case, The Summerland Community Plan (SCP) policies specifically requires on-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Greenwell and Toro Canyon Creek, such as the subject site. . Further, any development on the property must be set back 100 feet from ESH as required by SCP Action BIO-S-1.2. In this case, the approved CDP does not provide for adequate setback from riparian vegetation and does not provide for restoration of the disturbed riparian areas on site that resulted from the approved development.

SCP Policy BIO-7 requires that riparian habitat areas be protected from all new development and degraded riparian habitats shall be restored where appropriate. Specifically, SCP Action BIO-S-7.2 requires that on-site restoration of any project-disturbed buffer or riparian vegetation within all portions of Toro Canyon Creek shall be *mandatory*. Further, SCP Action BIO-S-1.5 states that, "in the event that activities determined to be zoning violations result in the degradation of native habitat, the applicant shall be required to prepare and implement a habitat restoration plan. Degraded or disturbed areas of an identified habitat outside of any formal landscaping plan shall be restored with appropriate native species to offset increased development and increased human and domestic animal presence."

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As a result, all structures need to meet the 100-ft. buffer from the *pre-disturbed* riparian canopy. Though additional investigation will need to be undertaken because the approved plans have not been obtained, the location of multiple structures as seen in aerials would clearly be within this 100-ft. buffer, inconsistent with the provisions of the certified LCP.

The project description specifically states that no grading or vegetation would be removed to carry out the project. However, grading and vegetation removal appear to have already occurred as a result of the original construction of the unpermitted structures. Since these were unpermitted activities, these impacts must be addressed by the permit.

With regard to butterfly habitat, the County's analysis indicates that a stand of eucalyptus trees located at the mouth of West Toro Canyon Creek is identified in the Summerland Community Plan as sensitive habitat and as Monarch Butterfly Site #96 by Dr. Dan Meade. The analysis concludes that this is insignificant because:

However, the project components would be located approximately 200 feet from the eucalyptus stand. A site assessment drafted by Dr. Meade (May, 2006) states: "Since a monarch butterfly aggregation is not known at the site presently, and has not been known to occur at the site for fifteen years, it is likely that the proposed project will result in no significant impact to monarch butterflies. Additionally, the designated historic aggregation site #96 at Loon Point is within the sensitive habitat associated with the creek, and would not be affected by anticipated project activities that are outside of the riparian tree canopy."

Again, the County's staff report for the subject project fails to address the unpermitted removal of monarch butterfly habitat that has occurred immediately adjacent to the proposed structures. LUP Policy 9-22 specifically states that "Butterfly trees shall not be removed except where they pose a serious threat to life of property..." and LUP Policy 9-23 states that "Adjacent development shall be set back a minimum of 50 feet from the trees." Additionally, SCP Action BIO-S-1.5 requires that degraded habitats associated with violations be restored.

These LCP policies require the sensitive riparian and butterfly habitat that was removed along Toro Creek to be restored within its previous footprint. This subsequently impacts the County's ESH setback analysis for "validation" of all of the unpermitted structures on the site. However the County did not require a biological assessment for the subject site in order to determine the previous extent of ESH that existed on site prior to the unpermitted development. However, based on a review of historical aerial photographs of the site from 2002, 2004, and 2006, it appears that at least some of the structures approved by the County would be located less than 50 ft. from monarch butterfly habitat. Therefore, the proposed project would not be consistent with the LCP ESH protection requirements.

Further, there is an associated conditional use permit (CUP) to "validate" an existing trailer as a watchman's trailer for a period of no more than one year. There are no conditions placed on the CUP to relocate the trailer and; therefore, it is assumed that the trailer will remain in the location shown on the project plans. If this is the case, it

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appears that it would also be located less than the required 100-ft setback from the previously existing ESH on site. Therefore retention of this structure would not be consistent with the provisions of the certified LCP for all of the same reasons described above.

Thus, for the reasons discussed above, a substantial issue exists regarding the proposed project relative to its in-consistency with the LCP policies regarding environmentally sensitive habitat areas, monarch butterfly habitat and riparian habitat.