Th13a

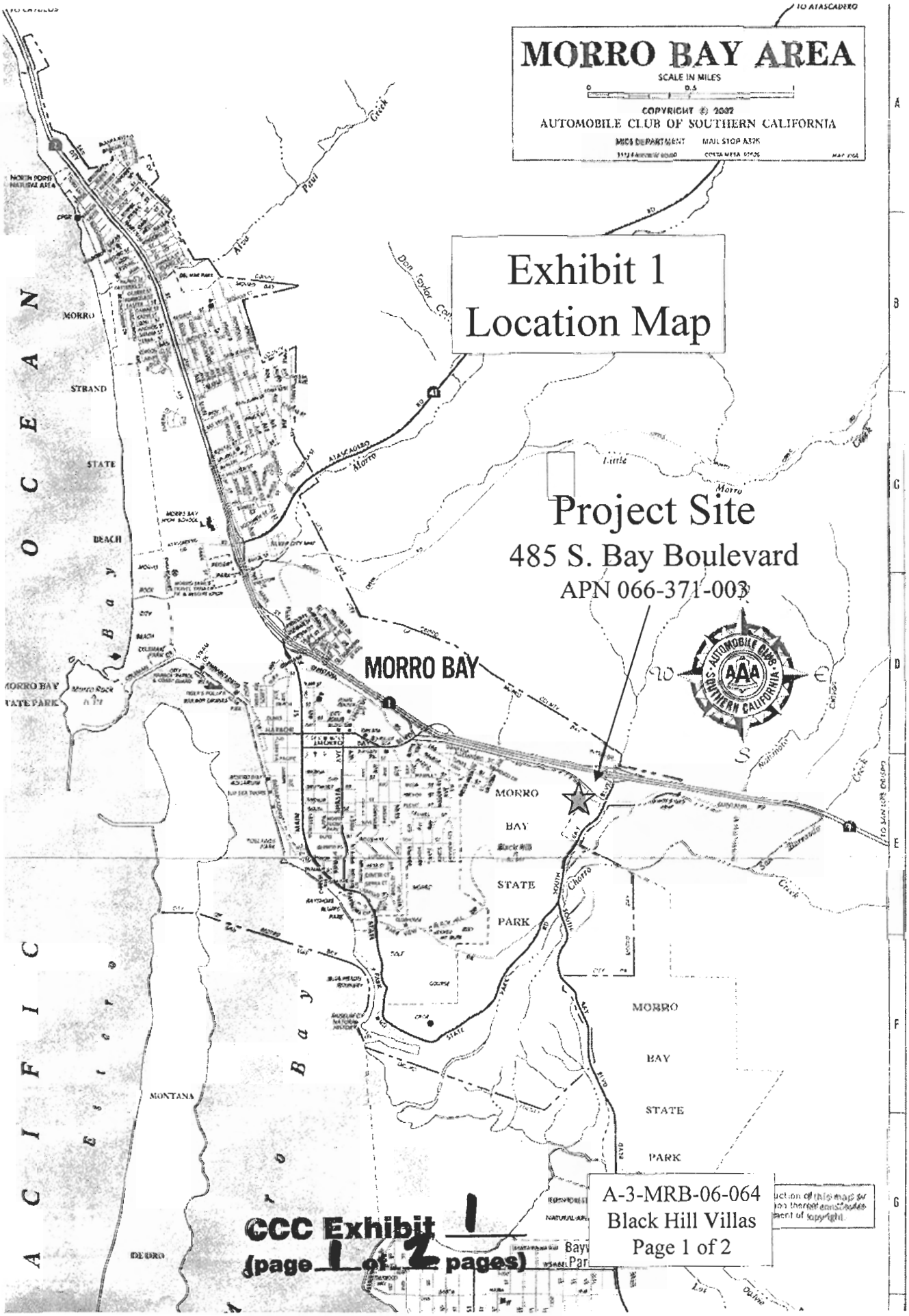
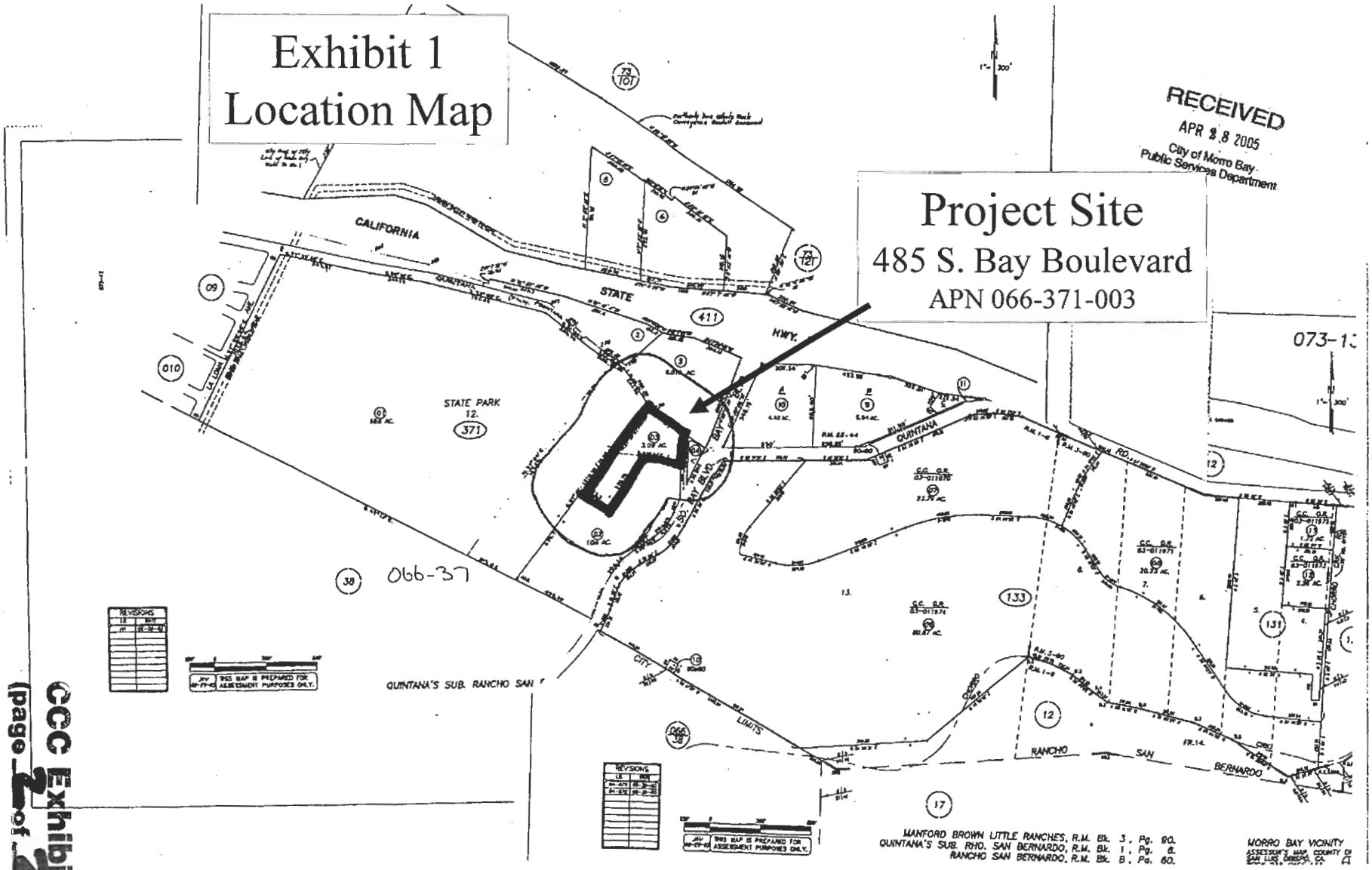

MORRO BAY AREA
SCALE IN MILES
COPYRIGHT © 2002
AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA
Exhibit 1
Location Map
Project Site
485 S. Bay Boulevard
APN 066-371-003
MORRO BAY
MORRO
STRAND
STATE
BEACH
MORRO BAY STATE PARK
MORRO BAY STATE PARK
MONTANA
PACIFIC OCEAN
Morro Bay
Chorro Creek
Los Osos Creek
Morro Creek
Little Morro Creek
Paul Creek
Don Taylor Creek
Warden Creek
TO ATASCADERO
TO SAN LUIS OBISPO
A-3-MRB-06-064
Black Hill Villas
Page 1 of 2
CCC Exhibit 1
(page 1 of 2 pages)

Exhibit 1
Location Map

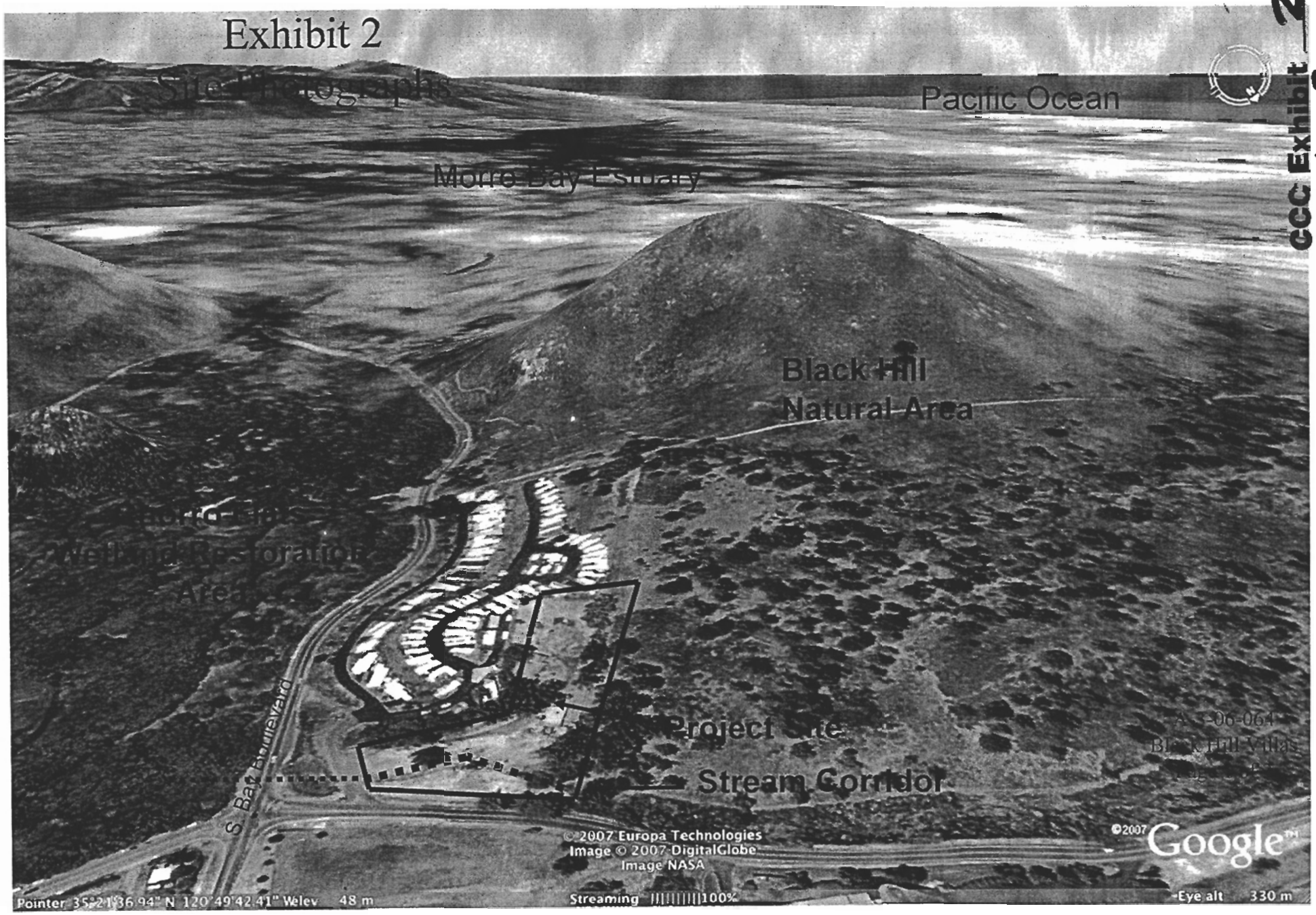


CCC Exhibit 1 (page 2 of 2 pages)

A-3-MRB-06-064
Black Hill Villas
Page 2 of 2

Exhibit 2

Site Photographs

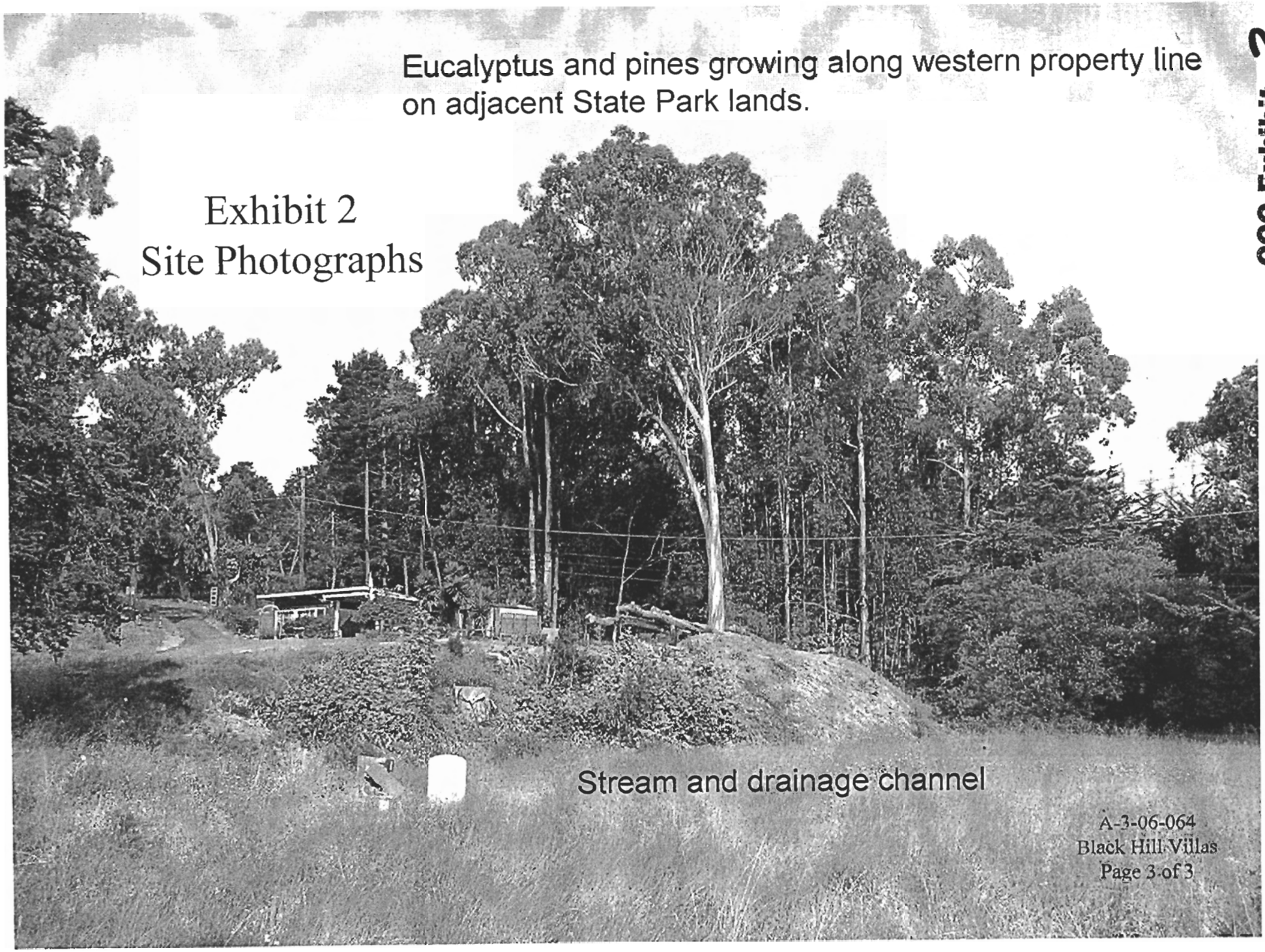


CCC Exhibit 2
(page 1 of 3 pages)

CCC Exhibit 2
(page 2 of 3 pages)

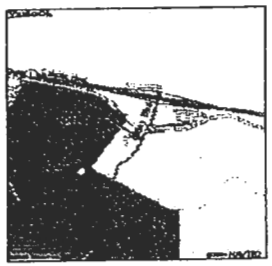
Eucalyptus and pines growing along western property line on adjacent State Park lands.

Exhibit 2
Site Photographs



Stream and drainage channel

BLACK HILL VILLAS
TRACT 2739



VICINITY MAP

LEGEND

DEMOLITION NOTES

SURVEYOR'S STATEMENT:

SURVEYOR'S NOTES:

BENCH MARK:

SHEET INDEX

1 - TOPOGRAPHIC SURVEY AND DEMOLITION PLAN
2 - VESTING TENTATIVE MAP
3 - PRELIMINARY GRADING AND DRAINAGE PLAN
4 - PRELIMINARY UTILITY PLAN

RESUBDIVISION OF 2 LOTS TO 18

TOPOGRAPHIC SURVEY AND DEMOLITION PLAN

FOR

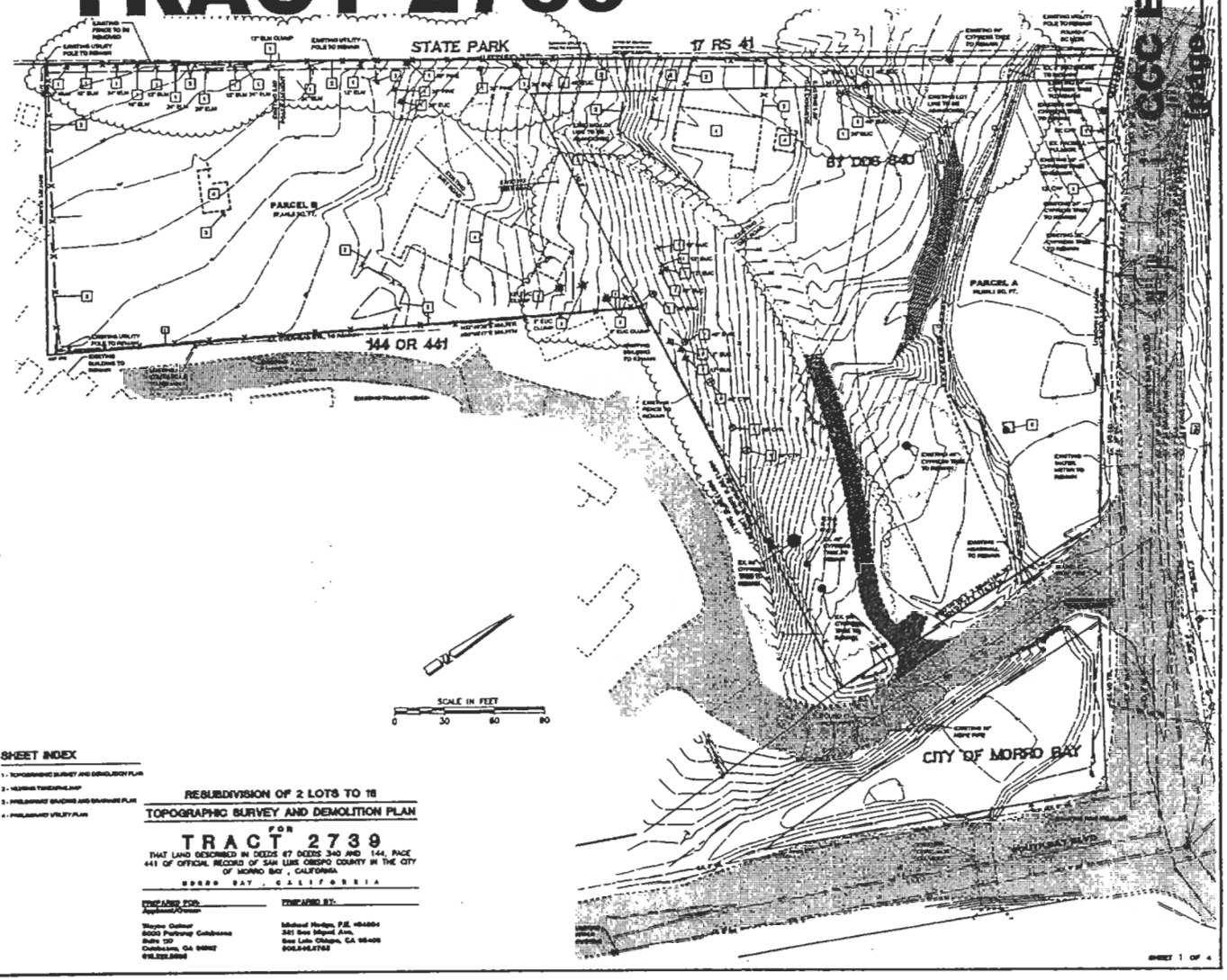
TRACT 2739

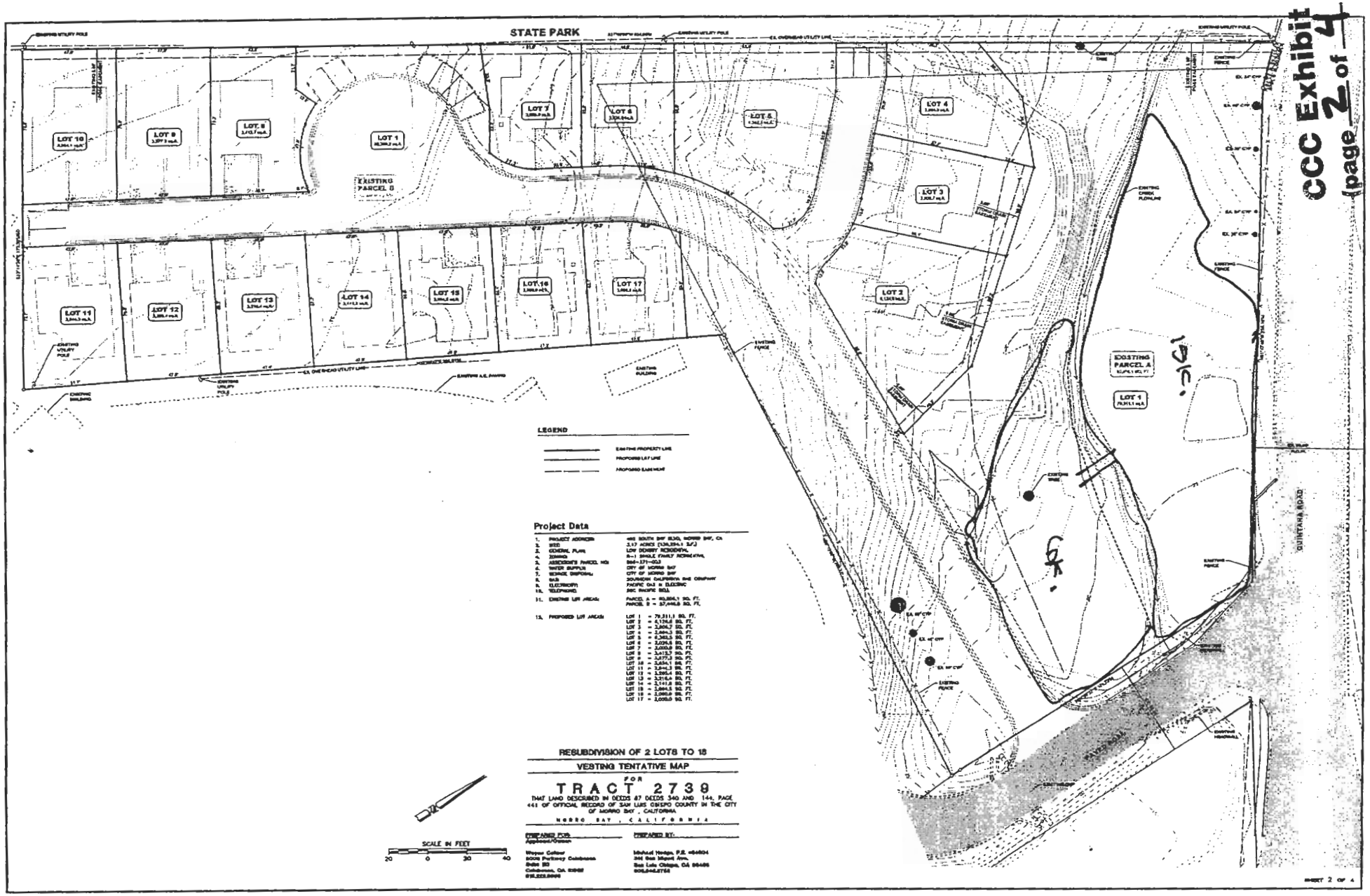
THAT LAND DESCRIBED IN DEEDS 67 DOCDS 340 AND 144, PAGE 441 OF OFFICIAL RECORD OF SAN LUIS OBISPO COUNTY IN THE CITY OF MORRO BAY, CALIFORNIA

MORRO BAY, CALIFORNIA

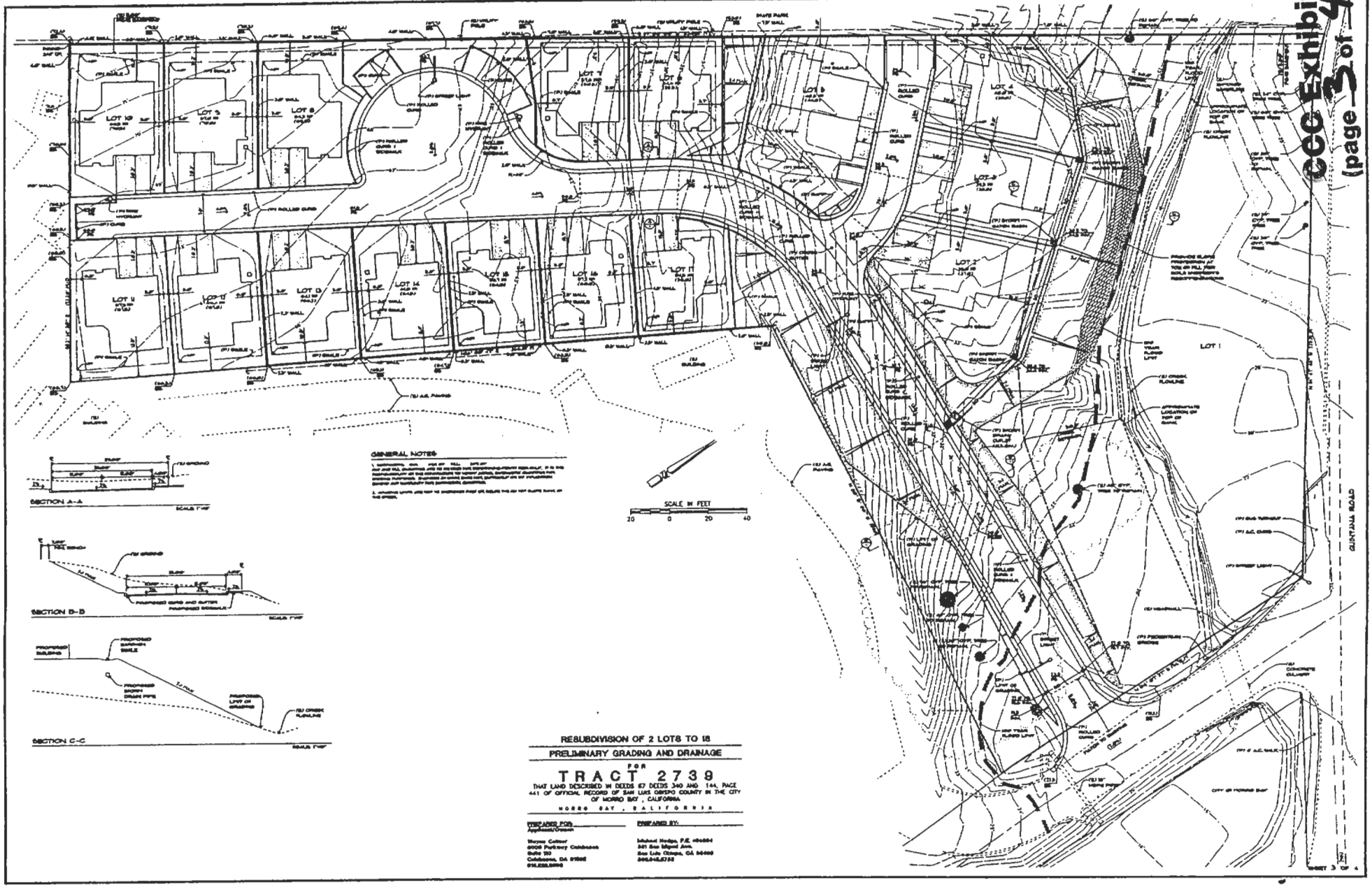
PREPARED FOR:

PREPARED BY:

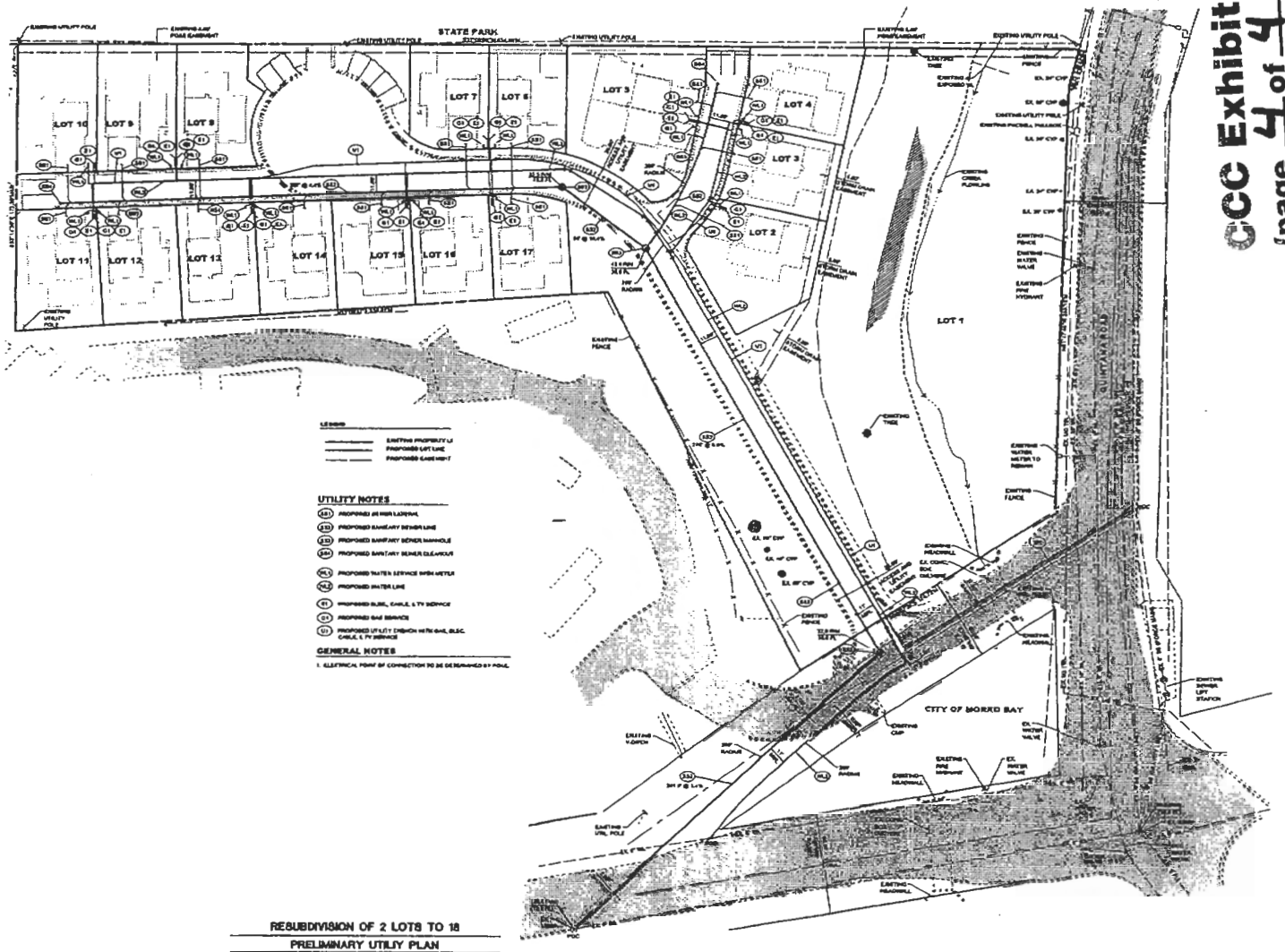



STATE PARK
LOT 10
LOT 9
LOT 8
LOT 1
EXISTING PARCEL B
LOT 7
LOT 6
LOT 5
LOT 4
LOT 3
LOT 2
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
LOT 16
LOT 17
EXISTING PARCEL A
LOT 1
QUINTANA ROAD
LEGEND
EXISTING PROPERTY LINE
PROPOSED LOT LINE
PROPOSED EASEMENT
Project Data
1. PROJECT ADDRESS:
2. SIZE:
3. GENERAL PLAN:
4. ZONING:
5. ASSESSOR'S PARCEL NO:
6. WATER SUPPLY:
7. SEWAGE DISPOSAL:
8. GAS:
9. ELECTRICITY:
10. TELEPHONE:
11. EXISTING LOT AREAS:
12. PROPOSED LOT AREAS:
SCALE IN FEET
20 0 30 40
RESUBDIVISION OF 2 LOTS TO 18
VESTING TENTATIVE MAP
FOR
TRACT 2739
THAT LAND DESCRIBED IN DEEDS 87 DEEDS 340 AND 144, PAGE 441 OF OFFICIAL RECORD OF SAN LUIS OBISPO COUNTY IN THE CITY OF MORRO BAY, CALIFORNIA
MORRO BAY, CALIFORNIA
PREPARED FOR:
PREPARED BY:

CCC Exhibit 3 (page 3 of 4 page)



CCC Exhibit 3
(page 4 of 4 pages)



RESUBDIVISION OF 2 LOTS TO 18

PRELIMINARY UTILIY PLAN

FOR

TRACT 2739

THAT LAND DESCRIBED IN DEEDS 67 DEEDS 340 AND 144, PAGE 441 OF OFFICIAL RECORD OF SAN LUIS OBISPO COUNTY IN THE CITY OF MORRO BAY, CALIFORNIA

MORRO BAY, CALIFORNIA

PREPARED FOR:
Applicant/Owner:

Wayne Ostner
5000 Parkway Calabasas
Suite 110
Calabasas, CA 91302
818.222.8000

PREPARED BY:

Michael Hodge, P.E. #64604
381 San Miguel Ave.
San Luis Obispo, CA 93405
805.545.8752

SHEET 4 OF 4

AGENDA NO:	
Meeting Date:	
Action:	

Staff Report

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE**: NOVEMBER 13, 2006

FROM: MIKE PRATER, SENIOR PLANNER

SUBJECT: APPEAL OF THE PLANNING COMMISSIONS NO ACTION DECISION FOR A VESTING TENTATIVE TRACT MAP, VARIANCE, CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT FOR PROPOSED CLUSTER SUBDIVISION OF 17 RESIDENTIAL LOTS, & 1 OPEN SPACE LOT. (S00-038/UP0-070/CP0-110/AD0-027)

APPLICANT: WAYNE COLMER

APPELLANT: WAYNE COLMER

PLEASE BRING YOUR OCTOBER 9, 2006 COUNCIL REPORTS
If additional copies are needed please let the City Clerk know.

RECOMMENDATION:

Staff recommends the City Council approve the appeal, adopt the Mitigated Negative Declaration, and approve the project.

FISCAL IMPACT:

The proposed project would contribute development fees. The project's fiscal effects would be potentially negative, but are expected to be inconsequential. Cumulatively, the effect of new residential development requires more costs to serve than is generated by property tax revenues. To the extent that the occupants of the new residences spend within the City limits, then sales tax receipts can generate some additional revenue to offset those costs. In addition, fees are collected for services such as water and sewer.

SUMMARY:

The project was appealed because a no action decision by a vote of 3:1:1 was reached at the Planning Commission level because section 16.12.060 requires a 2/3 affirmative vote of the total Planning Commissioner membership.

An appeal is allowed even though there was not a 2/3 affirmative vote because Government Code Section 66452.5 allows for an appeal of any action with respect to a tentative map. The City Council should consider if the project qualifies as a cluster design and/or community housing project, as well as, if the

Prepared by:	Dept. Review:
City Manager Review:	

density and character is adequate and all added conditions justify compatibility with the General Plan/Local Coastal Plan.

BACKGROUND:

On August 21, 2006, the Planning Commission considered the proposed application at a regularly scheduled public hearing. After considering public testimony, the Planning Commission voted 3-1-1 (Johnson voted no; Tefft abstained), which did not give the project a 2/3 vote for approval; therefore the decision is considered as no action taken.

The project would require City Council action regardless of the appeal nature because creating five or more parcels under this type of design requires City Council action with majority approval. This proposal would create seventeen (17) residential parcels with one (1) open space parcel. After some discussion, the majority of the Planning Commission wanted to add the following new conditions: (the project needed 2/3 vote for approval to get a recommendation which is why these conditions are explained as a majority request)

1. Add a sidewalk in front of units 2, 3,and 4.
2. Add two parallel parking spaces near the pathway to the common area, (Victory garden).
3. Add a pathway on the landscape plan to parallel the creek.
4. Provide a note on the plans along the property line between the State Park and the Cul de sac "no fencing."
5 Provide a 3 to 1 replacement of removed trees on the landscape plan and determine if any additional trees can be saved.
6. Provide a schedule re-evaluating the health of all trees on the property.
7. Add a signalized pedestrian crosswalk across South Bay Blvd.
8. Minimize street lighting glare to the maximum extent possible.

APPEAL:

Wayne Colmer has appealed the no action decision and contends the project could be interpreted to qualify as meeting the regulations for both cluster design and a community housing project. The Council should evaluate the project under both criteria. If the Council finds the project meets the criteria under one or the other or both then the project can be approved. Primarily, the objectives for a Cluster design warrant a buffering of open space from an area needing preservation, and a Community Housing project objective is providing an open space area for the project residents' enjoyment.

DISCUSSION:

The project site consists of two existing parcels totaling 3.17 acres. Parcel A is the low-lying property at 1.85 acres and parcel B is the upland property at 1.32 acres. The proposed project site is zoned R-2. The applicant is proposing to re-subdivide the two parcels to create 18 parcels; 17 residential lots and 1 common lot containing driveways and open space. The residential parcels range from 3,000 to 6,123 square feet in area. Each lot would have a detached single-family residence with either a Plan 1, that's 1,704-sq. ft. or Plan 2 that's 1,895-sq. ft. Both plans provide a two-car garage. The attached townhouse lots (lots 5 & 6) will consist of three bedrooms, two baths, 1,150 sq. ft. with similar architecture to the Plan 2A elevation. The attached homes will meet the inclusionary affordability requirement. The open

CCC Exhibit 4
(page 2 of 16 pages)

space area totals approx. 51,000 sq. ft. (21,710 sq. ft. has less than a 10% slope) or 37% is proposed for preservation. The applicant is proposing to construct all 17 homes in one phase.

CLUSTER SUBDIVISIONS:

Under the subdivision ordinance cluster divisions are mentioned as a concept allowed in Section 16.12.060. However, the ordinance does not go on further to establish standards. Therefore, staff has included other projects approved by the City using this concept and basic common practices used by other communities. As a general rule of thumb, when clustering, a project should preserve 30 to 40 percent of the site. As an example, the City Council recently approved a tract map for the Methodist Church that allowed 10 percent to be community gardens. The Planning Commission felt the project better met the intent of a cluster development.

As a cluster design the subdivision must produce a more desirable and livable community than minimum requirements with such items as enhanced livability, appearance, health, safety, convenience or general welfare with new concepts in the arrangement of lots, circulation pattern providing permanent open space access to blocks, schools, shopping centers and other uses. The Subdivision Ordinance specifies the subdivision "shall comply with the following: A. Improved design based on density control and better community environment. The standards set out... may be varied only when the gross density of an area is not increased and where said design has approval of the City Council, and where in their opinion said deviation will: 1. Produce a more desirable and livable community than the minimum requirements; 2. Create better community environment through dedication of public areas, or setting out permanent scenic easements of open spaces... 3. Reduce the danger of erosion."

A variety of studies and reports were conducted that evaluated the project's impacts that include: 1) biological surveys including monarch butterflies, raptor surveys, snail surveys, frog surveys, field surveys were also conducted for tidewater goby and steelhead, and a tree report with inventory; 2) cultural resources; 3) soils/geology; 4) drainage; and 5) traffic. All of these reports were prepared by qualified professionals and reviewed by city staff. The most discussed topics at the Planning Commission were traffic along South Bay Blvd. and Quintana, open space (cluster design standards versus community housing standards), and tree removal/replacement. As mentioned above, the Planning Commission added a condition for 3 to 1 replacement along with re-evaluating the trees to save as many as possible. The applicant has expressed some concerns with this replacement ratio because the low-lying area is the only designated location for the replacement and a 3 to 1 ratio will become a future fire hazard and one of the goals of the project is to keep a wildlife corridor open between Chorro Creek and the State Parks property by not over growing the area. The applicant would also like credit for the trees that are dead or dying or were damaged by PG&E to not count towards this replacement ratio.

CONCLUSION:

The project is a Planned Unit Development that can be found consistent with the zoning ordinance and subdivision regulations. It makes use of the cluster concept to buffer from the seasonal drainage channel. The average lot size is reduced by 50% of the typical 6,000 sq. ft. standard. The zoning of the site would allow for forty-seven units (47) residential units consistent with the General Plan/Coastal Land Use Plan. The applicant is only proposing seventeen units (17). The project has been determined to qualify for a Mitigated Negative Declaration under CEQA.

CCC Exhibit 4
(page 3 of 16 pages)

ATTACHMENTS:

Attachment A – City Council report of October 9, 2006, under separate cover previously forwarded
Attachment B – Applicant/Appellant appeal letter

The various studies and reports are available for City Council members in the Council's Administrative read file in the City Clerks office

CCC Exhibit 4
(page 4 of 16 pages)

City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200
www.morro-bay.ca.us

REGULAR COASTAL DEVELOPMENT PERMIT, CONDITIONAL USE PERMIT, VARIANCE AND TENTATIVE TRACT MAP

CASE NO: S00-038/UP0-070/CP0-110/AD0-027

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 485 S. Bay Blvd

APPLICANT: Wayne Colmer

APN: 066-371-003 LEGAL: A resubdivision of Parcels A & B into Tract 2739

DATE APPROVED: August 8, 2005 APPROVED BY: CITY COUNCIL

APPROVED BASED UPON ATTACHED FINDINGS ***(Findings and Conditions of Approval Attached)***

CEQA DETERMINATION: NEGATIVE DECLARATION

DESCRIPTION OF APPROVAL: Subdivide the site into seventeen (17) residential parcels with one (1) open space parcel under the cluster design concept.

THIS APPROVAL IS CONDITIONAL AND IS VALID *ONLY IF CONDITIONS (ATTACHED) ARE MET* AND *ONLY AFTER THE APPLICABLE APPEAL PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.*
PERMIT EFFECTIVE DATE & INFORMATION APPLICABLE TO YOUR PROJECT IS OUTLINED FOLLOWING THE BOX CHECKED BELOW: ENABLE THE APPLICABLE CHECK BOX BELOW.

☐ **YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10)** ***Calendar days*****, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL**

☒ **YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION.** This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) *Working days* following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 408-427-863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6261.
IF THIS BOX IS CHECKED, SEND CERTIFIED/RETURN RECEIPT TO CALIF. COASTAL COMMISSION

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: November 28, 2006

ATTEST: MP **DATE: November 14, 2006**
Mike Prater, Senior Planner
FOR: Bruce Ambo, Public Services Director

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT

EXHIBIT A
FINDINGS FOR APPROVAL
S00-038/UP0-070/CP0-110/ AD0-027

California Environmental Quality Act (CEQA)

A. That for purposes of the California Environmental Quality Act, Case No. S00-038/UP0-070/CP0-110/ AD0-027 is subject to a Mitigated Negative Declaration based on hazards issues. Any impacts associated with the proposed development will be brought to a less than significant level through the Mitigations required as conditions of approval.

Subdivision Map Act Findings

B. The proposed map to create seventeen residential lot and an open space parcel project, where the new parcels will have single-family residences that are consistent with the General Plan and Coastal Land Use Plan because residential development and the given parcel sizes are allowed under the land use designation and zoning & subdivision ordinance.

C. The design and improvements to create Black Hill Villas subdivision is consistent with the General Plan and Coastal Land Use Plan because all public improvements will be constructed.

D. The site is physically suitable for the type and density of development proposed because the site is zoned for multi-family but after considering the environmental constraints eighteen residential units better fit the site and still complies with the land use designation.

E. The design of the subdivision and related improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because all precautions will be implemented to catch and direct all runoff.

F. The design of the subdivision and improvements will not cause serious public health problems.

G. The design of the subdivision and related improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because no easements are required for the public.

H. As conditioned, the design, architectural treatment, and general appearance of all buildings and open space areas are in keeping with the character of the surrounding area pursuant to 17.48.200, and will not be incompatible with the uses permitted in the surrounding areas and zoning district; and

I. The City has available adequate water to serve the proposed subdivision based upon the water regulations and water equivalency table Exhibit A, enforced at the time of approval of the Vesting Tentative Parcel Map pursuant to the certified Water Management Plan and General Plan LU-22.1.

J. Improved design based on density control and better community environment. The standards set out in Section 16.12.020 to 16.12.050 may be varied because the gross density of the area is not increased

K. In the Planning Commission opinion said deviation will:

1. Produce a more desirable and livable community than the minimum requirements;
2. Create better community environment in keeping with the single-family residential nature and style of the area;
3. Reduce the danger of erosion.

L. The variation as authorized will result in a community which is a substantial improvement over a community which could have been developed in that this allows the opportunity to provide residential units for ownership rather than apartment which is a greater need in the City.

Conditional Use & Coastal Development Permit Findings

M. That the project is an allowable use in its zoning district and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff report; and

N. The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project is consistent with all applicable zoning and plan requirements as indicated in the attached staff report; and

O. The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be conducted consistent with all applicable City regulations, as indicated in the attached staff report.

Variance Findings

P. This variance granted, as conditioned, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and Zoning District in which the subject property is situated. The slope of the property is a limitation on the development of the site and the applicant has proposed a density less than permitted to accommodate development of the site; and

Q. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, as discussed in the staff report, the strict application of the Municipal Code is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification and strict application of Municipal Code would result in practical difficulties and unnecessary hardship; and

R. The variance is consistent with the Local Coastal Land Use Plan and the General Plan since a variance to setbacks are zoning requirements and there are no policies that effect these standards were no public view is impacted.

Architectural Consideration

S. As required by Ordinance Section 17.48.200 the Planning Commission find that the architectural treatment and general appearance of all proposed building, structures and open areas are in keeping with the character of the surrounding areas, are compatible with any design themes adopted by the city, and are not detrimental to the orderly and harmonious development ;of the city or to the desirability of investment of occupation in the neighborhood.

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(page 7 of 16 pages)

EXHIBIT B

CONDITIONS OF APPROVAL
S00-038/UP0-070/CP0-110/ AD0-027

STANDARD CONDITIONS

1. This permit is granted for the use as described in the staff report and the on plans received by the Public Services Department on September 7, 2006 ("Exhibit C" of the staff report). The approval is modified, however, by the following Conditions of Approval:

2. Inaugurate Within Two Years: If the approved use is not established within two (2) years of the effective date of this approval, this approval will automatically become null and void. However, upon written request by the applicant prior to the expiration date of this approval, up to two (2) one-year time extensions may be granted. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.

3. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Public Services Director. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an amendment subject to Planning Commission review.

4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.

5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

7. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

8. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.

CCC Exhibit 4
(page 8 of 16 pages)

9. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view from adjoining public streets in a manner approved by the Director of Public Services. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

10. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. daily, unless an exception is granted by the Director of Planning & Building pursuant to the terms of this regulation.

11. Utility Services: All water and sewer impact fees shall be paid at the time the building permit is issued.

12. Property Line Verification. It is owner's responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.

13. CBC & UBC Compliance. The entire project, including all setbacks and openings in exterior walls, shall comply with the Building Code, as determined by the Building Official.

14. Zoning Compliance. Proposed fencing on the site shall be shown on plans submitted for a building permit and shall comply with zoning regulations including Chapter 17.49 Community Housing Project Regulations, Residential Conversions and Demolitions.

15. Park In-lieu Fee. Prior to recordation of the Final Map requirements of the City of Morro Bay for dedication of land for park purposes and/or payment of fee-in-lieu thereof shall be met (MBMC Section 16.16.030).

PUBLIC WORKS CONDITIONS

16. Sewer Master Plan Impact Fee: Prior to the issuance of a building permit, the Applicant/Developer shall pay to the City an impact fee toward the construction of municipal sewer improvements as determined by the Engineering Division in accordance with the Sewer System Master Plan.

17. Tract Map: $1,100 fee. The City Master Fee Schedule requires the Applicant/Developer pay a Tract Map Fee of $1,100 + direct costs for checking, inspection, and other provided work performed by contracted engineering services. The final map shall be furnished on Mylar and in electric format. The files need to be in the format of .dwg or .dxf. PDFs are not required but may be submitted in addition to confirm record of original drawings. The Applicant/Developer shall submit a current title report.

18. Traffic Engineering Study Report: A fee shall be paid proportionate to the project impacts. Applicant/Developer shall submit a traffic engineering report analyzing the increased traffic volumes resulting from this project. The report shall also include circulation within the tract: an analysis of the proposed project entrance considering sight distance, the proposed driveway slope, lighting and turn lane requirements; street striping on Quintana and on South Bay Blvd.'s; and a recommendation for the location of a public transit waiting facility.

19. Public Improvements: $404 Plan Check Fee + additional costs. Public Improvements are required as set forth in MBMC Section 14.44. Pursuant to Chapter 12.04 all improvement work shall

CCC Exhibit 4
(page 9 of 16 pages)

conform to the City's Standard Drawings and Specifications. Prior to map recordation the Applicant/Developer shall: (1) submit $404 Plan Fee with public improvement plans designed by a civil engineer registered in California. Existing improvements may remain except for portions in need of repair, or which do not meet City standards. (2) include the City's general notes on the improvement plans. (3) submit cost estimates calculated on the City's Engineering Estimate Worksheet. (4) complete the City's Reimbursement Agreement, the City's Improvement Agreement and it's insurance requirements. (5) deposit a financial security with the City in the amount of 150% of the estimated construction cost of the public improvements. (6) acquire encroachment permits. Prior to project completion sign off by Public Works, asbuilt drawings shall be furnished on Mylar and in electronic format CD. The files need to be in the format of .dwg or .dxf. PDFs are not required but may be submitted in addition to confirm record of original drawings. The Applicant/Developer shall pay any additional costs incurred for Public Works staff services, which exceed two site visits/inspections, and four total hours for plan check, office/counter meetings, telephone, copies, email, etc. The City will prepare an invoice for additional costs, which shall be paid prior to final occupancy sign-off of the project.

20. Public Improvement & Grading Plans Submittal: The Public Improvement Plans shall be titled as such shall and submitted to the Engineering Division of the Public Services Department. The Improvement plans shall be separate of the Grading Plans. The Grading, Drainage, and Retaining Wall Plans shall be submitted to the Building Department for their approval and issuance of a "Grading or Building Permit". It is acceptable to provide the Grading and Drainage plans for the City Engineer's information only, but they will be reviewed and approved by the Building Department.

21. Water Pressure Reducer: Applicant/Developer shall install a pressure reducer on private property for each proposed home.

1. 22. Street Tree: A street tree(s) planting area shall be shall be installed at the back of sidewalk in a semi circle (3' radius) formed into back of sidewalk. The circle shall extend 1' into the back of sidewalk and there shall be at least a 5' wide sidewalk width from there to the curb. Install per B-12 Planting Detail, but precast cover and support structure shall be omitted and the planter location to be at back of sidewalk.

23. Oil-Water Separator: To reduce pollution to creek, bay and ocean waters, the Applicant/Developer shall install an oil-water separator/isolator on site between all drainage water inlets and the street gutter. Inlet and/or outlet structure design shall address silt and hydrocarbon containment and be approved by the City.

24. Sewer Lateral For New Structures: A dedicated sewer lateral is required for each proposed single-family unit.

25. Sewer Backwater Valve: A sewer backwater valve shall be installed into each lateral on site to prevent a blockage or maintenance of the private or municipal sewer main from causing damage. (MBMC 14.24.070)

26. Repair & Replacement of Public Improvements: Prior to project completion the Applicant/Developer shall repair curb, street, sewer line, water line, or any public improvements which were damaged as a result of construction operations for this project.

CCC Exhibit 4
(page 10 of 16 pages)

27. Erosion and Sedimentation Control Plan: The Tentative Map shall make reference to control measures for protection against erosion of adjacent property and prevent sediment or debris from entering adjacent properties, waterway, or ecologically sensitive area. Such control also serves as an aid in meeting the National Pollutant Discharge Elimination System (NPDES) Permit Program as Authorized by the Clean Water Act and administered by the State of California. The Plan shall be approved by the City prior to building permit issuance.

28. Flood Hazard Permit and Development:

The National Flood Insurance Program Rate Map for the City of Morro Bay, prepared by FEMA, identifies a portion of the Applicant/Developer's project as being in a Special Flood Hazard Area 100 year flood Zone.

Prior to Public Works approval of the Grading Plan, the following below shall be met:

A FEMA approved Conditional Letter of Map Amendment.

Submit the required fee, which is currently $171, for Flood Hazard Development (Morro Bay Municipal Code Section 14.72, Flood Damage Protection)

Other permits and approvals required for projects with a creek may include State Department of Fish and Game #1601, and Federal Corps of Engineers #404, Water Quality Control Board Certification and State Coastal Zone Management Act compliance. It is the Applicant/Developer's responsibility to obtain all necessary permits.

PLANNING CONDITIONS

29. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Public Services.

30. Covenants, Codes and Restrictions (CC&Rs) or maintenance agreements shall be submitted with the final Tract Map for review and approval by planning staff and the City Attorney. An easement over each lot will also be provided for the common open space area. The Tract Map, easement and CC&Rs shall clearly indicate the common open space area. The CC&Rs shall include clear provisions for the continued maintenance of the common open space area and shall include provisions for the City to force maintenance of common area if the owners of the parcels fail to do so voluntarily. CC&Rs shall also restrict all landscaping, fencing and buildings throughout the project to continued consistency with plans hereby approved, unless otherwise approved by the Planning Commission or staff.

31. Colors and Materials: Prior to issuance of a building permit, the Planning and Building Director shall ensure compliance of all exterior colors and materials, including fencing materials as approved on the attached Exhibit(s). All other colors and materials not so specifically approved may be approved by the Director according to the following objectives: achieve compatibility

CCC Exhibit 4
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with colors and materials used in the on-site improvements; achieve compatibility with the architectural design of the improvements; achieve compatibility with surrounding land uses and properties; preserve the character and integrity of the zone.

32. Undergrounding of Utilities: Pursuant to MBMC Section 17.48.050, prior to final occupancy clearance, all on-site utilities including electrical, telephone and cable television shall be installed underground.

33. Common Driveway Access and Maintenance: An easement or covenant consistent with Section 17.44.030 E shall be recorded for all parcels to have access to the common driveway and backing areas over parcels to allow for access to the parking provided. The easement or covenant shall include the responsibilities of maintaining the roadway.

34. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Public Services. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 20 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.

35. Landscape and Irrigation Plan: Prior to the issuance of a building permit, a landscaping plan, prepared and stamped by a licensed Landscape Professional, (i.e., Landscape Architect, Architect, or Landscape Contractor) shall be submitted for review and approval by the Director of Public Services in accordance with all requirements of Section 17.48.290 of the MBMC. Said plan shall include a planting plan showing the species, number, size, and location of all plant materials. An irrigation plan shall include the proposed method and location of irrigation. Native and/or drought tolerant plant and tree species shall be used to the maximum extent feasible. Trees shall be selected from the Master City Street Tree List prepared by the Public Works Department. The landscape plans shall also include fencing details, utility meter screening, and screening of the trash enclosure.

36. Timing of Landscaping: Prior to issuance of a final Certificate of Occupancy, all required plantings, groundcover and irrigation systems shall be in place to the satisfaction of the Director of Public Services. The landscape consultant shall provide a watering schedule and certify that all plantings and irrigation systems have been installed pursuant to the approved plans prior to issuance of the final Certificate of Occupancy.

37. Maintenance of Landscaping: All required plant materials shall be maintained in accordance with the watering schedule as specified in the approved landscape plan notes. All landscaping shall be cared for, maintained, watered, fertilized, fumigated, pruned and kept in a healthy growing condition for the life of the project. Where required plant(s) have not survived, it shall be promptly replaced with new plant materials of similar species, functional, size, and characteristics as specified in the approved landscape plant notes.

38. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.

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(page 12 of 16 pages)

39. The applicant is required to pay the Department Fish and Game fee for a Negative Declaration filing of De minimus Impact Finding along with a fee of $1,275 to the County Clerk. The funds shall be made payable to the "County of San Luis Obispo" and delivered to the Public Services Department within five days of the approval. The funds will be forwarded along with the Environmental Determination to the County Clerk in accordance with California Code of Regulation Title 14, Division 1, Subdivision 3, Chapter 4, Section 753.5. Filing the Notice of Determination along with the fee is required within 10 days of the project approval and has the effect of starting a 30-day statute of limitations period for challenges to the decision in place of 180-day period otherwise in effect.

ENVIRONMENTAL CONDITIONS

40. **BIOLOGICAL:**

a. A habitat enhancement plan for area within the floodplain shall be required. The five existing cypress trees located along Quintana Road shall be left in place to create a stand of trees of mixed height and age class. Details of the enhancement plan should be coordinated among the developer, the project landscape architect, City staff and a raptor biologist.

b. Future tree removal and commencement of construction activities should be withheld until a field survey has been preformed and a determination is made the completion of fledging period has ended, if fledging birds are present.

c. A survey of the site by a qualified biologist prior to tree removal to determine if active nests are present shall be required.

d. A concurrence authorization is obtained from the USFWS stating that the project will not result in the take of the regulated variety of the MSS. If USFWS concurrence is not granted then a Habitat Conservation Plan (HCP) will be required prior to construction.

e. A concurrence authorization is obtained from the USFWS stating that the project will not result in the take of the California red-legged frog. Otherwise the following mitigations are required, the mitigation measures are suggested even if the concurrence determination is granted.

1. Grading and grubbing activities should occur only during the dry season (generally June 15 to October 15).
2. Applicant should retain a qualified biologist to conduct a pre-activity survey for California red-legged frogs and/or MSS prior to the initiation of site work.
3. The applicant and contractors should employ Best Management Practices (BMPs) during grading and construction.
4. The applicant should provide restoration of the small floodplain and drainage channel on the lower section of the parcel using native riparian plants and trees. This should be coordinated with the habitat enhancement plan.

f. If on-site refueling is necessary then it should be conducted at the upland location way from the drainage channel and floodplain.

Monitoring: Public Services staff shall ensure that the applicant has obtained a qualified biologist and review the habitat enhancement plan. PS staff will review the concurrence determination by USFWS and/or the HCP.

41. **CULTURAL RESOURCES:**

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(page 13 of 16 pages)

a. Archaeological monitoring of all grubbing, demolition, and excavation activities in the development area by a qualified archaeologist and Native American. Collection of historic and prehistoric cultural remains deemed significant and if necessary, analysis of any features encountered including but not limited to historic refuse dumps and diagnostic prehistoric habitation deposits.

b. Selection and processing of prehistoric marine shell for radiocarbon dating.

c. The applicant/property owner shall provide an archaeological monitoring evaluation plan prepared by a qualified archaeologist for all construction excavations associated with grading activity. The plan shall identify all the ground disturbance activity monitored including dates the archaeologist and culturally affiliated, indigenous individual recognized by the Native American Heritage Commission were present. The evaluation report shall describe all the densities or features of artifacts associated with a particular activity encountered. Any isolated human remains encountered during construction shall be protected and their disposition be undertaken consistent with Public Resources Code 5097.98.

Monitoring: The applicant in the event of a discovery of human remains shall notify planning & Building staff. P&B staff shall ensure that any finds are evaluated by an approved cultural resource professional and that any required mitigation is completed.

42. **GEOLOGY/SOILS:**

a. The applicant shall provide project-specific soils and geotechnical reports required by the Building Official. Project design and construction shall be consistent with recommendations contained in soils and geology reports, as required by the Building Official.

Monitoring: Public Services staff shall ensure that plans are consistent with the soils and geology reports prior to the issuance of a building permit and during subsequent site inspections.

43. **HAZARDS/ HAZARDOUS MATERIALS:**

a. The applicant shall install fire sprinklers and fire hydrants to the satisfaction of the Fire Chief.

b. The applicant shall work with the Fire Department to meet the intent of the code requirement to buffer around the structures.

Monitoring: Public Services and Fire Department staff shall ensure that plans are consistent with the building and fire codes prior to the issuance of a building permit and during subsequent site inspections.

44. **HYDROLOGY/WATER QUALITY:**

a. The applicant shall file the paperwork for a conditional letter of map revision (CLOMR-F and LOMA) with FEMA to register the detail study conditions to determine the 100-year flood level.

b. Prior to the issuance of building or grading permits, the applicant shall submit an erosion control plan. The Plan shall show control measures to provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right of way, adjacent properties, any harbor, waterway, or ecologically sensitive area. Such control also serves as an aid in meeting the National Pollutant Discharge Elimination System (NPDES) Permit Program as Authorized by the Clean Water Act and administered by the State of California.

c. To reduce pollution to creek, bay and ocean waters, the Applicant/Developer shall install an oil-water separator/isolator on site between all drainage water inlets and the street gutter.

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(page 14 of 16 pages)

Inlet and/or outlet structure design shall address silt and hydrocarbon containment and be approved by the City.

d. The applicant and development team shall utilize best management practices and include low impact development techniques to the maximum extent possible.

Monitoring: Public Services staff along with FEMA shall concurred with analysis prior to grading permit issuance. PS staff shall review the erosion control plan and ensure compliance with all NPDES requirements.

45. **NOISE:**

a. Project construction within 500 feet of any existing residences shall be limited to the hours of 7 a.m. to 7 p.m. on Monday through Sunday and all large construction equipment will be equipped with "critical" grade noise mufflers. Engines will be tuned to insure lowest possible noise levels. Back up "beepers" will also be tuned to insure lowest possible noise levels. All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest parcels do not exceed 75 dBA.

Monitoring: Planning & Building staff will make periodic site visits to ensure construction hours are adhered too and noise levels are within the allowable limits during construction.

46. **TRANSPORTATION/CIRCULATION:**

a. Traffic impact fees shall be paid proportionate to the net percentage increase in peak hour traffic flows generated by the proposed project.

b. Roadway improvements shall be made at the intersection of Quintana and South Bay Blvd. Particular attention shall be made to widening South Bay Blvd for turning lanes including all striping, signing, and delineations as required and approved by the City Engineer.

c. Improvements for site distance along eastbound Quintana.

d. Two Bus turn-outs; one located south of existing turnout on Quintana and one relocated on South Bay Blvd. where the school district currently drops off and picks up.

e. A pedestrian path shall be installed that allows pedestrians to cross the narrow box culvert along South Bay Court that links to the new bus turnout.

f. A D/G community path shall be installed that runs along Quintana from the driveway of South Bay Court to the intersection of South Bay Blvd.

g. In order to maintain a safe condition while construction activity occurs the applicant shall work with the City Engineer to determine what specific improvements shall be completed before grading and construction activity begins.

Monitoring: Public Services staff shall ensure all improvements and traffic impact fees are paid prior to the issuance of a building permit.

FIRE CONDITIONS

47. Provide approved numbers (addresses) in such a position as to be plainly visible and legible from the street fronting the property. Lettering shall be a minimum of 5" high on a contrasting background. [UFC, Sec. 901.4.4] *Add note on plans.*

48. Provide NFPA 13-D automatic fire sprinklers. Submit all plans and specification sheets for the fire sprinkler system to the Building Department for review and approval prior to installation.

CCC Exhibit 4
(page 15 of 16 pages)

The sprinkler system shall be in accordance with NFPA Standard 13-D, including garage coverage. Please provide the following standard information on the plans:

A. Owners name, north arrow, occupancy of each room and make of fire sprinklers proposed.
B. Provide manufacturers literature/cut-sheets indicating UL approval for all valves, hangers, sprinkler heads, alarm devices, gauges, etc.
C. The fire sprinkler contractor shall do their own static water pressure test and show the information on the plans.
D. Please indicate on the plans where proposed utilities/appliances are located. Will these appliances effect the location or temperature rating of any fire sprinklers?
E. Provide a symbol index on the plan for future reference.
F. Please include a 10% water pressure reduction in the hydraulic design of the fire sprinkler system.
G. Show location of inspector's test on the plans.
H. Comply with manufactures maximum and minimum clearances from walls to sprinkler heads.

49. The project shall conform to all applicable requirements of the Uniform Building Code and Uniform Fire Code, including fire hydrants and any additional requirements deemed necessary, to the satisfaction of the Fire Chief. The Fire Chief shall be satisfied prior to the issuance of a building permit and prior to occupancy of the building.

PLANNING COMMISSION/CITY COUNCIL CONDITIONS:

50. The following additions conditions shall be part of the approved project.
    a. Add a sidewalk in front of units 2, 3,and 4.
    b. Add two parallel parking spaces near pathway to the common area, (Victory garden).
    c. Add a pathway on the landscape plan to parallel the creek.
    d. Provide a note on the plans along the property line between the State Park and the Cul de sac "no fencing."
    e. Provide a 2 to 1 replacement of removed trees that are alive on the landscape plan and determine if any additional trees can be saved. 20% of the replacement trees must be species that provide the appropriate height for raptors approx. 60 feet high.
    f. Provide a schedule re-evaluating the health of all trees on the property.
    g. Add a signalized pedestrian crosswalk across South Bay Blvd.
    h. Minimize street lighting glare to maximum extent possible.
    i. 4 way Signalization at Quintana and South Bay Blvd intersection

CCC Exhibit 4
(page 16 of 16 pages)

STATE OF CALIFORNIA —THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
www.coastal.ca.gov

COMMISSION NOTIFICATION OF APPEAL

DATE: December 4, 2006

TO: Bruce Ambo, Planning Director
City of Morro Bay, Planning Department
955 Shasta Avenue
Morro Bay, CA 93442-1900

FROM: Steve Monowitz, District Manager

RE: **Commission Appeal No. A-3-MRB-06-064**

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

Local Permit #:	CPO-110
Applicant(s):	Wayne Colmer
Description:	A Planned Unit Development that includes subdivision of two parcels totaling 3.17 acres into 17 residential parcels and one open space parcel, authorization of grading, new roadway, and home sites.
Location:	485 S. Bay Blvd (resubdivision of Parcels A & B into Tract 2739), Morro Bay (San Luis Obispo County) (APN(s) 066-371-003)
Local Decision:	Approved w/ Conditions
Appellant(s):	Roger Ewing; Ray McKelligott; California Coastal Commission, Attn: Commissioner Meg Caldwell; Commissioner Mary K. Shallenberger
Date Appeal Filed:	12/1/2006

The Commission appeal number assigned to this appeal is A-3-MRB-06-064. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Morro Bay's consideration of this coastal development permit must be delivered to the Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

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

cc: Wayne Colmer
Mike Prather, Senior Planner

CCC Exhibit 5
(page 1 **of** 13 **pages)**

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863
HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

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

Meg Caldwell, Chairperson	**Mary Schallenberger**
California Coastal Commission	**California Coastal Commission**
45 Fremont Street, Suite 2000	**45 Fremont Street, Suite 2000**
San Francisco, CA 94105	**San Francisco, CA 94105**
(415) 904-5200	**(415) 904-5200**

SECTION II. Decision Being Appealed

1. Name of local/port government: **City of Morro Bay**

2. Brief description of development being appealed:
A Planned Unit Development that includes subdivision of two parcels totaling 3.17 acres into 17 residential parcels and one open space parcel, authorization for grading, new roadway, and home sites.

3. Development's location (street address, assessor's parcel number, cross street, etc.:
485 South Bay Boulevard at the intersection of S. Bay Blvd. and Quintana Road. APN 066-371-003

4. Description of decision being appealed:

   a. Approval; no special conditions: ____
   b. Approval with special conditions: XX
   c. Denial: ____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-06-064
DATE FILED: 12/1/06
DISTRICT: Central Coast

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Exhibit 5
(page 2 of 13 pages)

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

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

a. ___ Planning Director/Zoning Administrator

c. ___ Planning Commission

b. xx ___ City Council/Board of Supervisors

d. ___ Other: _____

6. Date of local government's decision: **November 13, 2006**

7. Local government's file number: **CP0-110**

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:
Wayne Colmer
5000 Parkway Calabasas, Suite 110
Calabasas. CA 91302

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

(1) _____

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 3)

CCC Exhibit 5
(page 3 of 13 pages)

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.

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

SECTION V. Certification

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

Signed: Meg Caldwell
Appellant or Agent

Date: 12/1/06

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

Signed: _____

Date: _____

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.

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

SECTION V. Certification

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

Signed: Mary K Shallenberg
Appellant or Agent

Date: 12/1/06

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

Signed: _____

Date: _____

Reasons for Appeal of Morro Bay Coastal Development Permit CP0-110

The City's approval of the above referenced permit, authorizing the subdivision of two existing parcels totaling 3.17 acres into 17 residential parcels roughly 3,300 square feet each and a one-acre open space parcel, is inconsistent with the Morro Bay certified Local Coastal Program protecting environmentally sensitive habitats, parks and recreation areas, and visual resources. Specifically, the project is inconsistent with the certified LCP for the following reasons:

- LUP Policy 11.02 requires the protection of Environmentally Sensitive Habitat Areas (ESHA) and prohibits development that would degrade or reduce the functional capacity of ESHA. The site of the approved subdivision includes a coastal stream that may provide habitat for the California red legged frog and other important native species, and that discharges to the Morro Bay National Estuary. The site has also been documented as providing habitat for the Morro shoulderband snail. In addition, the site contains mature trees that provide nesting and potential breeding habitat for raptors. The proposed development will not protect these ESHAs consistent with LCP requirements because it involves grading and grubbing over 70% of the site, as well as the removal of over 50 mature trees, which will remove Morro shoulderband snail and raptor habitat. The project also involves significant grading directly adjacent to the coastal stream, as well as structural development within approximately 65 feet of the stream, which will adversly impact the functional capacity of stream and nearby wetland habitats.

- LUP Policy 11.02 also requires protection of public parks and recreation areas. The project site is directly adjacent to Morro Bay State Park. The close proximity of the new residential lots to park property may adversely impact park resources by necessitating the removal of mature tress within the park to address fire safety and other hazards.

- LUP Policy 11.14 establishes a minimum buffer of 100' for rural streams and 50' for urban streams. It maintains that these buffers shall be adhered to unless the practice would preclude an economic use of the property. Similarly, LUP Policy 11.18 prohibits new subdivisions adjacent to wetland areas unless the new building sites are located entirely outside the maximum applicable buffer (100' for rural streams and 50' for urban streams). The approved project is inconsistent with these standards because it involves grading and site disturbance right up to the bank of an on-site stream. Additionally, the approval assumes the site is urban when in fact the property is separated from urban areas by open space (i.e., Black Hill Natural Area and the Morro Bay estuary), and is more rural in character. Thus, the approved lot design, which would result in grading directly adjacent to the creek, as well as residential development approximately 65 feet from the stream, is inconsistent with the LCP's minimum 100-foot riparian setback.

- LUP Policies 12.01 and 12.06 reference Areas of Visual Significance and include provisions to ensure these scenic areas are protected through appropriate site and

CCC Exhibit 5
(page 6 of 13 pages)

building design, view easements and or corridors, minimizing grading and landform alteration, maintaining compatible height and bulk relationships with surrounding development, and where feasible by restoring and enhancing visually degraded areas. The proposed project, which will be visible from Highway One, South Bay Boulevard, and Morro Bay State Park, is inconsistent with these policies because it includes the removal of over 50 mature trees, grading over 70% of the site, and the introduction of a dense development of seventeen two-story homes in an otherwise scenic rural setting. The proposed residential development is out of character with the existing development in the immediate area and will block and degrade public views across the property towards the Black Hill Natural Area, Morro Bay, and the coast.

CCC Exhibit 5
(page 7 of 13 pages)

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Roger Ewing and Ray McKelligott

Mailing Address: P.O. Box 1323 and Blue Heron Terrace, 475 S. Bay Blvd #22

City: Morro Bay Zip Code: 93442 Phone: 805.772.1652
805.772.8728

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Morro Bay

2. Brief description of development being appealed:

Cluster development plan (with CDP) abutting State Park hillside

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

485 S. Bay Blvd
APN - 066-371-003
South Bay Blvd and Quintana St.

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COASTAL COMMISSION
CENTRAL COAST AREA

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-3-MRB-06-064

DATE FILED: 12/1/06

DISTRICT: Central Coast

CCC Exhibit 5
(page 8 of 13 pages)

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: November 13, 2006

7. Local government's file number (if any): S00-038/UPO-070/CPO-110/AD0-027

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:

Wayne Colmer
5000 Parkway Calabasas, Suite 110
Calabasas, CA 91302

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) Gary Johnson
1165 Morro St.
Morro Bay, CA 93442

Ray Oliveira
475 South Bay Blvd, #57
Morro Bay, CA 93442

(2) Bill Davies
Blue Heron Terrace, 465 S. Bay Blvd #7
Morro Bay, CA 93442

Doug Stuart
501 Pinon
Morro Bay, CA 93442

(3) Dorothy Cutter
290 Cypress
Morro Bay, CA 93442

Cheryl Stice
Blue Heron Terrace
475 South Bay Blvd #23
Morro Bay, CA 93442

(4) Darryl Wong
444 S. Flower, Suite 3860

Los Angeles, CA 90071
(letter enclosed)

Rich Hansen
475 South Bay Blvd #20
Blue Heron Terrace
Morro Bay, CA 93442

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal.** Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. from the Coastal Act

Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

30240 corresponds to our LCP sections 11.01 and 11.02 - quoted here.

Policy 11.01 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. The City shall either prepare a wetlands/estuarine map or, if funding does not permit such preparation, adopt the National Wetland Inventory by U.S. Fish and Wildlife Service dated 1979, as the mapping illustration of the wetland and estuarine areas contained within City boundaries. If the City adopts the National Wetland Inventory Mapping as their LUP wetlands map, then because that map does not precisely delineate the extent of wetland habitats and types, all proposed development located within 1000 feet of the mapped wetland boundaries shall be required to submit additional mapping based on U.S. Fish and Wildlife and Coastal Commission Statewide Interpretive Guidelines done by a qualified biologist. The additional mapping will be submitted for review and approval from U.S. Fish and Wildlife and the California Department of Fish and Game. After public agency approval has been obtained, the City shall define buffer areas around the wetland areas. The buffer areas shall be 100 feet around all wetland areas except where biologists identify the need for a greater buffer to protect the overall wetland system or a particular resource. Developments permitted within wetland and/or buffer areas are limited to the uses listed in Section 30233(c) of the Coastal Act.

We are not sure that our policy 11.01 has ever been applied.

Policy 11.02 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 maintain the habitat's functional capacity.

Our Response

This project will significantly degrade this area and be incompatible with the continuance of the habitat:

Loss of trees (52+ to be cut, 17 already cut; a mixture of elm, cypress, pine, and eucalyptus) on the development site plus many more under the conditions of a letter to the developer from the Department of Parks and Recreation, 7/24/06, from Vincent Cicero regarding the potential for tree failure or significant fuel for fire:
"It is the responsibility of the landowner to provide a 40 foot setback from the property line. (The DPR will not do this)...The preferred options is to permanently remove all trees on DPR land, re-establish the grassland/coastal scrub vegetation, and provide a 40-ft setback." (letter attached)

We disagree with this idea and believe that the developer should provide the buffer INSIDE the development rather than using the adjacent recreation area. Increasing the buffer into the State Park will also increase the area of land on the hillside that will lose all trees. This project is immediately adjacent to Morro Bay State Park and to Highway 1, A Registered National Scenic Byway and an All-American Road. This is neither (as stated in Section 30240) compatible nor a continuance of "those habitat recreation areas."

2. from the Coastal ACT

30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting. (30251 corresponds with our LCP 12.01 and 12.02)

LCP 12.06.C also supports Coastal Act 30251 when it says:
"View easements or corridors designed to protect views to and along the ocean and scenic and coastal areas."

Our Response:
This development will not be visually compatible with the character of surrounding areas: A mobile home park to the south and a hillside in a state park with trees. See enclosed photos of site.

3. Morro Bay's General Plan (LU) section 17.6, noted in staff report on the project to the Planning Commission 8/21/06:

"The hillsides are an important amenity and should be given special consideration when they are chosen for residential development. Some of the concerns that should be given to hillside development are as follows:

1. Grading should be kept to a minimum

....

5. In a tract of homes, design should be such that development does not simply begin at the bottom and continue unceasingly to the top."

Our response:
On number 1: Please note: Staff report to Morro Bay Planning Commission on August 21, 2006 states: "The project would entail demo of exising structures, removal of additional trees (52 total, 17 already removed before the tract map), and the grubbing and re-grading of nearly 70% of the site".

On number 2: Please see the map of the project with street rising nearly straight up the hill from 22 to 72 feet.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

Roger L. Ewing

Raymond T. McElligott

Signature of Appellant(s) or Authorized Agent

Date: 11/28/06

Note: If signed by agent, appellant(s) must also sign below.

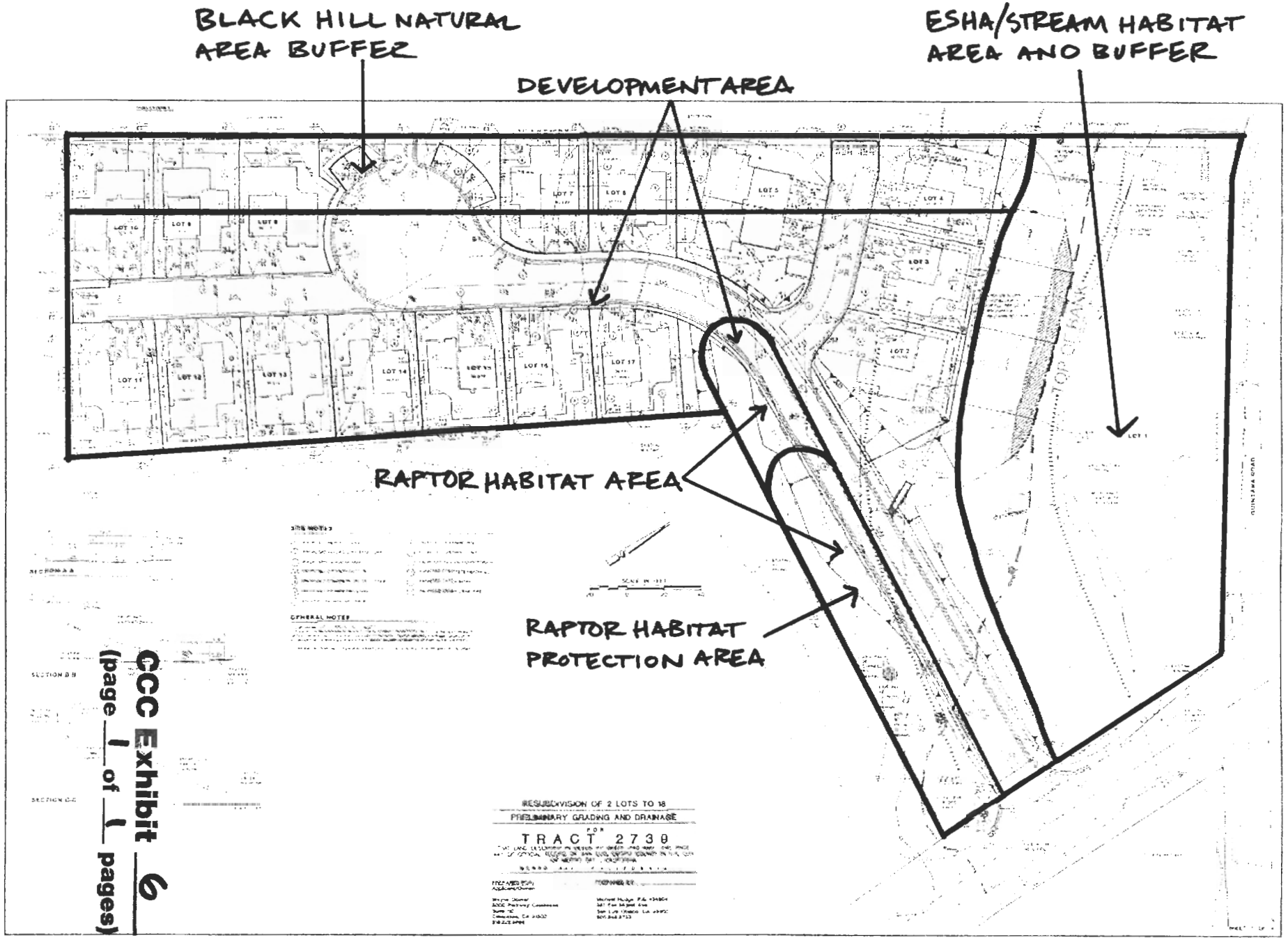
Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

_____
Signature of Appellant(s)

Date: _____

CCC Exhibit 5
(page 13 of 13 pages)



CCC Exhibit 6
(page 1 of 1 pages)

Chuck Meissner
929 Pecho Street
Morro Bay, CA 93442-2628
(805) 772-7105
chuck.meissner@sbcglobal.net

RECEIVED
AUG 0 6 2007
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 1, 2007

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Regarding: Appeal A-3-MRB-06-064

Gentlepersons:

"It was the people of California who voted to maximize coastal access and control shoreline development when they overwhelmingly approved proposition 20 in 1972, creating the Coastal Commission."* If one divides the popuation of California by the miles of state coastline I think the answer is over 33,000 people per mile of coastal access. This is a terrible responsibility for all of us who are stewards of the peoples' land. This present appeal to the commission is to stop an exploitation of one of Morro Bay's treasured corners.

The parcel in question is at the eastern corner of the city at the intersection of a main route into town and the main route from Highway One to State Park and Los Osos. These are country roads. One of these is on a hill and both these roads are somewhat winding and and hazardous, especially at their crossing, and would require considerable modification for tract access near the intersection. This parcel abuts an important mobile home park. It also abuts the lower edge of Black Hill, which is part of our state park, a forested area with several remote but popular walking trails. A wildfire in this park could quickly wipe out this development. But the most important location consideration is the runoff stream on the lower end. Three streams merge and flow down through the property under the road to their confluence with Chorro Creek, a major stream from the Cal Poly area. Chorro Creek in this area, and below to the estuary, is choked with willows and is a flood zone. This parcel is surely a "*wetland*" and is a habitat for native flora and fauna.

It is our opinion that there is no reason to develop this parcel but to continue to mine the gold of coastal real estate. John Sutter could not stop the '49ers from ruining his land, but we are asking that you help us protect our coast. Thank you.

Charles and Floretta Meissner,
Morro Bay

Charles & Floretta Meissner

Blocking the Way to the Beach, Los Angeles Times, September 3, 1995.

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

290 Cypress Ave.
Morro Bay, Ca. 93442
August 1, 2007

Dear Sir:

Please uphold the appeal #A-3-MRB-06-064. This is a terrible project for Morro Bay.

Thank you,

Dorothy Cutter

8-1-07

California Coastal Commission
RE: Commission appeal no. A-3-MRB-06-064

Please stop the housing development from being built behind 475 S. Bay Blvd., Blue Heron Terrace Mobile Home Park.

We moved here two years ago and picked the park for it's peace & quiet and wildlife.

Now there is a chance we will have two story homes which will be built five feet from my backyard.

Why must the homes be so large? (over)

If it is so the developer can make a larger profit maybe that property is not the one for him to develope.

The developer is putting in a "victory garden" next to a stream. Needless to say this will involve pesticides and fertilizer which will contaminate the water as it runs to the ocean.

Also we will have the long existance of construction noise, dust, and eventually street lights.

Please consider the effect to this small quiet area and all the people who live

CCC Exhibit 7 (page 3 of 9 pages)

here for the beauty.

As a retired Real Estate Broker and ~~Coast~~ Editor of the Palm Springs Today newspaper, helps to allow me to live out my life in beauty, peace, and quiet.

If development must be done, please allow only one story homes on large lots, no "victory garden", and do not let them remove and build on the 40 ~~feet~~ the state park has given them.

We want our trees.

Sincerely,

Cheryl Stice & James Stice

475 S Bay Blvd. #23 Morro Bay

CCC Exhibit 7
(page 4 of 4 pages)

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Ms. Cheryl Stice
Spc 23
475 S Bay Blvd.
Morro Bay, CA 93442

SAN

02 A

California Coastal Comm.
Central Coast District Office
725 Front St., Suite 300
Santa Cruz, CA 95060

Gentlemen,

Uphold the Commission
Appeal No. A-3-MRB-06-064 !

Mr & Mrs Raymond R. Oliveira

Mr. & Mrs. R. Oliveira
475 S. Bay Blvd. # 57
Morro Bay, CA 93442-2442

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CCC Exhibit 7
(page 6 of 7 pages)

August 1, 2007

California Coastal Commission
Central Coast District office
725 Front St., Ste 300
Santa Cruz, Ca. 95060

Subject: Commission Appeal
A-3-MRB-06-064

I am writing in opposition to the development noted above.

I have lived in Blue Heron Terrace Mobile Home Park, 475 S. Bay Blvd. Morro Bay, Ca. 93442 for 18 years.

The proposed development would abut our Park.

Increased traffic, congestion, noise and the destruction of beautiful trees would be the result of approving this development.

It would change the character of our beautiful, peaceful area, and might well lead to other construction that would continue the deterioration of a lovely small town ambiance.

Please DO NOT approve this project.

Jacqueline L. Wilton
Space 43
Blue Heron Terrace
Mobile Home.

JACQUELINE L. WILTON
475 S BAY BLVD SP 43
MORRO BAY, CA 93442

Ms. Wilma A. Smith
509 Pinon Dr
Morro Bay, CA 93442-2433

Wed. aug. 1, 2007

California COASTAL COMMISSION
Central Coast DISTRICT OFFICE
725 FRONT ST SUITE 300
SANTA CRUZ, CA 95060

Honorable Commissioners:
(Sorry, handwritten because I do NOT have a computer)

RE: Commission appeal No. A-3-MRB-06-064

Please uphold this appeal! (16 APTS. & 1 DUPLEX PLANNED)

Mr. Colmer (out-of-town Developer) has had many problems with his projects here in Morro Bay — and this is his 3rd similar one.

The Planning Commission withheld approval until he came back with some changes — & then, By a close margin it was approved. The City Council also O.K.'d it on a 3 to 2 vote.

HOWEVER, he illegally came in with chain-saws & cut down approx. 50 tall trees (homes for RAPTORS, OWLS,) before the city even knew it. (We) called & said the trees were going down & 1 comm./person went right up to the property & stopped it.

As designed,:

① Too large buildings on small lots — with NO OPEN SPACE at each SPACE. The OPEN SPACE is down at a much lower end of the property — & he

CCC Exhibit 7
(page 1 of 9 pages)

says that "OPEN SPACE" can be developed as a COMMUNITY GARDEN. No one, I'm sure, could carry (wheel-barrow) garden tools, materials, etc. DOWN a steep embankment to this STRIP of land. It borders a busy street also — Quintana Rd. Children would not be safe there, NO fencing or protection and far from their own yards. One side of the street in the Development is to have curb & sidewalks. What about the other side of the same Street?

He also plans to cut ADDITIONAL high canopy trees — & RAPTORS are already confused & lack the former Nesting places.

The man has asked the STATE PARK to let him have 40 feet behind (& adjacent) his development. I as a TAX PAYER WOULD Never allow a Developer to be given any of MY PARK land (This is called BLACK MOUNTAIN area).

He also states the PARK will be a "great advantage" to owners — a gate will allow them to venture into the PARKS wilderness area, unsafe & many dead Monterey Pines there & possible wild fire hazard as it's dry & heavily brush covered.

There also is a creek running in the lower area — with a culvert to allow it to go under another main & heavily travelled (Road (So. Bay Blvd.) This Creek is dry in the off-rain season, BUT I've seen 3'-4' of water in that intersection of So B. Blvd & So. Bay Blvd. (1989, I believe) You

(3)

I'm sure, have a detailed map & plan of this development & can easily see the problems.

a well in this creek-area also presents a concern.

With 57 condos and increased traffic will certainly endanger even more the intersection & "in & OUT" roads to the homes. Our City usually plans 2 cars per home. Ms. Colmer's "traffic expert" says there will be only 37 more cars added to already a dangerous situation. The City has made the stipulation that he has to put in a 4-WAY STOP sign at the intersection of So. B. Blvd. & Quintana (St. is NOT in Cal Trans jurisdiction.)

Please, do not allow this Colmer Development to become a reality. Oh, also, there are NO low-cost or affordable housing requirement in this plan. and we need this level of housing.

Thanks you.

Sincerely,

Nina A. Smith

(805 772-2141)

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CENTRAL COAST AREA

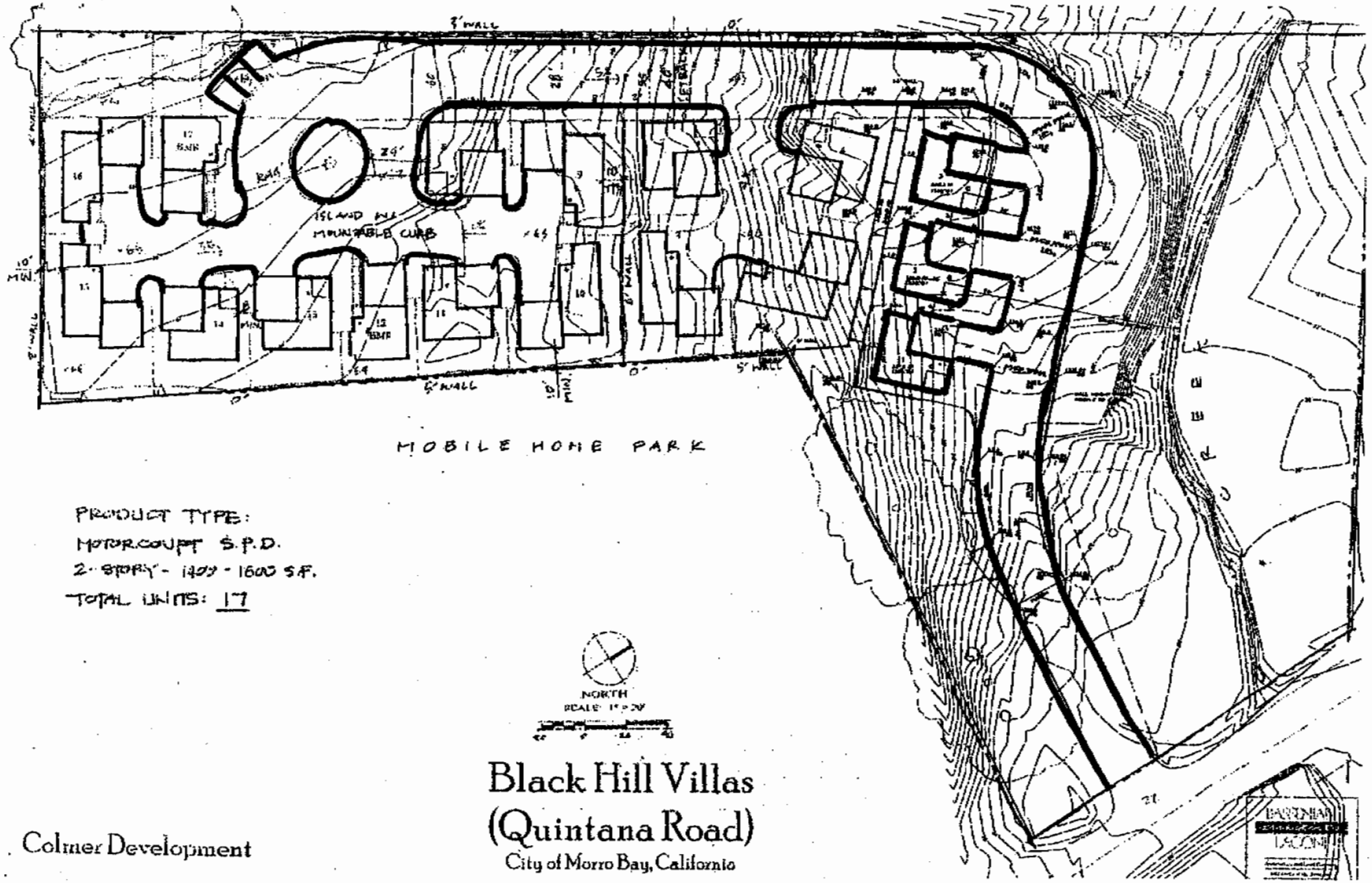

Exhibit 8
A-3-MRB-06-064
Black Hill Villas
Applicant's Proposed Revisions

BLACK HILL VILLAS, L.P.
5000 Parkway Calabasas #110
Calabasas, CA 91302
P: (818) 222-5666 F: (818) 222-5668
Email: Colmer32@sbcglobal.net

RECEIVED
DEC 20 2007
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

December 18, 2007

Mr. Mike Watson
Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Re: A-3-MRB-06-064, Black Hill Villas

Dear Mr. Watson:

Enclosed is a revised alternate plan. Hopefully, staff can support this new plan. The plan has 17 homes. All the homes are setback a minimum of 100 feet from the wetland drainage ditch. The access road is setback a minimum of 50 feet from the ditch. All the homes are setback a minimum of 40 feet from the State Park. The proposed landscaping for this project will include Monterey Cypress tree planting in each east facing rear yard that will help screen the second floor of the homes from visibility from Highway 1. This plan responds to all you concerns. We would like to discuss the alternate plan and the project status either by phone or at a meeting at your office.

Please try again to get my project scheduled for the January or February meeting. The hearing delays are now a financial hardship. I would like to remind you again of the promise you and Steve made, in return for my agreement to allow a postponement of the initial Substantial Issue hearing, to schedule the hearing on this project without excessive delays.

Also, please send me any new correspondence the staff has received related to my project since the staff report was published.

Sincerely,

Wayne Colmer

Wayne Colmer

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CENTRAL COAST AREA

Robert F. Neumann
1698 Nipomo
Los Osos, CA 93402

Mr. Mike Watson
California Coastal Commission
725 Front Street
Santa Cruz CA, 95060

November 26, 2007

Regarding A-3-MRB-06-064, Black Hill Villas, Fire Safety Issues

Dear Mr. Watson,

I have been asked to review the above noted project and to make comment on the fire threat and mitigation measures proposed by the Morro Bay Fire Department. I am very familiar with the area, as I reside approximately 4 miles from the site. In addition I have written both the Fire and Hazard Mitigation Plans for the City of Morro Bay. (Qualifications attached)

History

Historically, wildland fires in San Luis Obispo County have burned thousands of acres and caused considerable property loss with an occasional life loss. The majority of these large fires have occurred in the northern and central interior portions of the County. Large fires on the coastal side of the county occur less frequently. Past large fires in the coastal areas of the county within the last thirty years include 2, both located in the Montana de Oro State Park area. These fire each burned approximately 500 acres and occurred in the late fall during dry off shore (east) wind events. Within the City limits of Morro Bay, the largest fire in recent memory was approximately 7 acres and occurred on the steep slopes of the hills located above Hwy #1 in north Morro Bay.

Fire Factors

Three factors contribute to wildland fire spread and threat:

- Topography: Canyons, hillsides, ridges and other "lay of the land" features will have a dramatic effect on fire spread. Aspect or orientation of the fuel beds also plays an important role, in general south facing slopes are subject to greater solar radiation, making them drier and thereby intensifying wildland fire behavior. Slope is a critical factor in fire spread, in general fire burns 16 times faster up hill.
- Weather: In this coastal region weather plays a key factor in the wildland fire potential. Rain fall occurs primarily between the months of November and April, and ranges between 20 to 25 inches per year. Summers are typically cool with fog and or high humidity the norm. Wind in the area, a key factor in spread, is quite predictable. It typically flows from the north, northwest and is moisture laden due to the close proximity of the ocean, minimizing the fire danger. The fall season will see dryer and warmer days, with occasional east to west wind flows (off shore). This in combination of the lack of rainfall will see the fire hazard threat increase. It should be noted that these winds do not have the intensity of the Southern California "Santa Ana's" and do not meet "Red Flag" warning criteria.

CCC Exhibit 9
(page 2 of 7 pages)
A-3-MRB-06-064

- Fuel: The arrangement of the fuel on the land is an important consideration. By breaking up or thinning fuel beds one can slow the rapid spread rates of wildfires. In addition, the removal of certain fuels in the horizontal plane can prevent fires from "laddering" into the tops of trees where it may burn hotter and be more difficult to contain.

Site Specifics

- Topography: The project site is slightly sloped and located near the base of Black Hill with a north aspect. The topography does not negatively impact fire spread or fire protection efforts. In fact is favorable as fire, if not driven by wind, will burn upslope away from the site through fuels that are typically slower burning based on the moisture they accumulated from the north aspect.
- Weather: The generally mild coastal climate keeps the wildland fire threat to the site at a minimum. As noted above, the normal wind flow is from the north, is cool and moisture laden and approaches the site flowing downhill. In the fall moderate east to west off shore wind flows do occasionally exist, and the area will experience its only true fire weather. However the area to the east of the site is developed by trailer parks, roadways or is covered by riparian vegetation which will not support fire spread. During these periods, a fire located on the State Park side of the project would be blown uphill and westward away from the project site.
- Fuels: There are very limited or no fuels on the 3 sides of the project. The remaining side adjoins the State Park/Black Hill Nature Preserve. The proposed structures in this immediate area are set back adequately from the property line and a block wall will be installed on the boundary halting any ground fire spread. The fuels beyond the block wall, into the preserve, range from light fuels to heavy timber. These fuels are arranged in a mosaic pattern and a PG&E service road and power line easement have reduced the heavy fuel loading in this area. The naturally occurring trees are widely spaced and do not present a crowning potential. The slope in this area remains slight and away from the project, therefore these fuels will not be subject to preheating. The distance to the steeper portion of Black Hill, where denser brush fields are found, is considerable; therefore these fuels do not present a hazard to the project based on distance.
- Significant Hazard: As noted above, PG&E power lines parallel the State Park side of the project. A number of non-native trees, located on the project site, are growing into the lines and will soon present a significant hazard. These trees should be removed.

Mitigation Measures

The Morro Bay Fire Department has required a number of mitigations to in dealing with the fire threat on the State Park side. These include fire sprinklers, non-combustible roofs, siding and decks, enclosed eves, approved vents, dual glazed windows and fire resistant landscaping. Fire department access and water supply issues have been addressed.

One area of concern has not been addressed. Rain gutters, when not adequately maintained, will collected leaf material which becomes a receptive fuel bed for embers and sparks and can then transmit fire underneath the non-combustible roof materials. I recommend that rain gutters be protected by non-combustible leaf shields or not allowed.

Alternate Site Plan

An alternate site plan has been developed. This plan increases the set backs along the State Park boundary with out compromising fire department access. The results of this increase are further separation from the fuels and a wider defensible space.

Conclusion

While the fuels located on the state park side of the project due present a threat, the combination of the favorable topography, the strong coastal weather influence, the required mitigation measures and setback area, of both plans, diminishes this hazard to an acceptable level.

The area fire history, which aligns with the areas weather patterns, indicates that should a fire occur it will either back slowly into the adjoining fuels, against the wind and down hill, or move from the project site up wind and to the west, upslope. In either situation, the construction type, mitigation measures, setbacks and fire department access routes will allow a fire to pass from or onto the site with little or no damage to the improvements.

Robert F. Neumann

ROBERT F. NEUMANN
1698 Nipomo
Los Osos, Ca.
805 528 2826

FIRE SERVICE EXPERIENCE

1/91 to 6/02	Fire Chief - San Luis Obispo City Fire Department
5/88 to 1/91	Fire Battalion Chief/Fire Marshal - San Luis Obispo City Fire Department
5/80 to 5/88	Fire Captain - San Luis Obispo City Fire Department
9/75 to 5/80	Fire Inspector, Fire Engineer, Firefighter, Fire Dispatcher - San Luis Obispo City Fire Department

OTHER EXPERIENCE

1976 to Present	Owner/Operator - Robert F. Neumann Construction
2002 to Present	Program Coordinator – SLO County Community Emergency Response Teams (CERT) - Volunteer Position
2002 to Present	Owner/Operator – Robert F. Neumann, Emergency Services Consultant

EDUCATION

Graduated 1974 California Polytechnic State University, San Luis Obispo, CA
Degree: Bachelor of Science
Major: Soil Science

A considerable amount of fire service and disaster preparedness training.

RELATED PROJECTS/EXPERIENCE

Disaster Manager I currently serve on a US Department of Interior - Park Service Type I Major Incident Command Team (MICT) as a Safety Officer (3 years) and have seven years experience as a Type I Operations Section Chief on a Calif. Dept of Forestry & Fire Protection Type I MICT. Team assignments include a wide range of experiences; from wildfires, airplane accidents, hurricane recovery (Katrina - 52 days), earthquakes and hazardous materials incidents.

Related Experience
Cofounder and past Director (7 Years) of the SLO Co. Regional Hazardous Materials Response Team.

Founder and past Director (12 years) of the SLO Co. Fire Chiefs Association Critical Incident Response Team.

I currently serve on the board of directors of the County's Emergency Medical Service Agency and the County Fire Safe Council.

City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200
www.morro-bay.ca.us

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JAN 17 2008
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COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

January 11, 2008

RE: Permit Number A-3-MRB-06-064 Black Hill Villas – Colmer Subdivision Request

Honorable Chairman and Commissioners,

An appeal has been filed and your staff has conducted their analysis on the above referenced project. On behalf of the City staff, we would like to offer comments regarding the general topic of implementing our certified Local Coastal Plan Policies. The City's action on this matter has been clear and made apart of the administrative record. Additionally, the City staff would like to clarify our concerns with several points raised in the staff report presented by your staff.

First, the City requires applicants to prepare site-specific biological studies from qualified professionals. These reports are used to assist in determining which LCP policies best apply. We would recommend your commission support local assessments to best determine which properties exhibit environmental sensitive habitats ESHA qualities. For this particular site protocol level surveys were conducted and mitigations were required.

Secondly, the LCP states Policy 6.07 "*The City's Urban/ Reserve and Urban Services Line shall be drawn as follows: include all area within the City limits but exclude the Cabrillo property and the portion of the Williams property which is outside of the approximately 38 acre area adjacent to Highway One and designated for commercial and open area uses.*" Under this policy the site would be considered urban.

Lastly, the City takes issue with California Coastal Commission not recognizing local jurisdiction regarding fire related decisions. The State Fire Codes for fire buffer setbacks intentionally excluded areas subject to city jurisdiction and allows local jurisdictions to establish the fire mitigation measures that are best for their area. Quite obviously this means that the State Codes for fire clearance allow the Fire Chief of local jurisdictions to establish the fire mitigation measures that are best for their area when proper clearance cannot be met.

Please feel free to contact me if you have any questions or would like additional information.

Sincerely,

Bruce Ambo, AICP
Public Services Director

Mike Pond,
Fire Chief

cc: Mayor and Council Members
Andrea Lueker, Interim City Manager
Rob Schultz, City Attorney
Mike Prater, Planning Manager
Coastal Commission Staff

CCC Exhibit 9
(page 6 of 7 pages)
A-3-MRB-06-064

MW CL DC

P.O. Box 1323
Morro Bay, CA 93443

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COASTAL COMMISSION
CENTRAL COAST AREA

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NOV 26 2007
CALIFORNIA
COASTAL COMMISSION

November 20, 2007

Mr. Steve Monowitz
California Coastal Commission
725 First Sreet – Suite #300
Santa Cruz, CA 95060

Dear Mr. Monowitz:

This is a letter of formal complaint regarding the lack of notification to appellants regarding item #F11b (A-3-MRB-06-064, Black Hill Villas) at your San Diego hearing last week.

As the appellants, we drove 7 hours from Morro Bay to San Diego on Thursday, so we would be ready for our scheduled item Friday morning. When we arrived at the Sheraton, we checked the posted public agenda and saw our item. We noticed that others had been stamped "postponed."

We filled out speaker slips while the Commission was in closed session and waited. Despite breaks in the meeting and checking with staff, no one told us that the applicant had requested a postponement on the De Novo. Having our speaker slips in hand, why didn't someone on staff tell us that the De Novo (public hearing) was postponed?

From the staff report, we knew staff was recommending in favor of a Substantial Issue Determination. We would not have driven the 700 mile round trip if we had been noticed that the De Novo hearing had been postponed. We believe that this postponement did not happen at the last minute.

Having spent two days of travel and expenses, we request that you schedule the next hearing of this item much closer to Morro Bay.

Respectfully

Ray McKelligott

Ray Mc Kelligott
Appellant
805.772.8728

Roger Ewing

Roger Ewing
Appellant
805.772.1652

cc: Mr. Peter Douglas, Executive Director
Dr. Charles Lester, Senior Deputy Director

CCC Exhibit 9
page 7 of 7 pages
A-3-MRB-06-064

COLMER CONSTRUCTION

5000 Parkway Calabasas • Suite 110 • Calabasas • California 91302 • (818) 222-5666 • FAX (818) 222-5668 • EMAIL: COLMER32@sbcglobal.net

February 29, 2008

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FEB 2 9 2008
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Mr. Michael Watson
California Coastal Commission
725 Front Street
Suite 300
Santa Cruz, CA 95060-4508

RE: Appeal A-3-MRB-06-064
Black Hill Villas

Dear Mr. Watson:

This staff report contains omissions and mischaracterization of facts that could affect the outcome of the appeal. The following corrections to the report should be made by Coastal staff prior to the hearing:

1. The staff report infers the applicant removed trees from the property without the proper CDP. Coastal Commission staff is aware that the City of Morro Bay, the authority for granting the tree removal permit, authorized the removal of trees by the applicant and its prior owner under City guidelines. The City guidelines allowed up to 4 trees to be removed per parcel per year administratively, without a formal application. The City did require approval of a consultant's, "Raptor Activity Study and Recommendations" prior to each tree removal request. The Coastal staff report states "compensatory mitigation" is required for this inferred enforcement issue[1]. Exhibit 1 provides the City's explanation. Compensatory mitigation should not be required.
2. The Coastal staff report should disclose that to comply with the Coastal Commission Conditions of Approval a new subdivision map will be required. The approved tentative tract map is subdivided with 17 residential lots and one open space lot. Coastal Commission Conditions 1 (a) and 1 (b) require two additional new lots for an ESHA/Stream Habitat parcel and a Raptor Habitat Area parcel. The creation of new parcels is in our opinion unnecessary.
3. "City fire rules require a minimum 30-foot buffer." Page 2 – Paragraph 4. The City Planning Department and City Fire Department have no knowledge of any such buffer requirements.

[1] Page 32 paragraph 4

CCC Exhibit 10
(page 1 of 3 pages)

4. Page 3 – Paragraph 2 states that the residential development will degrade views towards the Morro Bay Estuary. This development does not affect views towards the Estuary..
5. The Staff report fails to disclose its Conditions prohibit housing development on the lower parcel and there is an existing house on this property.
6. Page 21 – Description of the Stream Channel should disclose the stream's National Wetland Inventory classification. The stream channel that crosses the property is classified as a PSSAx (Palustrine, Scrub – Scrub, Temporarily Flooded, Excavated) stream in the National Wetlands Inventory. The functions and values of this type of stream/wetland are typically not very high.
7. The staff report's description of the origins of the stream channel on Pg. 21 in our opinion is incorrect (*The stream slopes from its origins in the Black Hill Natural Area across the subject property and then under South Bay Boulevard towards Chorro Flats and into the Chorro Creek watershed, one of the largest contributors to the Morro Bay Estuary*) and Pg. 22 (*The origins of the stream channel are found in the upper slopes of the Black Hill Natural Area*). The origins of the stream channel are from a small drainage area to the northwest of the site, on the north side of State Highway 1. This is clearly shown on the USGS 7.5 minute quadrangle map, the NWI map, and on aerial photographs of the area. (Current configuration probably most clearly seen in the 1963 aerial.) The staff report makes it seen like there the stream origin is in ESHA within the Black Hill Natural Area. It is not. Much of the runoff from the upper slopes of the Black Hill Natural Area is directed east toward South Bay Boulevard by a small ridge located midway up the slope. The channel definitely receives runoff from a portion of the northern flank of Black Hill. There are no well-defined channels that run north through the Black Hill Natural Area down into the channel. There are shallow swales (vegetated with upland plants) in a few locations.

Sincerely,

Wayne Colmer

Exhibit 1

From: Michael Prater [mailto:]
Sent: Monday, February 25, 2008 12:25 PM
To: Wayne Colmer
Cc: Michael Watson
Subject: Black Hill Villas vegetation removal

Mr. Colmer,

In reference to your inquiry about removal of trees for subject property prior to permit processes for subdivision. Our understanding is that 16 trees were removed during a two-year period, which included Blue Gum trees. At the time of removal the City operated under the authorization to remove 4 trees per year per lot. It is the City's understanding removal of these 16 trees followed the guidelines and no permit was necessary.

Mike

Mike Prater, Planning Manager
Public Services Department
955 Shasta Ave.
Morro Bay, Ca 93442
Tel: (805) 772-6211 Fax: (805) 772-6268
mprater@morro-bay.ca.us

EX PARTE - COLMER

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FEB 27 2008

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

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FEB 27 2008

CALIFORNIA COASTAL COMMISSION

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Date and time of communication: 2.27.08 10:30 AM

Location of communication: S.L.O. COUNTY GOV. OFFICE
(If communication was sent by mail or facsimile, indicate the means of transmission.)

Identity of person(s) initiating communication: MORGAN RAFFERTY & JEFF PIENACK

Identity of person(s) receiving communication: COMMISSIONER ACHADJIAN

Name or description of project: SEE ATTACHED

Description of content of communication:
(If communication included written material, attach a copy of the complete text of the written material.)

SEE ATTACHED

2.27.08
Date

Signature of Commissioner

If communication occurred seven (7) or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director **within** seven (7) days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven (7) days of the hearing, **complete** this form, provide the information **orally** on the record of the proceeding **and** provide the Executive Director with a copy of any written material that was part of the communication.

CCC Exhibit 11
(page 1 of 5 pages)

APPENDIX 2

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COASTAL COMMISSION
CENTRAL COAST AREA

Ex-Parte Meeting with Commissioner Achadjian

RE: March 2008 Coastal Commission Meeting

Attendees:

Morgan Rafferty, Executive Director, ECOSLO
Jeff Pienack, Chapter Chair, San Luis Bay Chapter, Surfrider

Date: February 27, 2008

ISSUES:

Thursday, March 6.

Th7b- A-6-CII-08-019, City of Carlsbad

The dredging, improving and long-term maintenance of portions of Agua Hedionda and Calavera Creeks for flood control enhancement purposes. The portion of the project in the Costal Zone is the portion of Agua Hedionda Creek from the El Camino Real Bridge to the downstream side of Cannon Road Bridge.

Issues for consideration:

- Impacts to environmentally sensitive habitat (ESHA) and wetlands
- Inconsistency with approved 1994 Master Drainage Plan
-

We urge SUPPORT of Staff recommendation for finding of Substantial Issue

Th11b- City of Pismo Beach LCP Major Amendment Number 1-07 (Kendall/Five Cities Drive Rezone).

We urge SUPPORT of Staff recommendation

Th13a- A-3-MRB-06-064, Black Hill Villas, City of Morro Bay.

Subdivision of two parcels (totaling 3.17 acres) into 17 residential parcels and one common area parcel; removal of two existing residential structures; grading and site preparation for new residential sites and new access roads; construction of roads, utility infrastructure, and 17 residential units.

Issues for consideration:

- Protection of environmentally sensitive habitat (ESHA) and wetlands
- Inconsistent with certified LCP

- Viewshed Protection
- Set back issues
- Landform Alteration

All of these issues are addressed in staff recommended to ensure that the project protects coastal resources consistent with the requirements of the certified LCP. \

We urge SUPPORT of Staff recommendation

Th13b- 3-06-065, Ocean View Plaza

Mixed use project consisting of: 87,362 sq. ft. of retail and retail support use, including 30,000 sq. ft. of restaurant use; 38 market-rate condominiums. 13 inclusionary housing units; 8,408 sq. ft. of coastal/community use; 377 parking spaces; construction of an onsite desalination plant; rehabilitation of the San Xavier Fish Reduction Plant as a history center with an adjacent history plaza; replication of a utility bridge; and development of a community park.

Issues for consideration:

- Public access
- Coastal views
- Landform alteration
- Water quality
- Historic Resources

Of particular concern:

The Coastal Act requires that new development be located in existing developed areas with adequate public services and where it will not have significant adverse effects on coastal resources:

Section 30250(a): *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...*

This policy is directly applicable to the project because it is located in an already developed area – the highly urbanized City of Monterey – that is struggling with serious limitations on adequate public water supplies.

Because the applicant is proposing an alternative water supply outside of the current public service system for the City of Monterey, Section 30254 of the Coastal Act also is applicable. It provides for new or expanded public works facilities and status:

30254. New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; . . . . Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned

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FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

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CALIFORNIA
COASTAL COMMISSION

Name or description of project, LCP, etc.: Appeal A-3-MRB-06-64 (Colmar)

Date and time of receipt of communication: July 26, 2007 12:15 P.M.

Location of communication: Ventura, CA

Type of communication (letter, facsimile, etc.) Personal meeting

Person(s) initiating communication: David Neish

Person(s) receiving communication: Pat Kruer

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

A presentation by applicants representative was provided of a proposed 17 unit Subdivision in Morro Bay, CA. The representative discussed (2) issues. First that CCC staff was suggesting a setback of 100 ft from a creek where as because the property was located in a Urban Area where a minimum 50 ft setback was required. The urban designation is in compliance with the City Zoning and the Certified LCP. Second that CCC staff was suggesting the condition of wetland where the applicant contends a wetland doesn't exist.

7/30/07
Date

Pat Kruer
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

CCC Exhibit 11
page 4 of 5 pages

If communication occurred ~~within seven days~~ of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

✓ DD sent
CL
DC
MW

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NOV 13 2007
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COASTAL COMMISSION

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LPC, etc.: A-3-MRB-06-064 (Colmer-Morro Bay)

Date and time of receipt of communication: 11/6/07 (5:00 PM)

Location of communication: Santa Barbara

Type of communication (letter, facsimile, etc.): Personal Meeting

Person(s) initiating communication: David B. Neish

Person(s) receiving communication: Dan Secord

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COASTAL COMMISSION
CENTRAL COAST AREA

Detailed substantive description of content of communication:
(Attach a copy of the complete text of any written material received.)

Representative of the applicant presented the past history of communications with CCC staff since January 2007. Discussion included setback recommendation by CCC staff of 100+ feet from streambed and 100+ feet from State Park boundary line that would basically render the proposed 17 lot subdivision economically unviable. It was indicated that the applicant was going to investigate a redesign that might allow for the opportunity for CCC staff to look at other options for the proposed residential development. This would likely create the need for a postponement for the November hearing.

11-12-07
Date

Dan Secord
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

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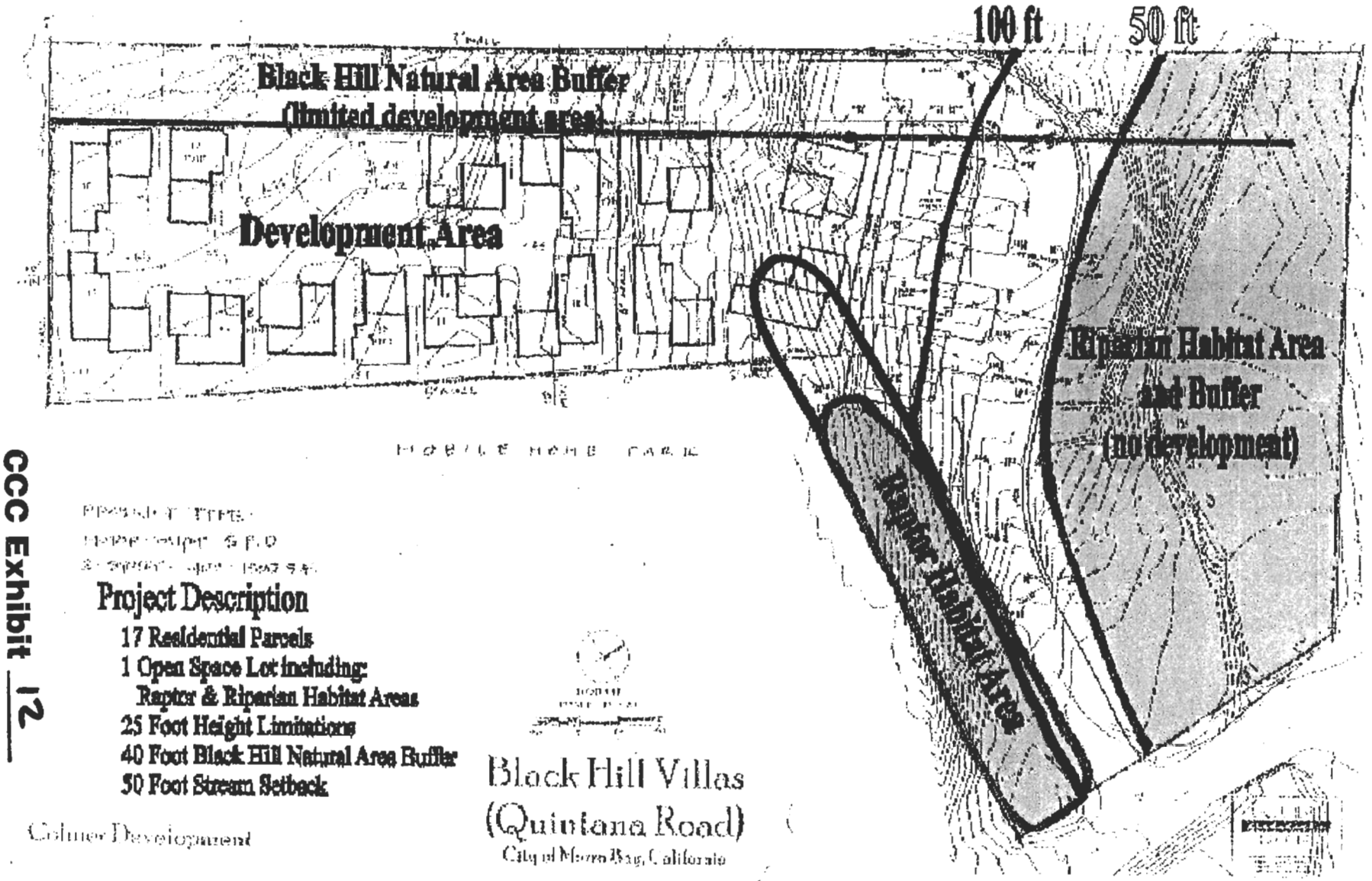
CCC Exhibit 11
(page 5 of 5 pages)

COMPARISON OF HABITAT AREAS SITE PLANS



CCC Exhibit 12
(page 1 of 1 pages)