

**CALIFORNIA COASTAL COMMISSION**

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

**ADDENDUM****Th11b**

**DATE:** July 8, 2008  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Addendum to Agenda Items Th11b, De Novo Hearing for A-4-STB-07-113 (Renker), for the Thursday, July 10, 2008 Commission Hearing

The purpose of this addendum is to: (1) make clarifications to the lighting condition such that lighting for perimeter and aesthetic purposes may be allowed if it is of low stature and with proper downward shielding and low intensity wattage; (2) include tree trimming specifications to ensure that nesting birds are not adversely impacted; (3) provide minor clarifications to the project description; and (4) attach correspondence received as of July 8, 2008.

*Note: Strikethrough indicates text to be deleted from the June 19, 2008 staff report and Underline indicates text to be added to the June 19, 2008 staff report.*

1. Special Condition 11 on Page 11 of the staff report shall be modified as follows:

**11. Lighting Restriction**

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. ~~No lighting~~ shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

C. Lighting for the tennis court whether temporary or permanent, shall be prohibited.

2. Special Condition 14 on Page 13 of the staff report shall be modified as follows:

#### **14. Landscape and Monitoring Plan**

A. Prior to the issuance of the coastal development permit, the applicants shall submit two (2) sets of final landscape plans prepared by a licensed landscape architect or a qualified resource specialist for review and approval by the Executive Director. The landscaping plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall be in substantial conformance with the project landscape plans, pursuant to the October 3, 2007 revision, and shall incorporate the criteria set forth below. All development shall conform to the approved landscaping plans:

1. All graded & disturbed areas on the project site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, including lawn that must be selected from the most drought tolerant species. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
2. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
3. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
4. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
5. The landscape plan shall include the use of native plant species that support monarch butterfly basking and nectaring activities.
6. The landscape plans shall include tree trimming provisions for all trees on the subject site for the express purpose of ensuring that nesting birds are not adversely impacted. Specifically, tree trimming of any tree on the subject property shall only be done during the non-nesting season (October through December) to the maximum extent possible. All tree trimming shall be overseen by a qualified arborist. The arborist and qualified biologist shall evaluate, provide recommendations, and implement measures to ensure that the proposed tree trimming would not compromise the tree's ability to support future nests. The removal of non-active raptor nests shall be prohibited, except where impacted by tree trimming that is necessary to avoid an immediate danger to health, safety, or property.

If tree trimming activities cannot feasibly avoid the nesting season, a qualified biologist, or other resource specialist, shall conduct a survey of nesting activities on, and/or adjacent to, the subject property. If an active songbird nest is located, then no tree trimming activities may occur within 300 feet of the occupied tree until a qualified biologist concludes the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. If an active raptor, rare, threatened, endangered, or species of concern nest is found, then no tree trimming activities may occur within 500 feet until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. If tree trimming is necessary within 300 or 500 feet, for songbirds and raptors respectively, of an

occupied tree in order to avoid an immediate danger to health, safety, or property, then the applicant may seek to obtain an amendment to this permit or an emergency permit for such trimming, unless the Executive Director determines that no such permit or amendment is necessary.

B. The Applicant shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

C. Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

D. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicants, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Special Condition 7 on Page 8 of the staff report shall be modified as follows:

#### **7. Nesting Bird Protection Measures**

A qualified biologist, with experience in conducting bird surveys, shall conduct bird surveys 30 days prior to construction activities to detect any active bird nests and any other such habitat within ~~300~~ 500 feet of the construction area. The last survey should be conducted 3 days prior to the initiation of clearance/construction. If an active songbird nest is located, clearing/construction within 300 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. If an active raptor, rare, threatened, endangered, or species of concern nest is found, clearing/construction within ~~300~~ 500 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. The biologist shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to protection of nesting birds.

4. The following policy shall be added after the last full paragraph on page 28 of the staff report:

**DevStd BIO-TC-1.7: (COASTAL) Development in or adjacent to ESH or ESH Buffer shall meet the following standards:**

**a. Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low**

intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.

5. The following policy shall be added after Policy LCP DevStd VIS-TC-2.2 on page 40 of the staff report:

**DevStd VIS-TC-1.2:** Development and grading shall be sited and designed to avoid or minimize hillside and mountain scarring and minimize the bulk of structures visible from public viewing areas. Mitigation measures may be required to achieve this, including but not limited to increased setbacks, reduced structure size and height, reductions in grading, extensive landscaping, low intensity lighting, and the use of narrow or limited length roads/driveways, unless those measures would preclude reasonable use of property or pose adverse public safety issues.

6. The first sentence of the third full paragraph on Page 2, and identical reference on Pages 16, of the staff report shall be modified as follows:

A known wintering aggregation site is located off-site, approximately ~~250~~ 125 east of the property.

7. The second sentence of the last paragraph on Page 32 of the staff report shall be modified as follows:

The subject property is located approximately ~~250~~ 125 feet from a property known to harbor a major monarch butterfly aggregation site.

8. The following shall replace Section V.D.1 “Lighting” on Page 36 of the staff report:

Lighting

In past actions, the Commission has found that night lighting can create a visual impact to nearby scenic and public roads. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of protected or sensitive wildlife species. In this case, the subject site has the potential to support nesting activities for a number of bird species. The proposed project would introduce new artificial lighting throughout the parcel. This impact can be minimized by directing lighting downward. Toro Canyon Plan Development Standard (DevStd) BIO-TC-1.7 requires exterior night lighting to be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife, where it cannot be avoided. Additionally, DevStd BIO-TC-1.7 prohibits high intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH. Additionally, DevStd VIS-TC-1.2 requires the use of low intensity lighting. To ensure consistency with the LCP requirements, including the Toro Canyon Plan, **Special Condition No. 11** therefore outlines lighting restrictions such that all exterior night lighting installed on the project site shall be of low intensity, low glare design, including perimeter and aesthetic lighting, and shall be shielded to direct light downward onto the subject

parcel(s) and prevent spill-over onto adjacent parcels, including public areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. The restriction on night lighting is necessary to protect the nighttime character of this portion of the bluffs both to minimize impacts to sensitive habitat areas and to assure consistency with the scenic and visual qualities of this coastal area. Further, lighting of the tennis court would be prohibited.

9. The following shall replace Section V.D.1 "Nesting Birds" on Pages 34-35 of the staff report:

*Nesting Birds*

The property is semi-wooded, consisting of a variety of ornamental trees and large shrubs, intermingled with coast live oak trees. The understory is mostly ruderal grasses and herbs beneath these tree canopies and no natural habitat remains.

The biological report (Althouse and Meade, 2008) indicates that the variability of the tree canopy structure attracts a surprisingly large number of birds to the property, including migrating songbirds as well as year-around residents. Red-tailed, red-shouldered, and Cooper's hawks were observed on the property during the winter months. Biological surveys of the site identified a large raptor nest in a mature blue-gum eucalyptus tree. However, the nest was unoccupied and was not clearly linked to a specific raptor species. Acorn and Nuttall's woodpeckers are residents in the trees on the property; nesting cavities of each species were observed. Additionally, a pair of kestrels claimed two acorn woodpecker cavities as nest sites. As currently designed, these trees will remain on the project site.

The biological report also indicates that special status bird species are unlikely to nest on the property, but could utilize the site as migrants during the non-breeding season. The proposed redevelopment of the site from the more typical residential-size to a residential estate will result in the increased intensity of use of the property. The biological report indicates that this increased use of the property, both from construction and long-term occupation, could potentially decrease the desirability of the tree canopy habitat to migrant and nesting birds; however, the proposed dense landscape plantings would likely be desirable habitat to most or all of the species currently using the property.

The existing raptor nest located in the blue-gum eucalyptus tree may be viably used in future years. The project was re-designed to avoid removing or impacting this tree. The nest site will not be directly impacted by project activities. However, increased use of the property during construction and after occupation of the proposed home may reduce the attractiveness of the nest site to raptors.

As mentioned above, numerous mature trees are located on the site, providing a semi-wooded habitat used by birds for roosting and nesting activities. Additionally, the project includes the planting of additional trees as roughly illustrated on the October 3, 2007 landscape plans. Given the extent of existing and proposed tree canopies in proximity to the proposed development, it is anticipated that some tree trimming may be necessary for safety or aesthetic purposes. However, impacts to nesting birds could occur if grading or tree removal/trimming is conducted during the nesting season. Additionally, take of common nesting birds is prohibited by federal and state laws. The use of this habitat by nesting birds, while not directly considered environmentally sensitive habitat, is considered an important biological resource which plays an integral role in the ecosystem. Although

some of the trees on the site are not native trees, they contribute to the viability of bird species which are afforded nesting protection under various federal and state laws. The height of many of the trees and the dense foliage help provide protection from disturbance and predators. As a result of these factors, habitat for nesting birds is an important coastal resource whose protection has been required in past Commission actions.

In order to ensure continued protection of nesting birds from being impacted by on-going tree trimming maintenance, Special Condition 14 requires that tree trimming of any tree on the subject property be done during the non-nesting season to the maximum extent possible. At the subject site, given its potential to support nesting songbirds and raptors, a conservative non-nesting season, at which point all late clutches would have fledged, extends from October through December. Therefore, all tree trimming should occur during this timeframe. However, there may be exceptions where tree trimming activities cannot feasibly avoid the nesting season. In such cases, a qualified biologist, or other resource specialist, shall conduct a survey of nesting activities on, and/or adjacent to, the subject property. If an active songbird nest is located, then no tree trimming activities may occur within 300 feet of the occupied tree until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. If an active raptor, rare, threatened, endangered, or species of concern nest is found, then no tree trimming activities may occur within 500 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. If tree trimming is necessary within 300 or 500 feet, for songbirds and raptors respectively, of an occupied tree in order to avoid an immediate danger to health, safety, or property, then the applicant may apply for an amendment to this permit or obtain an emergency permit for such trimming, unless the Executive Director determines that no such permit or amendment is necessary.

In all cases, even during the non-nesting season, tree trimming shall be overseen by a qualified arborist. The arborist and qualified biologist shall evaluate and provide recommendations to ensure that the proposed tree trimming would not compromise the tree's ability to support future nests. Additionally, the removal of non-active raptor nests shall be prohibited, except where impacted by tree trimming that is necessary to avoid an immediate danger to health, safety, or property.

Construction of the project during the breeding season may cause nesting species to abandon nests. To ensure that the impact to nesting birds is minimized and that no breeding/nesting activity is present in the vicinity, **Special Condition No. 7**, Nesting Bird Protection Measures, requires that a qualified biologist or environmental resources specialist conduct a biological survey to detect any active bird nests. A survey by the biologist shall be conducted no more than 3 days prior to construction in order to determine whether active nests are present with ~~300~~ 500 feet of the area to be disturbed by grading and construction. If an active songbird nest is located, clearing/construction within 300 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. If an active raptor, rare, threatened, endangered, or species of concern nest is found, clearing/construction within ~~300~~ 500 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. The biologist shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to protection of nesting birds.

10. The following clarifications shall be made to the project description on Page 1 of the staff report:

**PROJECT DESCRIPTION:** Demolition of an existing single-family residence of approximately 1,875 sq. ft. and detached garage of approximately 709 sq. ft. and construction of a new 13,168 sq. ft. residence, consisting of an approximate 8,214 sq. ft. main floor, 2,733 sq. ft. upper floor, and 2,221 sq. ft. basement; 1,626 sq. ft. detached garage with 559 sq. ft. second story hobby room; 800 sq. ft. pool cabana; 175 sq. ft. pool folly structure; 129 sq. ft. pool equipment shed, 233 sq. ft. tennis trellis; and 1,200 sq. ft. detached second residential unit with 178 sq. ft. at detached mechanical/storage space. The proposed project also includes a sunken tennis court, two swimming pools, ~~two~~ one spas, water features including a 105 sq. ft. fountain equipment storage shed, landscaping and associated hardscapes. Upgrades to the electrical service, and a stone and/or plaster perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require ~~4,356~~ 4,248 cu. yds. of cut and approximately ~~940~~ 860 cu. yds. of fill. The project would include the removal of two oak trees (6" and 10" diameters) and one non-native protected Monterey cypress tree (30" diameter), each of which has significant structural and/or health issues. The project includes the planting of approximately 64 trees on site, including 40 20 coast live oaks and ~~45~~ 3 specimen trees.

11. The following clarifications shall be made to the project description, beginning on Page 15 of the staff report:

The project includes: 1,626 sq. ft. detached garage with 559 sq. ft. second story hobby room, maximum 23 ft. 3 inches in height above existing grade; 800 sq. ft. pool cabana, maximum 19 ft. 8 inches in height above existing grade; 175 sq. ft. pool folly structure, maximum ~~45~~ 19 ft. ~~2 inches~~ in height above existing grade; 233 sq. ft. tennis trellis, maximum 13 ft. in height above existing grade; and 1,200 sq. ft. detached second residential unit, maximum ~~42~~ 13 ft. ~~44~~ 5 inches in height above existing grade, with 178 sq. ft. ~~at detached mechanical/storage space~~.

The proposed project also includes a sunken tennis court, two swimming pools, a 129 sq. ft. pool equipment shed, maximum 8 ft above existing grade, ~~two~~ one spas, water features, a 105 sq. ft., fountain equipment storage shed maximum 9 ft. above existing grade, landscaping and associated hardscapes, upgrades to the electrical service, and a stone and/or plaster perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 5,108 cu. yds. Of grading (4,248 cu. yds cut, 860 cu. yds. of fill).

...

The project site is developed with a single-family residence, relocated onto the site prior to the Coastal Act in approximately the 1940's. The property is currently developed with the residence and 3-car carport, driveway, chain-link fence along the north and east boundaries, drainage pipe and rip rap located in an eroded gully in the southeast portion of the site, a wooden stairway along the bluff face built prior to the Coastal Act, and residential landscaping, including lawn, surrounding the home.

...

The mixed trees canopy habitat on site would largely be left intact. However, the proposed project will result in the removal of two oak trees (Tree Nos. 45 and 46, 6" and 10" diameters respectively) and encroachment into seven oak trees. Impacts to oak trees are addressed in further detail in Section V.D.1, Protected Species and Habitat. The trees to be removed have significant structural and/or health issues. With regard to encroachments resulting from the stone and/or plaster soundwall, the applicants have incorporated specific measures to protect the root zones, including identification of roots using an air spade, hand excavation, and the use of caisson foundations to provide bridging over roots.

12. The first full paragraph on Page 34 of the staff report shall be modified as follows:

Although the proposed projects is not expected to directly impact the monarch butterfly habitat, emissions from fireplace chimneys (smoke, heat, burning embers, and carbon dioxide) in the vicinity of roosting monarchs can cause disturbance to the butterflies. This may lead to increased flight activity, emigration, mortality, and reduced colony stability. Smoke has been recognized to have adverse impacts to monarch butterflies. For example, Brower and Malcolm (1991)<sup>1</sup> reported the effects of smoke on monarch butterflies in Mexico:

Most ominous of all is smoke from the spring agricultural fires that drifts up the mountainsides into the colonies. When the ambient temperature is near flight threshold, the smoke causes frenzied flight and loss of colony integrity (in prep.); if the temperature is below flight threshold, the butterflies drop to the ground (Brower et al., 1977) where they are subject to substantially increased mouse predation (Glendinning et al., 1988).

Given the location of the proposed development approximately 125 feet from a significant monarch butterfly aggregation site and the variable nature of wind and weather patterns along the coastline, Therefore, the project has the potential to adversely impact the monarch aggregations site. To ensure that adverse impacts to the monarch butterfly population resulting from chimney emissions are avoided consistent with provisions of the certified LCP to protect this environmentally sensitive habitat, the Commission imposes **Special Condition No. 16** requiring any fireplaces, stoves, or firepits on the site to be non-woodburning.

13. Correspondence from the applicants' agent shall be attached to the staff report as Exhibit 6. *The correspondence raises the applicants' concerns with regard to Special Condition 11, Lighting Restriction, and Special Condition 16, Woodburning Fireplace Restriction. It also provides clarifications to the project description. Each of these issues has been addressed above. It should be noted that staff is not recommending any changes to Special Condition 16 with regard to the woodburning restriction. The applicants' consultant indicates that the effects of smoke are of interest to researchers, and that investigations undertaken by the consultant (& others) with a smoker did not show any apparent detrimental impacts to clustered monarch butterflies. However, staff notes that other monarch butterfly experts have indicated that there have been impacts to overwintering monarchs as a result of smoke (see Item 12 above). There may be a number of variables that would influence the impact of smoke on monarch butterflies such as: the fuel source, proximity, life stage, activity of the butterflies at the time of exposure, other*

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<sup>1</sup> Lincoln P. Brower and Stephen B. Malcom, *Animal Migrations: Endangered Phenomena*, Amer. Zool., 31:265-276 (1991) [From the symposium on *Recent Development in the Study of Animal Migration* presented at the annual meeting of the American Society of Zoologists, 27-30 December 1988, at San Francisco, California.]



*existing temporary or recurrent sources of exposure, and whether the butterflies are already in a more sensitive condition as a result of other factors such as temperature or unusual lipid depletion, to name a few. The exact effect of smoke on overwintering monarch butterflies may be a matter of scientific debate; however, given that it has been shown to have some effects and the fact that there has been a significant decline in the monarch population as well as the loss and degradation of aggregation sites in California, the protection of the remaining habitat is critical to the species. And in fact, the certified Santa Barbara County LCP requires that such habitat be protected. Therefore, given the potential impacts of smoke on the neighboring ESHA, staff is recommending that Special Condition 16 remain as originally reported in the June 19, 2008 staff report.*

14. Correspondence from the Carpinteria Valley Association shall be appended to Exhibit 6, Correspondence. *The correspondence indicates that the development is extremely large and incompatible with the neighborhood. This issue was addressed in Section V.E.2, Visual Resources which concludes that the development is compatible with the surrounding development, given that development along Padaro Lane includes a mix of residential estates of this nature as well as older beach cottages on parcels that have not been redeveloped. Additionally, the issues associated with large development such as the development's potential impact to public views and sensitive habitat have been addressed and mitigated.*



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W.O. 16631.02

July 3, 2008

Ms. Shana Gray  
c/o California Coastal Commission  
South Central Coast District  
89 South California Street, Suite 200  
Ventura, CA 93001

Subject: A-4-STB-07-113

Dear Shana:

Thank you for your comprehensive staff report in reference to the Renker Coastal Development Permit (case no. A-4-STB-07-113), we are delighted that we are scheduled for the July 10, 2008 Coastal Commission hearing.

The project consultants have reviewed the staff report and would like to bring your attention to some minor corrections to the project description. The staff report includes a summarized project description (page 1) and a more detailed project description (page 15). To ensure the project description is accurate, we have provided corrections to both versions (see below).

With reference to the seventeen (17) special conditions, NMA Architects consulted with Dan Meade, the project biologist, for a professional opinion regarding special conditions #11 and #16. Mr. Meade has provided a letter (dated 07/02/08) that notes exterior lighting and wood burning fireplaces would not impact butterfly aggregations and/or nesting birds. For that reason, the applicant requests deletion of special condition #16 and the following revision to special condition #11:

### 11. Lighting Restriction

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. The lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
3. The minimum necessary to light the entry area to the driveway and the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
4. Pathway and accent lighting shall not be directed upward at trees and shall be low wattage.

~~B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.~~

G. B. Lighting for the tennis court whether temporary or permanent, shall be prohibited.

### **CORRECTIONS TO PROJECT DESCRIPTION**

PAGE 1

**PROJECT DESCRIPTION:** Demolition of an existing single-family residence of approximately 1,875 sq. ft. and detached garage of approximately 709 sq. ft. and construction of a new 13,168 sq. ft. residence, consisting of an approximate 8,214 sq. ft. main floor, 2,733 sq. ft. upper floor, and 2,221 sq. ft. basement; 1,626 sq. ft. detached garage with 559 sq. ft. second story hobby room; 800 sq. ft. pool cabana; 175 sq. ft. pool folly structure; 129 sq. ft. pool equipment shed, 233 sq. ft. tennis trellis; and 1,200 sq. ft. detached second residential unit with 178 sq. ft. at detached mechanical/storage space. The proposed project also includes a sunken tennis court, two swimming pools, two one spas, water features including a 105 sq. ft. fountain equipment storage shed, landscaping and associated hardscapes. Upgrades to the electrical service, and a stone and/or plaster perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 4,356 4,248 cu. yds. of cut and approximately 940 860 cu. yds. of fill. The project would include the removal of two oak trees (6" and 10" diameters) and one non-native protected Monterey cypress tree (30" diameter), each of which has significant structural and/or health issues. The project includes the planting of approximately 40 20 coast live oaks and 45 3 specimen trees.

PAGE 15

### **A. PROJECT DESCRIPTION AND BACKGROUND**

The proposed project includes demolition of an existing 1,875 sq. ft. single family residence and 709 sq. ft. detached garage and construction of a new 13,168 sq. ft. residence, maximum 27 ft. 4 inches in height above existing grade, consisting of approximately 8,214 sq. ft. main floor, 2,733 sq. ft. upper floor, and 2,221 sq. ft. basement. The subject parcel is located at 3151 Padaro Lane, within the Toro Canyon Plan area, Santa Barbara County (Exhibit 1). The 4.5-acre bluff top parcel (Assessor Parcel No. 005-380-021, Exhibit 2) is zoned Residential, 3 acre minimum lot size (3-E-1).

The project includes: 1,626 sq. ft. detached garage with 559 sq. ft. second story hobby room, maximum 23 ft. 3 inches in height above existing grade; 800 sq. ft. pool cabana, maximum 19 ft. 8 inches in height above existing grade; 175 sq., ft. pool folly structure, maximum 45 19 ft. 2-



inches in height above existing grade; 233 sq. ft. tennis trellis, maximum 13 ft. in height above existing grade; and 1,200 sq. ft. detached second residential unit, maximum 42 13 ft. 4 5 inches in height above existing grade, with 178 sq. ft. at detached mechanical/storage space.

The proposed project also includes a sunken tennis court, two swimming pools, a 129 sq. ft. pool equipment shed, maximum 8 ft above existing grade, two one spas, water features, a 105 sq. ft., fountain equipment storage shed maximum 9 ft. above existing grade, landscaping and associated hardscapes, upgrades to the electrical service, and a stone and/or plaster perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 5,108 cu. yds. Of grading (4,248 cu. yds cut, 860 cu. yds. of fill).

The project also includes the location of a utility transformer, generator (approximately 4 feet, 5 inches in height), and switchgear (approximately 7 feet, 7 inches in height) partially in the front yard setback. The utility structures would be located eight feet in the front yard setback as measured from the centerline of Padaro Lane, and three feet six inches in the front setback as measured from the road right-of-way. The transformer and generator will be approximately 16 feet, six inches from the road right-of-way and approximately 42 feet from the centerline of Padaro Lane.

The project site is developed with a single-family residence, relocated onto the site prior to the Coastal Act in approximately the 1940's. The property is currently developed with the residence and 3-car carport, driveway, chain-link fence along the north and east boundaries, drainage pipe and rip rap located in an eroded gully in the southeast portion of the site, a wooden stairway along the bluff face, and residential landscaping, including lawn, surrounding the home.

The property is semi-wooded, consisting of a variety of ornamental trees and large shrubs, intermingled with coast live oak trees. The understory is mostly ruderal grasses and herbs beneath these tree canopies and no native woodland understory habitat remains. This appears to be due to the fact that the site has experienced disturbance as a result of the existing residential development. Special status plants have not been observed, nor expected to occur, on the property given the lack of native understory habitat. One special status bird, Cooper's hawk, was observed on the property during surveys. The biological report concluded that the trees on the site are unlikely to support nesting of Cooper's hawk because appropriate nesting habitat is dense riparian or oak woodlands. In addition, monarch butterflies have been observed to use the property for patrolling, basking, and nectaring activities. No other special status species are known, or expected to inhabit the property.

Given the lack of native habitats and limited use by sensitive protected species, the area is not considered to be environmentally sensitive habitat areas (ESHA). The applicants submitted the updated biological report (Althouse and Meade, Inc., March 2008) which evaluated the site's potential to serve as monarch butterfly habitat. Properties on Padaro Lane have long been known to support autumnal and wintering aggregations of monarch butterflies. A known wintering aggregation site is located off-site, approximately 250 feet east of the property. Trees near a wintering aggregation, such as those on the Property, require individual assessment to determine their significance to the aggregation site. In order to provide an assessment on this habitat, monarch butterfly use of the property was surveyed from October 2007 to March 2008. No monarchs were observed roosting or clustering in trees on the property during the survey. However, the monarch count indicated the property was used regularly by monarch butterflies as they migrate, forage, and bask in association with the adjacent wintering aggregation site.



They were observed to bask on eucalyptus, cypress, oak, and pittosporum trees on the property. The proposed redwood windrow between the property and the aggregation site is expected to add to the overall wind buffering capacity of the trees adjacent to the aggregation site. Additionally, the addition of ornamental and native trees were anticipated to increase the wooded features of the property, contributing additional wind buffer, and providing a net benefit to the existing off-site aggregation area.

The biological report indicated that the variability of the tree canopy structure attracts a surprisingly large number of birds to the property, including migrating songbirds as well as year-round residents. Red-tailed, red-shouldered, and Cooper's hawk were observed on the property during the winter months. Biological surveys of the site identified a large raptor nest in a mature blue-gum eucalyptus tree. Acorn and Nuttalls woodpeckers are residents in the trees on the property; nesting cavities of each species were observed. Additionally, a pair of kestrels claimed two acorn woodpecker cavities as nest sites. As currently designed, these trees will remain on the project site. The biological report indicates that special status bird species are unlikely to nest on the property, but could utilize the site as migrants during the non-breeding season.

The raptor nest located in the blue-gum eucalyptus tree may be viably used in future years. The project was redesigned to avoid removing or impacting this tree. The nest site will not be directly impacted by project activities.

The mixed trees canopy habitat on site would largely be left intact. However, the proposed project will result in the removal of two oak trees (Tree Nos. 45 and 46, 6" and 10" diameters respectively) and encroachment into seven oak trees. Impacts to oak trees are addressed in further detail in Section V.D.1, Protected Species and Habitat. The trees to be removed have significant structural and/or health issues. With regard to encroachments resulting from the stone and/or plaster soundwall, the applicants have incorporated specific measures to protect the root zones, including identification of roots using an air spade, hand excavation, and the use of caisson foundations to provide bridging over roots.

The landscape plans, revised dated October 3, 2007, indicate that an additional 96 ornamental and native trees would be planted, including approximately 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees on-site. An updated landscape plan will be submitted for review and approval prior to issuance of the Coastal Development Permit to reflect the tree replacement ratio, 10:1 for the removal of Trees 45 and 46 (20 oak trees total) and a tree replacement ratio of 3:1 for Tree 15 (3 specimen trees total); for a total of 23 replacement trees).

The property will continue to be served by the Montecito Water District and Carpinteria/Summerland Fire Protection District. Access will continue to be taken from Padaro Lane. The project would be served by a private septic system.

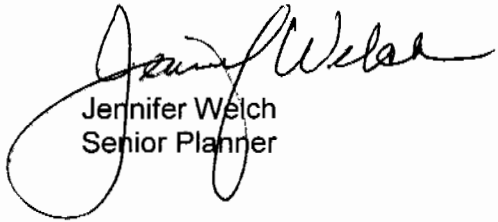
## **Précis**

Thanks again for all of your assistance with this project. Again, please feel free to contact me if you need anything in preparation of the Coastal Commission hearing. I may be reached at (805) 981-0706 ext. 133 (e-mail: [jmt@penfieldsmith.com](mailto:jmt@penfieldsmith.com)).



Ms. Shana Gray  
July 3, 2008  
Page 5

Very truly yours,  
PENFIELD & SMITH



Jennifer Welch  
Senior Planner

Cc: Mary Andrulaitis, c/o Neumann, Mendro, Andrulaitis Architects, 888 Linden Avenue,  
Carpinteria, CA 93013

Greg and Stacey Renker, c/o Mike McCormick, 5959 Topanga Canyon Blvd, Suite 180,  
Woodland Hills, CA 91367



## ALTHOUSE AND MEADE, INC.

### BIOLOGICAL AND ENVIRONMENTAL SERVICES

1875 Wellsona Road • Paso Robles, CA 93446 • Telephone (805) 467-1041 • Fax (805) 467-1021

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July 2, 2008  
File #628.01

Daniel E. Meade, Ph.D.  
(805) 705-2479 (cell)  
dan@althouseandmeade.com

Mary Andrulaitis  
Neumann Mendro Andrulaitis Architects, LLP  
888 Linden Avenue  
Carpinteria, CA 93013

RE: Coastal Commission comments, Renker residence, A-4-STB-07-113

Dear Ms. Andrulaitis:


I have reviewed the California Coastal Commission staff report for the Renker residence, A-4-STB-07-113, dated 6-19-08. My comments are regarding special conditions 11 and 16.

Special condition 11 restricts lighting on the property. With respect to Monarch butterfly aggregations, use of pathway and accent lighting of low wattage would not affect them. Monarch butterflies do not fly at night. Unless lighting was directed at the aggregation site, there would be no effect on Monarch butterflies. Night lighting directed upward at trees or unshielded lighting can disrupt nesting birds, and would affect night feeding birds such as owls.

Special condition 16 prohibits wood burning fireplaces and fire pits. The staff report states (page 34) that smoke, heat, burning embers, and carbon monoxide can cause disturbance to the butterflies, and reduce colony stability. The question of how smoke affects Monarch butterfly aggregations has been of interest to me and other researchers for some time. In 1989, Bill Calvert and I investigated the effect of smoke on clustering butterflies. We found that direct exposure to smoke from a hand held smoker did not disturb, elicit a flight response, or result in any apparent detrimental effect to clustering Monarch butterflies. The smoke we applied was over a range that included a much higher concentration than what would be generated from a wood burning fireplace at even a 100 foot distance. The Renker project is 250 feet from the aggregation site. I think it is not the case that a fireplace or occasional open pit fire on the Renker property could disturb butterflies in the aggregation site. Heat dissipates too quickly to affect the aggregation site. Burning embers would ignite the eucalyptus grove before reaching the aggregation site. I suggest that the amount of carbon dioxide produced by a wood fire would be far overwhelmed by regular outputs from the nearby US 101 freeway and the railroad. The aggregation site has not seemed disturbed by carbon dioxide generated from those sources, nor from two other residences with fireplaces nearer to the aggregation site than the Renker property. The existing house on the Renker property also has a fireplace that was likely used during aggregation seasons. In my opinion, the use of wood burning fireplaces or a fire pit at the Renker property would have no effect on the Monarch aggregation site.

Thank you for the opportunity to comment on the staff report. Please do not hesitate to contact me if you have further questions.

Sincerely,



Daniel E. Meade, Ph.D.



**CARPINTERIA VALLEY ASSOCIATION**

P.O. Box 27 • Carpinteria, California 93014

RECEIVED  
JUL - 8 2008  
CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

July 6, 2008

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

Agenda Number 11b  
Thurs. July 10, 2008

RE: Kruer, Shallenberger appeal

To whom it may concern,

The Carpinteria Valley Association would like to support the appeal of Chairman Patrick Kruer and Mary Shallenberger. This is an extremely large development and does not fit in with the shoreline homes that are presently there. A development of this size resembles building a resort in a residential neighborhood. Hopefully this commission can reduce these impacts on our coastline and our community.

Thank you very much,

Vera Bensen

President of the Carpinteria Valley Association



## CALIFORNIA COASTAL COMMISSION

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

# Th11b

Appeal Filed: 9/4/07  
Substantial Issue Found: 10/10/07  
Staff: Shana Gray  
Staff Report: 6/19/08  
Hearing Date: 7/10/08



## **STAFF REPORT: APPEAL DE NOVO REVIEW**

**LOCAL GOVERNMENT:** County of Santa Barbara  
**LOCAL DECISION:** Approval with Conditions  
**CDP APPEAL NO.:** A-4-STB-07-113  
**APPLICANTS:** Greg and Stacy Renker  
**APPELLANTS:** Commissioners Patrick Kruer and Mary Shallenberger  
**PROJECT LOCATION:** 3151 Padaro Lane, unincorporated Santa Barbara County (Assessor Parcel No. 005-380-021)

**PROJECT DESCRIPTION:** Demolition of an existing single family residence of approximately 1,875 sq. ft. and detached garage and construction of a new 13,168 sq. ft. residence, consisting of an approximately 8,214 sq. ft. main floor, 2,733 sq. ft. upper floor, and 2,221 sq. ft. basement; 1,626 sq. ft. detached garage with 559 sq. ft. second story hobby room; 800 sq. ft. pool cabana; 175 sq. ft. pool folly structure; 233 sq. ft. tennis trellis; and 1,200 sq. ft. detached second residential unit with 178 sq. ft. attached mechanical/storage space. The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, upgrades to the electrical service, and a stone perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 4,356 cu. yds. of cut and approximately 940 cu. yds. of fill. The project would include the removal of two oak trees (6" and 10" diameters) and one non-native protected Monterey Cypress tree (30" diameter), each of which has significant structural and/or health issues. The project includes the planting of approximately 40 coast live oaks and 15 specimen trees.

**MOTION & RESOLUTION:** Page 5

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### **SUMMARY OF STAFF RECOMMENDATION:**

The Commission found that this appeal raised substantial issue at its October 2007 hearing. Staff recommends **approval of the proposed project with seventeen (17) special conditions**, regarding: assumption of risk, no future shoreline protective device, plans conforming to geotechnical engineer's recommendations, future development restriction, oak tree mitigation and monitoring, oak tree protection during construction, nesting bird protection measures, removal of excavated material, construction responsibilities, construction monitoring, lighting restriction, drainage and polluted runoff control plan, interim erosion control plan, landscape and monitoring plan,

general deed restriction, wood-burning fireplace restriction, and conditions imposed by the local government.

On October 10, 2007, the Commission found that the appellant's contentions raised substantial issue with regard to the consistency of the approved projects with the environmentally sensitive habitat areas (ESHA), monarch butterfly habitat and native and non-native protected trees policies of the certified Local Coastal Program (LCP).

The property is semi-wooded, consisting of a variety of ornamental trees and large shrubs, intermingled with coast live oak trees. Given the lack of native habitat and limited use by sensitive or protected species, the area is not considered to be an environmentally sensitive habitat area (ESHA). The applicants submitted an updated biological report (Althouse and Meade, Inc., March 2008) which evaluated the site's potential to serve as monarch butterfly habitat.

A known wintering aggregation site is located off-site, approximately 250 east of the property. In order to provide an assessment on this habitat, monarch butterfly use of the property was surveyed from October 2007 to March 2008. No monarchs were observed roosting or clustering in trees on the property during the survey. However, the monarch count indicated that the property was used regularly by monarch butterflies as they migrate, forage, and bask in association with the adjacent wintering aggregation site. They were observed to bask on eucalyptus, cypress, oak, and pittosporum trees on the property. Given this limited level of use by monarch butterflies and distance from the aggregation grove, the trees on site are not an integral link to the known off-site aggregation area and are not considered ESHA. However, the proposed redwood windrow between the property and the aggregation site is expected to add to the overall wind buffering capacity of the trees adjacent to the aggregation site. Additionally, the addition of ornamental and native trees are anticipated to increase the wooded features of the property, contributing additional wind buffer, and providing a net benefit to the existing off-site aggregation area.

The original project approved by the County included the removal of four protected Coast Live Oak trees (*Quercus agrifolia*) and five protected non-native trees (three cypress and two eucalyptus). The applicant has redesigned the project to avoid removal of six of these nine trees; however, the project would include the removal of two oak trees (6" and 10" diameters) and one non-native protected Monterey Cypress tree (30" diameter), each of which have significant structural and/or health issues. The applicant is proposing to plant an additional 96 trees on the property, with approximately 40 of those to be oak trees.

Staff has reviewed the additional biological studies and evaluation in conjunction with the revised project plans and recommends that the Commission find that the proposed development, as conditioned, is consistent with the requirements of the policies and provisions of the Santa Barbara County certified LCP, including the Toro Canyon Plan.

As a "de novo" application for a project between the first public road and the sea, the standard of review for the proposed development is consistency with: (1) the policies and provisions of the County of Santa Barbara Local Coastal Program, including the

certified Toro Canyon Plan and (2) the Chapter 3 policies of the Coastal Act with respect to public access and public recreation due to the project's location between the first public road and the sea. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the certified Coastal Plan/Land Use Plan.

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## EXHIBITS

- Exhibit 1.** Vicinity Map
  - Exhibit 2.** Parcel Map
  - Exhibit 3.** Site Plan
  - Exhibit 4.** Floor Plans
  - Exhibit 5.** Elevations
- 

**SUBSTANTIVE FILE DOCUMENTS:** Santa Barbara County Coastal Plan (January 1982; with updates through 1999); Santa Barbara County Coastal Zoning Ordinance, Article II, Chapter 35 of the County Code; Summerland Community Plan (May 1992); *Monarch Butterfly Overwintering Sites In Santa Barbara County, California* (Daniel Meade, November 1999); Sea Cliff Retreat Rate Study (MNS Engineers, Inc, August 30, 2005); MNS Engineers, Inc. letter report regarding review of grading and drainage improvements (Roger Slayman, September 26, 2006); Pacific Materials Laboratory letter report regarding grading plan conformance with the grading and drainage recommendations in geotechnical reports (Ronald Pike, August 25, 2006); Fugro West, Inc. memo regarding sea cliff retreat (Greg Denlinger, July 28, 2006); On-Site Bioswale Percolation Testing Report (MNS Engineers, Inc., January 8, 2007); Percolation Tests (Pacific Materials Laboratory, Inc., January 9, 2006); Preliminary Foundation Investigation (Pacific Materials Laboratory, Inc., May 22, 2006); Preliminary Drainage Study (Penfield & Smith, March 19, 2007); [Arborist] Field Report, Renker, Padaro Lane (Westree, Inc., January 9, 2007); Addendum to March 2006 [Arborist] Tree Survey for the Renker Residence, 3151 Padaro Lane (Westree, Inc., February 2008); Biological Report for the Renker Residence, 3151 Padaro Lane (Althouse and Meade, Inc., March 2008);

## I. STANDARD OF REVIEW

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project site). In this case, the proposed development was appealed to the Commission, which found during a public hearing on October 10, 2007, that a substantial issue was raised.

As a "de novo" application, the standard of review for the proposed development is, in part, the policies and provisions of the County of Santa Barbara Local Coastal Program. In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea, including those areas where a certified LCP has been prepared, (such as the project site), must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act with respect to public access and public recreation. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP.

## II. STAFF RECOMMENDATION

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-4-STB-07-113 pursuant to the staff recommendation.*

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO APPROVE THE PERMITS:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on the ground that the development is located between the sea and the first public road nearest the shoreline and, as conditioned, will conform with the policies of the certified Local Coastal Program for the County of Santa Barbara and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act since feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

## III. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** This permit is not valid and development shall not commence until copies of the permits, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, are returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the de novo appeal of the permit. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application(s) for extension of the permit(s) must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject properties to the terms and conditions.

## **IV. SPECIAL CONDITIONS**

### **1. Assumption of Risk**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

### **2. No Future Shoreline Protective Device**

- A. By acceptance of the permit, the applicants/landowners agree, on behalf of themselves and all successors and assignees, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to this coastal development permit including, but not limited to, the construction of the residence, garage, accessory structures, driveway/patios, decks, fencing, and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, liquefaction, or any other natural hazards in the future. By acceptance of this permit, the applicants/landowners hereby waive, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicants/landowners further agree, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, garage, driveway/patios, decks, fencing if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

### **3. Plans Conforming to Geotechnical Engineer's Recommendations**

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Preliminary Foundation Investigation (Pacific Materials Laboratory, Inc., May 22, 2006) and Preliminary Drainage Study (Penfield & Smith, March 19, 2007). These recommendations, including recommendations concerning foundations, grading,

and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

#### **4. Future Development Restriction**

This permit is only for the development described in this Coastal Development Permit. Pursuant to Title 14 California Code of Regulations sections 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) and (b) shall not apply to the entire property. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition No. 14, Landscape and Monitoring Plan**, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the applicable certified local government.

#### **5. Oak Tree Mitigation and Long-Term Monitoring**

- A. Prior to issuance of the permit amendment, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful. At least 20 replacement oak trees shall be planted on the project site, as mitigation for development impacts to Trees No. 45 and 46, as identified by the Arborist Reports referenced in the Substantive File Documents.
- B. The applicant shall commence implementation of the approved oak tree replacement planting program concurrently with the commencement of construction on the project site.
- C. The applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director to conduct long-term monitoring of the 20 replacement trees. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. If monitoring indicates the oak tree replacement plan is not in conformance with or has failed to meet the performance standards specified in the monitoring program approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental planting plan for the review and approval of the Executive Director. The revised planting plan shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

- D. The applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director to conduct long-term monitoring of all oak trees where development will encroach into the driplines of oak tree canopies (seven oak trees identified as Tree No. 18 in the Arborist Reports referenced in the Substantive File Documents), to determine if the trees are adversely impacted by the encroachment. An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the applicants shall plant replacement trees on the site at a rate of 10:1. If replacement plantings are required, the applicants shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful. An annual monitoring report on the new oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Upon submittal of the replacement planting program, the Executive Director shall determine if the planting program shall be processed as an amendment to this coastal development permit or whether a separate coastal development permit is required.

#### **6. Oak Tree Protection During Construction**

- A. To ensure that all other oak trees located on the subject parcel and along the proposed access road are protected during construction activities, temporary protective barrier fencing and/or flagging shall be installed around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then flagging shall be installed on trees to be protected.
- B. The applicant shall follow the oak tree preservation recommendations that have been incorporated into the project description and the additional measures detailed in the Arborist Reports referenced in the Substantive File Documents.
- C. The applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of all development within 25 feet of any oak tree. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by this Coastal Development Permit. This monitor shall have the authority to require the applicants to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

#### **7. Nesting Bird Protection Measures**

A qualified biologist, with experience in conducting bird surveys, shall conduct bird surveys 30 days prior to construction activities to detect any active bird nests and any other such habitat within 300 feet of the construction area. The last survey should be



conducted 3 days prior to the initiation of clearance/construction. If an active songbird nest is located, clearing/construction within 300 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. If an active raptor, rare, threatened, endangered, or species of concern nest is found, clearing/construction within 300 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. The biologist shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to protection of nesting birds.

#### **8. Removal of Excavated Material**

Prior to issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all debris and excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit or other legal authorization for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

#### **9. Construction Responsibilities**

The applicant shall comply with the following demolition/construction-related requirements:

- (1) The natural areas, oak trees, and protected non-native trees within and adjacent to the construction area and along all construction corridors and staging areas shall be clearly delineated on the project site with fencing or survey flags. The purpose of such fencing or flagging shall be to: (1) ensure that construction activities do not occur within areas that are not authorized for grading, construction activities, or storage and (2) ensure that construction activities do not adversely impact any sensitive habitats, coastal waters and drainages, or oak and protected non-native trees.
- (2) No demolition or construction equipment, materials, debris, or waste shall be placed or stored where it may impact environmentally sensitive habitat, coastal waters or a storm drain, native or protected non-native trees, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (3) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (5) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (6) Washing of trucks, paint, machinery, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for

subsequent removal from the site. Wash water, thinners, or solvents shall not be discharged on the site or to the storm drains, sewer system, street, drainage ditches, creeks, or wetlands. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs

- (7) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (8) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (9) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to: prevent spillage and/or runoff of demolition or construction-related materials, contain sediment, or confine contaminants associated with demolition or construction activity shall be implemented prior to the on-set of such activity.
- (10) All construction BMPs and GHPs shall be maintained in a functional condition for the duration of project construction.
- (11) Any and all debris resulting from construction and grading activities shall be removed from the project site within 7 days of completion of construction.

## **10. Construction Monitoring**

A. The applicant shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director to serve as the biological monitor. The applicant shall provide the biological monitor's qualifications for the review and approval of the Executive Director at least two (2) weeks prior to commencement of project activities. The biological monitor shall be present during all grading, excavation, demolition, and other construction activities. The applicant shall cease work should any sensitive species be identified anywhere within the construction area, if a breach in permit compliance occurs, if work outside the scope of the permit occurs, or if any unforeseen sensitive habitat issues arise. In such event, the biological monitor(s) shall direct the applicant to cease work and shall immediately notify the Executive Director. Project activities shall resume only upon written approval of the Executive Director. If significant impacts or damage occur to sensitive habitat or species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The Executive Director shall determine if the revised, or supplemental, program shall be processed as an amendment to this coastal development permit or whether a separate coastal development permit is required.

B. The biological monitor shall ensure that the natural areas on the site, off-limits to construction, are accurately marked on the project site with temporary fencing or survey flags, and that such demarcation is maintained.

## **11. Lighting Restriction**

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
  - 1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
  - 2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
  - 3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.
- C. Lighting for the tennis court whether temporary or permanent, shall be prohibited.

## **12. Drainage and Polluted Runoff Control Plan**

- A. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:
  - (1) Selected BMPs (or suites of BMPs) shall be designed to treat or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
  - (2) Runoff shall be conveyed off site in a non-erosive manner.
  - (3) Energy dissipating measures shall be installed at the terminus of outflow drains.
  - (4) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest

shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

- B. The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### **13. Interim Erosion Control Plan**

- A. Prior to issuance of the Coastal Development Permit, the applicant shall submit two sets of final erosion control plans, prepared by a licensed engineer, for review and approval by the Executive Director. The erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the criteria set forth below. All development shall conform to the approved erosion control plans.
- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas.
  - (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction.
  - (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
- B. The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a

Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**14. Landscape and Monitoring Plan**

- A. Prior to the issuance of the coastal development permit, the applicants shall submit two (2) sets of final landscape plans prepared by a licensed landscape architect or a qualified resource specialist for review and approval by the Executive Director. The landscaping plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall be in substantial conformance with the project landscape plans, pursuant to the October 3, 2007 revision, and shall incorporate the criteria set forth below. All development shall conform to the approved landscaping plans:
1. All graded & disturbed areas on the project site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, including lawn that must be selected from the most drought tolerant species. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
  2. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
  3. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
  4. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
  5. The landscape plan shall include the use of native plant species that support monarch butterfly basking and nectaring activities.
- B. The Applicant shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- C. Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition.

The monitoring report shall include photographic documentation of plant species and plant coverage.

- D. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicants, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

#### **15. General Deed Restriction**

Prior to the issuance of the coastal development permit, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **16. Woodburning Fireplace Restriction**

- A. Fireplaces, stoves, and firepits permitted hereby shall be restricted to non-woodburning types.

#### **17. Conditions Imposed By Local Government**

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Certified Santa Barbara County Local Coastal Program, or Coastal Act.

## **V. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

## **A. PROJECT DESCRIPTION AND BACKGROUND**

The proposed project includes demolition of an existing 1,875 sq. ft. single family residence and 709 sq. ft. detached garage and construction of a new 13,168 sq. ft. residence, maximum 27 ft. 4 inches in height above existing grade, consisting of an approximately 8,214 sq. ft. main floor, 2,733 sq. ft. upper floor, and 2,221 sq. ft. basement. The subject parcel is located at 3151 Padaro Lane, within the Toro Canyon Plan area, Santa Barbara County (Exhibit 1). The 4.5-acre bluff top parcel (Assessor Parcel No. 005-380-021, Exhibit 2) is zoned *Residential*, 3 acre minimum lot size (3-E-1).

The project includes: 1,626 sq. ft. detached garage with 559 sq. ft. second story hobby room, maximum 23 ft. 3 inches in height above existing grade; 800 sq. ft. pool cabana, maximum 19 ft in height above existing grade; 175 sq. ft. pool folly structure, maximum 15 ft. 2 inches in height above existing grade; 233 sq. ft. tennis trellis, maximum 13 ft. in height above existing grade; and 1,200 sq. ft. detached second residential unit, maximum 12 ft. 11 inches in height above existing grade, with 178 sq. ft. attached mechanical/storage space.

The proposed project also includes a sunken tennis court, two swimming pools, two spas, water features, landscaping and associated hardscapes, upgrades to the electrical service, and a stone perimeter wall (six-ft height along front of property and 8-ft. height along side yards). The proposed project will require 5,108 cu. yds. of grading (4,248 cu. yds cut, 860 cu. yds. of fill).

The project also includes the location of a utility transformer, generator (approximately 4 feet, 5 inches in height), and switchgear (approximately 7 feet, 7 inches in height) partially in the front yard setback. The utility structures would be located eight feet in the front yard setback as measured from the centerline of Padaro Lane, and three feet, six inches in the front yard setback as measured from the road right-of-way. The transformer and generator will be approximately 16 feet, 6 inches from the road right-of-way and approximately 42 feet from the centerline of Padaro Lane.

The project site is developed with a single-family residence, relocated onto the site prior to the Coastal Act in approximately the 1940's. The property is currently developed with the residence and 3-car carport, driveway, chain-link fence along the north and east boundaries, drainage pipe and rip rap located in an eroded gully in the southeast portion of the site, and residential landscaping, including a lawn, surrounding the home.

The property is semi-wooded, consisting of a variety of ornamental trees and large shrubs, intermingled with coast live oak trees. The understory is mostly ruderal grasses and herbs beneath these tree canopies and no native woodland understory habitat remains. This appears to be due to the fact that the site has experienced disturbance as a result of the existing residential development. Special status plants have not been observed, nor expected to occur, on the property given the lack of native understory habitat. One special status bird, Cooper's hawk, was observed on the property during surveys. The biological report concluded that the trees on the site are unlikely to support

nesting of Cooper's hawk because appropriate nesting habitat is dense riparian or oak woodlands. In addition, monarch butterflies have been observed to use the property for patrolling, basking, and nectaring activities. No other special status species are known, or expected to inhabit the property.

Given the lack of native habitats and the limited use by sensitive or protected species, the area is not considered to be an environmentally sensitive habitat area (ESHA). The applicants submitted an updated biological report (Althouse and Meade, Inc., March 2008) which evaluated the site's potential to serve as monarch butterfly habitat. Properties on Padaro Lane have long been known to support autumnal and wintering aggregations of monarch butterflies. A known wintering aggregation site is located off-site, approximately 250 east of the property. Trees near a wintering aggregation, such as those on the Property, require individual assessment to determine their significance to the aggregation site. In order to provide an assessment on this habitat, monarch butterfly use of the property was surveyed from October 2007 to March 2008. No monarchs were observed roosting or clustering in trees on the property during the survey. However, the monarch count indicated that the property was used regularly by monarch butterflies as they migrate, forage, and bask in association with the adjacent wintering aggregation site. They were observed to bask on eucalyptus, cypress, oak, and pittosporum trees on the property. The proposed redwood windrow between the property and the aggregation site is expected to add to the overall wind buffering capacity of the trees adjacent to the aggregation site. Additionally, the addition of ornamental and native trees were anticipated to increase the wooded features of the property, contributing additional wind buffer, and providing a net benefit to the existing off-site aggregation area.

The biological report indicates that the variability of the tree canopy structure attracts a surprisingly large number of birds to the property, including migrating songbirds as well as year-around residents. Red-tailed, red-shouldered, and Cooper's hawks were observed on the property during the winter months. Biological surveys of the site identified a large raptor nest in a mature blue-gum eucalyptus tree. Acorn and Nuttall's woodpeckers are residents in the trees on the property; nesting cavities of each species were observed. Additionally, a pair of kestrels claimed two acorn woodpecker cavities as nest sites. As currently designed, these trees will remain on the project site. The biological report indicates that special status bird species are unlikely to nest on the property, but could utilize the site as migrants during the non-breeding season.

The raptor nest located in the blue-gum eucalyptus tree may be viably used in future years. The project was re-designed to avoid removing or impacting this tree. The nest site will not be directly impacted by project activities.

The mixed trees canopy habitat on site would largely be left intact. However, the proposed project will result in removal of two oak trees (Tree Nos. 45 and 46, 6" and 10" diameters respectively) and encroachment into seven oak trees. Impacts to oak trees are addressed in further detail in Section V.D.1, Protected Species and Habitat. The trees to be removed have significant structural and/or health issues. With regard to encroachments resulting from the plaster soundwall, the applicants have incorporated specific measures to protect the root zones, including the identification of roots using an



air spade, hand excavation, and the use of caisson foundations to provide bridging over roots.

The landscape plans, revised October 3, 2007, indicate that an additional 96 ornamental and native trees would be planted, including approximately 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees on-site.

The property will continue to be served by the Montecito Water District and Carpinteria/Summerland Fire Protection District. Access will continue to be taken from Padaro Lane. The project would be served by a private septic system.

## **B. PERMIT HISTORY**

On July 16, 2007, the Zoning Administrator of the County of Santa Barbara approved a coastal development permit (06CDH-00000-00029) for demolition of an existing single-family residence and garage and construction of a new two-story residence, detached residential second unit, and accessory structures subject to 31 conditions of approval and in reliance of Modification 07MOD-00000-00004 which allows the required 50-foot front yard setback to be reduced by 8 feet to accommodate electrical equipment.

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

Commission staff received the Notice of Final Action for the Zoning Administrator's approval of the Coastal Development Permit (06CDH-00000-00029) August 20, 2007. A 10-working day appeal period was set, extending to September 4, 2007. Appeals were received from Commissioners Patrick Kruer and Mary Shallenberger on September 4, 2007, within the 10-working day appeal period.

On October 10, 2007, the Commission found that the appellant's contentions raised substantial issue with regard to the consistency of the approved projects with the environmentally sensitive habitat areas (ESHA), monarch butterfly habitat and native and non-native protected trees policies of the certified Local Coastal Program (LCP).

## **C. HAZARDS AND GEOLOGIC STABILITY**

The following policies are extracted from County's certified LCP, including the Coastal Plan, Zoning Ordinance, and the Toro Canyon Plan (TCP), which is a certified component of the LCP:

LCP Policy 1-1, incorporating Section 30235 of the Coastal Act:

***Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing***

*water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

LCP Policy 1-1, incorporating Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

LCP Policy 3-1, in part:

*Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. . . .*

LCP Policy 3-4:

*In areas of new development, above-ground structures shall be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such a standard will make a lot unbuildable, in which case a standard of 50 years shall be used. The County shall determine the required setback. A geologic report shall be required by the County in order to make this determination. At a minimum, such geologic report shall be prepared in conformance with the Coastal Commission's adopted Statewide Interpretive Guidelines regarding "Geologic Stability of Blufftop Development". (See also Policy 4-5 regarding protection of visual resources.)*

LCP Policy 3-5:

*Within the required blufftop setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish proper drainage or to install landscaping, and minor improvements, i.e., patios and fences that do not impact bluff stability, may be permitted. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.*

LCP Policy 3-6:

*Development and activity of any kind beyond the required blufftop setback shall be constructed to insure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself.*

LCP Policy 3-7:

*No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.*

LCP Policy 3-8:

*Applications for grading and building permits, and applications for subdivision shall be reviewed for adjacency to threats from, and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, or other geologic hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report shall be required. Mitigation measures shall be required where necessary.*

LCP Policy 3-16:

*Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.*

LCP Policy 3-17:

*Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.*

LCP Policy 3-18:

*Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible to facilitate groundwater recharge.*

LCP Policy GEO-TC-3:

*Development shall be sited and designed to minimize the potential for geologic hazards, including but not limited to seismic, soil, or slope hazards.*

LCP Policy GEO-TC-4:

*All development on shoreline properties shall be designed to avoid or minimize hazards from coastal processes, to minimize erosion both on- and off-site, and to avoid the need for shoreline protection devices at any time during the life of the development.*

LCP DevStd GEO-TC-4.1:

*All development proposed for shoreline properties shall avoid or minimize erosion by minimizing irrigation, using culverts and drainage pipes to convey runoff, using sewers if available rather than septic systems, and other appropriate means.*

LCP DevStd GEO-TC-4.2:

*Where possible, all drainage from shoreline bluff-top properties shall be conveyed to the nearest roadway or drainage course. Where drainage must be conveyed over the bluff face, drainage lines shall be combined with those of neighboring parcels where possible, and shall be sited and designed to minimize the physical and visual disruption of the bluff and beach area.*

LCP DevStd GEO-TC-4.3:

***Shoreline and bluff development and protection structures shall be in conformance with the following standards.***

***1. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 75-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure, including hazards associated with anticipated future changes in sea level.***

***2. New development on or along the shoreline or a coastal bluff shall site septic systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.***

***3. Repair and maintenance of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted height or previously permitted seaward extent of such devices, and shall not increase any interference with legal public coastal access.***

***4. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.***

***5. Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a "vertical" seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative. New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan, or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted<sup>1</sup> height or previously permitted<sup>1</sup> seaward extent of such devices, and shall not increase any interference with legal public coastal access.***

LCP DevStd GEO-TC-4.4:

*Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable.*

*1. Development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.*

*2. For any new shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.*

*3. For new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.*

LCP Policy GEO-TC-5:

*Grading shall be carried out in a manner that minimizes air pollution.*

As stated above, Policy 3-8 of the LCP requires that all proposed development located in or adjacent to areas subject to geologic hazards or beach erosion shall be reviewed to determine any potential impacts of such development. In addition, Section 30253 of the Coastal Act, which has been included in the certified LCP as a guiding policy, requires that new development minimize risks to life and property in areas of high geologic or flood hazards and assure structural stability and integrity. LCP Policy 3-4 requires new development to be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years. Furthermore, Policy 3-14 of the LCP requires development to preserve natural features, landforms to the maximum extent feasible.

Policy GEO-TC-4 requires that all development on shoreline properties shall be designed to avoid or minimize hazards from coastal processes, to minimize erosion both on and off-site, and to avoid the need for any shoreline protection devices at any time during the lifetime of the development. This policy is implemented by three development standards. DevStd GEO-TC-4.1 calls for minimizing irrigation, use of culverts and drainpipes and use of sewers to the maximum extent feasible. DevStd GEO-TC-4.2 requires drainage to be conveyed away from bluff faces and into existing drainage courses to the maximum extent feasible, and siting drainage features to minimize physical and visual disruption of bluff and beach areas. DevStd GEO-TC-4.3 provides that new development, including land divisions, new beachfront and blufftop structures, significant additions, accessory structures, and septic systems shall be sited and designed to minimize risks from wave hazards and to avoid the need to construct a protective device for the life of the development. When it is determined that a shoreline protective device is necessary, the development must be constructed as far landward as feasible, but, in no circumstance, further seaward than a stringline drawn between the nearest adjacent corners of protective devices on adjacent lots.

Due to the extreme hazards associated with development on a beach or coastal bluff, DevStd GEO-TC-4.3 requires property owners to acknowledge and assume such risks and to waive any future claims against the permitting agency; and to acknowledge that future repairs or additions to a shoreline protective device shall not extend the footprint seaward. In certain circumstances, where geologic and engineering evaluations conclude that development can be sited and designed to not require a shoreline protective device, property owners are required to waive any future rights to construct such device.

The proposed development includes the demolition and construction of extensive residential development and accessory structures on an approximately 4-acre bluff top lot. The property is bound on the south by a coastal bluff that averages 30 to 40 feet in height above mean sea level. The slope ranges from near vertical at the top of the bluff to  $\frac{3}{4}$ :1 (horizontal:vertical) at the base of the cliff as it adjoins the beach. Private beach access is provided on the site by a wooden stairway down the bluff face. The site drainage generally sheet flows into a drainage along the east side of the property.

The proposed project requires 4,248 cubic yards of cut and 860 cubic yards of fill, exporting 3,388 cubic yards of soil. The majority of the proposed grading is from the basement and crawl spaces of the primary residence (2,361 cubic yards of cut), tennis court (450 cubic yards of cut) swimming pools (499 cubic yards of cut), driveway (377 cubic yards of cut), and landscaping (350 cubic yards of cut and 850 cubic yards of fill). The amount of grading proposed is primarily due to the scale of the structures proposed. The lot is very gently sloping to the southeast corner.

The Sea Cliff Retreat Rate Study (MNS Engineers, Inc., July 28, 2006) for the proposed project estimates annual sea cliff erosion rate of approximately 0.57 ft/yr. At the request of the County of Santa Barbara, the retreat rate study was further reviewed by a third-party geotechnical engineer (Fugro West, Inc. July 28, 2008). Fugro concurs with the rate, indicating that it is reasonable for the Santa Barbara/Goleta areas based on previous studies. This retreat rate translates to a 75-year setback of 43 feet. The pool

cabana is the building located closest to the bluff, meeting a setback of approximately 87 feet from the edge of the top of the bluff. The main residence is setback approximately 123 feet from the top of the bluff.

The submitted geology, geotechnical, and percolation reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure geologic stability, the Commission requires the applicant to comply with and incorporate the recommendations contained in the applicable reports into all final design and construction, and to obtain the approval of the geotechnical consultant prior to commencement of construction, as described in **Special Condition No. 3**.

Though the proposed structures would be located at least twice the distance of the recognized 75-year bluff setback, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of qualified geotechnical engineers, may still involve the taking of some risk. Bluff top development, such as this, is inherently subject to risk due to the geologic instability of bluffs over time. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

Though the location of the proposed structures on the subject site may presently be feasible from a geologic point of view, it is not possible to completely predict what conditions the proposed residence may be subject to in the future. Because of the inherent risk due to the geologic instability of bluffs over time, further improvements such as protective structures, may eventually be deemed necessary to ensure stability in the future due to instability and erosion.

The proper application of the geologic setback from the bluff edge, for the life of the structure(s), is a primary means by which the construction of seawalls can be avoided for the protection of development on erodible bluff top slopes. The Commission notes that the proposed development is located in an area that has been historically subject to natural hazards including beach erosion from storm waves and general bluff erosion.

Development located along the shoreline, such as the proposed project, is subject to inherent potential hazard from storm generated wave damage. The El Nino storms recorded in 1982-1983 caused high tides of over seven feet, which were combined with storm waves of up to 15 feet. The severity of the 1982-1983 El Nino storm events is often used to illustrate the extreme storm event potential of the California coast. The Commission notes that the Santa Barbara County coast has historically been subject to substantial damage as the result of storm and flood occurrences.

As such, the Commission notes that any new development that is permitted on the subject site must be designed and constructed in a manner that ensures geologic and structural stability and must minimize hazards consistent with Policy 3-1, 3-4, 3-5, 3-6, 3-7, and 3-8; Toro Canyon Plan policies GEO-TC-3, GEO-TC-4, DevStd GEO-TC-4.1,

4.2 and 4.4; and Section 30253 of the Coastal Act, which has been included in the certified LCP.

These policies require that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and to assure stability and structural integrity. Coastal bluffs, such as the one located on the subject sites, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

Notwithstanding the projects' consistency with the required setbacks and geologic policies of the County's LCP, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff, particularly a bluff exposed to wave attack at the beach elevation, can be completely free of hazard. DevStd GEO-TC-4.4 of the certified Toro Canyon Plan requires the applicant to assume the risks associated with new development on a beach or bluff. Therefore, the Commission finds it necessary to impose **Special Condition No. 1**, assumption of risk, to ensure that the applicants understand the hazards involved in undertaking development on a parcel located along a bluff above a beach, and that the applicants agree on behalf of itself and all successors and assignees to assume the risk from such development and to indemnify the Commission, its employees, and agents from all liability associated with proceeding with such development despite such unmitigable hazards.

While the location of the proposed structures on the subject sites may presently be feasible from a geologic point of view, in order to maintain these structures, further improvements such as concrete block walls and/or other protective structures, may eventually be requested in the future to provide additional slope stability due to instability and erosion. In the case of the proposed projects, the applicants do not propose the construction of any shoreline protective device to protect the proposed development. However, many beaches and bluffs in Santa Barbara County have experienced extreme erosion and scour during severe storm events, such as the El Nino storms. It is not possible to completely predict what conditions the proposed residences and accessory development may be subject to in the future.

Though no shoreline protective device is proposed as part of this project, the Commission notes that the construction of a shoreline protective device or devices on the proposed project sites would result in potential adverse effects to coastal processes, shoreline sand supply, the public's beach ownership interests, and public access. First, changes in the shoreline profile, particularly changes in the slope of the profile, which result from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of sand, as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore, where they are no



longer available to nourish the beach. The effect of this on the public is, again, a loss of area between the mean high water line and the actual water. Third, shoreline protective devices, such as revetments and bulkheads, cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline, eventually affecting the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

LCP Policy 3-1 allows for the construction of a shoreline protective device when necessary to protect existing principal structures when there are no other less environmentally damaging alternatives reasonably available. The Commission further notes that the approval of a shoreline protective device to protect *new* residential development, such as the proposed projects, would not be required by Section 30235 of the Coastal Act, incorporated into the County's LCP. Additionally, in circumstances like those of the subject development, GEO-TC-4.3 prohibits placement of bluff protection structures for new development, except when necessary to protect a new septic system and there are no feasible alternatives that would allow residential development on the parcel. The construction of a shoreline protective device to protect a new residential development would conflict with Section 30253 of the Coastal Act, incorporated into the County's LCP, which states that new development shall neither create nor contribute to erosion or geologic instability of the project sites or surrounding area. In addition, DevStd GEO-TC-4.4 of the Toro Canyon Plan requires that a deed restriction be recorded against the property to ensure that no shoreline protection structure shall be proposed or constructed for new bluff top development where the development can be sited and designed to meet applicable bluff retreat setbacks, as in the subject case.

If seawalls or shoreline protection devices were erected on these sites, there would be a cumulative impact on lateral public beach access opportunities due to the progressive narrowing of the beach resulting from the presence of a seawall. In order to ensure that the proposed project is consistent with the policies of the County LCP, including Section 30235 and 30253 of the Coastal Act incorporated therein, GEO-TC-4.3, and GEO-TC-4.4, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition No. 2**, in conjunction with **Special Condition No. 15**, requires the applicants to record a deed restriction that would prohibit the applicants, or future landowners, from constructing a shoreline or bluff protective device or devices for the purpose of protecting any of the development approved under these applications.

Additionally, the Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will minimize erosion and add to the geologic stability of the project sites. To ensure that adequate drainage and erosion control are included in the proposed developments the Commission requires the applicants to submit drainage and interim erosion control

plans certified by a consulting geotechnical engineer, as specified in **Special Condition Nos. 12 and 13** in compliance LCP Policy 3-18. Special Condition 12 requires the applicants to maintain a functional drainage system at the subject sites to insure that run-off from the project sites is diverted in a non-erosive manner to minimize erosion at the sites for the life of the proposed developments. Should the drainage system of the project sites fail at any time, the applicants will be responsible for any repairs or restoration of eroded areas as consistent with the terms of Special Condition 12.

Finally, future developments or improvements to the property have the potential to create significant adverse geologic hazards and impacts on these bluff top lots. As a result, it is necessary to ensure that future developments or improvements normally associated with a single family residence or accessory development, which might otherwise be exempt, be reviewed by the Commission and/or the County of Santa Barbara, for compliance with the geologic and site stability policies of the LCP. As a result, **Special Condition No. 4** in combination with **Special Condition No. 15** requires a future improvements deed restriction, to ensure that the Commission and/or County of Santa Barbara will have the opportunity to review future projects for compliance with the LCP and Coastal Act and to ensure that any proposal is designed to minimize geologic hazards and impacts and/or that appropriate mitigation measures are included in the project.

Therefore, for reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of the policies and provisions of the Santa Barbara County certified LCP, including the Toro Canyon Plan, and with Section 30253 of the Coastal Act, as included within the LCP as a guidance policy.

## **D. BIOLOGICAL RESOURCES**

The following policies are extracted from County's certified LCP, including the Coastal Plan, Zoning Ordinance, and the Toro Canyon Plan (TCP), which is a certified component of the LCP:

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

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

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

Section 30240 of the Coastal Act states:

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

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

LCP Policy 1-2 Resource Protection:

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

LCP Policy 9-22 Butterfly Trees:

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

LCP Policy 9-23 Butterfly Trees:

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

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

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

LCP Policy 9-36 Native Plant Communities:

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

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

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

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

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

Zoning Ordinance Sec. 35-140. Tree Removal.

***35-140.1 Purpose and Intent***

*The purpose of this section is to regulate the removal of certain trees within the Coastal Zone. The intent is to preserve healthy trees that are important for the protection of habitat areas and the scenic and visual quality of the County.*

**Sec. 35-140.2 Applicability.**

*A Coastal Development Permit under Sec. 35-169 shall be required for the removal of any tree which is six inches or more in diameter measured four (4) feet above the ground and six feet or more in height and which is 1) located in a County street right-of-way; or 2) located within 50 feet of any major or minor stream except when such trees are removed for agricultural purposes; or 3) oak trees; or 4) used as a habitat by the Monarch Butterflies.*

**Sec. 35-140.3 Processing.**

*In addition to the requirements for the issuance of a coastal development permit set forth in Sec. 35-169, a coastal development permit for the removal of trees shall not be issued unless the Coastal Planner makes one of the following findings:*

- 1. The trees are dead.*
- 2. The trees prevent the construction of a project for which a coastal development permit has been issued and project redesign is not feasible.*
- 3. The trees are diseased and pose a danger to healthy trees in the immediate vicinity, providing a certificate attesting to such fact is filed with the Planning & Development Department by a licensed tree surgeon.*
- 4. The trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.*

**LCP Policy BIO-TC-13:**

*Native protected trees and non-native protected trees shall be preserved to the maximum extent feasible.*

**LCP Development Standard BIO-TC-13.1:**

*A "native protected tree" is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a "non-native protected tree" is at least 25 inches in diameter at this height. Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.*

**LCP Development Standard BIO-TC-13.2:**

*Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/use, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.*

## **1. Protected Species and Habitats**

### *Oak Trees*

LCP Policies 9-35 and 9-36 require development to be sited, designed, and constructed to minimize impacts to native vegetation. One specification is that grading and paving shall not adversely affect root zone aeration and stability of native trees. Further, Toro Canyon Plan Policy BIO-TC-13 requires that native protected trees be preserved to maximum extent feasible. Native protected trees are defined under BIO-TC-13.1 as native trees that are at least six inches in diameter as measured 4.5 feet above ground level. Development Standard BIO-TC-13.1 requires that sufficient area be provided from any grading to protect the critical root zones of native protected trees. Development Standard BIO-TC-13.2 specifically states that development shall be sited and designed at an appropriate scale, including size of main structure footprint, size and number of accessory structures/use, and total areas of paving, to avoid damage to native protected trees such as oaks.

Section 35-140 of the Coastal Zoning Ordinance allows for the removal of oak trees that are 6 inches or more in diameter 4 feet above the ground when: they are dead; they prevent construction and project redesign is not feasible; they are diseased and pose a threat to adjacent trees; or they are so weakened by age, disease, storm, fire, or other injuries so as to cause imminent danger to persons or property.

The mixed trees canopy habitat on site would largely be left intact. However, the proposed project will result in removal of two oak trees (Tree Nos. 45 and 46, 6" and 10" diameters respectively) and encroachment into seven oak trees (Trees Identified as Tree No. 18).

The project site is located within an area where the past creation of urban-scale parcels has resulted in a higher density of residential development. The subject site is itself already disturbed as a result of existing residential uses and while there are oak trees present, native understory plant species are lacking and therefore the site is not considered to be an environmentally sensitive habitat area.

The addendum to the Updated Tree Survey, dated February 27, 2008, prepared by the arborist (Peter Winn, Westree) clarified that the two adjacent oak trees that are proposed for removal (Trees No. 45 and 46) have significant structural issues, one having already experienced a split, and whose failure would result in property damage. As such, the removal of these two trees is consistent with Section 35-140 of the Coastal Zoning Ordinance. The landscape plans, revised October 3, 2007, indicate that an additional 96 ornamental and native trees would be planted, including approximately 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees on-site.

Even when oak tree removal meets the removal criteria, the LCP requires mitigation. Toro Canyon Plan Development Standard BIO-TC-13.2 states that when native protected trees are removed, they shall be mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Further, native trees

shall be incorporated into site landscaping plans. Therefore, the Commission requires **Special Condition No. 5**, Oak Tree Mitigation and Long-Term Monitoring, to implement mitigation in the form of ten replacement trees for each tree impacted. Many factors, over the life of the restoration, can result in the death of the replacement trees. In order to ensure that adequate replacement is eventually reached, it is necessary to provide a replacement ratio of ten replacement trees for each tree removed or impacted to account for the mortality of some of the replacement trees. In this case, at least 20 oak trees must be planted to replace the two being removed. Implementation of the approved oak tree replacement planting program shall occur concurrently with the commencement of construction on the project site.

Oak trees in residentially landscaped areas often suffer decline and early death due to conditions that are preventable. Damage can often take years to become evident and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree. Therefore, Special Condition 5 requires the applicant to retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director to conduct long-term monitoring of the 20 replacement trees. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. If monitoring indicates the oak trees are not in conformance with or has failed to meet the performance standards specified in the monitoring program approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental planting plan for the review and approval of the Executive Director. The revised planting plan shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

With regard to encroachments resulting from the plaster soundwall, the applicants have incorporated specific measures to protect the root zones, including the identification of roots using an air spade, hand excavation, and the use of caisson foundations to provide bridging over roots. Specifically, the applicants are proposing the following:

***The proposed West property line wall has been designed to meander around the oaks to avoid impacts to tree roots. Both conventional wall footings and caissons with grade beams will be employed. Prior to construction, a six foot chain link or orange construction fence with metal stakes will be installed around the dripline of the oak trees in proximity to the wall. The proposed eight foot wall will be staked in the field to verify location and to identify areas of the wall that are located beneath dripline. For areas where the wall would be located beneath dripline, Peter Winn, the project arborist, and Penfield & Smith, the project civil engineer, will employ an air spade or have the area excavated by hand to determine the best location for caisson placement. At major roots as determined by Peter Winn, a caisson and grade beam wall foundation is to be installed (refer to details by Penfield + Smith) thereby eliminating the need to trench the area for conventional wall footings. Under the supervision of Peter Winn, any roots encountered during caisson installation or trenching for wall footings shall be cut cleanly with a sharp saw to allow for new root regeneration, and backfilled immediately or kept moist to prevent drying out and dying. After the perimeter wall is constructed, the area will be spread with approximately three to four inches of mulch.***

Given the above measures, the encroachment into seven oak tree driplines is not anticipated to have an adverse impact to the oak trees. However, given that damage can often take years to become evident in oak trees, Special Condition No. 5 requires long-term monitoring of the encroached trees (Tree No. 18). Specifically, the applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director to conduct long-term monitoring of all oak trees where development will encroach into the driplines of oak tree canopies (seven oak trees identified as Tree No. 18 in the Arborist Reports referenced in the Substantive File Documents), to determine if the trees may be adversely impacted by the encroachment. An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the applicants shall plant replacement trees on the site at a rate of 10 replacement trees for each 1 tree impacted. If replacement plantings are required, the applicants shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful. An annual monitoring report on the new oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Upon submittal of the replacement planting program, the Executive Director shall determine if the planting program shall be processed as an amendment to this coastal development permit or whether a separate coastal development permit is required.

In order to ensure protection of the other oak trees on the site, **Special Condition No. 6** requires the placement of temporary protective barrier fencing and/or flagging around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then flagging shall be installed on trees to be protected. Additionally, the applicant shall follow the oak tree preservation recommendations that have been incorporated into the project description and the additional measures detailed in the Arborist Reports referenced in the Substantive File Documents. Special Condition 6 further requires the applicant to retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of all development within 25 feet of any oak tree. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by this Coastal Development Permit. This monitor shall have the authority to require the applicants to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

#### *Removal of Non-Native Protected Trees*

Toro Canyon Plan Policy BIO-TC-13 requires that non-native protected trees be preserved to maximum extent feasible. Additionally, Toro Canyon Plan Development

Standard BIO-TC-13.2 requires siting and design changes, including size of footprint or number of accessory structures, to avoid damage to non-native protected trees. Non-native protected trees are defined in Toro Canyon Plan Development Standard BIO-TC-13.1 as trees that are at least 25 inches in diameter as measured 4.5 feet above ground level.

The original project approved by the County required the removal of five non-native protected trees. The applicants have redesigned their project to avoid removal of four of the original five. The non-native protected Monterey Cypress tree (30" diameter) that is proposed to be removed is identified as having "major decay, wind damage, leans to southwest, hazardous, major trunk decay at the base." Further, the addendum to the Arborist Report (Westree, February 2008) states that the tree leans toward the existing development and failure would cause significant property damage. Therefore such removal would be consistent with the provisions of Section 35-140 of the Coastal Zoning Ordinance.

#### *Potential Monarch Butterfly Habitat*

Monarch butterflies are migratory, appearing along the California Coast in early October, when the fall weather and decline in nectar signal the need to migrate south. Their wintering grounds are areas within a coastal strip extending from Los Angeles to Monterey. Monarch butterflies seek shelter in groves of trees, usually *Eucalyptus* species, that provide a suitable microclimate by influencing conditions such as the degree of protection from wind, humidity, amount of sunlight, time of day sunlight penetrates, and temperature. Butterflies will form dense clusters on the trees, each individual hanging with its wings down over the one below it. These winter clusters represent the most sensitive part of the Monarch's life cycle. Repopulation of the species depends upon the mating phase which occurs in these specialized habitats. Monarchs will leave these clusters to search for food on warm, calm winter days, regrouping as the day cools.

The Monarch butterfly is considered a state "sensitive animal" and wintering sites for this species are considered sensitive resources by the California Department of Fish and Game. Though the Monarch butterfly is not endangered, its overwintering sites and annual migration are threatened by human activity. In 1984, the International Union for Conservation of Nature and Natural Resources classified the migration and overwintering behavior of the monarch butterfly as a "threatened phenomenon." Many scientists agree that if overwintering sites are not protected, especially in Mexico, the migration and overwintering phenomenon could disappear in as little as 20 years.

Habitat for the monarch butterfly is protected under the County's LCP as an Environmentally Sensitive Habitat area. The subject property is located approximately 250 feet from a property known to harbor a major monarch butterfly aggregation site. This monarch butterfly site, identified as Site 97 in the *Monarch Butterfly Overwintering Sites in Santa Barbara County* report (Meade, November 1999) is located at 3177 Padaro Lane, and is summarized as follow:



***Site 97. This location is now the most populated Monarch colony in Santa Barbara County south of Ellwood. Large clusters form in the eucalyptus trees in the front yard of this residence in a dense grove. This site is to the west of another site that once harbored most of the butterflies clustering in this area... Formerly, the Padaro aggregation was on trees beside the long driveway of 3459. Now, large dense clusters form well back from the road in eucalyptus at 3177. Some butterflies patrol among trees all along Padaro Lane, but are concentrated near 3177 Padaro Lane.***

The site at 3177 Padaro Lane is reported to be a permanent aggregation site (i.e., butterfly aggregation stays in location through the entire aggregation period from October through February or March) comprised of eucalyptus.

LCP Policy 9-22 restricts the removal of butterfly trees except where they pose a serious threat to life or property. Additionally, Policy 9-22 states that butterfly trees shall not be pruned during roosting and nesting season. Policy 9-23 requires adjacent development to be set back a minimum of 50 feet from monarch butterfly trees. Additionally, Coastal Act Section 30240(b), as incorporated into the County's LCP, requires development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Given the lack of native habitats and the secondary use by sensitive or protected species, the project site is not considered to be an environmentally sensitive habitat area (ESHA). The applicants submitted an updated biological report (Althouse and Meade, Inc., March 2008) which evaluated the site's potential to serve as monarch butterfly habitat. Properties on Padaro Lane have long been known to support autumnal and wintering aggregations of monarch butterflies.

Trees near a wintering aggregation, such as those on the Property, require individual assessment to determine their significance to the aggregation site. In order to provide an assessment on this habitat, monarch butterfly use of the property was surveyed from October 2007 to March 2008. No monarchs were observed roosting or clustering in trees on the property during the survey. However, the monarch count indicated that the property was used regularly by monarch butterflies as they migrate, forage, and bask in association with the adjacent wintering aggregation site. They were observed to bask on eucalyptus, cypress, oak, and pittosporum trees on the property. The proposed redwood windrow between the property and the aggregation site is expected to add to the overall wind buffering capacity of the trees adjacent to the aggregation site. Additionally, the addition of ornamental and native trees are anticipated to increase the wooded features of the property, contributing additional wind buffer, and providing a net benefit to the existing off-site aggregation area.

Monarch butterflies are known to be extremely sensitive to changes in environmental factors which may change the overwintering habits of the monarchs. The precise location of aggregations can change from year to year. Monarch butterflies can be disturbed and flushed from their aggregations by people coming too near a butterfly cluster. This depends on the time of day and the topography of the aggregation site. Monarch butterflies are susceptible to pesticides, both airborne and on the ground.

Although the proposed projects is not expected to directly impact the monarch butterfly habitat, emissions from fireplace chimneys (smoke, heat, burning embers, and carbon dioxide) in the vicinity of roosting monarchs can cause disturbance to the butterflies. This may lead to increased flight activity, emigration, mortality, and reduced colony stability. Therefore, the project has the potential to adversely impact the monarch aggregations. To ensure that adverse impacts to the monarch butterfly population resulting from chimney emissions are avoided, the Commission imposes **Special Condition No. 16** requiring any fireplaces, stoves, or firepits on the site to be non-woodburning.

Additionally, the applicants submitted preliminary landscape plans, revised October 3, 2007, indicating that an additional 96 ornamental and native trees would be planted, including approximately 40 coast live oaks (ten 24" box trees and 30 1-gallon seedlings) and 15 specimen trees on-site. Given the use of the subject site for nectaring and basking activities, **Special Condition No. 14** requires the landscape plans to include the use of native plant species that support monarch butterfly basking and nectaring activities.

### *Nesting Birds*

The property is semi-wooded, consisting of a variety of ornamental trees and large shrubs, intermingled with coast live oak trees. The understory is mostly ruderal grasses and herbs beneath these tree canopies and no natural habitat remains.

The biological report (Althouse and Meade, 2008) indicates that the variability of the tree canopy structure attracts a surprisingly large number of birds to the property, including migrating songbirds as well as year-around residents. Red-tailed, red-shouldered, and Cooper's hawks were observed on the property during the winter months. Biological surveys of the site identified a large raptor nest in a mature blue-gum eucalyptus tree. Acorn and Nuttall's woodpeckers are residents in the trees on the property; nesting cavities of each species were observed. Additionally, a pair of kestrels claimed two acorn woodpecker cavities as nest sites. As currently designed, these trees will remain on the project site.

The biological report also indicates that special status bird species are unlikely to nest on the property, but could utilize the site as migrants during the non-breeding season. The proposed redevelopment of the site from the more typical residential-size to a residential estate will result in the increased intensity of use of the property. The biological report indicates that this increased use of the property, both from construction and long-term occupation, could potentially decrease the desirability of the tree canopy habitat to migrant and nesting birds; however, the proposed dense landscape plantings would likely be desirable habitat to most or all of the species currently using the property.

The existing raptor nest located in the blue-gum eucalyptus tree may be viably used in future years. The project was re-designed to avoid removing or impacting this tree. The nest site will not be directly impacted by project activities. However, increased use of

the property during construction and after occupation of the proposed home may reduce the attractiveness of the nest site to raptors.

Impacts to nesting birds could occur if grading or tree removal/trimming is conducted during the nesting season. Take of common nesting birds is prohibited by federal and state laws.

Construction of the project during the breeding season may cause nesting species to abandon nests. To ensure that the impact to nesting birds is minimized and that no breeding/nesting activity is present in the vicinity, **Special Condition No. 7**, Nesting Bird Protection Measures, requires that a qualified biologist or environmental resources specialist conduct a biological survey to detect any active bird nests. A survey by the biologist shall be conducted no more than 3 days prior to construction in order to determine whether active nests are present within 300 feet of the area to be disturbed by grading and construction. If an active songbird nest is located, clearing/construction within 300 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. If an active raptor, rare, threatened, endangered, or species of concern nest is found, clearing/construction within 300 feet shall be postponed until the nest(s) is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. The biologist shall record the results of the recommended protective measures described above to document compliance with applicable State and Federal laws pertaining to protection of nesting birds.

### *Landscaping*

The proposed project includes landscaping throughout the entire project site. The use of non-native and invasive plant species within new development can cause adverse on-site and off-site impacts upon natural habitat areas. Non-native and invasive plant species can directly colonize adjacent natural habitat areas. In addition, the seeds from non-native and invasive plant species can be spread from the developed area into natural habitat areas via natural dispersal mechanisms such as wind or water runoff and animal consumption and dispersal. These non-native and invasive plants can displace native plant species and the wildlife which depends upon the native plants. Non-native and invasive plants often can also reduce the biodiversity of natural areas because, absent the natural controls which may have existed in the plant's native habitat, non-native plants can spread quickly and create a monoculture in place of a diverse collection of plant species.

The applicant's proposed landscape plan includes many native plant species, however, non-native ornamental plants would also be extensively planted in some areas. The placement of any non-native invasive plant species within the development (which could potentially spread to the natural habitat areas) is a threat to the biological productivity of adjacent natural habitat and would not be compatible with the continuance of those habitat areas. Therefore, the Commission must ensure the use of native plants and avoid any and all invasive plant species, and must place strict controls on the use of

vegetation within the development. The controls must apply to present and future landscaping associated with the development.

Therefore, **Special Condition No. 14**, Landscape and Monitoring Plans, requires the use of plants that are grown from seeds or vegetative materials obtained from local natural habitats, appropriate to the habitat type, with certain exceptions. Special provisions are made for landscaping to consist primarily of native/drought resistant plants, including irrigated lawn that must be selected from the most drought tolerant species. Use of invasive species anywhere within the development is strictly prohibited. Eliminating the use of invasive species reduces the risk that adjacent habitat areas would be overtaken by non-native plants.

### *Lighting*

In past actions, the Commission has found that night lighting can create a visual impact to nearby scenic and public roads. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of protected or sensitive wildlife species. In this case, the subject site has the potential to support nesting activities for a number of bird species. The proposed project would introduce new artificial lighting throughout the parcel. This impact can be minimized by directing lighting downward. **Special Condition No. 11** therefore outlines lighting restrictions such that all exterior night lighting installed on the project site shall be of low intensity, low glare design, and shall be shielded to direct light downward onto the subject parcel(s) and prevent spill-over onto adjacent parcels, including public areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. The restriction on night lighting is necessary to protect the nighttime character of this portion of the bluffs both to minimize impacts to sensitive habitat areas and to assure consistency with the scenic and visual qualities of this coastal area.

## **2. Construction Impacts**

The proximity of sensitive monarch butterfly habitat and mature native and non-native trees, as well as the extensive nature of the project may result in impacts to sensitive biological resources in the project vicinity unless adequately monitored. Therefore **Special Condition No. 10** requires the applicant to retain a qualified biologist or environmental resource specialist to be present during construction. The biological monitor shall be present during grading, excavation, demolition, and all construction activities. The builder shall cease work should any sensitive species be identified anywhere within the construction area, if a breach in permit compliance occurs, if work outside the scope of the permit occurs, or if any unforeseen sensitive habitat issues arise. In such event, the biological monitor(s) shall direct the applicant to cease work and shall immediately notify the Executive Director. Project activities shall resume only upon written approval of the Executive Director. If significant impacts or damage occur to sensitive habitat or species, the applicant shall be required to submit a revised, or supplemental program to adequately mitigate such impacts. The revised, or supplemental, mitigation program shall be processed as an amendment to this coastal development permit.

In conjunction with the presence of the biological monitor, the applicant shall be responsible for installing temporary construction fencing or flagging to delineate areas that may not be accessed during construction, as specified in **Special Condition No. 9**, Construction Responsibilities. Special Condition 9 requires that natural areas, oak trees, and protected non-native trees within and adjacent to the construction area and along all construction corridors and staging areas shall be clearly delineated on the project site with fencing or survey flags. The purpose of such fencing or flagging would be to: (1) ensure that construction activities do not occur within areas that are not authorized for grading, construction activities, or storage and (2) ensure that construction activities do not adversely impact any sensitive habitats, coastal waters and drainages, or oak and protected non-native trees.

Further, stockpiling of excavated soil and use of equipment storage and staging areas could result in erosion and sedimentation impacts to sensitive habitat, protected trees, or coastal waters. Ground disturbance associated with overexcavation, stockpiling of the excavated material, construction staging areas, and grading associated with the proposed projects each have the potential to result in erosion and sedimentation impacts. Therefore, **Special Condition No. 8** requires that all construction debris and excess excavated material be disposed of at an authorized disposal site. Prior to issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all debris and excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit or other legal authorization for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material. Further, **Special Condition No. 9** requires that any and all debris resulting from construction and grading activities be removed from the project site within 7 days of completion of construction.

Interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to adjacent environmentally sensitive habitat from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. 13** is necessary to ensure the proposed developments will not adversely impact sensitive habitats or protected trees. The interim erosion control measures include installation or construction of temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations if should grading take place during the rainy season (November 1 – March 31). All erosion measures must be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.

Therefore, for reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of the policies and provisions of the Santa Barbara County certified LCP, including the Toro Canyon Plan,

and with Section 30240 of the Coastal Act, as included within the LCP as a guidance policy.

## **E. PUBLIC ACCESS AND VISUAL RESOURCES**

LCP Policy 1-1, incorporating Section 30210 of the Coastal Act:

*In carrying out the requirements of Section 4 of Article X of the California constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

LCP Policy 1-1, incorporating Section 30211 of the Coastal Act:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

LCP Policy 1-1, incorporating Section 30251 of the Coastal Act:

*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.*

LCP Policy 3-1:

*Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.*

LCP Policy 3-2:

*Revetments, groins, cliff retaining walls, pipelines and outfalls, and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and so as not to block lateral beach access.*

LCP Policy 3-3:

*To avoid the need for future protective devices that could impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, or where such restriction would cause the inverse condemnation of the parcel by the County.*

LCP Policy 3-14:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

LCP Policy 4-4:

*In areas designated as urban on the land use plan maps, and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

LCP Policy 4-5:

*In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Blufftop structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.*

LCP Policy 7-1, in part:

*The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. . . .*

Zoning Ordinance Sec. 35-53. Overlay District Designations and Applicability. (in relevant part):

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

LCP DevStd GEO-TC-4.4:

*Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable.*

*1. Development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.*

*2. For any new shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such*

***activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.***

***3. For new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.***

LCP Policy VIS-TC-1:

***Development shall be sited and designed to protect public views.***

LCP DevStd VIS-TC-1.1:

***Development shall be sited and designed to minimize the obstruction or degradation of public views.***

LCP Policy VIS-TC-2:

***Development shall be sited and designed to be compatible with the rural and semi-rural character of the area, minimize impact on open space, and avoid destruction of significant natural resources.***

LCP DevStd VIS-TC-2.1:

***Development, including houses, roads and driveways, shall be sited and designed to be compatible with and subordinate to significant natural features such as major rock outcroppings, mature trees and woodlands, drainage courses, visually prominent slopes and hilltops, ridgelines, and coastal bluff areas.***

LCP DevStd VIS-TC-2.2:

***Grading for development, including primary and accessory structures, access roads (public and private) and driveways, shall be kept to a minimum and shall be performed in a way that:***

- minimizes scarring,***
- maintains to the maximum extent feasible the natural appearance of ridgelines and hillsides.***

To carry out the requirement of Section 4 of Article X of the California Constitution, Coastal Act Section 30210 provides that maximum access and recreational opportunities be provided consistent with public safety, public rights, private property rights, and natural resource protection. Coastal Act Section 30211 requires that development not interfere with the public's right of access to the sea with certain exceptions. Section 30240 of the Coastal Act further requires that development adjacent



to parks and recreation areas be sited and designed to prevent impacts. Policies 3-2 and 3-3 regulate structures or development to eliminate or mitigate adverse impacts on local shoreline sand supply and maintain lateral public access.

Coastal Act Section 30251, incorporated into the certified LCP, requires protection of visual qualities of coastal areas. The LCP policies above require that the proposed development be sited and designed to protect views to and along the ocean and scenic coastal areas and be visually compatible with the character of surrounding areas. The LCP policies also require minimization of landform alteration and grading.

The project site is located within the Toro Canyon Plan area on a bluff top property between the first public road and the sea. The southern extent of the Toro Canyon Planning Area aligns the Pacific Ocean for approximately 2 miles, including bluff and beachfront lands, zoned for residential uses. Coastal erosion has affected this part of the coast and has prompted the private construction of protective structures along much of the shoreline. County policies require coastal bluff setbacks to accommodate 75 years of blufftop retreat. Existing shoreline protective devices, primarily rock revetments have had adverse visual consequences and have restricted lateral beach access to varying degrees.

The project site is currently developed with a 1,875 square foot board-and-batten beach cottage and a three-car partially enclosed carport. The parcel is believed to have been developed in the mid-1940's when the original wing of the beach cottage (dating from the mid-1920's) was moved to its present location, from an unknown location. A number of additions were made to the cottage since its establishment on the property. The existing cottage and carport are proposed for demolition.

## **1. Public Access**

In addition to any applicable policies of the LCP, all projects located between the first public road and the sea requiring a coastal development permit, such as the proposed project, must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Coastal access generally includes lateral access (access along a beach), vertical access (access from an upland street, parking area, bluff or public park to the beach), coastal bluff top trails, and upland trails that lead to the shore.

The 1.5 miles of sandy beach frontage west of Santa Claus Lane beaches are obstructed at most tides by an artificial headland consisting of single-family homes surrounded by a seawall. Many of the homes in the Padaro Lane area were granted permits to build under the condition that access to the beach would be provided to the public via vertical easements to and/or lateral easements along the beach. The County has been attempting to render these dedicated easements functional. For formal access to become available at Padaro Lane, the one existing legal public vertical easement within the Padaro Lane area to the beach would need to be formally opened. The

County has accepted the Offer-to-Dedicate a vertical easement on Padaro Lane, but it has not been opened as a result of ongoing litigation. The subject site is located approximately  $\frac{3}{4}$  mile upcoast of the unopened Padaro Lane vertical easement and approximately  $\frac{1}{2}$ -mile downcoast of the Loon Point public accessway.

Several discontinuous informal parking spaces exist on the north side of the road along Padaro Lane between Garrapata Creek and Toro Creek. Parking on the shoulder north of the road is extremely constrained west of Garrapata Creek. Traveling westward, the shoulder widens and many parallel and perpendicular parking space areas approximately 15 feet wide exist. Approximately 15-20 spaces are developed between the residences of 3200 to 3300 Padaro Lane.

Attempts to render these easements functional are ongoing and would be subject to the policies and actions of the Toro Canyon Plan. No dedicated and open vertical public access exists along Toro Canyon's 2 miles of beach frontage. Loon Point, immediately west of the Toro Canyon Planning Area boundary, provides the main (open) public access in close proximity to Toro Canyon. There are also two major informal accessways in the Toro Canyon Plan Area, Padaro Lane and Santa Claus Lane.

The public already possesses ownership interests in tidelands or those lands below the mean high tide line. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The protection of these public areas and the assurance of access to them lies at the heart of Coastal Act policies requiring both the implementation of a public access program and the minimization of impacts to access and the provision of access, where applicable, through the regulation of development. To carry out the requirement of Section 4 of Article X of the California Constitution, Public Resource Code (PRC) Section 30210 provides that maximum access and recreational opportunities be provided consistent with public safety, public rights, private property rights, and natural resource protection. PRC Section 30211 requires that development not interfere with the public's right of access to the sea with certain exceptions.

LCP policies 7-1 and 7-2 highlight the County's duty to "protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline" and that some development projects may be required to allow vertical access to the mean high tide line. Policy 7-8 requires the County to accept and open the vertical easement offered in associate with development on Padaro Lane.

As described in more detail in Section V.C, Hazards and Geologic Stability, of this report, development of shoreline protective devices have the potential to result in individual and cumulative adverse effects to shoreline sand supply and the beach profile, which in turn may impact public access. Impacts to access can occur from physical blockage of existing access, direct occupation of sandy beach by structures as well as from impacts on shoreline sand supply and profile caused by seawalls and other shoreline protective structures, overcrowding or congestion of such tideland or beach areas, and visual or psychological interference with public access to, and the ability to use, public tideland areas.

In summary, future seawalls or shoreline bluff protective devices necessary to protect the proposed development would result in substantial impact to lateral public beach access by directly displacing existing public beach area, and by causing the long-term progressive loss of beach width. Increased loss of sand on the beach due to wave scour and reduction in sand supply would adversely impact beach access to and recreational use of the beach by narrowing the average width of the beach, and by increasing the frequency and length of time when no sand beach would be available.

Therefore, in order to ensure that the proposed project is consistent with the policies of the County LCP and the access and recreation policies of the Coastal Act, **Special Condition No. 2**, in conjunction with **Special Condition No. 15**, requires the applicants to record a deed restriction that would prohibit the applicants, or future landowners, from constructing a shoreline or bluff protective device or devices for the purpose of protecting any of the development approved under these applications.

Therefore, for reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of the policies and provisions of the Santa Barbara County certified LCP, including the Toro Canyon Plan, and with Sections 30210 and 30211 of the Coastal Act.

## **2. Visual Resources**

LCP Policies 3-14 and 4-4 require new development to be designed to fit the topography of the site and be consistent with the scale and character of the neighborhood. LCP Policy 4-5 specifically requires that oceanfront structures minimize or avoid impacts on public views from the beach. In addition, Section 30251 of the Coastal Act, which is included in the certified LCP as a guiding policy, requires visual qualities of coastal areas to be considered and protected and, where feasible, degraded areas to be enhanced and restored.

The Toro Canyon Plan proposes policies and development standards to site and design development to protect public views and be compatible with the character of the area. New development must be designed to minimize the bulk of the structures visible from public viewing areas. Among the possible mitigation measures required to ameliorate the visual impacts of new development are increased setbacks, reduced structure size and height, reductions in grading, extensive landscaping, low intensity lighting, and the use of narrow or limited length roads/driveways. Furthermore, the visual policies require minimization of impacts to open space and avoidance of damage to natural resources. Measures include minimizing grading and vegetation removal, and siting new development to be subordinate to natural features such as mature trees, woodlands, and ridgelines.

The LCP policies as described above require that the proposed development be sited and designed to protect views to and along the ocean and scenic coastal areas and be visually compatible with the character of surrounding areas. The subject property is located on a bluff top lot between the first public road and the sea. Development along Padaro Lane includes both residential estates and older beach cottages on parcels that have not been redeveloped.

Section 35-71.10 of the Coastal Zoning Ordinance states that structures in the 3-E-1 zone district can be designed up to a maximum height of 25 feet from existing grade. The structures on the property meet the 25-foot height requirement. Additionally, side and rear yard setbacks would be met under the current design. Section 35-71.7 requires a front yard setback such that structures be setback 50 feet from the centerline and 20 feet from the right-of-way line of the street. However, the project reduces the front yard setback by eight feet from the centerline of Padaro Lane and by 3 feet, 6 inches from the right-of-way line of Padaro Lane to allow placement of the utility transformer, generator, and switchgear partially in the front yard setback. The LCP allows certain features such as fences/walls to be located within the front yard setback. Therefore, only a portion of the utilities required a Modification under the provisions of the LCP.

The proposed project complies with the maximum allowable height requirements and would not obstruct public views from the public beach or adjacent public road or highway because there are no existing public views through the site, either from the ocean or toward the ocean from the adjacent roadways as a result of the mature trees and landscape present on the site. Buildings are setback approximately 87-123 feet from the bluff edge and would not be significantly visible from the beach. Additionally, the structures have been sited behind the building stringline drawn from the adjacent residences, which sets the development back further than the geologic hazard setback. This serves to minimize the visibility of development from the public beach.

The County staff considered the potential visual impacts of the project during the local permit process:

***The project was conceptually reviewed by the Board of Architectural Review (Case No. 06BAR-00000- 00009) on March 10, 2006, August 25, 2006, and May 11, 2007 and was given preliminary approval on May 25, 2007. The project was determined to be compatible with the surrounding neighborhood (see BAR minutes, Attachment E). Prior to CDP issuance the residence and landscape plans shall receive final approval from the BAR. The project is in conformance with applicable regulation concerning height and setbacks for the 3-E-1 Zone District in the Coastal Zone. No open space would be impacted by the project and other than the protected native and specimen trees proposed for removal, no significant natural resources would be destroyed.***

***The primary residence is set back beyond the required 75-year geologic setback and is behind the "building stringline" determined by the residences on the immediately adjacent parcels. The primary residence is located no closer than 90 feet away from the top of bluff. A portion of the proposed residence will be visible from the public beach below the parcel, but it will be in approximately the same location as the existing residence. The proposed residence will not be highly visible from Highway 101. A site visit by the SBAR and the project planner and review of submitted photographs indicates that the impact to the public viewpoints from the public beach and Highway 101 will not be significant.***

In this case, the proposed development, although located between the first public road and the sea, will not block views of the ocean from any public viewing locations. Further, the proposed residences are consistent in character with other existing

residential estate development in the surrounding community. Although the proposed development is consistent with the character of the surrounding residential development, a portion of it will still be visible from the beach.

The Commission has found that night lighting creates a visual impact to nearby scenic and public roads. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of sensitive or protected wildlife species. Therefore, **Special Condition No. 11** provides that any new exterior night lighting installed on the project site shall be of low intensity, low height, and low glare design, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Further, lighting of the tennis court would be prohibited.

Therefore, for reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of the policies and provisions of the Santa Barbara County certified LCP, including the Toro Canyon Plan, and with Sections 30251 of the Coastal Act as incorporated into the certified LCP.

## F. WATER QUALITY

LCP Policy 1-1, incorporating Section 30231 of the Coastal Act:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

LCP Policy 3-14:

*All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparations is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

LCP Policy 3-16:

*Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with the initial grading operations and maintained throughout the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.*

LCP Policy 3-17:

*Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.*

LCP Policy 3-18:

*Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Water runoff shall be retained on-site whenever possible to facilitate groundwater recharge.*

LCP Policy 3-19:

*Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.*

LCP DevStd WW-TC-2.9:

*Development shall be designed to reduce runoff from the site by minimizing impervious surfaces, using pervious or porous surfaces, and minimizing contiguous impervious areas.*

LCP DevStd WW-TC-2.10:

*Development shall incorporate best management practices (BMPs) to reduce pollutants in storm water runoff. The BMPs can include, but are not limited to dry wells for roof drainage or other roof downspout infiltration systems, modular paving, unit pavers on sand or other porous pavement for driveways, patios or parking areas, multiple-purpose detention systems, cisterns, structural devices (e.g., grease, silt, sediment, and trash traps), sand filters, or vegetated treatment systems (e.g. bioswales/filters).*

LCP DevStd WW-TC-2.11

*Construction Best Management Practices shall be included on drainage plans and/or erosion control plans and implemented to prevent contamination of runoff from construction sites. These practices shall include, but are not limited to, appropriate storage areas for pesticides and chemicals, use of washout areas to prevent drainage of wash water to storm drains or surface waters, erosion and sediment control measures, and storage and maintenance of equipment away from storm drains and water courses.*

LCP Policy WW-TC-4:

*a. Development shall avoid the introduction of pollutants into surface, ground and ocean waters. Where avoidance is not feasible, the introduction of pollutants shall be minimized to the maximum extent feasible.*

*b. Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.*

*c. Development shall avoid, to the maximum extent feasible, adverse impacts to the biological productivity and quality of coastal streams, wetlands, and the ocean. This shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, as updated and approved by the Regional Water Quality Control Board, which is hereby incorporated by reference into this LCP amendment. Any proposed changes to the SWMP shall be submitted to the*

***Coastal Commission Executive Director for review and comment as part of the annual SWMP review process. Any changes to the SWMP that substantively change the LCP provisions for coastal water quality protection within the Toro Canyon Plan area, as determined by the Executive Director, shall be submitted to the CCC on an annual basis as proposed LCP amendments.***

***d. Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner.***

As stated previously, the project includes residential estate development of an approximately 4-acre bluff top property. The project has been designed to include a post-development drainage plan wherein runoff would be routed to localized bioswales with catch basins located 3 inches below the top of the swale. Overflow would then flow into the catch basins and through a storm drain system to rock riprap at the base of the bluff. The goal of retaining the difference in pre- and post-development runoff (for a 25-year storm event) was exceeded by the performance of the proposed swales. A Preliminary Drainage Study prepared by Penfield & Smith, dated March 19, 2007 states that "the total swale capacity of 9,712 cubic feet exceeds the required 3,700 cubic feet storage requirement by a factor of 2.6."

The proposed development will result in an increase in impervious surfaces, which in turn may decrease the infiltrative function and capacity of existing permeable land on sites. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the sites. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons such as oil and grease from vehicles, heavy metals, synthetic organic chemicals such as paint and household cleaners, soap and dirt from the washing of vehicles, dirt and vegetation from yard maintenance, litter, fertilizers, herbicides, pesticides, and bacteria and pathogens from animal waste. The discharge of these pollutants into coastal waters can cause cumulative impacts such as eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms, leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes; reduce optimum populations of marine organisms; and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the LCP, the Commission finds it necessary to require the incorporation of Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed sites. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate

design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

For design purposes, post-construction structural BMPs (or suites of BMPs) should be designed to treat or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The Commission finds that sizing post-construction structural BMPs to accommodate (filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the applicants to submit final drainage and runoff plans including selected post-construction structural BMPs which shall be sized based on design criteria specified in **Special Condition No. 12** and finds this will ensure the proposed developments will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. 13** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources, consistent with the County's LCP, including Policies 3-14, 3-16, 3-17, 3-18, and 3-19 and Section 30231 of the Coastal Act, as incorporated into the LCP.

Additionally, to ensure that inadvertent impacts to water quality do not result from the construction of the proposed development, **Special Condition No. 9** outlines the applicants' responsibilities including parameters for placement and storage of construction materials, debris, or waste to ensure that it will not be subject to erosion nor degrade coastal waters. Special Condition 9 also requires that any and all debris resulting from demolition and construction activities shall be properly covered and enclosed and shall be completely removed from the site within 7 days of completion of construction. Additionally, during construction, washing of concrete trucks, paint, equipment, or similar activities shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Wash water shall not be discharged to the storm drains, street, drainage ditches, creeks, or wetlands. Areas designated for washing functions shall be located as far as feasible from any storm drain, water body or sensitive biological resources. The location(s) of the washout area(s) shall be clearly noted at the construction site with signs. In addition, construction materials and waste such as paint, mortar, concrete slurry, fuels, etc. shall be stored, handled, and disposed of in a manner which prevents storm water contamination. In addition, **Special Condition No. 8** requires the applicant to provide evidence of the location of the disposal site for all debris and excess excavated material from the site



prior to issuance of the CDP. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

Therefore, for reasons set forth above, the Commission finds that the proposed development, as conditioned, is consistent with the requirements of the policies and provisions of the Santa Barbara County certified LCP, including the Toro Canyon Plan, and with Section 30231 of the Coastal Act, as included within the LCP as a guidance policy.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Local Coastal Program consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Certified Local Coastal Program. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

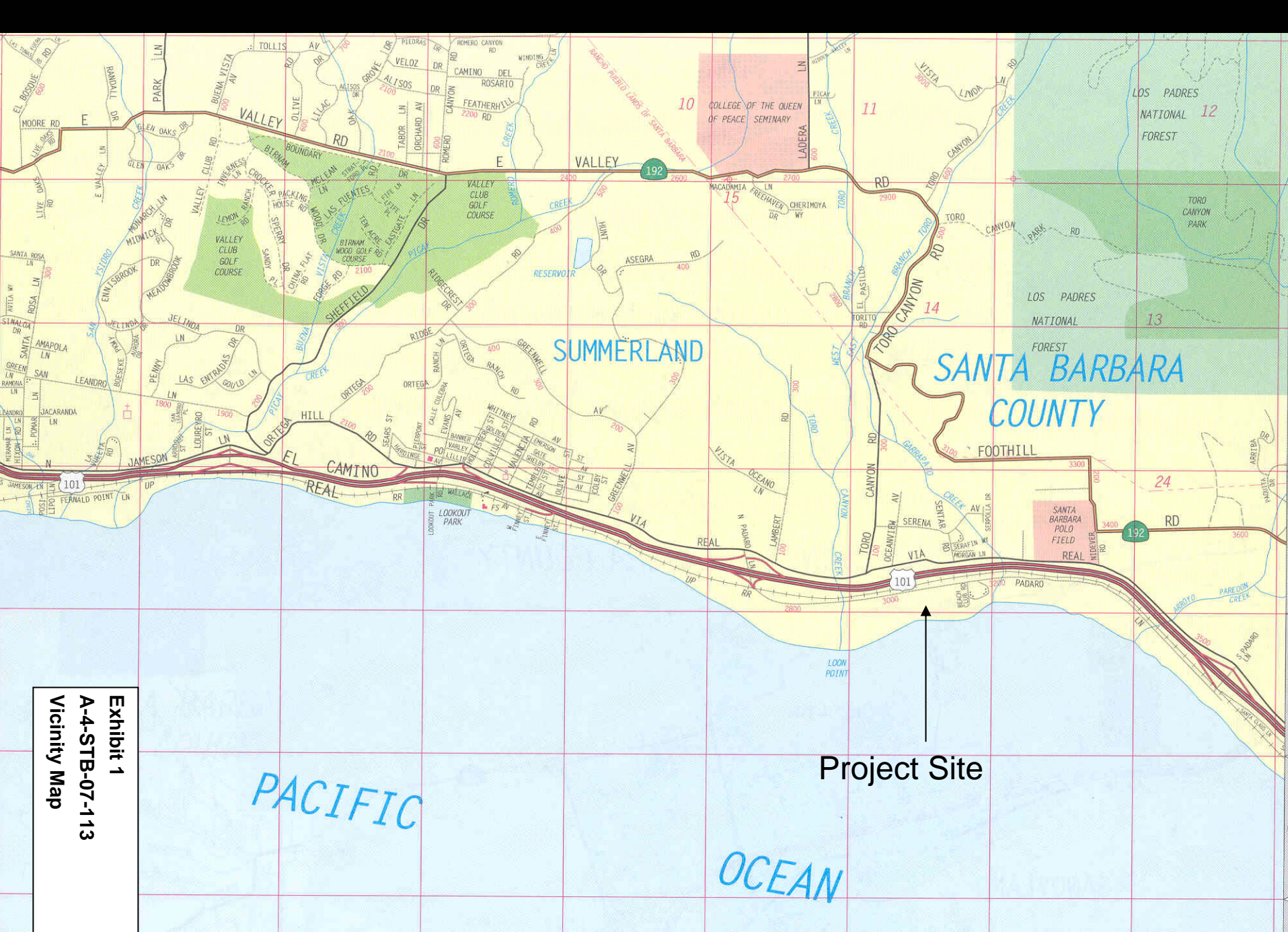
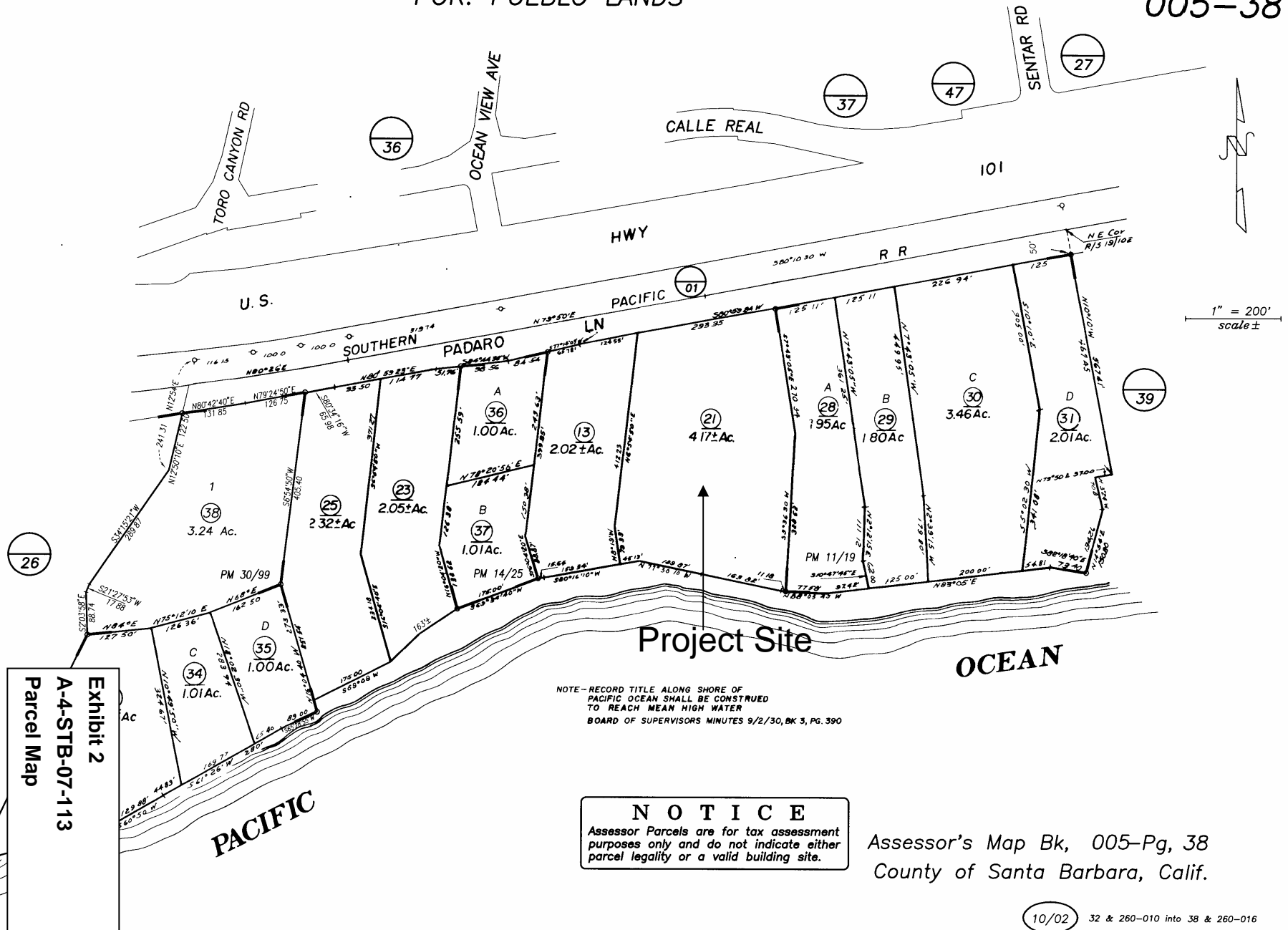


Exhibit 1  
A-4-STB-07-113  
Vicinity Map





**Site Plan Legend**

Tree Density (approx.)

Notes:

1. Show trees, trees to be planted, and other features indicated on this site plan for the project. Refer to Civil, Landscaping, and Utility Plans for design details for specific features and site of the site.
2. Show any other features indicating landscaping with reference to Civil, Landscaping, and Utility Plans for design details for specific features and site of the site.
3. Show any other features indicating landscaping with reference to Civil, Landscaping, and Utility Plans for design details for specific features and site of the site.

**Exhibit 3**  
**A-4-STB-07-113**  
**Site Plan**



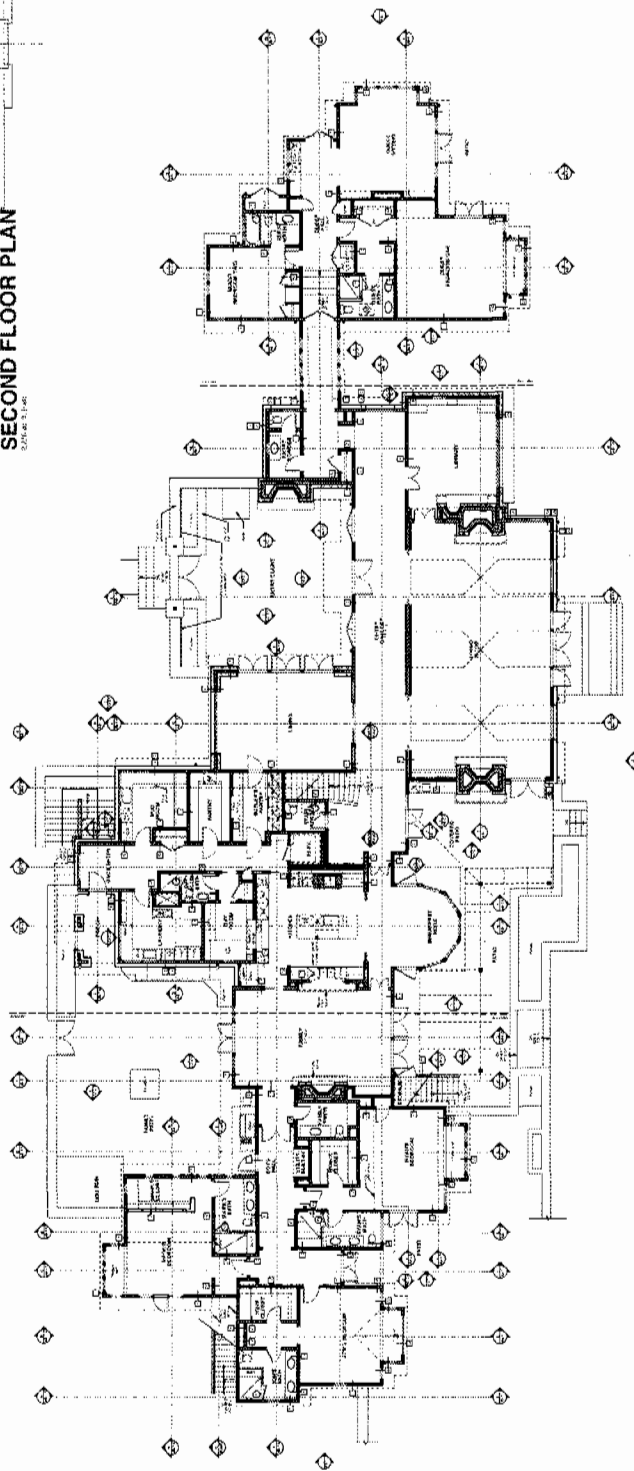
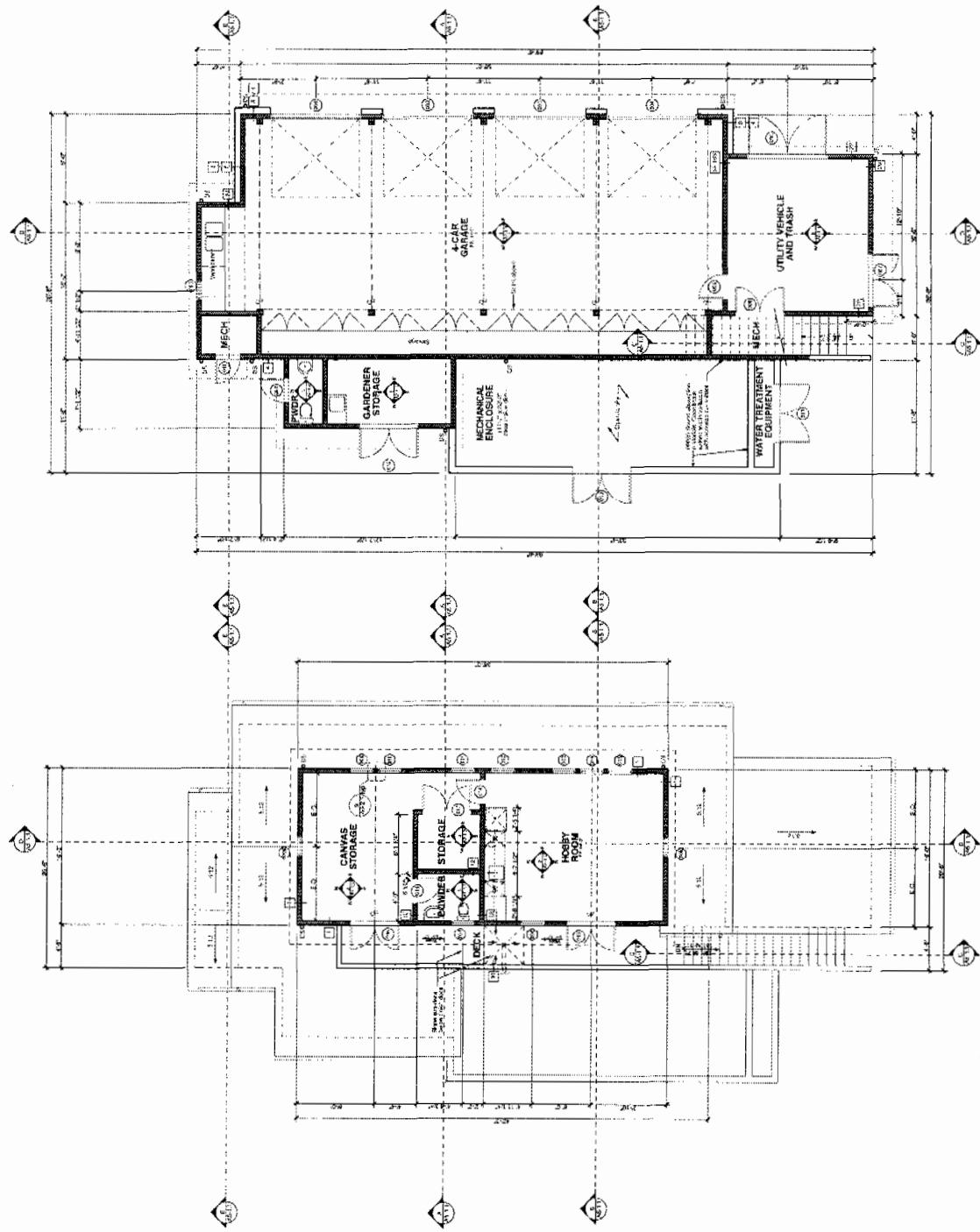


Exhibit 4  
A-4-STB-07-113  
Floor Plans



RENKER GARAGE  
3151 PADARO LANE  
CARPINTERIA, CA 93103  
005-380-021

PROJECT NO. 005-380-021  
DATE: 01/15/11  
DRAWN BY: J. L. LEE  
CHECKED BY: J. L. LEE  
SCALE: 1/4" = 1'-0"  
SHEET NO. 41  
TOTAL SHEETS: 41



**GARAGE PLAN**  
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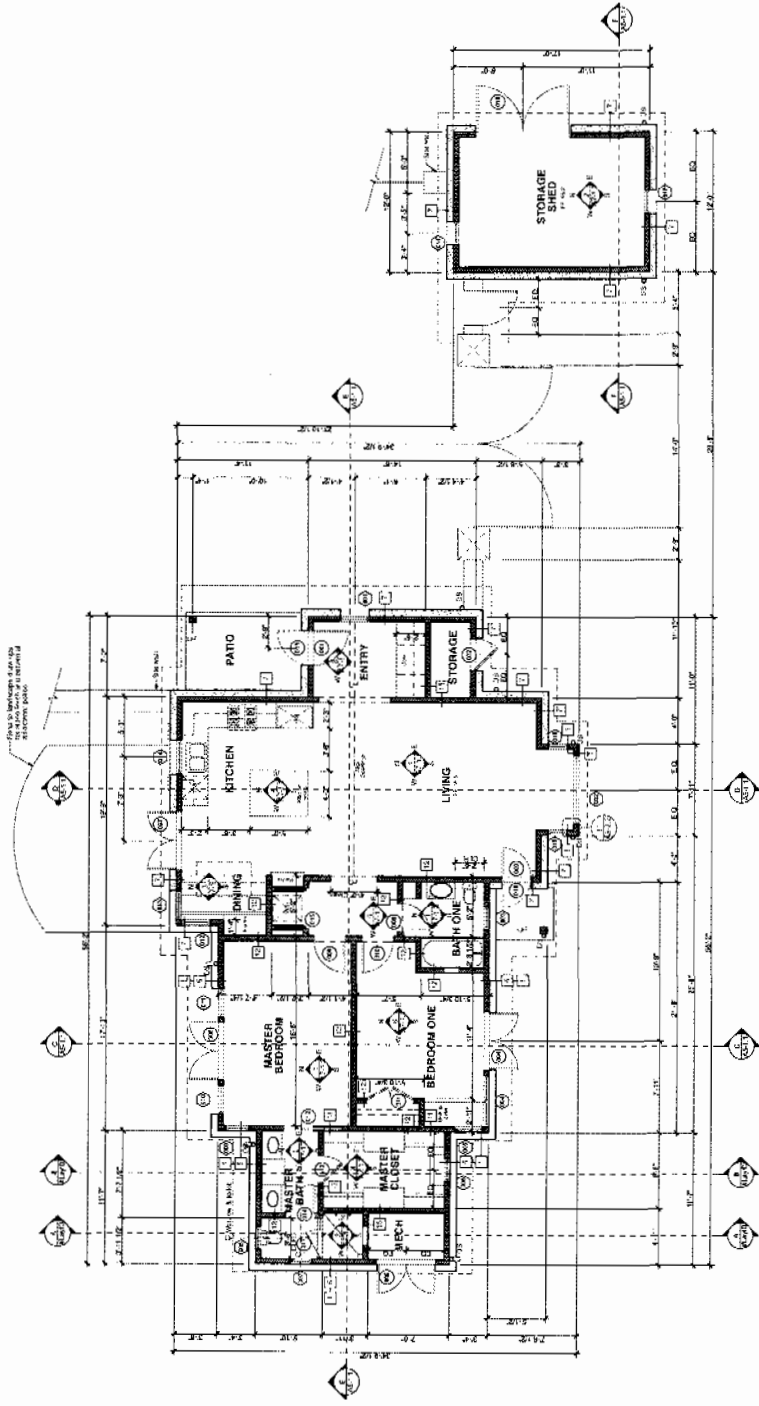
**HOBBY ROOM PLAN**  
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RENNER RESIDENTIAL SECOND UNIT  
 3151 PADARO LANE  
 CARPINTERIA, CA 93103  
 005-380-021

DATE: 01/11/11  
 DRAWN BY: J. L. LEE  
 CHECKED BY: J. L. LEE  
 PROJECT NO.: 005-380-021  
 SHEET NO.: 01  
 TOTAL SHEETS: 01  
 PRINTED: 01/11/11  
 A1-1.1  
 49

PRELIMINARY - NOT FOR CONSTRUCTION



**FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"



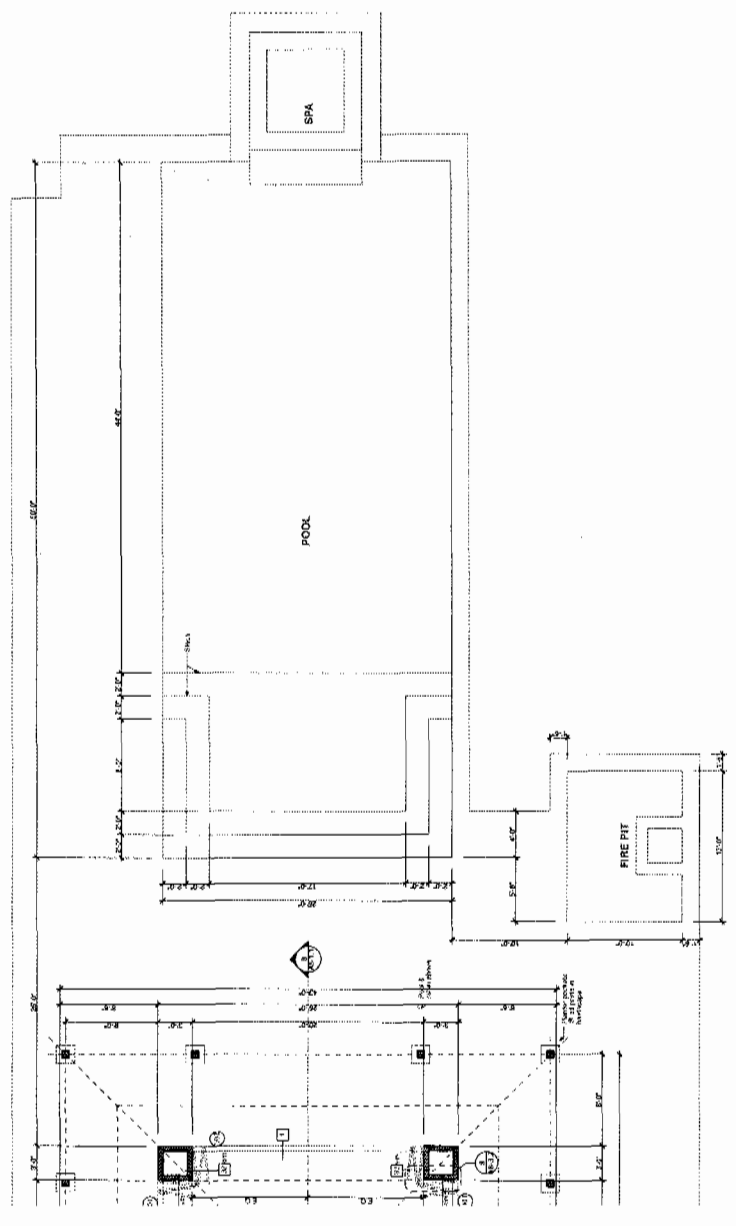




RENKER POOL CABANA  
3151 PADARO LANE  
CARPINTERIA, CA 93013  
005-380-021

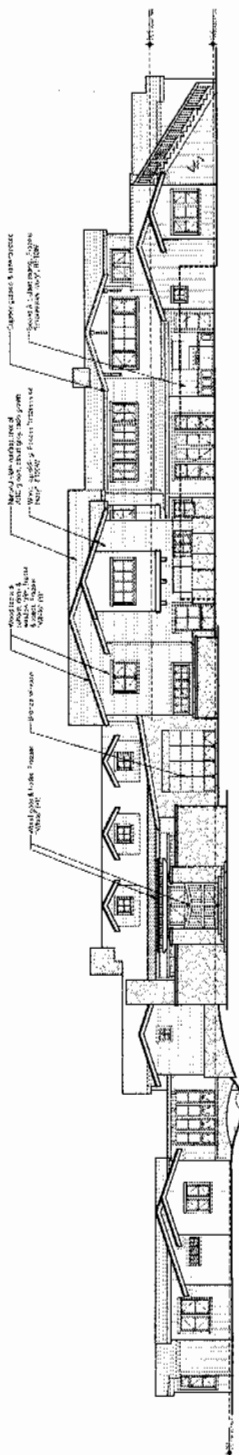
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DRAWN BY: J. RENKER  
CHECKED BY: J. RENKER  
PROJECT: 005-380-021  
SHEET: 01 OF 01

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34

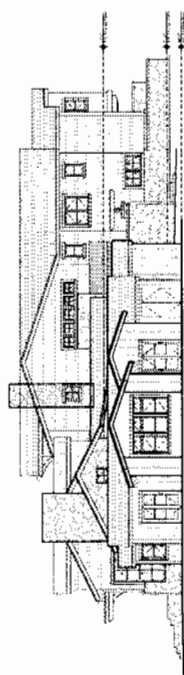


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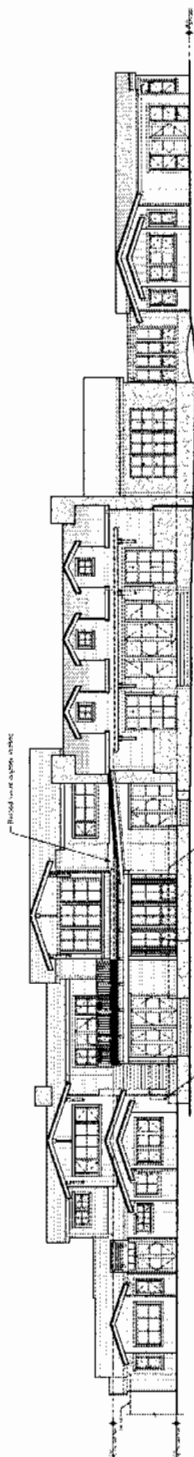
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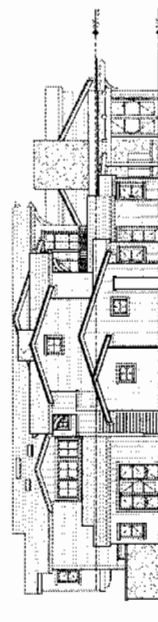
## EAST ELEVATION



**SOUTH ELEVATION**



**WEST ELEVATION**



Not for Construction

4700.

Exhibit 5  
A-4-STB-o7-113  
Elevations



Renker Garage  
Architects, LLC  
11111 1st Street, Suite 100  
San Diego, CA 92121  
619.594.1111  
www.renker.com

RENDERING & NOT FOR CONSTRUCTION

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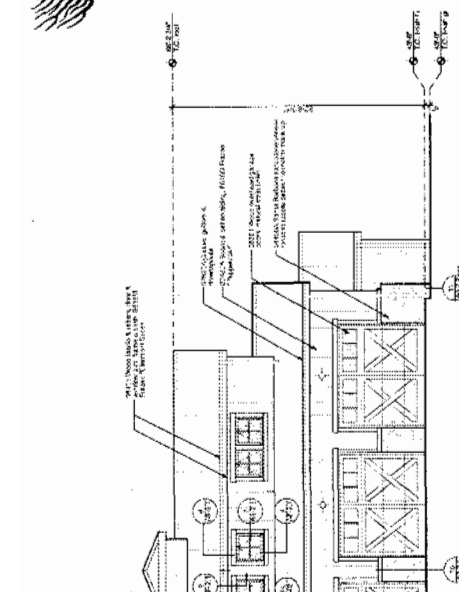
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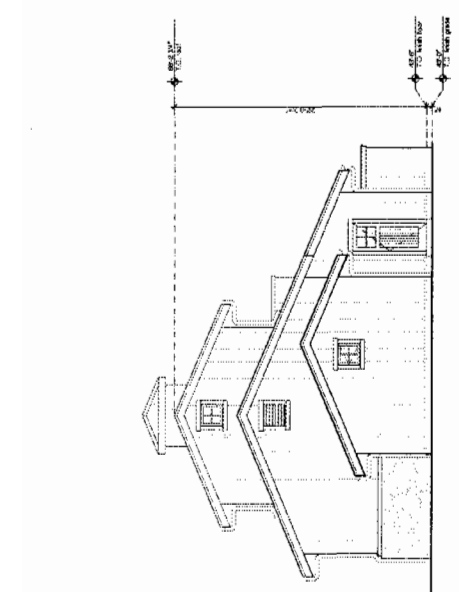
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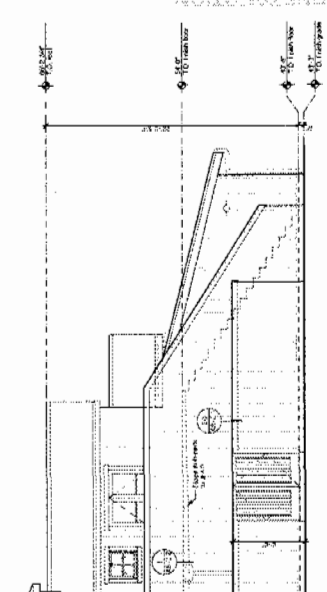
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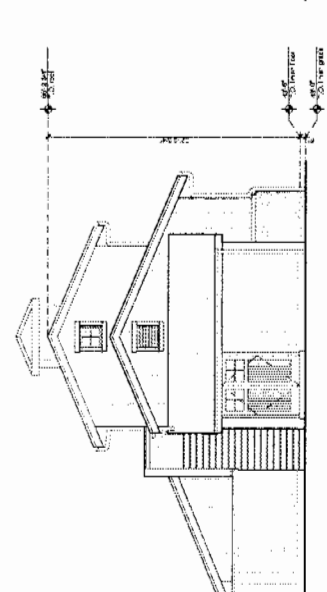
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NORTH ELEVATION  
Scale: 1/8" = 1'-0"



WEST ELEVATION  
Scale: 1/8" = 1'-0"



SOUTH ELEVATION  
Scale: 1/8" = 1'-0"

RENKER GARAGE  
3151 PADARO LANE  
CARPINTERIA, CA 93103  
005-380-021

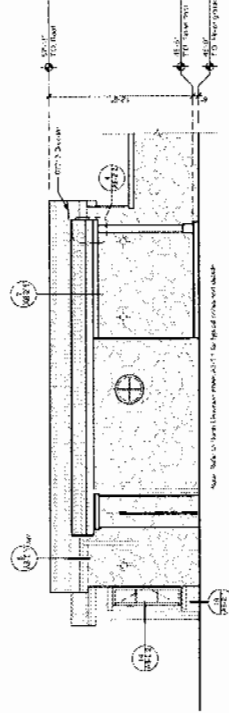
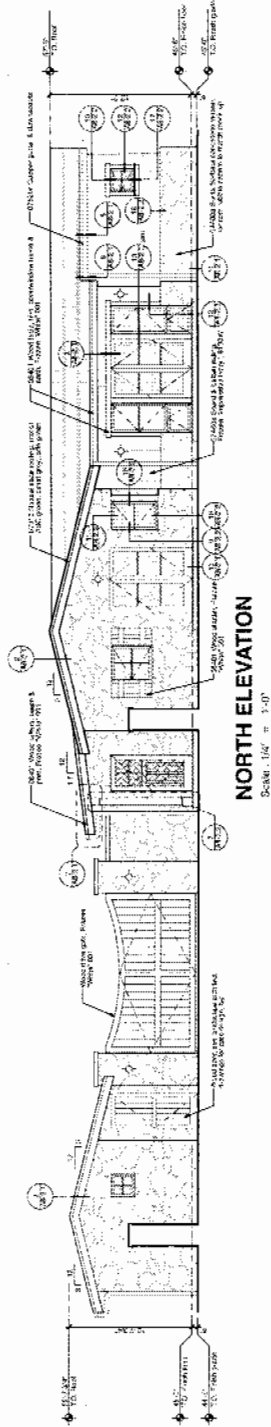
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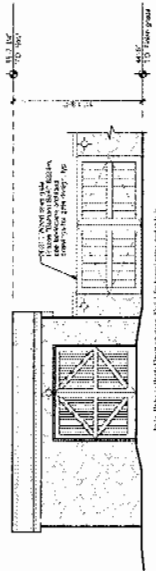
RENKER RESIDENTIAL SECOND UNIT  
3151 PADARLO LANE  
CARPINTERIA, CA 93103  
005-380-021

DATE: 10/10/10  
DRAWN BY: J. RENKER  
CHECKED BY: J. RENKER  
PROJECT NO.: 100101010  
SHEET NO.: 100101010  
SHEET TOTAL: 100101010  
PRINTED AT: 10/10/10

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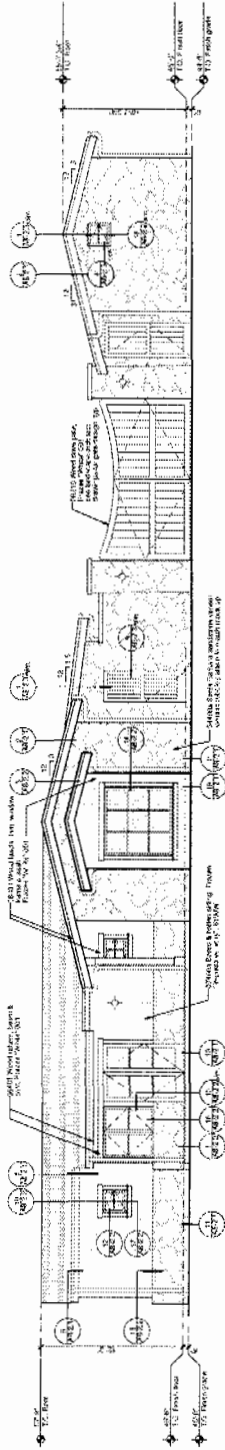


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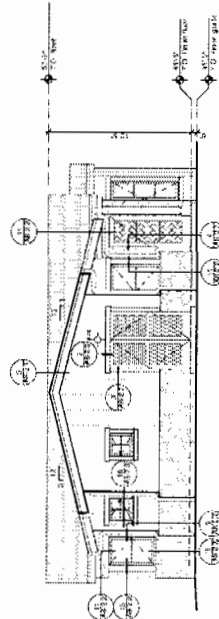


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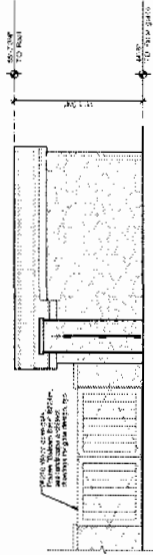
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PROJECT: RENNER RESIDENTIAL SECOND UNIT



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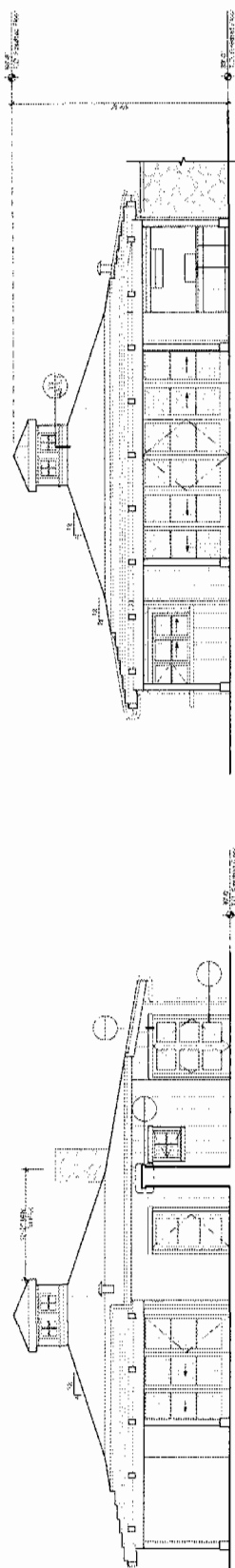


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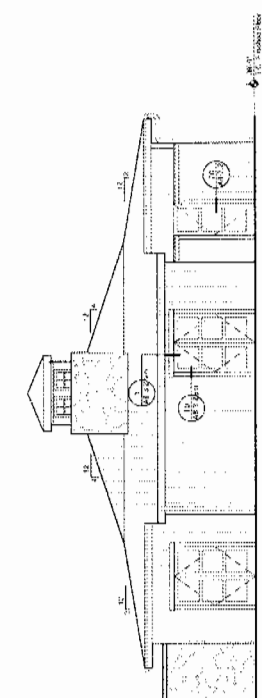


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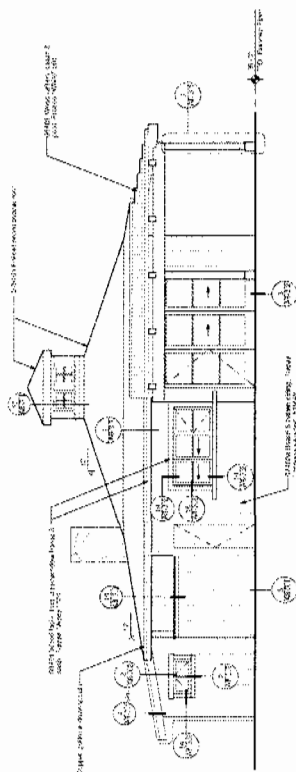
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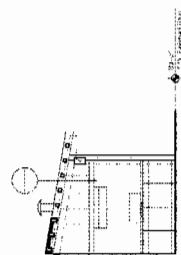
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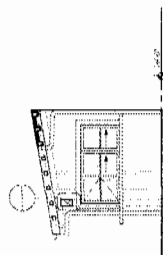
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**SOUTH POOL CABANA**  
Sqm. 144' x 150'



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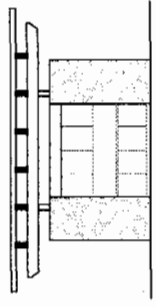
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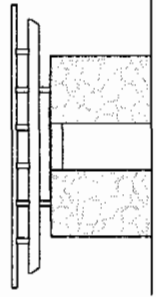
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CARPINTERIA, CA 93013  
005-380-021

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DATE: 07/11/2011  
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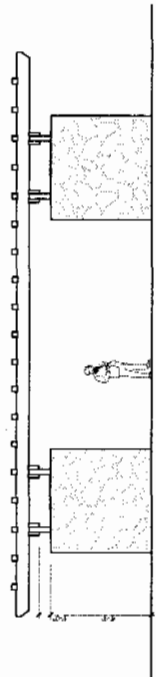
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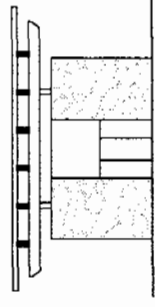
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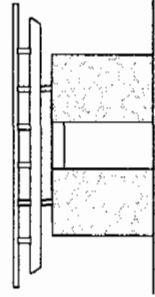
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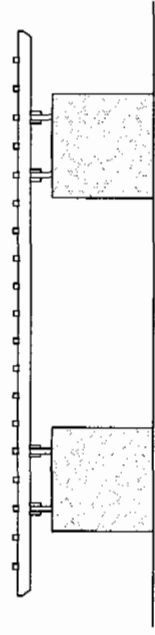
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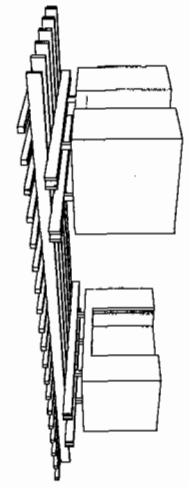
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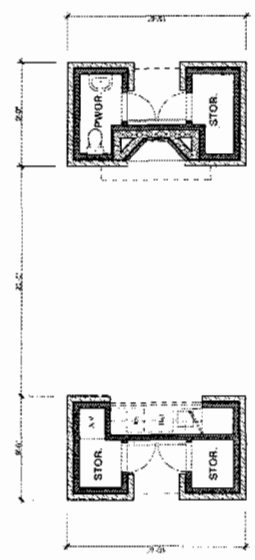
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**SOUTH ELEVATION**  
Scale: 1/4" = 1'-0"



**TENNIS TRELLIS PERSPECTIVE**  
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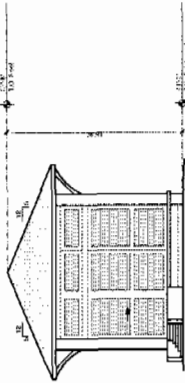


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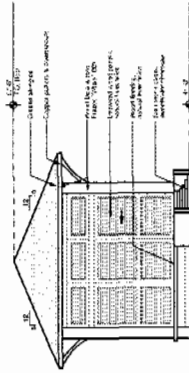


RENKER TENNIS CABANA  
3151 PADARO LANE  
CARPINTERIA, CA 93013  
005-380-021

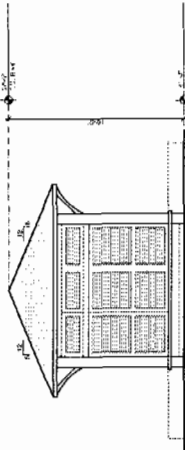
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| CHECKED BY  | AL                     |
| APPROVED BY | AL                     |



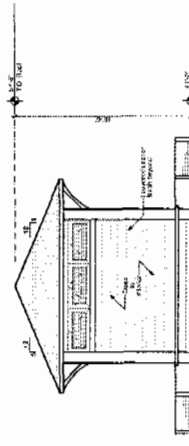
EAST ELEVATION  
Scale: 1/4" = 1'-0"



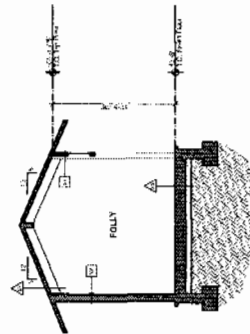
WEST ELEVATION  
Scale: 1/4" = 1'-0"



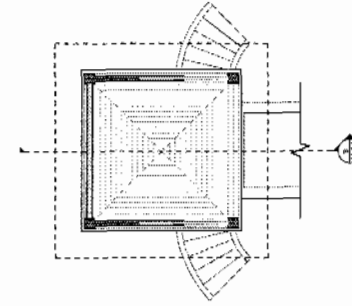
NORTH ELEVATION  
Scale: 1/4" = 1'-0"



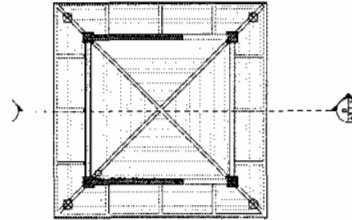
SOUTH ELEVATION  
Scale: 1/4" = 1'-0"



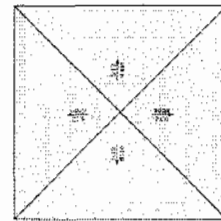
FOLLY SECTION  
Scale: 1/4" = 1'-0"



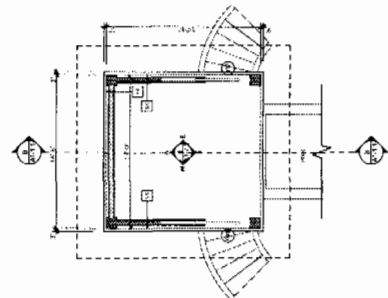
FLOOR FINISH PLAN  
Scale: 1/4" = 1'-0"



REFLECTED CEILING PLAN  
Scale: 1/4" = 1'-0"



ROOF PLAN  
Scale: 1/4" = 1'-0"



FLOOR PLAN  
Scale: 1/4" = 1'-0"