

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

W12

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

August Meeting of the California Coastal Commission

MEMORANDUM

Date: August 11, 2010

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the August 11, 2010 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

REGULAR WAIVERS

1. 3-10-037-W California Department Of Transportation (Caltrans) District 5 (Big Sur, Monterey County)

DE MINIMIS WAIVERS

1. 3-10-027-W California Department Of Fish And Game, Attn: Jeffrey R. Single; Elkhorn Slough National Estuarine Research Reserve, Attn: Bryan Largay (Moss Landing, Monterey County)
2. 3-10-041-W Monterey City Harbor District, Attn: Steve Scheiblaue, Harbormaster (Monterey, Monterey County)

EXTENSION - IMMATERIAL

1. A-3-PSB-06-001-E2 Beachwalk Resorts, L.L.C., Attn: Dixie L. Wells (Pismo Beach, San Luis Obispo County)

<i>TOTAL OF 4 ITEMS</i>

DETAIL OF ATTACHED MATERIALS

REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-10-037-W California Department Of Transportation (Caltrans) District 5	Replace a damaged 18-inch diameter culvert with a 24-inch diameter culvert, including removal and replacement of the existing inlet and outlet.	Highway 1 (@ post mile 14.52), Big Sur (Monterey County)

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-10-027-W California Department Of Fish And Game, Attn: Jeffrey R. Single <u>Elkhorn Slough National</u>	Construct a partially submerged tidal barrier (sill) at the mouth of Parsons Slough and construct artificial Olympia oyster reefs in Parsons Slough, in the Elkhorn Slough National Estuarine Research Reserve.	Parsons Slough Complex (southeast side of Elkhorn Slough), Moss Landing (Monterey County)
3-10-041-W Monterey City Harbor District, Attn: Steve Scheiblaue, Harbormaster	Dismantling and disposal of a 30' x 50' x 6' steel utility barge weighing approximately 80 tons and which is located offshore of Del Monte Beach adjacent to Wharf #2. The project involves pushing the sinking vessel onto the beach during high tide and dismantling the barge for disposal at a metal recycling center.	Del Monte Beach (immediately east of Wharf #2), Monterey (Monterey County)

REPORT OF EXTENSION - IMMATERIAL

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
A-3-PSB-06-001-E2 Beachwalk Resorts, L.L.C., Attn: Dixie L. Wells	Development of a three story, 67-room ocean front hotel with conference rooms, fitness center, underground parking, and public access courtyard.	147 Stimson (Downtown Planning Area), Pismo Beach (San Luis Obispo County)

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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: July 28, 2010
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Katie Morange, Coastal Planner *KM*
Subject: Coastal Development Permit (CDP) Waiver 3-10-037-W
Applicant: Caltrans District 5

Proposed Development

Replace a damaged 18-inch diameter culvert with a 24-inch diameter culvert, including removal and replacement of the existing inlet and outlet, at Highway 1 post mile 14.52 in the Big Sur area of unincorporated Monterey County.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13252 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed project involves replacement of a failing existing culvert system that transports runoff under Highway 1 in Big Sur, and is necessary to ensure that Highway 1 remains open and safe for vehicles and pedestrians. Aboveground elements of the proposed project will not be visible from the Highway 1 corridor once vegetative screening is established, and the project includes measures to protect sensitive habitat and public access during construction, including: temporary flagger(s) that will allow one through lane to remain open at all times; avoidance flagging and fencing of sensitive habitat; and erosion and pollution control measures. In sum, the proposed project will protect public access, habitat, and visual resources consistent with the Coastal Act and the certified Monterey County Local Coastal Program.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, August 11, 2010 in San Luis Obispo. If three Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Katie Morange in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: July 28, 2010
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Katie Morange, Coastal Planner *KM*
Subject: Coastal Development Permit (CDP) Waiver 3-10-027-W
Applicant: California Department of Fish and Game

Proposed Development

Construct a partially submerged tidal barrier (sill) at the mouth of Parsons Slough and construct artificial Olympia oyster reefs in Parsons Slough, in the Elkhorn Slough National Estuarine Research Reserve, near Moss Landing, in unincorporated Monterey County.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed project is a habitat restoration project that will reduce tidal scour and restore vegetated tidal marsh habitat and associated species in Parsons Slough. The project will aid in developing restoration designs for the larger Elkhorn Slough system to reduce salt marsh habitat degradation that results from ongoing tidal erosion. The project involves construction measures to protect sensitive slough resources and existing public access during construction, including: marine mammal monitoring, water quality monitoring, temporary relocation of Kirby Park boat access, and erosion and pollution control measures. In sum, the proposed project will restore and enhance declining salt marsh habitat in Parsons Slough consistent with the Coastal Act and the certified Monterey County Local Coastal Program.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, August 11, 2010 in San Luis Obispo. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Katie Morange in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: August 5, 2010
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Mike Watson, Coastal Planner
Subject: Coastal Development Permit (CDP) Waiver 3-10-041-W
Applicants: City of Monterey

Proposed Development

Dismantling and disposal of a 30' x 50' x 6' steel utility barge weighing approximately 80 tons and which is located offshore of Del Monte Beach adjacent to Wharf #2 in the City of Monterey, Monterey County. The project involves pushing the sinking vessel onto the beach during high tide and dismantling the barge for disposal at a metal recycling center.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

Dismantling and disposal of the barge is necessary to avoid complete failure of the derelict vessel and resultant sinking of the barge into the bay. There are no facilities in Monterey Bay that are capable of hauling-out the 80-ton barge, and it can no longer be safely transported to larger facilities in San Francisco Bay. The thickness of the steel hull is below one-eighth of an inch and daily pumping of water is required. The City has indicated that the dismantling and recycling of materials would commence after the Labor Day holiday and be completed within 72 hours to minimize impacts on public access and recreation. Temporary fencing will be erected around the barge and work area, and a site monitor posted to contain materials and ensure public safety during work times. The barge does not have/has never had any petroleum or other hazardous products, has no engine or machinery, and is otherwise completely clean internally. After the work has been completed, the beach area will be completely cleaned and groomed to ensure all metal and debris are removed and properly disposed. Accordingly, the proposed project will not adversely impact coastal resources or public access and recreation at this location.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, August 11, 2010, in San Luis Obispo. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT EXTENSION**

Date: July 28, 2010

To: All Interested Parties

From: Dan Carl, Central Coast District Manager *DCarl*
Mike Watson, Coastal Planner *MW*

Subject: Proposed Extension to Coastal Development Permit (CDP) A-3-PSB-06-001
Applicants: Beachwalk Resort, LLC; Attn: Dixie Wells

Original CDP Approval

CDP A-3-PSB-06-001 was approved by the Coastal Commission on July 11, 2007, and provided for the development of a three story, 67-room ocean front hotel with conference rooms, fitness center, underground parking, and public access courtyard at 147 Stimson Avenue in Pismo Beach, San Luis Obispo County. The approved coastal development permit was extended for one year in July 2009.

Proposed CDP Extension

The expiration date of CDP A-3-PSB-06-001 would be extended by one year to July 11, 2011. The Commission's reference number for this proposed extension is A-3-PSB-06-001-E2.

Executive Director's Changed Circumstances Determination

Pursuant to Title 14, Section 13169 of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that there are no changed circumstances affecting the approved development's consistency with the certified City of Pismo Beach Local Coastal Program and/or Chapter 3 of the Coastal Act, as applicable.

Coastal Commission Review Procedure

The Executive Director's determination and any written objections to it will be reported to the Commission on Wednesday, August 11, 2010, in San Luis Obispo. If three Commissioners object to the Executive Director's changed circumstances determination at that time, then the extension shall be denied and the development shall be set for a full hearing of the Commission.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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August 10, 2010

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Wednesday, August 11, 2010

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
W14c, SLO-2-09 Pt.2, Inclusionary Housing	SLO County	Staff Report Addendum Ex parte	1 4a
W14d, SLO-3-09, Framework for Planning Update	SLO County	Ex parte Staff Report Addendum	4a 5
W15a, A-3-SLO-06-043	SDS Family Trust	Ex parte	6b-c
W15c, A-3-SCO-10-025	Ingram	Correspondence	7
W15d, A-3-SLO-10-031	Goodan	Ex parte Correspondence	32a 33
W16a, 3-09-025	Pebble Beach Co.	Staff Report Addendum (separate enclosure)	
W16c, 3-09-042	Jack O'Neill	Staff Report Addendum (separate enclosure) Correspondence	109

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W14c

Prepared August 9, 2010 (for August 11, 2010 hearing)

To: Commissioners and Interested Persons
From: Dan Carl, District Manager *DCM*
Madeline Cavalieri, Coastal Planner *Mada*
Subject: STAFF REPORT ADDENDUM for W14c
LCP Amendment SLO-2-09 Part 2 (Inclusionary Housing)

In the time since the staff report was distributed, it has come to staff's attention that a portion of the text shown as part of certified Local Coastal Program (LCP) in the staff report exhibits did not reflect a previous LCP amendment certified by the Commission. Thus, the purpose of this addendum is to modify Exhibit B of the staff report (the text of the County's proposed amendment) to reflect changes to the LCP that were previously certified by the Commission in 2009. This addendum does not make any significant substantive changes to staff's recommendation or to the County's proposed amendment.

In 2006, the County amended their LCP Implementation Plan (IP, also known as the Coastal Zone Land Use Ordinance (CZLUO)) to update the affordable housing standards (Sections 23.04.090 through 23.04.094). The purpose of the amendment was to assure long-term affordability for designated affordable housing units. In 2008, the County amended the CZLUO to include the inclusionary housing ordinance that is now before the Commission. The 2008 amendment, like the amendment for affordable housing standards adopted by the County in 2006, also proposes changes to CZLUO Section 23.04.094.

The Commission certified the affordable housing standards amendment in 2009 (LCP amendment SLO-2-07 Part 3), one year after the inclusionary ordinance amendments were adopted by the County. Therefore, when the County adopted the inclusionary ordinance amendments, the certified LCP did not include the changes made pursuant to the affordable housing standards amendment. Because of this overlap, Exhibit B of the staff report, which shows the County's proposed changes to the CZLUO that were adopted in 2008, does not reflect the currently certified LCP. Thus, this addendum modifies pages 19 and 20 of Exhibit B to reflect the currently certified LCP text correctly.¹ As indicated in staff report Exhibit B, single underline and ~~single strike through~~ represent the County's proposed changes to the LCP, and double underline and ~~double strikethrough~~ represent staff's recommended modifications. Section 23.04.094 on pages 19 and 20 of staff report Exhibit B is modified to read as follows:

SECTION 2: Section 23.04.094 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

¹ Note that the text in this addendum refers to subsection f (when the original staff report exhibit referred to subsection d) because the previously certified amendment added two new sections (thus changing the d to an f).



...

f. **Continued availability of affordable housing:** Affordable housing units which are subject to the standards of this section shall continue to be reserved as affordable housing as follows:

- (1) **For sale units:** Prior to issuance of any project construction permits the property owner and the County shall enter into and record a Master Affordable Housing Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). When a designated affordable housing unit is first sold to an eligible buyer, or when the owner-builder of a designated affordable housing unit requests final permit approval for occupancy of his residence, the buyer and county or the owner-builder and county shall enter into an Option to Purchase at Restricted Price Agreement which shall be recorded as an encumbrance on the property, and secured by a recorded deed of trust. The said Option to Purchase at Restricted Price Agreement shall supersede the Master Affordable Housing Agreement. Under the terms of the Option to Purchase at Restricted Price Agreement, the maximum resale price of the housing unit shall be limited for a period of 45 years to the same formula used to determine the initial sales price, except that current information regarding median income, mortgage financing interest rate, taxes, insurance and homeowners association dues shall be applied. Adjustments to the maximum resale price as determined by the Planning and Building Department shall be made to ensure that the resale price is not lower than the original sales price, to increase the maximum resale price by the value of structural improvements made by the owner, and to comply with requirements of State or Federal mortgage lenders as necessary. Ownership of the property may only be transferred to party that agrees to execute a new Option to Purchase at Restricted Price Agreement with a term of 45 years.

~~The provisions of this section shall not impair the rights of a first mortgage lender secured by a recorded deed of trust. The purchase money lender(s) shall have a higher priority than the County's loan. The County's security shall be prioritized as a second mortgage. This first priority applies to the purchase money lender's assignee or successor in interest, to:~~

- ~~(i) Foreclose on the subject property pursuant to the remedies permitted by law and written in a recorded contract or deed of trust; or~~
- ~~(ii) Accept a deed of trust or assignment to the extent of the value of the unpaid first mortgage to the current market value in lieu of foreclosure in the event of default by a trustor; or~~
- ~~(iii) Sell the property to any person at a price consistent with the provisions of this Section subsequent to exercising its rights under the deed of trust.~~

~~In addition, the following types of transfers shall remain subject to the requirements of the County's loan and right of first refusal: transfer by gift, devise, or inheritance to the owner's~~



~~spouse; transfer to a surviving joint tenant; transfer to a spouse as part of divorce or dissolution proceedings; or acquisition in conjunction with a marriage; or transfer as a result of foreclosure.~~

- (2) **Inclusionary housing units:** For any inclusionary housing unit that is subject to Section 23.04.096 of this title and will be sold as an ownership unit, if there is a sales price difference of 10% or less between the current appraised market value of the unit and the affordable sales price established by this Section then that inclusionary housing unit shall be reserved as affordable housing for a period of thirty (30) years in the following manner. When the inclusionary housing unit is first sold to an eligible buyer, or when the owner-builder of a designated inclusionary housing unit requests final permit approval for occupancy of his residence, the buyer and the County or the owner-builder and the County shall enter into an Option to Purchase at Restricted Price Agreement which shall be recorded as an encumbrance on the property and secured by a recorded deed of trust. The said Agreement and deed of trust shall establish the monetary difference between the initial affordable purchase price and the initial appraised market value as a loan payable to the County. Said loan shall accrue interest at a rate equal to 4.5 points added to the 11th District Cost of Funds as currently published by the Federal Home Loan Bank, amortized over 30 years. The monthly payments of principal and interest shall be waived by the County as long as the owner who was previously approved by the County as an eligible buyer or as an owner-builder continues to own and reside in the inclusionary unit as his or her principal residence, and also continues to be a legal resident of the County of San Luis Obispo. Upon resale to a non-eligible buyer the County loan amount shall be determined by the Planning and Building Department and shall be adjusted to ensure that the resale price is not lower than the original affordable price, and to allow recovery of any downpayment and value of structural improvements.

The provisions of this section shall not impair the rights of a first mortgage lender secured by a recorded deed of trust. The purchase money lender(s) shall have a higher priority than the County's loan. The County's security shall be prioritized as a second mortgage. This first priority applies to the purchase money lender's assignee or successor in interest, to:

- (i) Foreclose on the subject property pursuant to the remedies permitted by law and written in a recorded contract or deed of trust; or
- (ii) Accept a deed of trust or assignment to the extent of the value of the unpaid first mortgage to the current market value in lieu of foreclosure in the event of default by a trustor; or
- (iii) Sell the property to any person at a price consistent with the provisions of this Section subsequent to exercising its rights under the deed of trust.

In addition, the following types of transfers shall remain subject to the requirements of the County's loan and right of first refusal: transfer by gift, devise, or inheritance to the owner's



spouse; transfer to a surviving joint tenant; transfer to a spouse as part of divorce or dissolution proceedings; acquisition in conjunction with a marriage; or transfer as a result of foreclosure.

- (2)(3) Rental units:** Prior to issuance of any project construction permits the property owner County shall enter into and record a Rent Limitation Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). Rent levels shall be based on the same criteria as those used to compute the original rent ceiling in subsection e of this section for a period of at least 55 years. Such rent levels will be enforced through the Review Authority imposing applicable conditions at the time of land use permit or subdivision approval for the project. If ownership of the property is transferred during the initial 55 years period, then a new Rent Limitation Agreement shall be executed with a term of 55 years.
- ...



EX-PARTE COMMUNICATIONS DISCLOSURE

Person(s) initiating communication:

Penny Elia - Sierra Club

Person(s) receiving communication:

Commissioner Burke

Location of communication:

Telephone - 310-351-3333

Time/Date of communication:

August 5, 2010 - 4:30 PM

Type of communication:

Teleconf

Name or description of the project(s)/topics of discussion:

W.8.a. Appeal No. A-1-MEN-07-28 (Jackson-Grube Family, Inc., Mendocino Co.)

Speaking for Sierra Club Mendocino Group, supporting the staff recommendation to approve. Express our appreciation of the great work staff did on this item.

W.11.a. Appeal No. A-2-SMC-07-01 (Sterling, San Mateo Co.)

Speaking for Committee for Green Foothills. Staff recommending approval with conditions. Staff recommendation is too permissive on future subdivision. CGF asks that Special Condition 2.A.8 be deleted as it inappropriately would encourage future landowner to seek subdivision of this agricultural land into two lots, which would undermine agricultural viability

W.14.c. San Luis Obispo County LCP Amendment No. SLO-2-09 Part 2 (Inclusionary Housing)

W.14.d. San Luis Obispo County LCP Amendment No. SLO-3-09 (Framework for Planning Update)

Speaking for Coastwalk, CA, support staff recommendations.

W.15.a. Appeal No. A-3-SLO-06-043 (SDS Family Trust, Harmony Coast)

Staff is recommending substantial issue, de novo hearing, denial in part and approval in part. Speaking for Coastwalk, CA SLO, support staff recommendation. Important that the portion of the project eliminating the lateral public access trail easement be denied, as that is needed for the CA Coastal Trail.

W.15.d. Appeal No. A-3-SLO-10-031 (Goodan, Harmony)

Staff is recommending finding substantial issue
Speaking for Coastwalk, CA SLO, support staff recommendation to find substantial issue. Please focus on the project's inconsistencies with the County's certified LCP and LUP and Coastal Act sections regarding protection of coastal agriculture, ESHA, hazards, and public services.

Th.6.a. CD-033-10 (Navy, Coronado) Consistency Determination for SSTC

Speaking For San Diego Audubon, SD Coastkeeper, and SD Sierra Club, oppose staff recommendation to approve. Requesting postponement (to October hearing in San Diego/Oceanside), or mitigation for impacts. We feel that the Navy's proposed project is not consistent with section 30231 of the Coastal Act, and the Commission should impose further restrictions on the Navy, which would make the proposed project consistent with the Coastal Act.

W14c, W14d

RECEIVED
AUG 09 2010
CALIFORNIA
COASTAL COMMISSION

Wm A Burke
8/6/10

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W14d

Prepared August 9, 2010 (for August 11, 2010 hearing)

To: Commissioners and Interested Persons

From: Dan Carl, District Manager *DC*
 Madeline Cavalieri, Coastal Planner *MC*

Subject: STAFF REPORT ADDENDUM for W14d
 LCP Amendment Number SLO-3-09 (Framework for Planning)

The purpose of this addendum is to modify staff's recommended suggested modifications for the above-referenced item. Specifically, in the time since the staff report was distributed, it has come to staff's attention that certain changes described in the staff report text were not correctly translated to the staff report's suggested modifications (on staff report pages 4 and 5, and Exhibit 3). Correcting these errors will have no substantive effect on staff's recommendation. Thus, this addendum corrects these omissions as follows (single underline and ~~single strike through~~ represent the County's proposed changes to the LCP, and double underline and ~~double strikethrough~~ represent staff's recommended modifications).

1. Suggested Modification Summary Item 1 on page 4 of the staff report is changed as follows:

1. Change 'Principles' to 'Goals' and 'Policies' to 'Objectives' throughout the document, and modify item number 1 under the heading 'Framework for Planning – Coastal Zone' on page 6 of Exhibit 3 as follows:

~~The principles and policies in Chapter 1 are used for determining consistency of a proposed discretionary land use, development or subdivision with the Land Use Element to ensure it will be compatible with county land use policy. The goals and objectives in Chapter 1 guide the review of discretionary land use, development and subdivision applications for general consistency with the Coastal Zone Framework for Planning.~~

2. Replace 'goals' with 'objectives' on pages 25 through 29 of staff report Exhibit 3 (i.e., Chapter 4, Sections C and D), because there are no longer 'goals' stated in Chapter 4.
3. Replace 'implementation strategies' with 'objectives' on page 40 of staff report Exhibit 3 so that it reads as follows:

~~Implementing Strategies~~ Objectives for road and highway projects in designated scenic corridors

The following ~~implementing strategies~~ objectives local objectives are stated to implement the ~~Agriculture and Open Space Plan Policy OSP24~~ that scenic highway provisions should be applied as



FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION

W 15a.
RECEIVED

AUG 09 2010

CALIFORNIA
COASTAL COMMISSION

Date and time of communication:

(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

August 6, 2010, 10:30am

Location of communication:

(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Commissioner Neely's Eureka Office

Person(s) initiating communication:

Maggy Herbelin, Local ORCA Representative

Person(s) receiving communication:

Commissioner Bonnie Neely

Name or description of project:

W15a. Appeal No. A-3-SLO-06-043 (SDS Family Trust, Harmony Coast). Appeal by Commissioners Wan and Reilly, and the Sierra Club of San Luis Obispo County decision granting permit with conditions to the SDS Family Trust to construct a barn and to remove an existing public accessway west of Highway One adjacent to the Pacific Ocean along the Harmony Coast area near Cayucos in unincorporated San Luis Obispo County. (MC-SC)

Detailed substantive description of content of communication:

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

Support Staff recommendation of substantial issue. The County took the agriculture easement out.

Item is written in a confusing manner. A NO vote is actually a Yes vote.

Speaking for SLO Coastwalk and Coastwalk California.

Date: June 30, 2010


Bonnie Neely, Commissioner

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

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

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

Coastal Commission Fax: 415 904-5400

EX-PARTE COMMUNICATIONS DISCLOSURE

Person(s) initiating communication:

Penny Elia - Sierra Club

Person(s) receiving communication:

Commissioner Burke

Location of communication:

Telephone

- 310-351-3333

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Teleconf

Name or description of the project(s)/topics of discussion:

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Speaking for Sierra Club Mendocino Group, supporting the staff recommendation to approve. Express our appreciation of the great work staff did on this item.

W.11.a. Appeal No. A-2-SMC-07-01 (Sterling, San Mateo Co.)

Speaking for Committee for Green Foothills. Staff recommending approval with conditions. Staff recommendation is too permissive on future subdivision. CGF asks that Special Condition 2.A.8 be deleted as it inappropriately would encourage future landowner to seek subdivision of this agricultural land into two lots, which would undermine agricultural viability

W.14.c. San Luis Obispo County LCP Amendment No. SLO-2-09 Part 2 (Inclusionary Housing)

W.14.d. San Luis Obispo County LCP Amendment No. SLO-3-09 (Framework for Planning Update)

Speaking for Coastwalk, CA, support staff recommendations.

W.15.a. Appeal No. A-3-SLO-06-043 (SDS Family Trust, Harmony Coast)

Staff is recommending substantial issue, de novo hearing, denial in part and approval in part. Speaking for Coastwalk, CA SLO, support staff recommendation. Important that the portion of the project eliminating the lateral public access trail easement be denied, as that is needed for the CA Coastal Trail.

W.15.d. Appeal No. A-3-SLO-10-031 (Goodan, Harmony)

Staff is recommending finding substantial issue

Speaking for Coastwalk, CA SLO, support staff recommendation to find substantial issue. Please focus on the project's inconsistencies with the County's certified LCP and LUP and Coastal Act sections regarding protection of coastal agriculture, ESHA, hazards, and public services.

Th.6.a. CD-033-10 (Navy, Coronado) Consistency Determination for SSTC

Speaking For San Diego Audubon, SD Coastkeeper, and SD Sierra Club, oppose staff recommendation to approve. Requesting postponement (to October hearing in San Diego/Oceanside), or mitigation for impacts. We feel that the Navy's proposed project is not consistent with section 30231 of the Coastal Act, and the Commission should impose further restrictions on the Navy, which would make the proposed project consistent with the Coastal Act.

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Wm A Burke
8/6/10

W15a

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CENTRAL COAST AREA

Overnight Delivery

Coastal Commissioners, Alternates, and Staff

August 9, 2010

Ms. Madeline Cavalieri,
Staff Analyst
Central Coast Area Office
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: California Coastal Commission August 2010 Meeting

Agenda Item: W15a

Appeal Number A-3-SLO-06-043

SDS Family Trust

This office represents the SDS Family Trust, the applicant, in all matters related to the above-referenced Coastal Commission Appeal.

Unfortunately we were unable to send our response letter earlier because we did not receive a copy of the Staff Report despite the fact that we had filed the paperwork required by California Public Resources Code § 30319 on March 30, 2010 with the Central Coast office to designate me as the authorized representative of the applicant. This failure to send to my office a copy of that Staff Report has compromised our ability to provide a timely and detailed response to the staff analysis and discussion contained in that report.

We respectfully request that the California Coastal Commission not find "substantial issue" in this matter and agree that the final action taken by the County of San Luis Obispo in this matter is consistent with the policies of the certified Local Coastal Plan, other County ordinances, and State law.

Introduction

The project that is the subject of this permit is a very straight-forward remodel of an existing 130 year old home, connection of the home to an existing well, and installation of a new septic system. This project also includes the construction of a new agricultural barn in the same location as an old barn which collapsed in 2004 because of age, weather, and vandalism.

The project approval was appealed to the California Coastal Commission by two of the Coastal Commissioners, and jointly by the Sierra Club and Surfrider's Foundation with appeals filed on 7/18/06 and 7/19/06, respectively.

The Appeal Grounds are:

1. The development authorized by Minor Use Permit D010354P has been undertaken and are now binding, including the Offer To Dedicate a lateral easement, and
2. Deletion of an access easement Offer To Dedicate is inconsistent with their requirement that new development provide maximum public access opportunities.

This letter will address the discussion and analysis in the Staff Report regarding these two issues and identify significant problems with the factual basis for much of that discussion and analysis. Problems that we believe are significant enough to require a finding of no "substantial issue".

1. Prior Offer To Dedicate

Contrary to the numerous statements made in the Staff Report, the applicants did not exercise County's Minor Use Permit D010354P (referred to by the Staff Report as CDP-1) and its terms and conditions were not final. These statements include the following:

"Because the house redevelopment had already been permitted and was substantially constructed pursuant to CDP-1, the "reauthorization" component of CDP-2 was unnecessary, as it approved the same development that was approved through CDP-1, but it did not replace or undo the approval granted through CDP-1, which had already by this time been effected through development associated with it. (Staff Report, page 2.)

"The applicant immediately exercised CDP-1, both through development then existing at the time of CDP approval that CDP-1 authorized after-the-fact, and, according to the County record, through construction activities after CDP-1 was approved." (Staff Report, page 11.)

These, and other like statements, are simply not accurate. The property owner did not initiate, much less complete, any work that was not authorized by separate valid building permits.

The Staff Report contends that the Offer to Dedicate an easement for the lateral accessway was to have preceded the restoration construction of the existing residence and that a stop work order was issued. As evidenced by the permit history detailed below, repairs to the roof and deck building permits were separately issued by the County on June, 2002 and that work was completed by January 2003, over fourteen months before MUP D010354P was approved. No further work was undertaken and a stop work order was never issued for the property.

If the applicant had effected Minor Use Permit D010354P and its requirement for an Offer To Dedicate a public accessway, would the County have included the following conditions relative to the exercise of Minor Use Permit D013054P if the County, as the permitting authority, actually believed that the permit had already exercised?

"If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void." (Exhibit 5, pages 1 – 2.)

Further, the Staff Report also mischaracterizes the scope of the improvements proposed under Minor Use Permit D010354P.

"The development proposed under CDP-1 included *significant* interior and exterior renovations to make the farm house habitable, installation of a new septic system, connecting the house to an existing agricultural well, and improving the driveway. After applying for this permit (but prior to its approval) Emmick also applied for, and received, two building permits for additional farm house restoration activities from the County." (Staff Report, Page 8.) [Emphasis Added.]

In reality the scope of the improvements included in that permit was relatively inconsequential and consisted of making the existing farmhouse habitable. In fact, as further discussed below, none of the improvements included in Minor Use Permit # 0010354P should have even triggered the requirement for a land use permit or the exaction of an Offer To Dedicate.

"Approved Development

1. This approval authorizes the restoration and rehabilitation of the existing single family residence including:

- a. Interior alterations and restorations;
- b. Replacement of existing exterior windows on north and south elevations as shown on plans (Dec. 2002);
- c. Replacement in kind of any deteriorated exterior materials including: siding, stairs, railing, porches, trim and roofing Materials and dimensions shall match existing to the maximum extent feasible,
- d. Demolition of porch/utility/bath area on west elevation;

- e. Construct new porch/utility/bath area on west elevation as shown on plans (Dec. 2002);
- f. Install new septic tank and leach field;
- g. Connect residence to existing well
- h. Improvement of driveway by minimal grading (no cut or fill) to accommodate CDF/County Fire standards and placement of dark (e.g. red rock, gravel) overlay material." (Exhibit 5, page 13.)

As already discussed, after applying for Minor Use Permit D010354P, but prior to its approval, the property owner did apply for, and receive, San Luis Obispo County Building Permit Number C6843 to repair dry rot and to reroof (approved June 10, 2002) and Building Permit Number C6889 to repair a deck (approved June 13, 2002). It was this work was completed by the contractor and no work authorized under the Minor Use Permit D010354P was ever commenced, much less completed.

Summary of Permit Activity

The following timeline summarizes all of the permits that have been applied for at the project site and confirm that no work was done under County Permit DP010354P.

<u>Date</u>	<u>Number/</u>	<u>Description</u>	<u>Comment</u>
04/04/91	S900101	Certificate of Compliance	Original Survey and request for 23 parcels
11/30/92	89632 89211196	Addition/Alteration to SFD	Permit Expired 04/20/94
10/29/93	92519 8930884	Addition/Alteration to SFD	Permit Expired 12/11/96 This permit was the same as above. A new number was assigned since no building activity occurred.
01/17/94	Note: Northridge Earthquake (6.7 magnitude) causes significant damage to Emmick real estate properties in the San Fernando Valley; Improvement plans at China Harbor on indefinite hold (ref: above building permits)		
07/26/96	D930074P	Replace Well	Withdrawn 05/18/94
11/30/92	PMT 2002- 27233 8990565	Addition/Alteration to SFD	Addition/Alteration to SFD Approved 05/27/04 w/req for lateral access; Revised plans submitted 05/05/04; Construction improvements acknowledged per note from McMasters dated 0610/02
05/07/02	D010354P	Restore SFD and connect to well	Approved 03/19/04

05/07/02	A010024A	Agricultural Preserve established	Approved 7/25/02
06/10/02	C6S43	Addition/Alteration to SFD (repair dry rot and reroof)	Finaled 01/27/03
06/13/02	C6889	Addition/Alteration to SFD (deck repair)	Finaled 01/27/03
10/01/02	P020212.E	Emergency Permit for agricultural well for livestock	Completed 10/07/02
11/01/02	D020100P	Livestock Well	Approved 03/21/03
03/30/03	Note: Walton Emmick passed away; Ownership transfers to SDS Family Trust. (Walton Emmick's three daughters)		
12/10/04	DRC2004 - 00125 MUP	Reconsideration of D010354P without lateral easement & reconstruction of barn.	MUP Approved 03/22/06 Appealed to SLO CO Board of Supervisors who approved w/out easement on 06/06/06 Project Appealed to Coastal Commission on 7/18/06 & 7/19/06

2. Dedication of New Lateral Easement

The project involves the mere replacement of a barn and minor remodel of an existing residence, all within the original footprints of those structures. The project as approved by the County would have no impact on public access.

Staff contends that lateral access dedication is required per Sec. 23.04.420(0)(3). This Section of the Coastal Land Use Ordinance states:

Lateral access dedication. All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide line to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the tow of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.

The contention that new development requires an Offer To Dedicate a lateral access easement presumes that the proposed restoration of the residence and the replacement of the barn constitutes new development. An examination of the proposed improvements and historical footprints of the existing buildings will reveal that there is no "new" development. There is (1) a restoration of an existing residence with no change to the footprint, height or exterior; (2) a replacement of an existing septic system to satisfy today's health and safety codes; and, (3) a replacement of a barn with the same location and size as the previous barn. Repairs, replacement and/or improvements that do not change the intensity of use are not considered new development and are not required to offer a dedication of a public accessway.

The Staff Report fails to thoroughly analyze Sec. 23.04.420(4)(1) and Sec. 23.04.420(4)(iii) that allows exception to access requirements where development consists of "replacement of any structure" and "improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure" The restoration of the existing house adds no square footage and is completely contained within the existing structure. The proposed septic system will replace an out-dated, non-complying system to meet today's health and safety standards. The proposed location and specifications of the system has been designed by a Civil Engineer, in accordance with current code requirements, and its location cleared by an archaeologist. As mentioned above, the proposed barn is located and sited in the exact location as the previous barn.

The Staff Report also fails to thoroughly analyze Sec. 23.04.420(1) and Sec. 23.04.420(3) that states "access would be inconsistent with public safety," or the protection of fragile coastal resources", Point Estero and the China Harbor coastline (the subject property shoreline) contains extensive rocky shoreline, steep coastal bluffs and extreme surf, none of which are conducive to a safe public access environment. Further, the China Harbor marine terrace contains significant Chumash village evidence, including bedrock mortars and relics. It is a widely recognized fact that this resource would be placed in great jeopardy with public access.

Agriculture would also clearly be adversely affected by a public accessway on the property. The pasture rotation and cattle access to this portion of the ranch is already severely impacted by trespassers as evidenced by the high volume of grassland feed in the China Harbor vicinity compared to other areas of the property. When trespassers are present, as they are frequently during the summertime, the cattle will move elsewhere. To legitimize this access through a public easement will only serve to exacerbate the situation.

Further, in order to put the issue of maximizing coastal access in full context a proper analysis of the must include a correct discussion of the available public access. Unfortunately the Staff Report makes a series of incorrect statements stating that this would be the only coastal accessway in this area, for example:

"This existing public accessway at the subject site is the only immediate shoreline accessway along the stretch of Harmony Coast where the Highway is located inland of the coastal range. As such, its importance for public access, and particularly access directly to the ocean at China Harbor, is heightened". (Staff Report, page 15.)

The Staff Report does go on to properly characterize the current accessway situation by acknowledging the existence of the 784 acre Harmony Headlands Park that **adjoins** the applicant's property on the North. However, it fails to mention the Estero Bluffs park land that is located just South of the property on Highway 1.

This brief analysis clearly shows that there are multiple opportunities for public coastal access in the immediate vicinity and that the *de minimus* nature of the improvements proposed for the property along with the negative impacts on coastal agriculture should preclude the granting of an additional public coastal accessway.

In summary, the Local Coastal Plan policies allow for consideration of easement Offer To Dedicate where new development is proposed that is not inconsistent with public safety, sensitive coastal resources and effects on agricultural operations, the restoration and replacement barn proposed on this property, the hazardous nature of the coastline and the negative effect public access would have on the resources and agricultural operation on the ranch fails to meet the LCP criteria requiring an OTD a public access easement.

Barn

The applicant proposes to reconstruct a new barn as a support structure for the agricultural operation on the property to replace the barn that was destroyed by age, weather and vandalism. As Coastal staff correctly notes in Page 25 of their staff report,

"The barn would be located at the site of a previous barn, which, according to the applicant, had been on the property for more than 100 years before collapsing in 2004. ... The County estimates the previous barn had been 3,000 to 4,000 square feet in size, based on walking the perimeter of the old footings."

However because the barn is located over 1,500 feet away from Highway 1 and "is clustered near other development on the 400-acre property, approximately 120 feet from the existing farm house, and it would be accessed from the only existing driveway", applicant does not agree that the barn will be "starkly visible", and that further mitigation measures are not required by the Coastal Commission to address visual impacts.

Nollan and Dolan

The U.S. Supreme Court holding in *Nollan v. California Coastal Commission* (1987) 107 S.Ct. 3141 has established that the power to impose exactions on development is not without limits. The U.S. Constitution guarantees that private land will not be taken without just compensation. This prohibition includes regulatory takings or inverse condemnation. An exaction will not be allowed to result in a taking. A legally defensible exaction must: (1) "advance a legitimate state interest" (such as protection of the public health, safety, and welfare); and, (2) mitigate the adverse impacts to that interest that would otherwise result from the project. An exaction may be imposed even if the development project itself will not benefit from it, when it is necessitated by the project's impacts on identifiable public resources.

More recently, in *Dolan v. City of Tigard* (1994) 114S.Ct. 2309, the U.S. Supreme Court has held that in addition to the *Nollan* standard of an essential nexus, there must be a "rough proportionality" between proposed exactions and the project impacts that the exactions are intended to allay.

The *Dolan* court offered this advice:

"We think a term such as 'rough proportionality' best encapsulates what we hold to be the requirements of the Fifth Amendment. No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development."

An exaction that does not meet this two-pronged requirement will be deemed a "taking" in violation of the Fifth Amendment.

The County of San Luis Obispo very clearly acknowledges that proportionality is an issue in its Staff Reports.

"... we acknowledge that requiring coastal development proposed because the uses and resulting number of structures on the property remains consistent with the past hundred years, In addition, staff acknowledges that having too much coastal access to this property may lead to adverse impacts on sensitive coastal resources and the existing agricultural operation." (Exhibit 4, pages 10 – 11.)

"Based on previous court cases (*Nollan vs. California Coastal Commission* 1988 & *Dolan vs. the City of Tigard* 1994), in order for an agency to require coastal access when an applicant develops their property there needs to be a nexus to require the access, and the access requirement should be proportional to the development proposal and change of intensity on the property. This project includes minor remodeling of an existing home including a new septic system, and rebuilding a barn that had been destroyed due to age and weather. Staff feels that this project does not warrant the requirement for full lateral access because it does not change the historical use of the property, and does not increase the number of structures on the site." (Exhibit 4, pages 21 – 22.)

The County Board of Supervisors, on appeal by the property owners, correctly made the finding and statements in their Resolution as follows: "Lateral access is not required because there will be no additional structures constructed, there will be no change in the historic use of the property, lateral access will interfere with agricultural use of the property, the proposed barn will be a replacement structure, and the value of the proposed improvements will be far less than the value of required lateral access such that there will be no nexus between the proposed improvements and the requirement for coastal access."

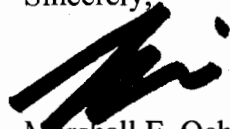
Conclusion:

The final action taken by the County of San Luis Obispo in this matter is consistent with the policies of the San Luis Obispo's certified Coastal Zone Land Use Ordinance, other County

ordinances, and State law. There is simply no factual or legal basis for the Commission to find "substantial issue" and to substitute its judgment for that of the County of San Luis Obispo.

Thank you for your consideration. If you have any question, or would like to discuss this matter further, I may be reached by telephone at 805-441-4466 or by email at MOchylski@SLOlegal.com.

Sincerely,



Marshall E. Ochylski,
Attorney at Law

MEO/ec

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AUG 04 2010

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

August 2, 2010

**Re: Owners: Alex and Kristine Ingram
Coastal Commission Appeal No. A-3-SCO-10-025
County of Santa Cruz Application No. 10-0080**

Dear Ms. Craig:

I am writing to respond to the letter you received from the law office of Atack & Penrose which contained significant misrepresentations of not only the reasons for my appeal, but also the history of this permit and the character of the surrounding neighborhood. My parents owned their home in Pleasure Point for 45+ years, cared deeply about the neighborhood and supported the Pleasure Point Community Plan. I supported the 2008 amendments to the local coastal plan that are referenced in your staff report. It was only due to my parents' passing and the economic reality associated with settling their estate that my sister and I had to sell their home. The fact that economics forced us to sell our family home in Pleasure Point should in no way impugn the validity of our appeal.

The Ingrams' two story addition to their home was built illegally with the full knowledge that what they were constructing was not permitted and the construction was substantially completed before the change order was incorrectly issued by Santa Cruz County.

The Ingrams and Dennis Norton (the developer they hired to build this spec home) knew that they were violating the law when they undertook this construction. The home was being "remodeled" under Santa Cruz County Permit No. 090142, dated July, 2009, which was an application obtained by the Ingrams and Mr. Norton to double the size of the home and construct a home up to the maximum FAR of 50% allowed under the certified local coastal plan. A condition of approval for this permit (No. IV "Operational Conditions" under section C) states that the permit issued to them in 2009 superseded the 2007 permit issued to the Ingrams and prohibited the construction of the plans that were approved in 2007 because the allowable floor area ratio percentage was revised in 2009. The Ingrams and their contractor accepted this permit and began construction under the 2009 permit which prohibited them from building the home approved in 2007. Instead of building a home consistent with the 2009 permit, the Ingrams proceeded to build a full

two-story home as was permitted by the 2007 plans which were no longer valid. This work was done before the change order was issued on February 9, 2010. The County was aware of errors pertaining to the change order prior to February 9, 2010. The Ingrams and the contractor were notified shortly thereafter of all the problems relating to the change order. They took the risk of constructing an illegal second story addition which violated not only the standards of the certified local coastal plan, but also a specific condition of the 2009 permit granted to them which has never been amended or revised.

I am attaching a copy of the 2009 permit condition prohibiting the construction of the full second story and a series of photographs showing not only the work that was completed prior to the issuance of the change work order but also the work that has continued unabated since the cease and desist order was issued by the Coastal Commission. Please note the extensive work done to the home is far beyond the "waterproofing" of the structure the developers said they were going to complete. Apparently, the developer feels that since they were successful in getting away with constructing an illegal addition that exceeds the County's FAR and without County permits, they can continue to undertake the same course of action with the Coastal Commission.

There are no special circumstances applicable to this property that warrant the granting of a variance.

The developer contends that they should be granted the variance on the basis that there are numerous larger homes in the neighborhood and that the Ingrams are being deprived the benefit of being able to remodel their home into a much larger home, as others have done in the past. This statement is incorrect for two reasons. First of all, the Local Coastal Plan amendment that was processed in 2008 to reduce the size of homes in this area by limiting how floor area ratio was calculated would be rendered moot if every property owner came in and asked for a variance because there are other larger homes which had been approved (all prior to the 2008 LCP amendment). If this were the standard for granting a variance, the 2008 LCP amendment would have no force or effect whatsoever since every property owner would be granted a variance. The Ingrams are no different than any other property owner who has come in for a permit since 2009. Their floor area ratio should be limited to 50%. It is my understanding and the understanding of everyone in the Pleasure Point area that this was exactly the purpose of the 2008 LCP amendment, to stop people from building oversized homes, which is exactly what the Ingrams are proposing and the Planning Commission approved based on their belief that the Ingrams were somehow confused as to what regulations

applied to them.

The statistics submitted to you by the attorneys for the Ingrams are extremely misleading. Two homes immediately west of the Ingrams' property are less than 900 square feet of living area and two homes to the east are less than 1,500 square feet. The reason why the community and the Board of Supervisors requested and the Commission approved the LCP amendment is so homes like the Ingrams are proposing would not adversely affect the character of this existing historic and unique neighborhood. The attorney for the Ingrams has stretched the truth when she stated that "all the other small homes building in the 1920's era have been remodeled except the Ingrams'." In actuality, there are three homes less than 800 square feet built in the 1920s in this neighborhood. Of these homes, only the Ingrams' house has been remodeled and the work that was done illegally would almost triple the size of the home.

Shawver appeal.

In a letter dated July 3, 2010 written by Kris Ingram and addressed to Ms. Craig and Mr. Carl, she states, "The Shawvers then, upon the advice of their attorney, Tony Lombardo, without going to the County board of supervisors or paying any money appealed this matter to the Coastal Commission, and that brings us to our predicament today." Again, the developer is misrepresenting the facts. I did not contact Mr. Lombardo until after I had filed an appeal with the Coastal Commission. Furthermore, the reason I hired Mr. Lombardo was because I received a threatening letter from the Ingram's attorney, Mr. Stephen Pahl, which suggested that I seek advice and counsel from an experienced land use attorney because the Ingrams intended to sue me for filing the appeal. This letter was clearly an attempt by the Ingrams to coerce and get me to drop my Coastal Commission appeal. I feel this had all the makings of a SLAPP suit (strategic lawsuit against public participation), a copy of the letter is attached.

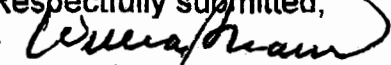

Also please see attached a letter from Don Sanguinetti which contains a lot of information with respect to the events and facts pertaining to this appeal.

The current attorney for the developer spends a lot of time attacking the motives for our appeal. We have a single motive in filing this appeal. We supported the 2008 LCP amendment, as did the majority of the residents of the Pleasure Point area, the Santa Cruz County Board of Supervisors and the Coastal Commission. I am concerned about the community I grew up in and my neighbors being bullied by wealthy San Jose developers who obtain one permit and then in the guise of a

change order violate the specific provisions of that permit in order to build a home which doesn't comply with the requirements of the LCP. The message the Commission would be sending to developers throughout the State of California is, break the law, try and get away with it and if you get caught, make up a story about how confused you were and you will probably be okay. These people knew exactly what they were doing and are on the verge of getting away with it. I resent strongly the inference by the developer's attorney that this is a private view issue. As I mentioned earlier, my family doesn't even own a home in this neighborhood anymore, but this home is a perfect example of why the FAR standards were changed. This home is out of character with the neighborhood. The illegally constructed fully second story completely obliterates the ability of the west side of my parents' home to have any light and sun since what has been constructed now looms over my parents' home.

I hope based on the true evidence in this matter, you will reconsider your recommendation that the Commission find that there is substantial issue of conformance with the certified Local Coastal Plan and the permit previously approved in 2009, which specifically rescinded the prior permit and which had to be acknowledged by the developer when they started the remodel. This developer should not be allowed to violate the Local Coastal Plan in the name of greater profits. They are not proposing to exceed the allowed floor area ratio by one or two percent, but by 20% and, if allowed to do so by the Coastal Commission, will have a home ranging from 40% to 120% larger than the homes surrounding it.

Respectfully submitted,

William and Lisa Shawver

Enclosures

cc: Tony Lombardo
cc: Coastal Commission: Steve Blank, Sara Wan, Dr. William A. Burke, Steven Kram, Mary K. Shallenberger, Patrick Kruer, Bonnie Neely, Ross Mirkarimi, Mark W. Stone, Khatchik Achadjian, Richard Bloom, Esther Sanchez, Lester Snow/Karen Scarborough/Brian Bird, John Chiang/Paul Thayer, Dale E. Bonner/James Bourgart/Gregg Albright, and Peter Douglas

- J. Pay the current fees for Parks and Child Care mitigation for 1 additional bedroom. Currently, these fees are, respectively, \$1,000.00 and \$109 per bedroom, respectively.
- K. Pay the current fees for Roadside and Transportation improvements for 1 additional bedroom. Currently, these fees are, respectively, \$847.00 and \$847.00 per bedroom. The total fee is \$1,694.00.
- L. Provide required off-street parking for 3 cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
- M. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- N. No more than 50% of a nonconforming wall shall be altered. This includes walls, windows, doors, studs, top plate, vents, or other openings.

III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. The project must comply with all recommendations of the approved soils reports.
- D. Prior to excavation of the foundations, the project engineer and/or geotechnical engineer must confirm in writing that the foundations are located as shown on the approved plans.
- E. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to

CCC Exhibit 1
(page 60 of 109 pages)

and including permit revocation.

- B. In the event that future County inspections of the existing dwelling disclose alteration to the existing exterior walls within the required 5 foot side yard setback area exceeding 50 percent of the exterior wall area, a "stop work" order shall be issued on the project and the applicant shall obtain all necessary permits before work may commence.
- C. This minor variation permit shall supercede Permit 07-0755 once this minor variation permit has been exercised. This shall prohibit the construction of the project plans approved by 07-0755 at any time after issuance of the building permit for this revised project.
- V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.



Stephen D. Pahl
Karen K. McCay
Fenn C. Horton III
Catherine S. Robertson
Jeffrey M. Sulenski
Servando R. Sandoval

Ginger L. Sorelo
Sonia S. Shah
Anthony J. Adair
Michael J. Cheng
Payal D. Mehta

Sarahann Shapiro
Special Counsel

225 West Santa Clara, Suite 1500, San Jose, California 95113-1752 • Tel: 408-286-5100 • Fax: 408-286-5722

Sender's Direct Dial No.: (408) 918-2826
Sender's Email Address: spahl@pahl-mccay.com

May 12, 2010

William and Brenda Shawver
916 North Broadway
Stockton, California 95205

Re: Illegal Construction Activity
Santa Cruz, California

Dear Mr. and Mrs. Shawver:

This office has been retained by Alex and Kristine Ingram, the owners of property at 7 Rock View Drive in Santa Cruz County. Mr. and Mrs. Ingram have advised this office that they are aware that non-permitted construction activity has occurred on your property over the last several years which has materially affected their use and enjoyment of their property and may materially affect the economic valuation of their property. I am specifically advised that construction activity has occurred within the mandatory set-backs between the properties which additionally may affect their privacy.

Accordingly, prior to this office instituting a claim in the Santa Cruz County Superior Court for nuisance, which will be exceedingly expensive for both parties in terms of legal fees and construction costs, this office requests that we meet and confer at your earliest opportunity to discuss how these illegally install improvements can be mitigated in such a way to avoid a material negative impact, both aesthetically and financially to the Ingrams. While we have not yet sought to include the County of Santa Cruz in this meet and confer process, we are open to including governmental authorities in our discussions if it is your desire.

Please be advised that this is not the first in a series of demand letters; no other notice will be provided to you concerning these installations. If we do not hear from you within the next ten calendar days, our office has been instructed to move forward and file the appropriate legal action in Superior Court. I would encourage you to seek the advice and counsel of an experienced land use counsel, particularly knowledgeable in land use and entitlement work in Santa Cruz County to discuss the issues set forth in this correspondence and your particular



William and Brenda Shawver

May 12, 2010

Page 2

situation, in greater detail. I look forward to hearing from you or your counsel, at your earliest opportunity.

Sincerely,

PAHL & McCAY
A Professional Corporation

A handwritten signature in black ink, appearing to read 'Stephen D. Pahl', written over the printed name.

Stephen D. Pahl

SDP:tm

cc: Client

August 1, 2010

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

RE: Appeal of Variance; 7 Rockview Dr.

Dear Ms. Craig:

I lived on Rockview Drive in 2009 and I have visited numerous times to the present with other friends on Rockview Drive.

I was present for several informal meetings between the appellants, Lisa and William Shawver, Alex and Kristine Ingram (Owners of 7 Rockview Dr.) and I witnessed a meeting between Dennis Norton ex-city mayor, councilman and architect of 7 Rockview Dr. and Alex and Kristine Ingram.

In 2009, the Ingrams shared their plans for the property with the Shawvers and me. Mr. Norton stated that the plans conformed to all local building and Coastal Commission regulations and laws. The Ingrams verbally represented that the structure would be a stepped design whereby the 2nd story would be on the street side above the garage and no sun light would be inhibited and air flow would have minimum impact on their neighbors.

No one opposed the approval of the Ingrams' project and construction started in late 2009. Without any public hearing or notice to the neighbors, the single story steel roof ridge and wood framing built in 2009 was removed and replaced with a full two-story (within the span of one week), the first week of February, 2010.

On Feb 6th the Ingrams were present at the property. I had a discussion with Alex Ingram. I brought up the issue that the scope and design of the project had drastically increased from what they had originally shared with the Shawvers and me. Mr. Ingram stated that they had decided on going back to a plan that was submitted well over a year prior. I stated that Kristine and he were not being very neighborly in failing to notify the Shawvers and it would appear that they were skirting the rules and regulations of both the Coastal Commission and the County.

Kristine Ingram's father is a Developer and Contractor and Alex Ingram is a Developer and Building Contractor. The Ingrams both have in depth professional and legal knowledge in commercial and residential construction laws and regulations.

Mr. Norton is the ex mayor, councilman and licensed Architect and is very versed in the Coastal Commission and local building codes and regulations.

After doing some due diligence into this matter, it would appear that the Ingram's

knowingly and willfully made fraudulent statements to the Shawvers and myself and did not follow building and coastal commission legal due process. The Ingrams and Mr. Norton had the contractor of record build the second story prior to the local planning and building department review and approval. The proposed addition is nearly a 35% increase. This proposed addition substantially and significantly exceeds the floor area ratio allowed by the certified Local Coastal Plan.

Example 1 - The floor ratio of the building violates the certified Local Coastal Plan. The Ingrams' floor ratio was limited by the permit issued in 2009. The Ingrams argue that the floor area ratio was determined back in the 2007 application. That application was revoked. The work that has already been built is in violation of the Local Coastal Plan and the 2009 permit. Both the applicants and applicant's architect knew this. The applicants chose to ignore this fact and went ahead and built the new addition. They took a calculated risk by building first and then asking for forgiveness later.

Example 2 - Applicants' second story height addition and projection out towards the ocean substantially blocks sun light and changes wind patterns and impacts the residence at 9 Rockview. Both the applicants and applicants' architect knew that the proposed changes to scope and magnitude of the project would warrant new studies and design review by all agencies involved and would warrant due process to the public for comment. This was not a simple change order. This was an estimated 35% increase in living space. This was calculated, planned, designed and implemented to skirt the Coastal Commission, building and planning department and neighbors due diligence and review process.

Example 3 - The employee in the building and planning department who Mr. Norton approached with a change order was not at senior planning level. Mr. Norton also knew that she was on her last week of employment at the building department. Mr. Norton and the Ingrams both have 20-30yrs of building knowledge, knew full well that the scope and increase of the project would have justified a new project review by both the Coastal Commission and local planning and building department. It could be concluded that Mr. Norton exercised his past position in city government power to push through a change order. Mr. Norton's ethics and professional misconduct in skirting the rules and regulations and exercising his political clout should be grounds for investigation outside of this proceeding.

After doing due diligence in this matter and reviewing time lines and rules, regulations and laws I would hope that the Coastal Commission will enforce the certified Local Coastal Plan and limit the floor area ratio to 50% like everyone else has to. The applicants and the applicant's architect should be held to this standard and not be rewarded for their intentional violation of the 50% floor area ratio.

The Ingram's took calculated risks. They knew full well that they might get caught. The Ingrams used an architect that has political influence in the local community and building department to try to minimize impact if caught.

The Ingram's have not acted as good neighbors and have violated the rules and regulations.

I support the original application of 2009, I do not support a variance to exceed the certified LCP FAR of 50%. If the Coastal Commission allows the Ingrams to get away with intentionally violating their 2009 permit, what type of precedent are you setting and how can you ever tell the next applicant that they have to follow the 50% FAR?

Sincerely,



Don Sanguinetti
925 254-2467

Picture Timeline

A picture is worth a thousand words. These pictures begin on 1/6/2010 when the home was operating on the 8/13/2009 permit. The pictures will show the work that has been done on 7 Rockview without an issued permit/change order from 2/9/2010. (How can a home be completely built on the day the permit was issued?) Also, after the Stop Work order was in place, you can continue to see the progress that has been done on the exterior of the home. What has been done on the interior? The pictures continue through 7/23/2010.

Page 1

1. 1/6/2010 Home built according to Permit issued on 8/13/2009.
2. 2/10/2010 Home completely built in just 1 day!
3. 2/10/2010 Side view of home showing no concrete deck or wall.
4. 2/10/2010 Rear view of home showing work vehicles.

Page 2

5. 2/10/2010 Side view of home – plywood in place of windows.
6. 4/8/2010 Front view of home – windows, siding, deck, etc. have been added.
7. 4/8/2010 Rear view of home – Sprig Electric working on home.
8. 4/8/2010 Front view of home – shows concrete deck.

Page 3

9. 4/8/2010 Side view of home – shows windows, siding, etc.
10. 4/8/2010 Electrician's vehicle. More work than just "waterproofing".

Page 4

11. 4/14/2010 Side view – gutters over property line?
12. 4/14/2010 Worker working.

Page 5

13. 4/14/2010 Front view.
14. 4/14/2010 Rear view of home – another worker working.

Page 6

15. 5/5/2010 Front view of home – concrete deck enlarged. Was that permitted?
16. 5/5/2010 Front view of home.

Page 7

17. 5/5/2010 Picture of 7 Rockview, 5 Rockview, 3 Rockview, 1 Rockview. 5,3, and 1 Rockview are all 1 story homes.
18. 5/5/2010 Front side view of home.

Page 8

19. 5/5/2010 Rear view of home. No concrete work yet on south side of home, however, concrete wall has been added on north side of property.
20. 5/6/2010 Front view of home better showing additional concrete work to deck.

Page 9

21. 5/17/2010 Concrete wall added to south rear of property. Worker truck parked at 9 Rockview.
22. 5/1/7/2010 Rear side view showing both east and west concrete wall additions. Other façade changes as well to home.

Page 10

23. 5/25/2010 Side view of home showing concrete wall added to front of home as well as concrete pad poured on side of home under window.
24. 5/25/2010 Rear view of home showing south concrete wall and the Ingrams removal of 9 Rockview mailbox which has been in the same location for over 40 years.

Page 11

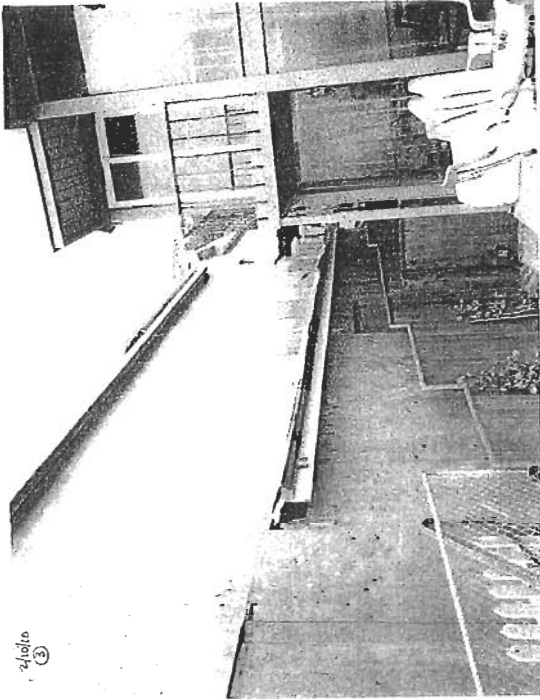
25. 5/25/2010 Front view of home showing more concrete deck work.
26. 5/25/2010 Side view of home showing concrete wall in front, concrete pad, and electrical wires recently added.
27. 7/23/2010 Rear view of home where more concrete work has been done with the addition of the concrete walkway.
28. 7/23/2010 More siding has been added.

Page 12

29. 7/23/2010 Another view of concrete walkway.
30. 7/23/2010 More electrical and siding has been done.

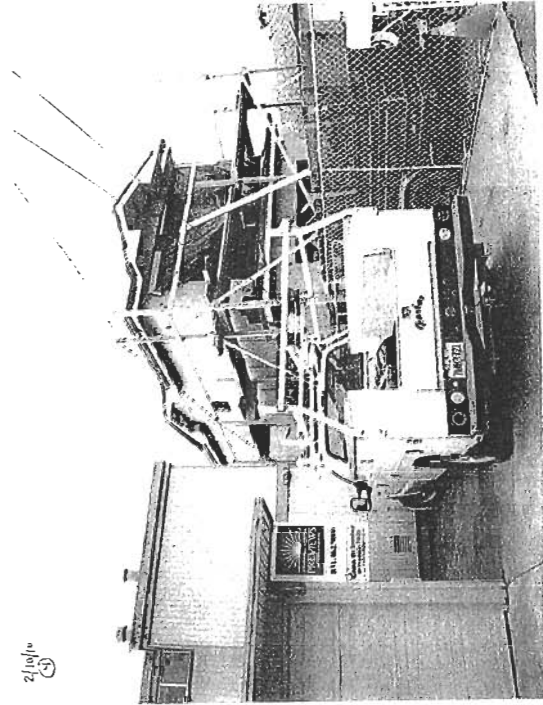
Page 13

31. 7/23/2010 Front side view showing all the extra work that has been done.
32. 1/6/2010 Home built according to Permit issued 8/13/2009. Compare this photo with the one above. Much work has been done to this home before change order issued and after they were told to stop.



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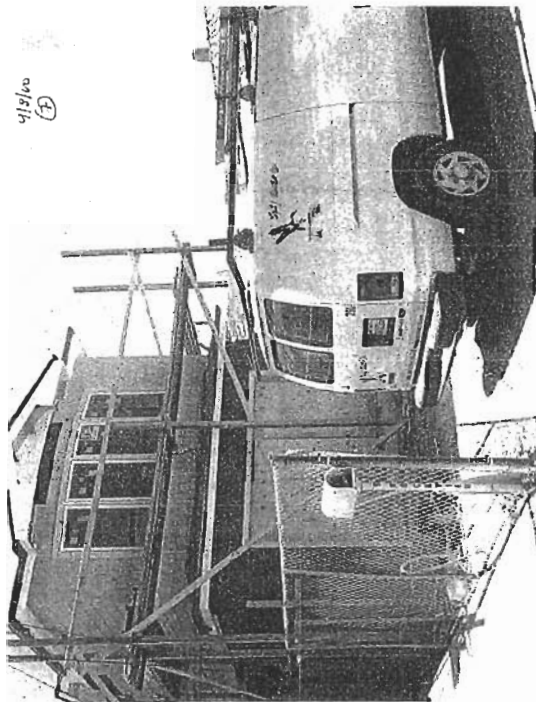
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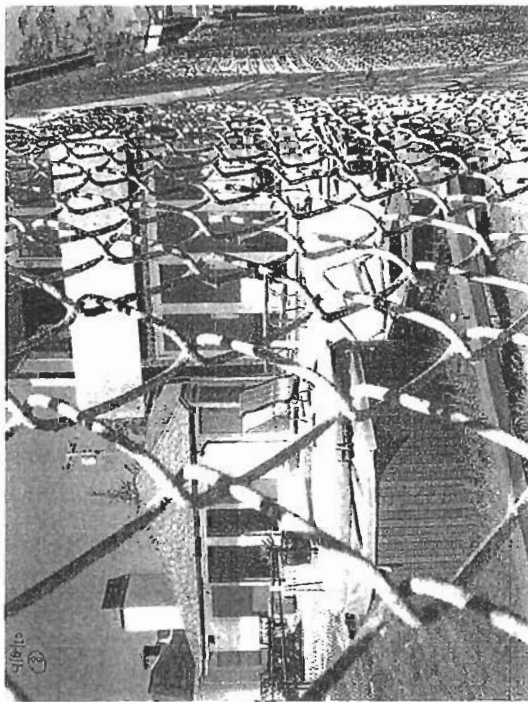
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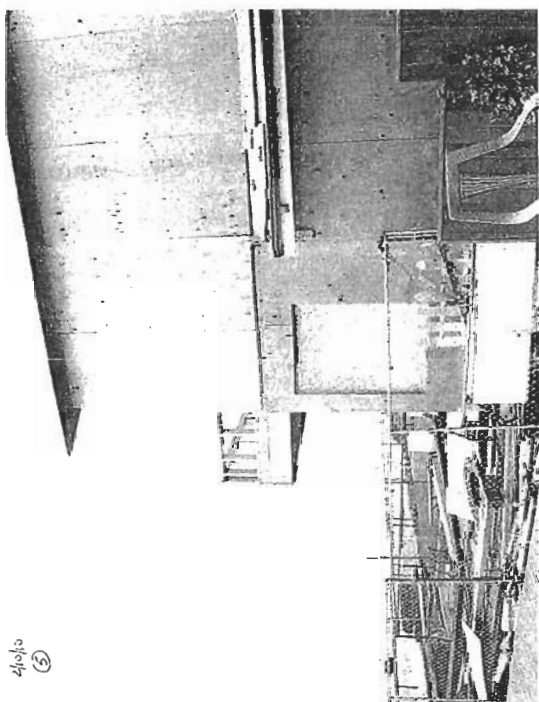
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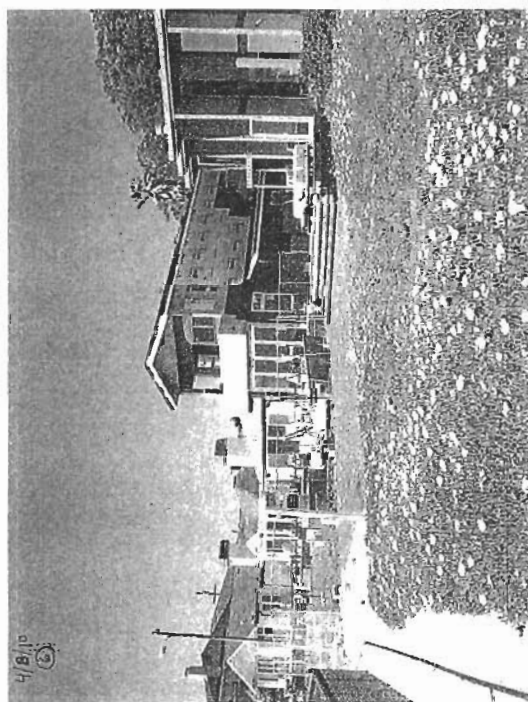
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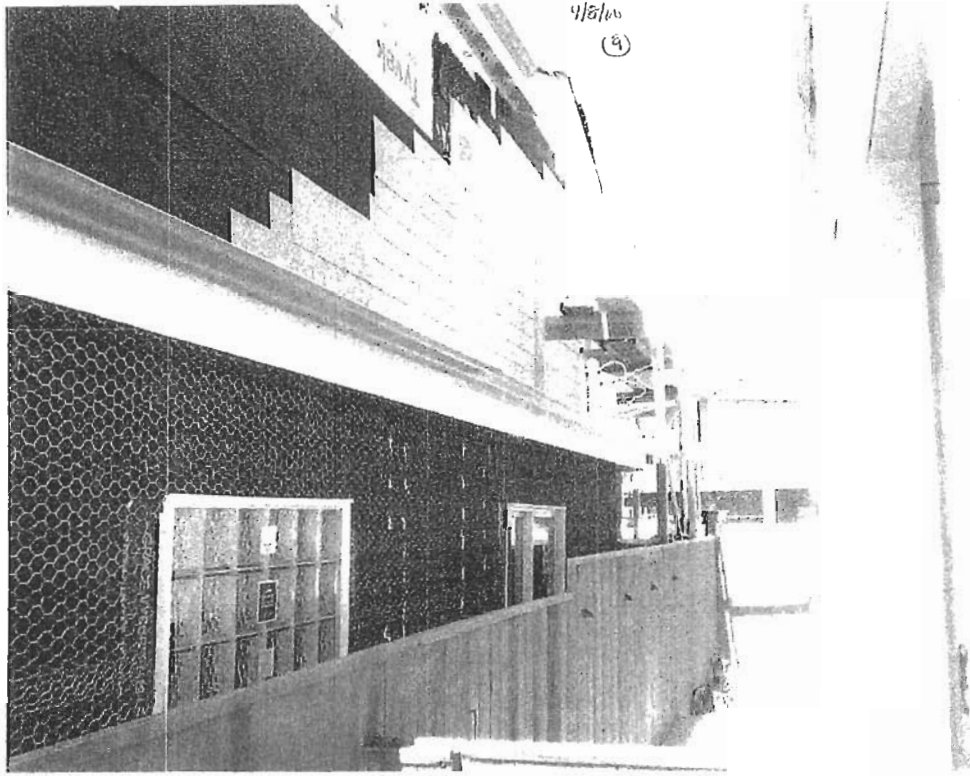
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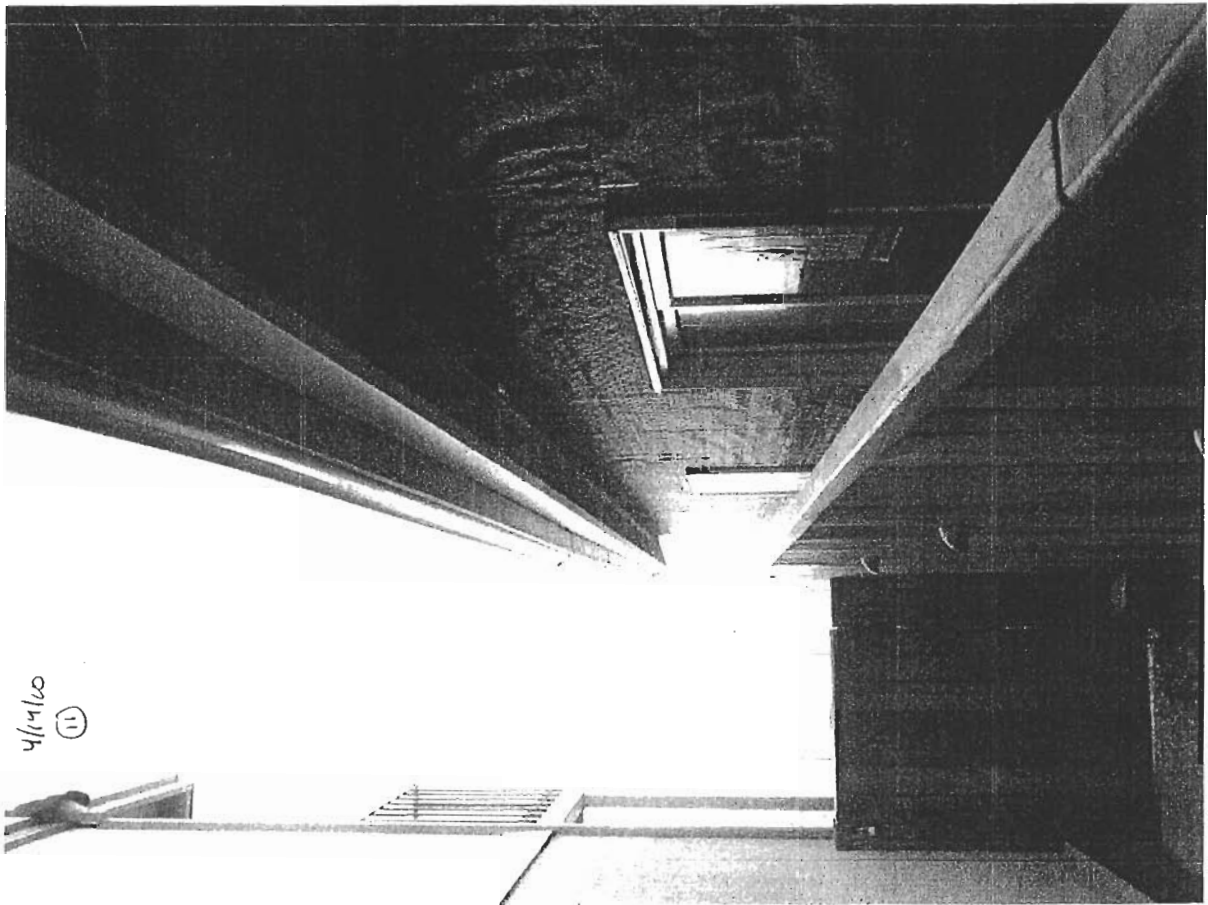
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12. 4/14/10



11. 4/14/10



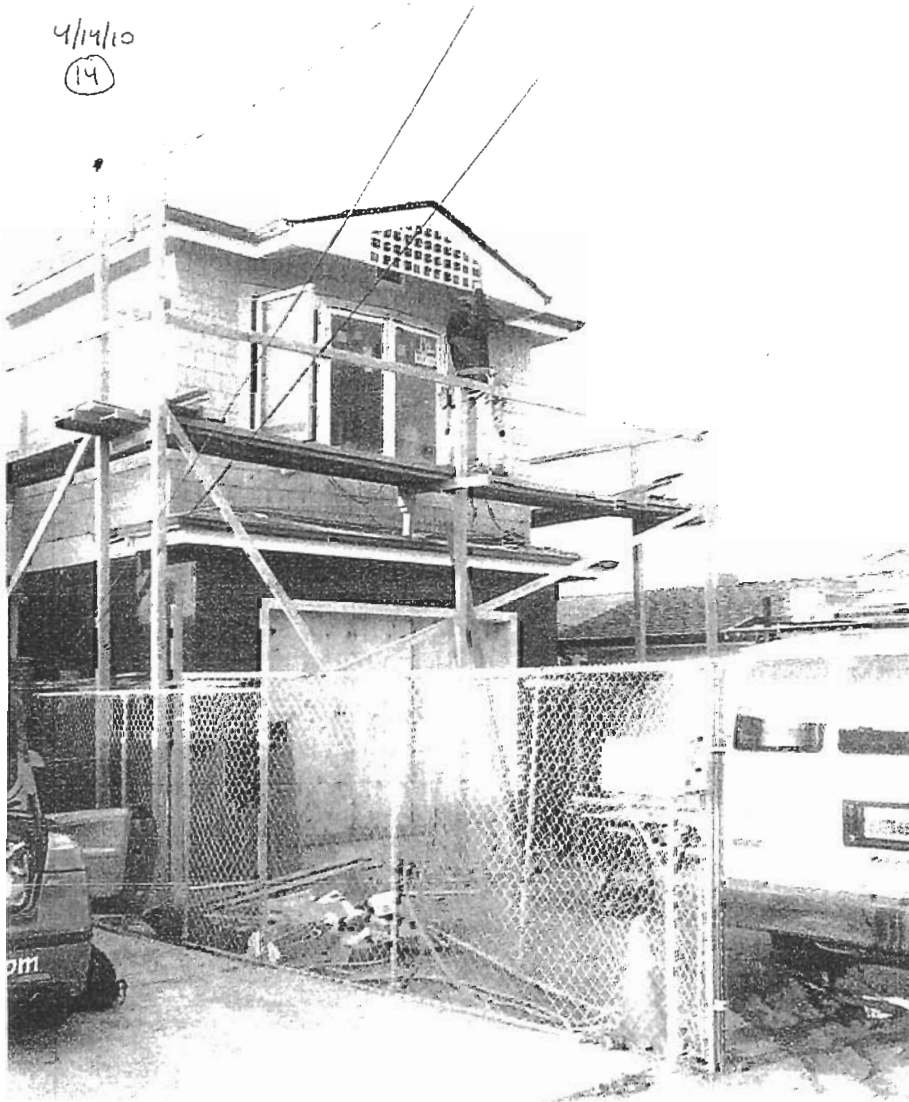
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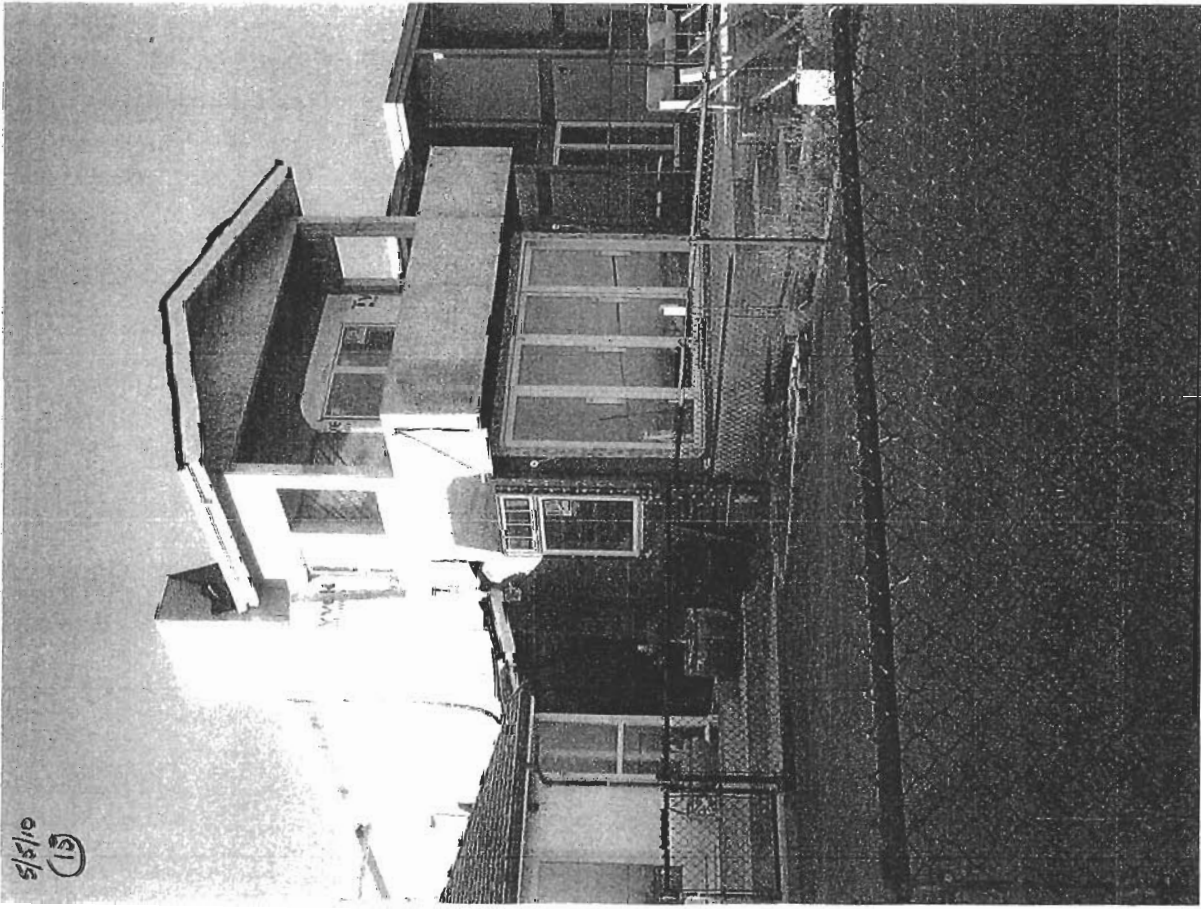


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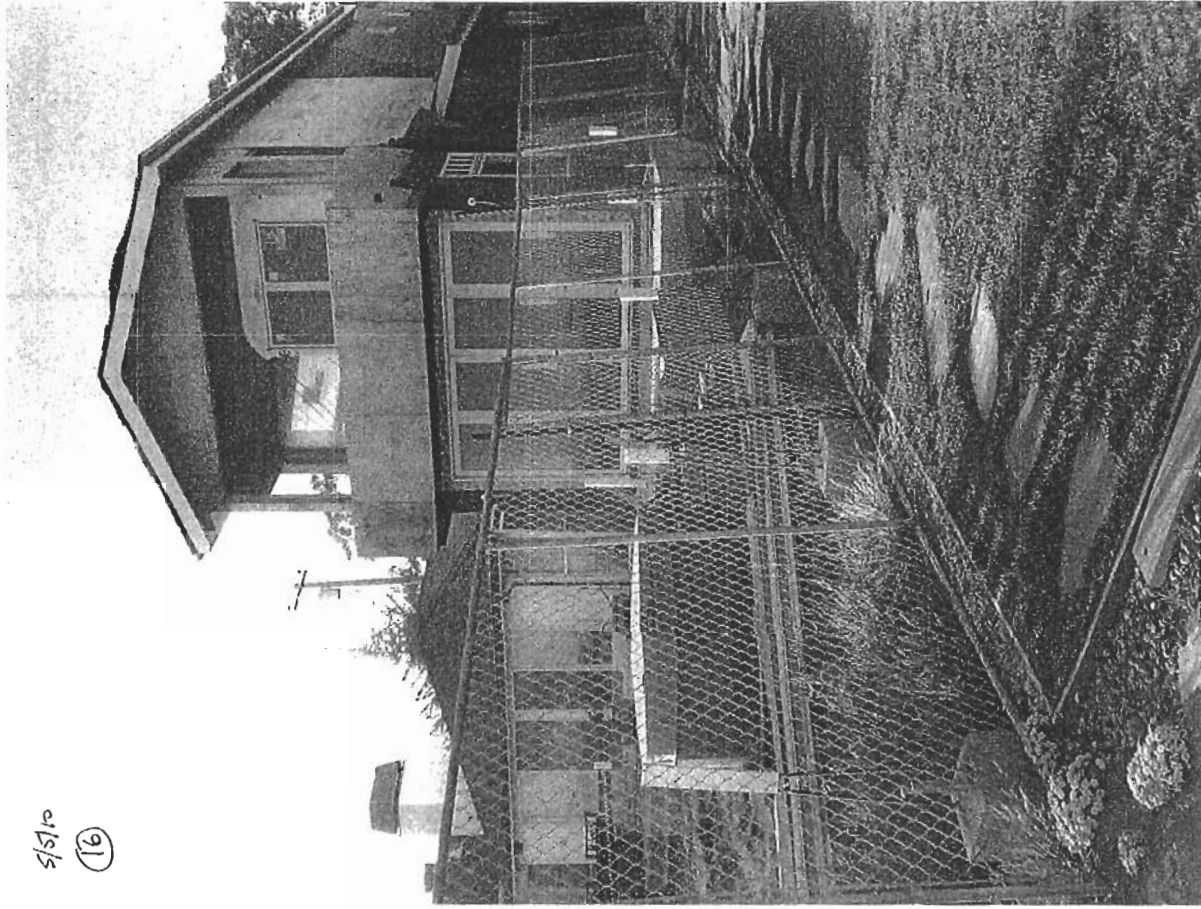


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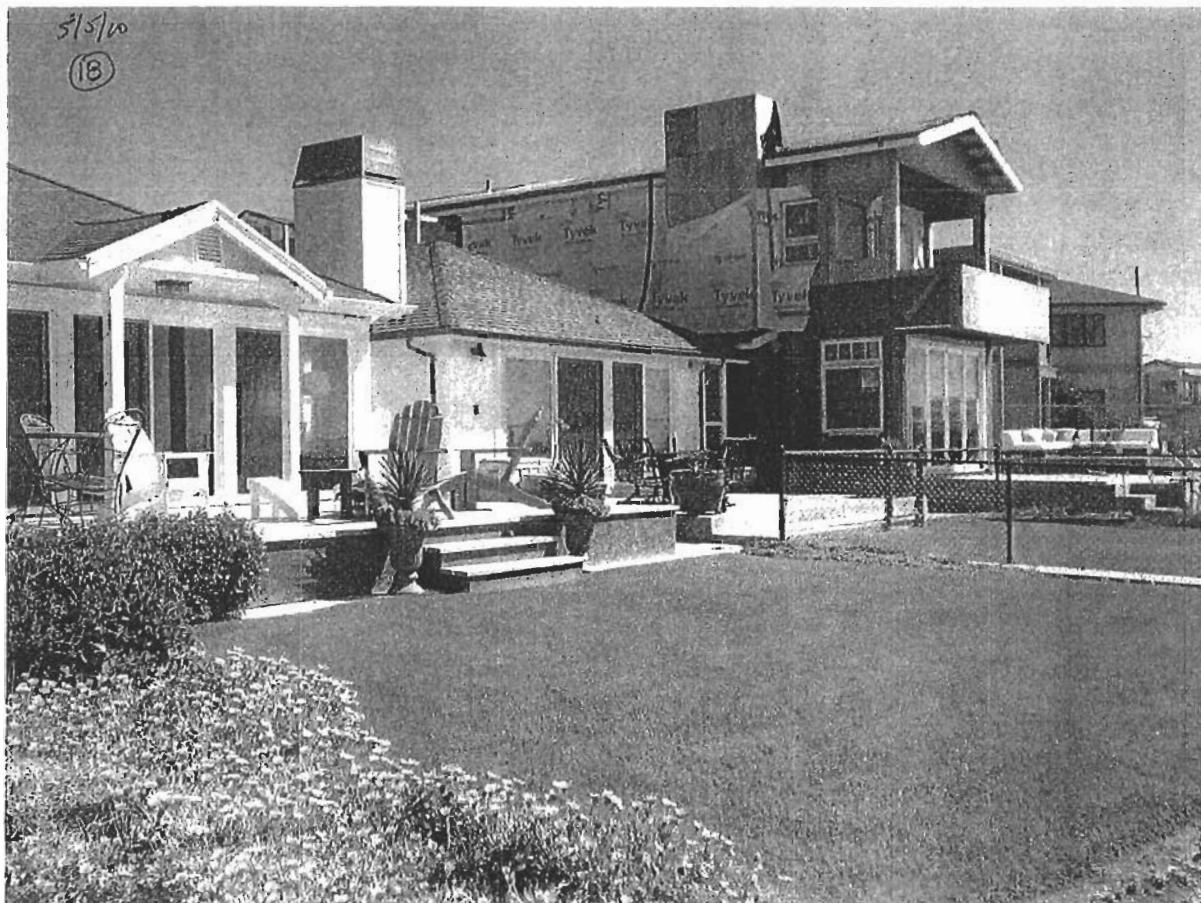


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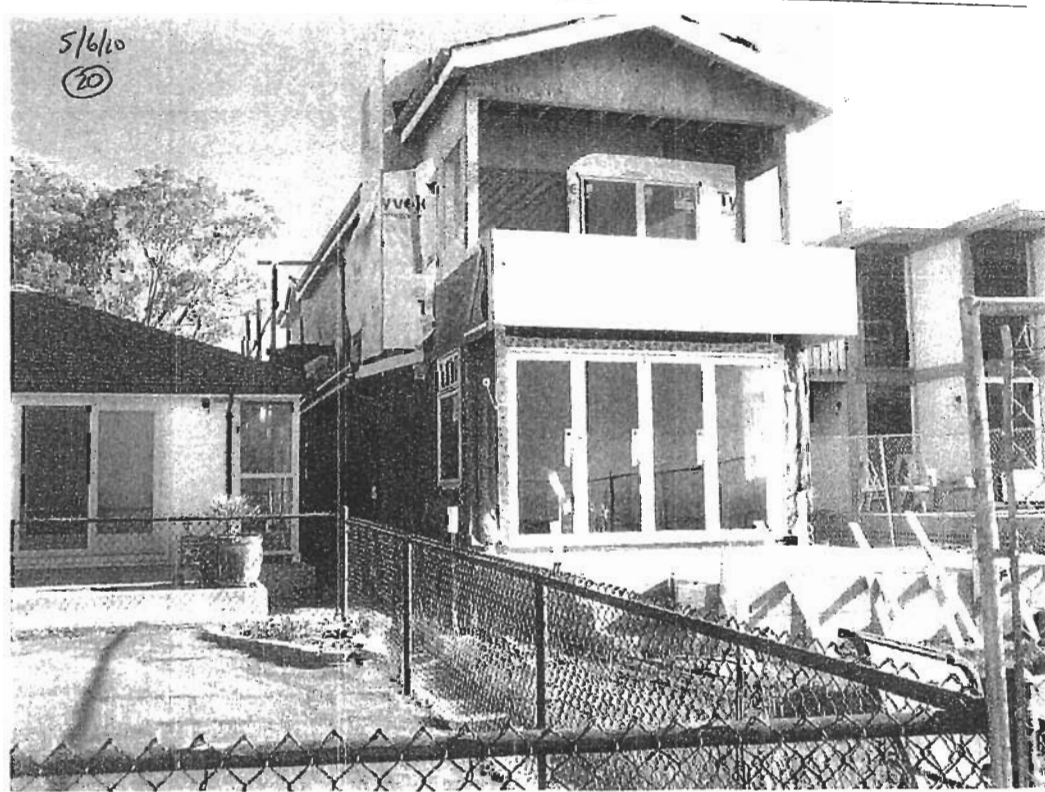
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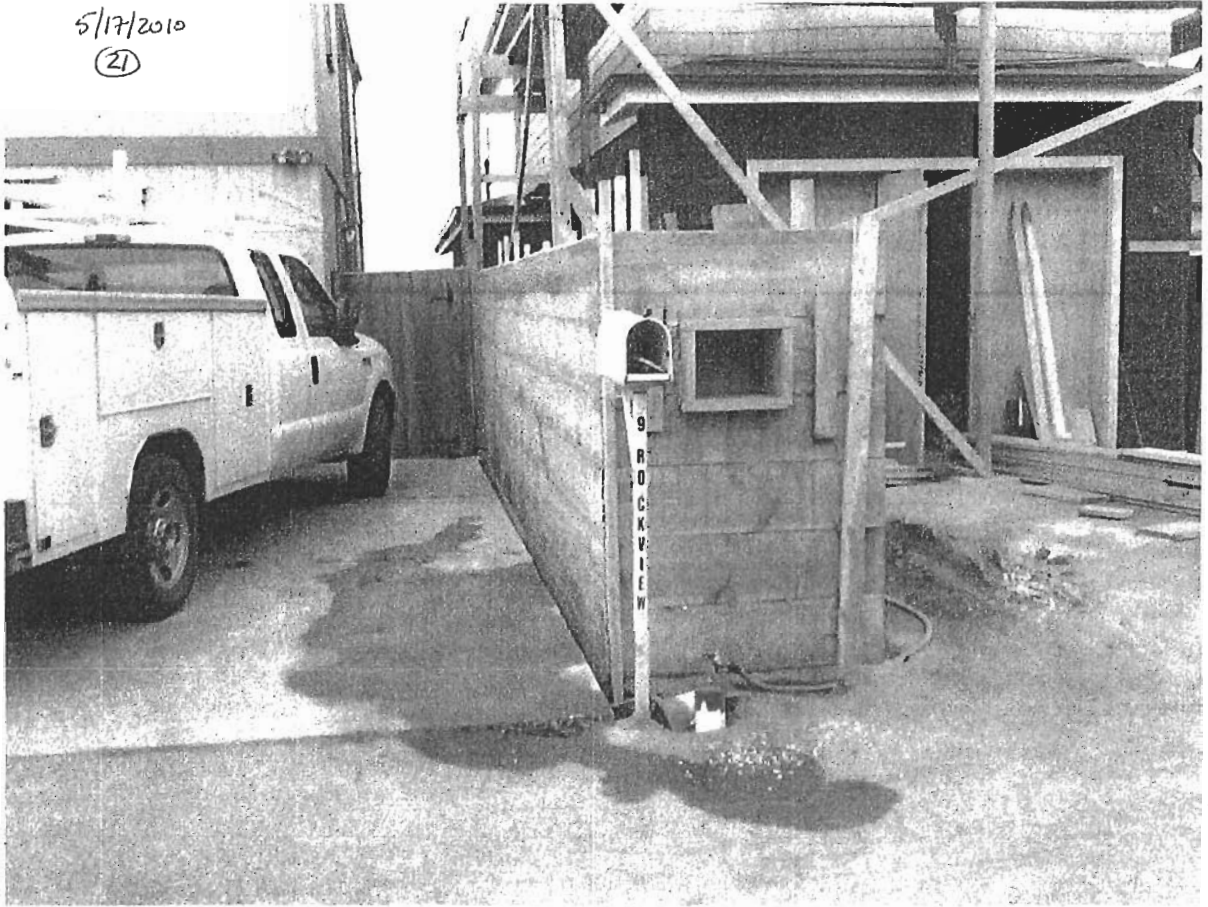


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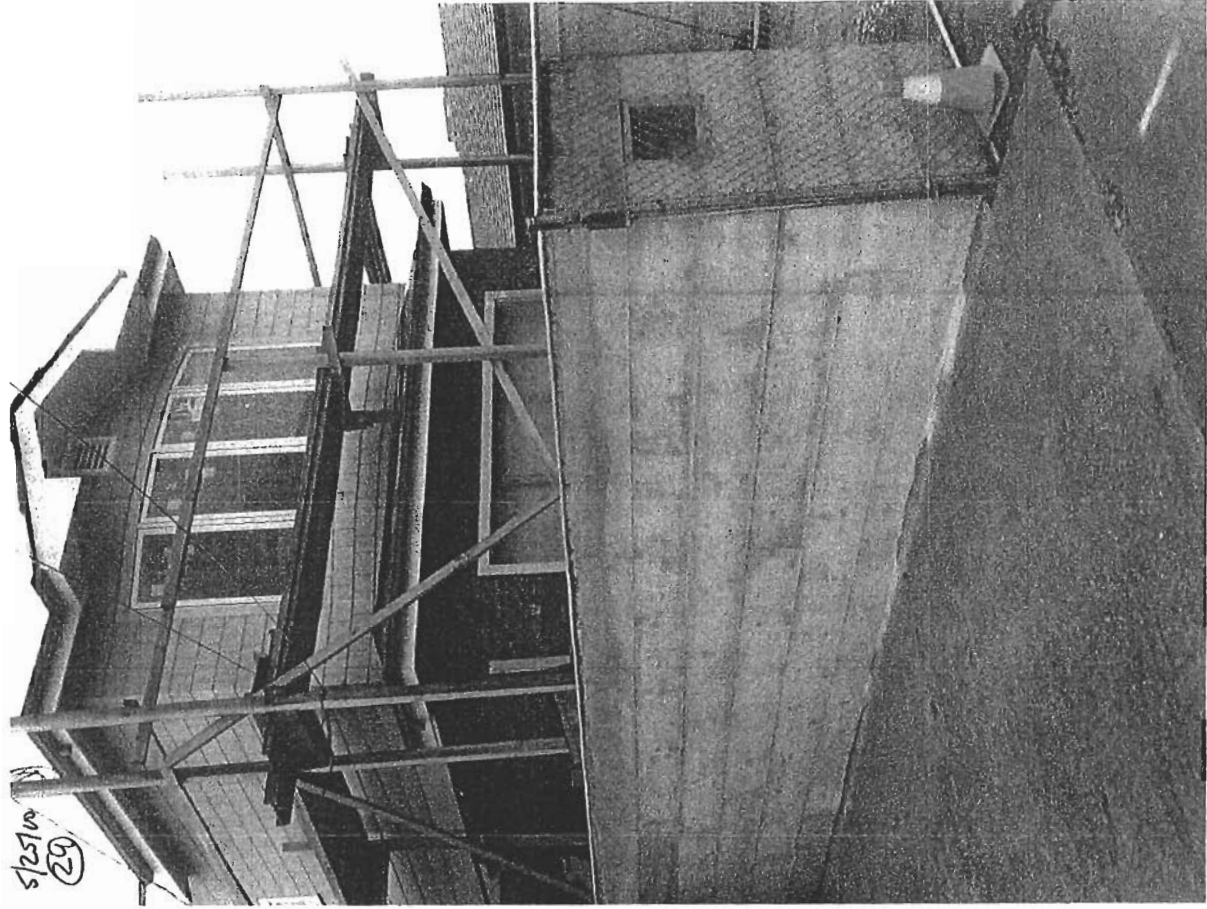
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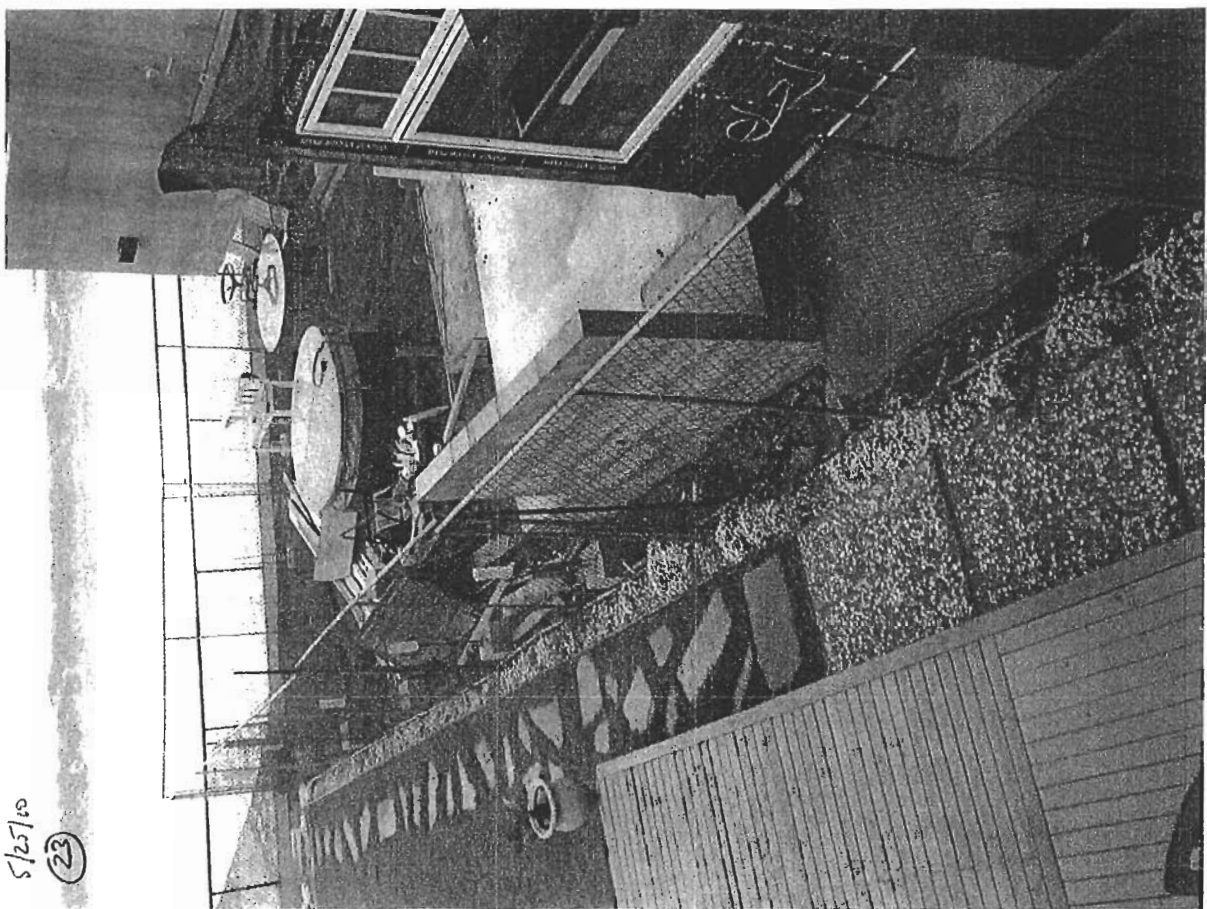


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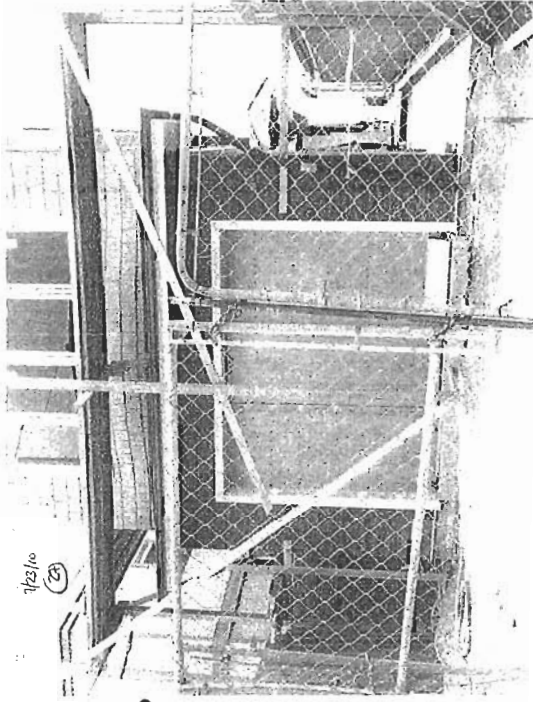


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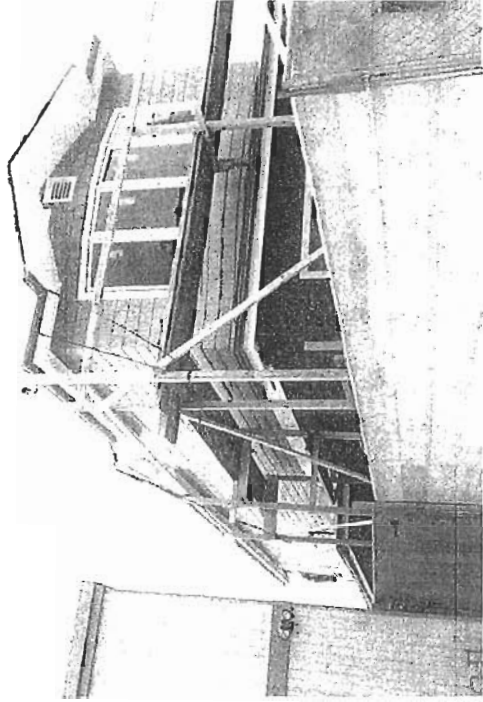
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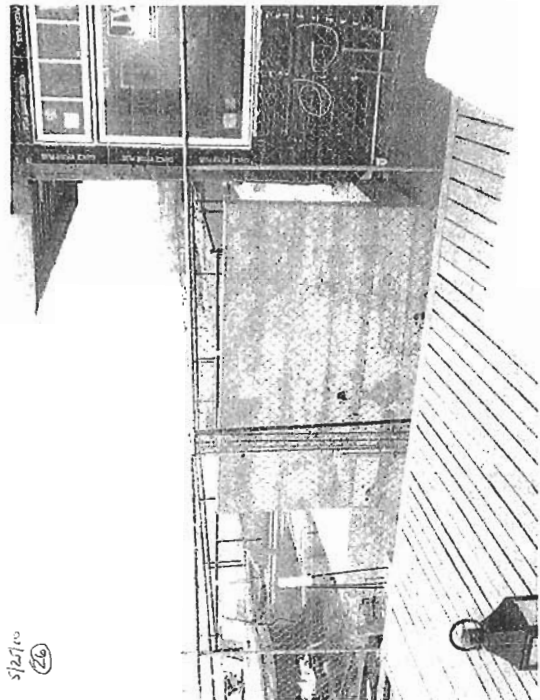
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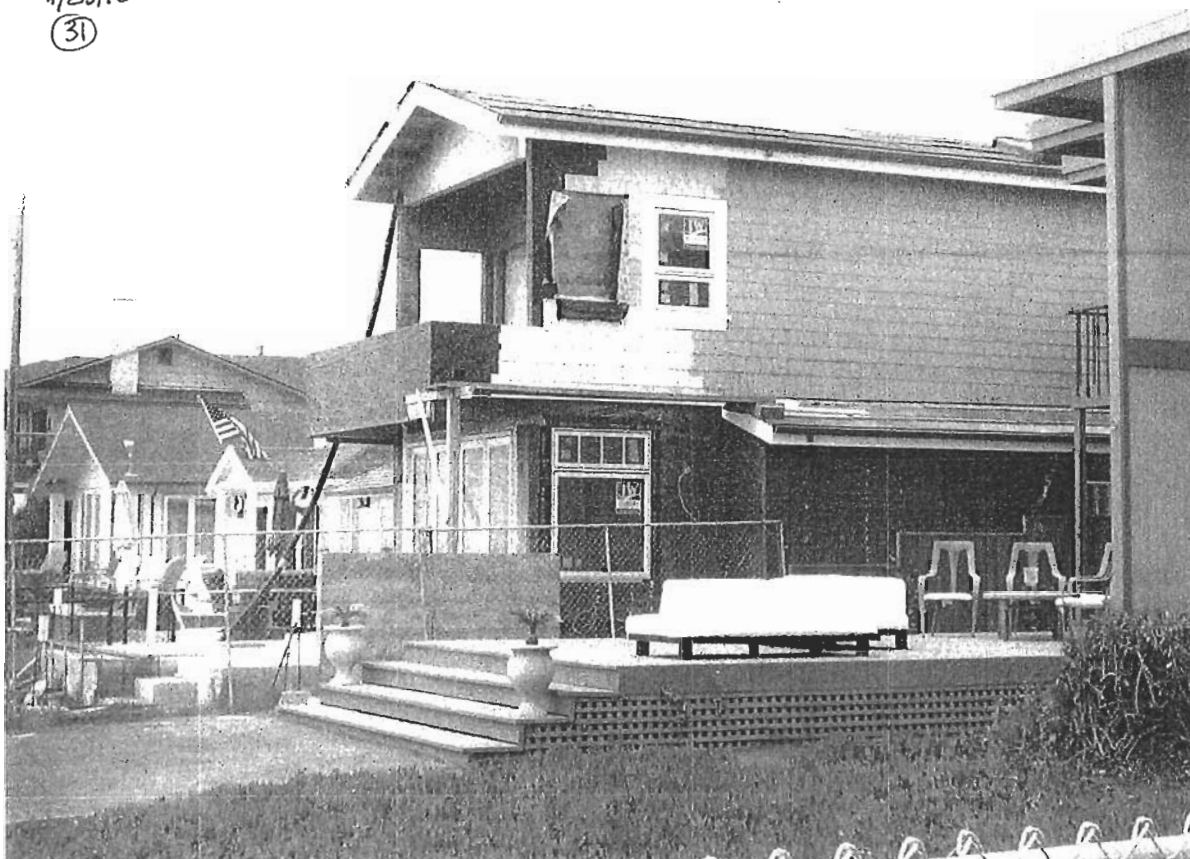
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7/23/10

"AFTER"



32.

1/6/10

(1)

1/6/10

"BEFORE"



FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION

W 15d
RECEIVED
AUG 09 2010
CALIFORNIA
COASTAL COMMISSION

Date and time of communication:
(For messages sent to a Commissioner by mail or
facsimile or received as a telephone or other
message, date time of receipt should be indicated.)

August 6, 2010, 10:30am

Location of communication:
(For communications sent by mail or facsimile, or
received as a telephone or other message, indicate
the means of transmission.)

Commissioner Neely's Eureka Office

Person(s) initiating communication:

Maggy Herbelin, Local ORCA Representative

Person(s) receiving communication:

Commissioner Bonnie Neely

Name or description of project:

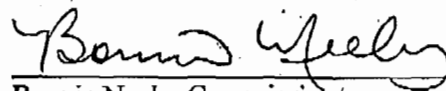
W15d. Appeal No. A-3-SLO-10-031 (Goodan, Harmony).
Appeal by Commissioners Mirkarimi and Wan of San Luis Obispo County
decision granting permit with conditions to Eunice Goodan to construct a
5,019 sq. ft., 2-story, single-family home (with an approximate 2,500 sq. ft.
footprint, 1,281 sq. ft. unconditioned basement/workroom, 886 sq. ft.
attached garage, 1,297 sq. ft. deck, 5,000 gallon water tank, and various
drainage and landscape improvements) on blufftop area, and to convert an
existing 1,100 sq. ft. single-family home on site to farm support residence,
at 500 Harmony Ranch Road approximately 1.25 miles west of Highway
One, and 2 miles south of community of Cambria along the Harmony Coast
in unincorporated San Luis Obispo County. (JB-SC)

Detailed substantive description of content of communication:

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

Support staff recommendation of Substantial Issue. Staff needs to address
geology, bluff erosion, and other issues. We are speaking for SLO Coastwalk
and Coastwalk California.

Date: August 6, 2010


Bonnie Neely, Commissioner

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

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

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

Coastal Commission Fax: 415 904-5400



SINSHEIMER JUHNKE LEBENS & McIVOR, LLP
ATTORNEYS AT LAW

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HERBERT A. STROH
ROGER B. FREDERICKSON
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HILLARY A. McGONEGLE *‡

* Registered to Practice Before
the U.S. Patent and Trademark Office

† Registered to Practice Before the
Canadian Intellectual Property Office

‡ Licensed to Practice in Washington

RECEIVED W15d

AUG 05 2010

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

ROBERT K. SCHIEBELHUT
K. ROBIN BAGGETT
NANCY W. VENSKE *

E-Mail:
DJuhnke@sjlmlaw.com

Client: 1135014

August 4, 2010

California Coastal Commission Headquarters
45 Fremont Street, Suite 2000
San Francisco, California 94105

VIA GOLDEN STATE OVERNIGHT
514683928

Re: Applicant: Eunice Goodan
Item No.: W15d
Date: Wednesday, August 11, 2010
Time: 9:00 a.m.
Location: San Luis Obispo County Board of Supervisors Chambers
1055 Monterey Street, San Luis Obispo, California 93408

Dear Coastal Commission:

Enclosed is the Response of Applicant Eunice Goodan, which is being served on all Commissioners, Non-Voting Members, Alternate Commissioners and Staff via Golden State Overnight, as detailed in the attached Service List.

If you have any questions, please contact me.

Very truly yours,

SINSHEIMER JUHNKE LEBENS & McIVOR, LLP


DAVID A. JUHNKE

DAJ:gda:mrh

K:\Goodan\Coastal Commission\Ltr\23CoastalComm-080410.wpd

Enclosures

cc: Service List (w/encl.)
Client (w/encl.)
Woodruff Construction Co., Inc. (w/encl.)

Service List

Commissioners:

Steve Blank
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

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California Coastal Commission Meeting 8/11/10, Agenda Item 15d
Coastal Commission Appeal No. A-3-SLO-10-031 (Goodan, Harmony)
San Luis Obispo County File No. DRC 2008-00025
Applicant Representatives: Woodruff Construction Co., Inc. and
Sinsheimer Juhnke Lebens & McIvor, LLP

RESPONSE OF APPLICANT - EXECUTIVE SUMMARY

Applicant: Eunice Goodan

Appellants: Coastal Commissioners Sara Wan and Ross Mirkarimi

Project description: Minor Use/Coastal Development Permit for construction of a 5,019 square-foot single family residence with a 2,500 square-foot footprint on a 421-acre parcel,¹ and for use of an existing 1,100 square-foot ranch house as a farm support unit.

Project Location: The proposed residence is located at 500 Harmony Ranch Road on the west side of Highway 1 approximately two miles south of Cambria in the North Coast Planning Area, San Luis Obispo County.

Local Decision: Permit approved by County of San Luis Obispo with Findings and Conditions after a two-year process which included consultation with many agencies and preparation of numerous expert studies.

Applicant Position: The project footprint (including driveway, parking and residence) is 14,000 square feet on a property of 421 acres. Rigorous scientific studies were performed as part of the County process, and the findings were incorporated into the Permit. County staff consulted numerous public agencies, including the Coastal Commission which did not respond or object. The County Environmental Coordinator determined that "there is no substantial evidence that the project may have a significant effect on the environment," and a mitigated Negative Declaration/Notice of Determination (MND) was issued.

The County determined that the project is consistent with the certified Local Coastal Program (LCP). That decision must be respected unless there is a substantial issue "that the development does not conform to the standards set forth in the local coastal program." (California Coastal Act, §30603(b)(1).) While the CC Staff Report alleges that there are substantial issues of non-conformance with the LCP, all of those items were considered and addressed by the County. A detailed response to the CC Staff Report is attached as Exhibit 1, and is summarized below.

Goodan requests that the appeal be dismissed. Alternatively, Goodan requests the right to be heard on the question of whether there is a substantial issue of non-conformance with the LCP.

¹ While the CC Staff Report states the property is 417 acres, Assessor's Map 013-20 shows it as 421.48 acres.

Background:

The permit process was commenced by Doug and Eunice Goodan in 2008. Doug Goodan passed away in early 2009, and Eunice Goodan is now the sole applicant.

The County conducted a two year review of the proposed project, which included consultation with many agencies and preparation of numerous expert studies. (See Exhibit 2.) Goodan voluntarily incorporated many protective measures into the project. (See Exhibit 3.) The County solicited input from the Coastal Commission, which did not respond or object.

On April 15, 2010, the County prepared a MND. (See Exhibit 4.) On May 25, 2010, the County issued a Notice of Final Action adopting the MND and approving the Permit with Findings and Conditions. The Notice was received by the Coastal Commission on June 9, 2010, and an appeal was filed on June 24, 2010.²

The appeal alleges that the project does not conform to the LCP because (1) it facilitates conversion of agricultural land to non-agricultural use, (2) it allows use of an existing residence as farm support which is not needed for agricultural operations, (3) it fails to provide ESHA protection for the California red-legged frog and native bunchgrass, (4) it raises issues concerning hazards (erosion) and public services (water, sewer). Goodan's representatives spent several hours with Commission Staff explaining the project and reviewing the file and expert reports. The CC Staff Report ignores much of that information, and presents a misleading picture of the County process and requirements of the LCP.³

There Is No Substantial Issue Regarding Conformance with the LCP:

The only question before the Commission is whether there are substantial issues showing that the County decision does not conform to the LCP. While the CC Staff Report alleges non-conformance, the issues raised in the CC Staff Report were extensively studied and addressed by the County. A detailed discussion is attached as Exhibit 1, and is briefly summarized below:

1. The Permit Conforms to the LCP re Protection of Coastal Agriculture.

The LCP recognizes the importance of coastal agriculture. The property has been used for cattle grazing for more than 40 years, and that use will not be altered by the project. The proposed residence is located near the edge of the property, and the project footprint (including driveway, parking and residence) of 14,000 square feet is well under the threshold allowed for development on non-prime agricultural land (2% of property size (421 acres) or 8.42 acres). The County determined that the project site does not satisfy any of the four criteria contained in the LCP for designating prime agricultural soil.

² Section 30603(c) of the Coastal Act states that the County action is final "at the close of business on the 10th working day from the date of receipt by the Commission of the notice." There is no definition of "working day" in the statute, and the 10th day which is not a weekend or holiday is June 23. While Commission Staff states that the appeal is timely due to a "furlough day" on June 18, Goodan believes the appeal should be dismissed as untimely.

³ While the CC Staff Report criticizes Goodan for refusing to waive her right to a timely hearing, Goodan is equally frustrated by the failure of the CC Staff Report to identify specific concerns, to acknowledge the many expert studies in the County file, and to report objectively on the County's decision-making process.

The CC Staff Report incorrectly states that "the County record does not provide an analysis of whether or not this site would qualify as prime grazing land as defined by the LCP." In fact, the MND contains a detailed discussion of the issue. Single family residences are specifically allowed by the LCP on agricultural lands, and are considered to be a part of rather than supplemental to the agricultural use. The County Agricultural Commissioner determined that the project will not have a significant impact on agricultural resources, so long as the applicant agrees to a right to farm disclosure which is included as a Condition of the Permit.

The CC Staff Report incorrectly states that the County did not consider alternative project locations or mitigation measures. In fact, the MND contains a detailed discussion of both issues. The County considered numerous alternative sites and determined that the approved location is the best site for many reasons including the fact that it is completely screened from Highway 1, does not require additional road improvements,⁴ and contains no cultural or archaeological resources. Other potential sites are either on a steep grade, require additional road improvements, are closer to wetland or ESHA areas, or are visible from Highway 1. The Permit is expressly conditioned on stringent protective measures to avoid any impact.

There is no substantial issue relating to conformance with the LCP regarding protection of coastal agriculture. For a more detailed discussion, see Exhibit 1, pages 2-6.

2. The Permit Conforms to the LCP re Farm Support Quarters.

The LCP provides for farm support quarters in connection with agricultural activities, authorizing one unit for every 320 acres of grazing land. The property is 421 acres, and the CC Staff Report recognizes that the property "may" qualify for a farm support residence. However, the CC Staff Report alleges without support that the County did not properly consider the issue.

The 1,100 square foot ranch house historically has served as the residence for full-time farm support, and is surrounded by two large barns (one of which is solid redwood), a cheese-making house, and numerous corrals used for the management and processing of cattle. The farm support duties include managing and processing the cattle, maintaining the facilities (barns and corrals), and monitoring and repairing the boundary fences. Among other duties, it is critical to maintain the fences along Highway 1 as it would be extremely dangerous if cattle were to escape onto the busy highway. The ranch house has never been used as a primary residence for the property owners, and the Permit requires an agreement limiting occupancy of the ranch house to agricultural workers.

There is no showing of a substantial issue relating to conformance with the LCP regarding farm support quarters. For a more detailed discussion, see Exhibit 1, page 7.

3. The Permit Conforms to the LCP re ESHA Protection.

The LCP provides criteria for development within or adjacent to (within 100 feet of) an environmentally sensitive habitat area (ESHA). The CC Staff Report misrepresents the nature and

⁴ The CC Staff Report misrepresents the record when it states that the project "includes an improved driveway access extending approximately 1.25 miles from Highway One to the blufftop that could easily, and appears planned to, provide access to other adjacent agricultural blufftop areas." In fact, the "driveway access" referenced by the CC Staff Report is Harmony Ranch Road, which has been in existence for 60 years and which is subject to strict legal limitations set forth in recorded Conditions, Covenants & Restrictions.

extent of the County process on this issue, as the record shows that the County extensively reviewed and analyzed ESHA issues relating to the California red-legged frog and native bunchgrass.

The record shows that the closest frog found on the property was in a drainage channel one-quarter mile (1,200 feet) away from the building site and 400 feet higher in elevation. Expert studies concluded that the project site is "very unlikely to attract temporarily or support resident individuals of any special status" and that "the proposed project would not result in a take of the California red-legged frog." Nonetheless, in consultation with U.S. Fish & Wildlife Service the County has imposed strict preventative measures (e.g., contractor education, protective fencing, presence of on-site biologist) to avoid any possible impact.

The CC Staff Report incorrectly states that the Permit allows removal of native bunchgrass. In fact, the CC Staff Report recognizes that heavy grazing has disrupted native grasslands and the MND determined that "the project site is predominately vegetated with non-native annual grasslands" and that "no special status plants were identified near the home site." While there is a small (5,000 square-foot) patch of native bunchgrass near a corner of the project envelope, there will be no construction in this area and the County has imposed strict preventative measures (e.g., protective fencing, presence of on-site biologist) to avoid any possible impact.

There is no showing of a substantial issue relating to conformance with the LCP regarding ESHA. For a more detailed discussion, see Exhibit 1, pages 7-10.

4. The Permit Conforms To The LCP re Hazard (Erosion) and Public Services.

The LCP provides that new development (1) shall ensure structural stability while avoiding erosion or geological instability and (2) shall provide for adequate water and sewage disposal. The County considered and addressed these issues in detail, and required extensive geologic and engineering reports which were independently reviewed and approved by the County Geologist and independent engineers retained by the County. The County conditioned the Permit on compliance with all geologic and engineering requirements outlined by the experts.

Goodan voluntarily created a blufftop setback which is more than double (208 feet) that required under the 75-year erosion criteria contained in the LCP (95 feet). While the CC Staff Report alleges that the project does not conform to the LCP in the areas of erosion and public services, no specifics are provided.⁵

There is no showing of a substantial issue relating to conformance with the LCP regarding erosion or public services. For a more detailed discussion, see Exhibit 1, pages 11-13.

Conclusion:

The County considered all issues raised by this appeal during the two-year permit process, consulted many agencies and obtained numerous expert studies. **There is no substantial issue relating to conformance with the LCP, and Goodan requests that appeal be dismissed.**

⁵ The CC Staff Report misstates the record when it alleges that "the lone piece of evidence in the County's notice regarding water supply is a well pump down test dating back to 1979" and questions "the status and permit history of the proposed water source." In fact, the well at issue has been in existence for 30 years, the County file contains recent well test reports, and the County Environmental Health Division approved the proposed water source.

Exhibit 1 – Detailed Response of Applicant to CC Staff Report

Standard of Review on Appeal

The County of San Luis Obispo approved a Minor Use/Coastal Development Permit for construction of a single family residence after a two-year process which included consultation with many agencies and preparation of numerous expert studies. The County determined that the proposed project complies with the certified Local Coastal Program (LCP), and that decision must be respected unless this Commission determines there is a substantial issue “that the development does not conform to the standards set forth in the local coastal program.” (California Coastal Act, §30603(b)(1).)

The question before this Commission “is not whether appellants' appeal raises *any issue* but whether it raises *a substantial one*. A substantial issue is defined as one that presents a ‘significant question’ as to conformity with the certified local coastal program.” (*Alberstone v. California Coastal Commission* (2008) 169 Cal.App.4th 859, 863-864.) In making that decision, the Commission considers several factors outlined in *Hines v. Coastal Commission* (6/17/10), 2010 WL 2471683 (Cal.App. 1 Dist.), pp. 11-12:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified [local coastal program] and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its [local coastal program]; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

In this case, the CC Staff Report does not raise a substantial issue concerning conformance with the LCP. **All of the items raised in the CC Staff Report were considered and addressed by the County in conformance with the LCP. The County considered numerous alternative sites and determined that the approved location is the best site for many reasons including the fact that it is completely screened from Highway 1, does not require additional road improvements, and contains no cultural or archaeological resources. Other potential sites are either on a steep grade, require additional road improvements, are closer to wetland areas or ESHA, or are visible from Highway 1.**

Applicant representatives spent several hours with CC Staff explaining the project and reviewing the County file and expert reports. The CC Staff Report ignores much of that information, and presents a misleading picture of the County process and requirements of the LCP. A detailed response to the CC Staff Report is set forth below.

Protection of Coastal Agriculture

1. **CC Staff Report page 7:** "In this case, the County record does not provide an analysis of whether or not this site would qualify as prime grazing land as defined by the LCP."

Applicant Response: The County considered the current usage and ability to support continued cattle grazing. The County's mitigated Negative Declaration/Notice of Determination ("MND") states on page 6:

The subject parcel and surrounding parcels are within the Agriculture land use category and support cattle grazing. The proposed residence is consistent with the existing development pattern within the area, characterized by single family residences and agricultural accessory structures on large agricultural parcels. To ensure that the proposed residence would not impair onsite or offsite agricultural operations, the applicant would be required to sign and record a right to farm disclosure agreement. (Emphasis added.)

Based on the criteria prescribed by the LCP, the proposed project was considered for its ability to support cattle grazing as it has done for the past 40 years. The County determined that the land should be classified as Non-Prime Agricultural land, and that the project site does not satisfy any of the four criteria contained in the LCP for designating prime agricultural soil. No substantial issue exists as to conformance with the LCP.

2. **CC Staff Report page 7:** "Although constraints to establishing irrigated crops at this location in the future have been identified (water availability and erosion), the soils are nevertheless potentially prime according to the County, and at a minimum they are suitable for agriculture. It appears that continued or renewed agriculture is feasible at this location, including for continued grazing."

Applicant Response: Based on its review and an analysis of expert reports, the County determined that (MND, p. 6):

The proposed residence would be located on Marimel silty clay loam soil. This soil is considered Class III without irrigation and Class I when irrigated. Due to water availability limitations, erosion concerns, and other constraints, this area is not likely to be used for irrigated crops in the future.

The County determined that the project site does not satisfy any of the four criteria contained in the LCP for designating prime agricultural soil. The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

3. **CC Staff Report page 7:** "It is also not clear if the single-family residence is located on non-prime soils, as required by the LCP if it is possible."

Applicant Response: Based on its review and an analysis of expert reports, the County determined that (MND, pp. 5-6):

The proposed residence would be located on Marimel silty clay loam soil. This soil is considered Class III without irrigation and Class I when irrigated. Due to water availability limitations, erosion concerns, and other constraints, this area is not likely to be used for irrigated crops in the future.

The County Agricultural Commissioner indicated that the project would have a less than significant impact on agricultural resources as long as the applicant agrees to a right to farm disclosure (Lynda Auchinachie; January 29, 2009).

The County determined that the project site does not satisfy any of the four criteria contained in the LCP for designating prime agricultural soil. The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

4. **CC Staff Report page 7:** "The proposed project is not intended to protect agricultural lands, but is intended for single-family residential development."

Applicant Response: The proposed project is not "single-family residential development," but is one residence for the property owner. The CC Staff Report recognizes that such use is considered to be part of the agricultural use under the LCP (CC Staff Report, p. 7):

Single family residences are specifically allowed by the LCP on agricultural lands and are considered to be a part of, rather than supplementary to, agricultural use. (Emphasis added.)

The LCP specifically recognizes that one residence is allowed for every 320 acres of agricultural land. (CZLUO §23.08.167.) The property is 421 acres,¹ and the proposed residence is part of the agricultural use and raises no substantial issue concerning non-conformance with the LCP.

5. **CC Staff Report page 7:** "The County's approval does not include all necessary measures required by the LCP to allow this type of development (such as affirmative agricultural easements, fencing requirements, prohibitions of future subdivisions, limiting future residential development, and prohibiting secondary guest houses and non-agricultural accessory structures)."

Applicant Response: This statement has no basis in the LCP, and instead appears to be a "wish list" of CC Staff. There is no legal basis for the County to condition the permit on matters which are outside the LCP, and there is no substantial issue as to conformance with the LCP.

6. **CC Staff Report page 8:** "The County-approved project allows for the conversion of an excessive amount of the site's agricultural land to non-agricultural (residential) uses, thereby

¹ While the CC Staff Report states the property is 417 acres, Assessor's Map 013-20 shows it as 421.48 acres.

diminishing the agricultural productivity of the site and setting a precedent for non-agricultural development that may adversely affect the long-term viability of agriculture in the region.”

Applicant Response: There is no factual support for this statement, which is contrary to the record. The CC Staff Report recognizes on page 7 that the proposed use is not a conversion to non-agricultural use, but is considered to be part of the agricultural use under the LCP:

Single family residences are specifically allowed by the LCP on agricultural lands and are considered to be a part of, rather than supplementary to, agricultural use.

The proposed residence is located near the edge of the property, and the project footprint (including driveway, parking and residence) of 14,000 square feet is well under the threshold allowed for development on non-prime agricultural land (2% of property size (421 acres) or 8.42 acres). There is no showing whatsoever that this single residence will adversely affect long-term viability of agriculture in the region, and the County Agricultural Commissioner determined that the project would have a less than significant impact on agricultural resources as long as the applicant agrees to a right to farm disclosure. (MND, p. 6.)

The County’s finding is supported by the record, and there is no substantial issue of conformance with the LCP.

7. **CC Staff Report page 8:** "Alternative project locations and mitigation measures appear available that could avoid or reduce impacts to agriculture, including through application of a significantly smaller development envelope should residential development be proven conclusively to be appropriate for this site. Thus, the project appears to conflict with applicable LCP policies regarding the protection of agricultural lands."

Applicant Response: The record shows that the County considered numerous alternative sites, all of which raised more issues than the proposed site (MND, p. 6):

Although potential building sites exist on the property that are not located on potentially prime soils, these sites would either be on steep (greater than 20 percent slopes) or would be visible from Highway 1. Therefore, the proposed project site balances potential soil impacts with other concerns such as visual and geologic impacts.

The County's Tentative Notice of Action states on page 3 that:

The North Coast Area Plan restricts site selection in the rural areas to sites that are not visible from Highway 1. Sites shall be selected where hills and slopes would shield development unless no alternative location exists or the new development provides visitor-serving facilities. Development proposals for sites with varied terrain are to include design provisions for concentrating development on moderate slopes, retaining steeper slopes visible from public roads undeveloped.

The project complies with this standard because the proposed residence would be located on the westerly edge of the property where it would be completely screened from views along Highway 1 by steep coastal hills. In addition, no additional road improvements would be necessary, as the proposed residence would be accessed from Harmony Ranch Road, an existing residential road. The steeper portions of the property facing Highway 1 would remain undeveloped.

The County considered numerous alternative sites, and determined that the approved location is the best site for many reasons. The County's finding is supported by the record, and there is no substantial issue concerning conformance with the LCP.

8. **CC Staff Report page 8:** "On a cumulative basis, residential 'estate' type housing also tends to convert agricultural land, as many owners of this type of housing do not want the nuisance of agricultural uses on their property or in close proximity to their primary residence."

Applicant Response: The CC Staff Report provides no factual basis for this speculative conclusion. The County specifically determined that (MND, p. 6):

The subject parcel and surrounding parcels are within the Agriculture land use category and support cattle grazing. The proposed residence is consistent with the existing development pattern within the area, characterized by single family residences and agricultural accessory structures on large agricultural parcels. To ensure that the proposed residence would not impair onsite or offsite agricultural operations, the applicant would be required to sign and record a right to farm disclosure agreement.

The County Agricultural Commissioner indicated that the project would have a less than significant impact on agricultural resources as long as the applicant agrees to a right to farm disclosure (Lynda Auchinachie; January 29, 2009).

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

9. **CC Staff Report page 8:** "The County approval allows for nearly an acre (approximately 35,000 square feet for the residential envelope) of disturbance in support of the new primary residence and associated improvements. This figure does not include additional agricultural acreage that will likely be converted due to perimeter residential fencing along access roads, drainage and ornamental landscape berming, and the like."

Applicant Response: The CC Staff Report speculates about matters which are not part of the project. The proposed residence is located near the edge of the property, and the project footprint (including driveway, parking and residence) is 14,000 square feet on a property comprising 421 acres. There is no perimeter fencing, drainage or ornamental landscaping outside of the project envelope, and any other improvements would be subject to further permitting process.

The County's finding is supported by the record, and issues which are not part of the record or the approved project cannot raise a substantial issue concerning conformance with the LCP.

10. **CC Staff Report page 8:** "Large residential developments such as that approved by the County tend to convert more agricultural land than necessary to accommodate residential use and fail to protect agricultural values, and they can undermine the LCP agricultural zoning purpose. In addition, such large residential development can help induce additional future non-agricultural related development in the immediately surrounding parcels."

Applicant Response: The CC Staff Report misrepresents the record. This is not a "large residential development," but instead is a single-family residence with a project footprint (including driveway, parking and residence) of 14,000 square feet on a 421 acre parcel.

The County considered zoning consistency and concluded (MND, pp. 23-24):

The proposed project was reviewed for consistency with policy and/or regulatory documents relating to the environment and appropriate land use (e.g., County Land Use Ordinance, Local Coastal Plan, etc.). Referrals were sent to outside agencies to review for policy consistencies (e.g., Cal Fire for Fire Code, APCD for Clean Air Plan, etc.). The project was found to be consistent with these documents (refer also to Exhibit A on reference documents used).

The project is not within or adjacent to a Habitat Conservation Plan area. The project is consistent or compatible with the surrounding uses as summarized on page 2 of this Initial Study.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

11. **CC Staff Report page 8:** "The County-approved project includes an improved driveway access extending approximately 1.25 miles from Highway One to the blufftop that could easily, and appears planned to, provide access to other adjacent agricultural blufftop areas further upcoast, thus potentially facilitating future similar development there."

Applicant Response: The CC Staff Report blatantly misrepresents the record. The "improved driveway access extending approximately 1.25 miles" is **Harmony Ranch Road**, which has been in existence for 60 years and which is not a part of this project. Harmony Ranch Road is subject to strict legal limitations set forth in recorded Conditions, Covenants & Restrictions, and the use of the road is limited to existing parcels already served.

Farm Support Quarters

12. CC Staff Report page 7: "Beyond a general assertion included in the County's action notice that the property supports cattle grazing, there is little information in the record about existing agricultural operations or the current need for such farm support quarters. The County approval of the conversion is based on the size of the parcel alone, rather than an analysis of the need for farm support for existing agricultural operations."

Applicant Response: CZLUO §23.08.167 expressly permits one farm support dwelling for every 320 acres of grazing land, and the continued use of the 1,100 square foot farm house as farm support quarters does not raise a substantial issue regarding conformance with the LCP.

The 1,100 square foot ranch house historically has served, and currently serves, as the residence for full-time farm support. The ranch house is surrounded by two large barns (one of which is solid redwood), a cheese-making house, and numerous corrals used for the management and processing of cattle. The farm support duties include managing and processing the cattle, maintaining the facilities (barns and corrals), and monitoring and repairing the boundary fences. Among other duties, it is critical to maintain the fences along Highway 1 as it would be extremely dangerous if cattle were to escape onto the busy highway.

The ranch house has never been used as a primary residence for the property owners, and a Condition of the Permit is the recordation of an agreement limiting occupancy of the ranch house to agricultural workers. The County's decision to permit continued use of this farm house to support agricultural operations is supported by the record, and there is no substantial issue of conformance with the LCP.

ESHA Protection

13. CC Staff Report page 8: "According to reports, breeding pools for the CRLF (California red-legged frog) are located on an adjacent parcel and juvenile frogs utilize at least one of the drainages on the subject property."

Applicant Response: The "breeding pool" is on an adjacent parcel not owned by the Applicant, and is located one-third of a mile (1,500 feet) away from the building site. **The closest frog found on the property was in a drainage channel one-quarter mile (1,200 feet) away from the building site and 400 feet higher in elevation.**

Extensive studies were completed, and the experts concluded that the project site is "very unlikely to attract temporarily or support resident individuals of any special status" and that "the proposed project would not result in a take of the California red-legged frog." (See Exhibit 5.) The County consulted U.S. Fish & Wildlife, which concurred with the proposed project so long as mitigation measures were implemented.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

14. **CC Staff Report page 8:** "According to the County CC Staff Report, the project could result in a 'take' of this federally listed species and is subject to numerous mitigation measure that aim to reduce potential impacts."

Applicant Response: Extensive studies were completed, and the experts concluded that the project site is "very unlikely to attract temporarily or support resident individuals of any special status." While anything "could" happen, the experts who completed the ESHA studies concluded that "the proposed project would not result in a take of the California red-legged frog." (Exhibit 5.) The County consulted U.S. Fish & Wildlife, which concurred with the proposed project so long as strict preventative measures (e.g., contractor education, protective fencing, presence of on-site biologist) were implemented to avoid any possible impact.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

15. **CC Staff Report page 9:** "The spatial extent of ESHA onsite is not entirely clear from the County's notice. It appears that the proposed project is within, or in close proximity to, CRLF habitat areas and within an area supporting native bunchgrass grassland, both ESHA."

Applicant Response: The County obtained and reviewed expert reports concerning the ESHA issues, and consulted with U.S. Fish & Wildlife on the issues.

CRLF (California red-legged frog). The "breeding pool" is on an adjacent parcel not owned by the Applicant, and is located one-third of a mile (1,500 feet) away from the building site. **The closest frog found on the property was in a drainage channel one-quarter mile (1,200 feet) away from the building site and 400 feet higher in elevation.** Expert studies concluded that the project site is "very unlikely to attract temporarily or support resident individuals of any special status" and that "the proposed project would not result in a take of the California red-legged frog." (See Exhibit 5.) Nonetheless, the County in consultation with U.S. Fish & Wildlife imposed strict preventative measures (e.g., contractor education, protective fencing, presence of on-site biologist) to avoid any possible impact.

Native Bunchgrass. The CC Staff Report recognizes that heavy grazing has disrupted native grasslands, and the County determined that "the project site is predominately vegetated with non-native annual grasslands" and that "no special status plants were identified near the home site." (MND, p. 8.) While there is a small (5,000 square-foot) patch of native bunchgrass near a corner of the project envelope, there will be no construction in this area and the County has imposed strict preventative measures (e.g., protective fencing, presence of on-site biologist) to avoid any possible impact.

The County's findings are supported by the record, and there is no substantial issue of conformance with the LCP.

16. **CC Staff Report page 9:** "The fact that the County approved project identifies a mitigation ratio for loss of native bunchgrass means that the approval allows removal of such ESHA resources. Accordingly, its removal for residential development would not be allowed by the LCP."

Applicant Response: The CC Staff Report misrepresents the County action, which does not authorize removal of native bunchgrass. The CC Staff Report recognizes that heavy grazing has disrupted native grasslands, and the County determined that "the project site is predominately vegetated with non-native annual grasslands" and that "no special status plants were identified near the home site." (MND, p. 8.)

While there is a small (5,000 square-foot) patch of native bunchgrass near a corner of the project envelope, there will be no construction in this area and the County has imposed strict preventative measures (e.g., protective fencing, presence of on-site biologist) to avoid any possible impact. The County MND at page 10 states:

There is an approximately 5,000 square-foot patch of native bunchgrass grassland at the southeast corner of the project site. Proposed mitigation measures require the project to avoid these areas, whenever possible. If avoidance is not possible, removed bunchgrass grasslands shall be replaced at a one to one ratio. (emphasis added.)

The County has prohibited removal of native bunchgrass, and prescribed stringent protective measures to avoid any impact. The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

17. **CC Staff Report page 9:** "The County's findings indicate that the project would be setback from CRLF habitat areas, but it is unclear where the development is located in relation to the web of CRLF dispersal routes between such areas and the way the project could impact CRLF additionally in that sense. In fact, the County indicates that 'the project could result in take of this federally protected species'."

Applicant Response: Extensive studies were completed, and the experts concluded that the project site is "very unlikely to attract temporarily or support resident individuals of any special status." While anything "could" happen, the experts who completed the ESHA studies concluded that "the proposed project would not result in a take of the California red-legged frog." (Exhibit 5.) The County consulted U.S. Fish & Wildlife, which concurred with the proposed project so long as strict preventative measures (e.g., contractor education, protective fencing, presence of on-site biologist) were implemented to avoid any possible impact.

To ensure no impact on protected species, the County required extensive preventative measures which are described on page 11 and Exhibit B (Mitigation Summary Table) of the MND. The County concluded as follows:

In accordance with the recommendations of the geology report, the proposed residence would be setback at least 100 feet from the edge of the existing drainage. Therefore, the proposed project would not impact habitat for the red-legged frog. However, due the project's proximity to a breeding pool for the red-legged frog, the project could result in a "take" of this federally protected species. (Emphasis added.)

The applicant shall attain applicable incidental take permits from the U.S. Fish and Wildlife Service and shall comply with various red-legged frog protection measures, which are summarized below:

- Grading for the project shall be conducted during the dry season, from May 1 to October 31, when red-legged frogs are less likely to be active.
- Before issuance of a construction permit, the project manager, grading contractor, and heavy equipment operators shall attend worker education training.
- Prior to commencement of construction, a pre-construction survey shall be conducted by a qualified biologist to verify that no red-legged frogs are present at the site.
- Prior to project commencement, barrier fencing shall be installed between the project site and the drainage.
- For all work approved between the barrier fence and the drainage, the project biologist shall work with the project manager to identify the limits of work, conduct preconstruction surveys and monitor construction activities.
- During primary grading and grubbing, the project biologist shall monitor construction activities.
- All food-related trash shall be property (sic) contained to avoid attracting predators to the site.

These mitigation measures and a detailed list of other required mitigation measures are listed in detail in Exhibit B Mitigation Summary Table. Incorporation of these measures will reduce impacts to biological resources to less than significant levels.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

18. CC Staff Report page 9: "In this case it does not appear that every attempt, including alternative project siting and design, was made to avoid impacts. Alternative projects and alternative locations may reduce or avoid the potential for these adverse ESHA impacts, including the identified potential take of CRLF and loss of native grassland. For example, it appears that alternative development envelopes are likely available that could avoid impacts to CRLF habitat, maintain prescribed ESHA setbacks and buffers, and avoid impacts to native grasslands."

Applicant Response: The CC Staff Report misrepresents the record and speculates about unknown possibilities. The County conducted an extensive review in consultation with experts and the U.S. Fish & Wildlife Service. The County considered numerous

alternative sites and determined that the approved location is the best site for many reasons including the fact that it is completely screened from Highway 1, does not require additional road improvements, and contains no cultural or archaeological resources. Other potential sites are either on a steep grade, require additional road improvements, are closer to wetland areas or ESHA, or are visible from Highway 1. The Permit is expressly conditioned upon stringent protective measures to avoid any impact.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

Hazards and Public Services

19. CC Staff Report pages 10: "These features are substantially engineered and meant to alter natural drainage flows, which if not designed and located appropriately, can contribute to erosion or geological instability. The significant amount of grading proposed in this blufftop environment (3,200 cubic yards, according to the County's notice) to facilitate the residential development could also exacerbate all such hazard conditions."

Applicant Response: The CC Staff Report speculates about unknown possibilities. The County extensively considered erosion issues, and required extensive geologic and engineering reports which were independently reviewed and approved by the County Geologist and independent engineers retained by the County. The Applicant voluntarily created a blufftop setback which is more than double (208 feet) that required under the 75-year erosion criteria contained in the LCP (95 feet).

The County expressly conditioned the Permit on compliance with all geologic and engineering requirements outlined by the experts. The County concluded as follows (Tentative Notice of Action, p. 7):

The proposed project is consistent with [County] policy because the applicant submitted a *Geotechnical Engineering and Geologic Hazards Report, Goodan Residence, Harmony Ranch Road, Harmony California (Earth Systems Pacific; July 31, 2007)*, and the project is conditioned to comply with the findings and recommendations of this report. In addition, the project is designed to avoid the need for shoreline protective devices because the project would be setback 208 feet from the edge of the bluff top. This exceeds the 100 year bluff retreat setback by 113 feet.

The project is consistent with [County] policy because the applicant submitted a *Site, Grading and Drainage Plan (North Coast Engineering, Inc.; December 29, 2009)* to show how drainage would be collected and dispersed on-site without accelerating erosion of the bluff or adjacent ravines. In addition, the applicant submitted a letter from the project geologist indicating that this drainage system would not cause accelerated bluff erosion or other adverse geologic impacts (Earth Systems Pacific; November 6, 2009).

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

20. CC Staff Report page 10: "The lone piece of evidence in the County's notice regarding water supply is a well pump down test dating back to 1979. Moreover, it is not clear that the well tested in 1979 is even the same well that would be used to serve this development. According to the County CC Staff Report, water is already available at the project site, raising additional questions about the status and permit history of the proposed water source."

Applicant Response: The CC Staff Report misrepresents the record, as the County reviewed the issue and determined there was sufficient water for the project (MND, p. 22):

The project proposes to use an on-site well as its water source. The applicant submitted a well pump report indicating a flow of 60 gallons per minute of clear water at a depth of 35 feet. The Environmental Health Division has reviewed the project and did not indicate any concerns regarding water availability or quality in the area. Based on available information, the proposed water source is not known to have any significant availability or quality problems.

The well log referenced in the CC Staff Report has been supplemented with more recent test reports, and there is no factual support for the inference in the CC Staff Report that the well is not permitted or is inadequate to serve the proposed project.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

21. CC Staff Report page 10: "Wastewater is shown to be treated through a septic tank and an engineered system of interlinked leach pits west of the residence. The project is conditioned to require the County's Environmental Health Department to review and approve a sewage disposal maintenance plan prior to issuance of construction permits. Without detailed information regarding the water supply for the project and absent assurance that wastewater can be appropriately disposed of, including in relation to agricultural, ESHA, and hazard issues associated with the site, it is not clear that adequate water supply and wastewater disposal exists on-site to serve the proposed development."

Applicant Response: The CC Staff Report misrepresents the record, as the County reviewed the issue and made extensive findings regarding the proposed septic system (MND, pp. 21-22):

Based on the following project conditions or design features, wastewater impacts are considered less than significant:

- The project has sufficient land area per the County's Land Use Ordinance to support an onsite system;
- The soil's percolation rate is between 30 to 120 minutes per inch;

- There is adequate soil separation between the bottom of the leach line to bedrock or high groundwater;
- The soil's slope is less than 20%;
- The leach lines are outside of the 100 year flood hazard area;
- There is adequate distance between proposed leach lines and existing or proposed wells;
- The leach lines are at least 100 feet from creeks and water bodies.

Based on the above discussion and information provided, the site appears to be able to design an onsite system that will meet CPC/Basin Plan requirements. Prior to building permit issuance and/or final inspection of the wastewater system, the applicant will need to show to the county compliance with the County Plumbing Code/Central Coast Basin Plan, including any above-discussed information relating to potential constraints. Therefore, based on the project being able to comply with these regulations, potential groundwater quality impacts are considered less than significant.

The County's finding is supported by the record, and there is no substantial issue of conformance with the LCP.

Conclusion

The project footprint (including driveway, parking and residence) is 14,000 square feet on a property of 421 acres. Rigorous scientific studies were performed as part of the County process, and the findings were incorporated into the Permit. County staff consulted numerous public agencies, including the Coastal Commission which did not respond or object. The County Environmental Coordinator determined that "there is no substantial evidence that the project may have a significant effect on the environment."

The County determined that the project is consistent with the LCP. That decision must be respected unless there is a substantial issue "that the development does not conform to the standards set forth in the local coastal program." (California Coastal Act, §30603(b)(1).) While the CC Staff Report alleges that there are substantial issues of non-conformance with the LCP, all of those items were considered and addressed by the County in conformance with the LCP.

Goodan requests that the appeal be dismissed. Alternatively, Goodan requests the right to be heard on the question of whether there is a substantial issue of non-conformance with the LCP.

Exhibit A - Initial Study References and Agency Contacts

The County Planning or Environmental Divisions have contacted various agencies for their comments on the proposed project. With respect to the subject application, the following have been contacted (marked with an ☒) and when a response was made, it is either attached or in the application file:

<u>Contacted</u>	<u>Agency</u>	<u>Response</u>
<input checked="" type="checkbox"/>	County Public Works Department	Attached
<input checked="" type="checkbox"/>	County Environmental Health Division	Attached
<input checked="" type="checkbox"/>	County Agricultural Commissioner's Office	Attached
<input type="checkbox"/>	County Airport Manager	Not Applicable
<input type="checkbox"/>	Airport Land Use Commission	Not Applicable
<input checked="" type="checkbox"/>	Air Pollution Control District	None
<input checked="" type="checkbox"/>	County Sheriff's Department	None
<input checked="" type="checkbox"/>	Regional Water Quality Control Board	None
<input checked="" type="checkbox"/>	CA Coastal Commission	None
<input checked="" type="checkbox"/>	CA Department of Fish and Game	None
<input checked="" type="checkbox"/>	CA Department of Forestry (Cal Fire)	Attached
<input type="checkbox"/>	CA Department of Transportation	Not Applicable
<input type="checkbox"/>	Community Service District	Not Applicable
<input checked="" type="checkbox"/>	Other <u>North Coast Community Advisory Council</u>	In File**
<input type="checkbox"/>	Other _____	Not Applicable

** "No comment" or "No concerns"-type responses are usually not attached

The following checked ("☒") reference materials have been used in the environmental review for the proposed project and are hereby incorporated by reference into the Initial Study. The following information is available at the County Planning and Building Department.

<input checked="" type="checkbox"/> Project File for the Subject Application	<input type="checkbox"/> Area Plan and Update EIR
<u>County documents</u>	<input type="checkbox"/> Circulation Study
<input type="checkbox"/> Airport Land Use Plans	<u>Other documents</u>
<input checked="" type="checkbox"/> Annual Resource Summary Report	<input checked="" type="checkbox"/> Archaeological Resources Map
<input type="checkbox"/> Building and Construction Ordinance	<input checked="" type="checkbox"/> Area of Critical Concerns Map
<input type="checkbox"/> Coastal Policies	<input checked="" type="checkbox"/> Areas of Special Biological Importance Map
<input checked="" type="checkbox"/> Framework for Planning (Coastal & Inland)	<input checked="" type="checkbox"/> California Natural Species Diversity Database
<input checked="" type="checkbox"/> General Plan (Inland & Coastal), including all maps & elements; more pertinent elements considered include:	<input checked="" type="checkbox"/> Clean Air Plan
<input checked="" type="checkbox"/> Agriculture & Open Space Element	<input checked="" type="checkbox"/> Fire Hazard Severity Map
<input checked="" type="checkbox"/> Energy Element	<input checked="" type="checkbox"/> Flood Hazard Maps
<input checked="" type="checkbox"/> Environment Plan (Conservation, Historic and Esthetic Elements)	<input checked="" type="checkbox"/> Natural Resources Conservation Service Soil Survey for SLO County
<input checked="" type="checkbox"/> Housing Element	<input checked="" type="checkbox"/> Regional Transportation Plan
<input checked="" type="checkbox"/> Noise Element	<input checked="" type="checkbox"/> Uniform Fire Code
<input type="checkbox"/> Parks & Recreation Element	<input checked="" type="checkbox"/> Water Quality Control Plan (Central Coast Basin - Region 3)
<input checked="" type="checkbox"/> Safety Element	<input checked="" type="checkbox"/> GIS mapping layers (e.g., habitat, streams, contours, etc.)
<input checked="" type="checkbox"/> Land Use Ordinance	<input type="checkbox"/> Other _____
<input type="checkbox"/> Real Property Division Ordinance	
<input type="checkbox"/> Trails Plan	
<input type="checkbox"/> Solid Waste Management Plan	

In addition, the following project specific information and/or reference materials have been considered as a part of the Initial Study:

Biological Report for the Goodan Ranch, Althouse and Meade, Inc., December 2007

Addendum to the December 2007 Biological Report for the Goodan Ranch: Results of the Floristic Study, Althouse and Meade, Inc., April 2008

California Red-legged Frog (*Rana draytonii*) Protocol Survey Site Assessment for the Goodan Ranch, Althouse and Meade, Inc., April 2009

Goodan Ranch Red-legged Frog Protection Measures, Althouse and Meade Inc., September 3, 2009

Cultural Resource Investigation of the Goodan Residence Area, Parker and Associates, August 18, 2007

Archaeological Subsurface Testing at the Goodan Lot, Thor Conway, December 9, 2008

Geotechnical Engineering and Geologic Hazards Report, Earth Systems Pacific, July 31, 2007

Review of July 31, 2007 Geotechnical Engineering and Geologic Hazards Report, Brian Papurello, December 31, 2008

Response to County of San Luis Obispo Geologic Review Comments, Earth Systems Pacific, April 9, 2009

Review of Response to County of San Luis Obispo Review Comments, Brian Papurello, May 19, 2009

**DEVELOPER'S STATEMENT FOR:
Goodan Minor Use Permit DRC2008-00025**

The applicant agrees to incorporate the following measures into the project. These measures become a part to the project description and therefore become a part of the record of action upon which the environmental determination is based. All construction/grading activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

AESTHETICS

VR-1 At the time of application for construction permits, the applicant shall provide an exterior lighting plan. The plan shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from neighboring properties. All lighting poles, fixtures, and hoods shall be dark colored. Security lighting shall be shielded so as not to create glare when viewed from neighboring properties.

VR-2 Prior to final inspection or occupancy, which ever occurs first, the approved lighting plan shall be implemented.

Monitoring: The Department of Planning and Building shall verify inclusion of required elements on plans in consultation with the Environmental Coordinator. Project planner and building inspector will verify compliance with approved plans.

AGRICULTURAL RESOURCES

AG-1 Prior to issuance of grading and/or construction permits, the applicant shall disclose to prospective buyers of the property the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.

Monitoring: The Department of Planning and Building shall verify compliance prior to issuance of a grading and/or construction permit.

BIOLOGICAL RESOURCES**Bunchgrass grassland**

BR-1 At the time of application for a construction permit, the construction plans shall show the locations of native bunchgrass grassland and proposed fencing on the site. The project shall be designed to avoid and protect native bunchgrass grassland within the conceptual home site and yard. Bunchgrass grassland in the project area, on the same side of the existing road, shall be protected from impacts during construction activities via temporary fencing. Fencing shall be placed prior to the start of ground disturbing activities. A qualified biologist shall oversee placement of fencing to verify that fencing adequately protects bunchgrass grassland.

BR-2 If bunchgrass grassland cannot be avoided, removed native bunchgrass grassland shall be replaced at a one to one ratio. A mitigation plan shall be prepared that specifies replacement

techniques, monitoring methods, and success criteria. The plan shall be submitted to the County of San Luis Obispo Department of Planning and Building for approval prior to issuance of grading and building permits. At a minimum, mitigation shall require replacement of impacted area at a one to one ratio, with percent cover after five years by native bunchgrass grassland species equal to or greater than baseline levels in the original stand. Maintenance and protection from grazing shall be provided during the first five years to fully establish new perennial grasses on the mitigation site.

Monitoring: The Department of Planning and Building shall verify compliance in consultation with the Environmental Coordinator. Project planner and building inspector will verify compliance with approved plans.

Nesting birds

BR-3 Prior to issuance of a construction permit, if work occurs between March 15 and August 15, the applicant shall retain a qualified biological monitor to verify compliance with the following requirements:

- A. Within one week of ground disturbance or tree removal/trimming activities, nesting bird surveys shall be conducted. To avoid impacts to nesting birds, grading and construction activities that affect trees and grasslands shall not be conducted during the breeding season from March 15 to August 15. If construction activities must be conducted during this period, nesting bird surveys shall take place within one week of habitat disturbance. If surveys do not locate nesting birds, construction activities may be conducted. If nesting birds are located, no construction activities shall occur within 100 feet of nests until chicks are fledged. Construction activities shall observe a 300-foot buffer for active raptor nests.
- B. Occupied nests of special status bird species shall be mapped by a qualified biologist working with a licensed land surveyor or accurate Global Positioning System (GPS). The mapped locations shall be overlaid on the grading plans with a 500-foot buffer indicated. Work shall not be allowed within the 500-foot buffer while the nest is in use. The buffer zone shall be delineated on the ground with orange construction fencing where it overlaps work areas.
- C. Occupied nests of special status bird species that are within 500 feet of project work areas shall be monitored bi-monthly through the nesting season to document nest success and check for project compliance with buffer zones. Once nests are deemed inactive and/or chicks have fledged and are no longer dependant on the nest, work may commence within the buffer zone.

BR-4 Prior to final inspection, the biological monitor shall incorporate the findings of the monitoring effort into a final comprehensive construction monitoring report to be submitted to the County of San Luis Obispo Department of Planning and Building.

Monitoring: A qualified biological monitor shall verify compliance with nesting bird mitigation measures and shall submit a final comprehensive construction monitoring report to the Department of Planning and Building prior to final inspection.

California Red-legged frog

- BR-5** Prior to issuance of a construction permit, the applicant shall attain all applicable permits from the U.S. Fish and Wildlife Service.
- BR-6** Primary grubbing and grading for the project shall be conducted during the dry season, from May 1 to October 31, when red-legged frogs are less likely to be active.
- BR-7** Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of vegetation removal and/or grading, the project manager, grading contractor, and heavy equipment operator shall attend a worker education training program, conducted by a qualified biologist, that will inform workers of measures being implemented by the project to avoid any impact to red-legged frogs. At a minimum, the worker education training program shall also include information about the red-legged frog life history, identification, habitat preferences, federal listing status and legal status.
- BR-8** Prior to project commencement, a pre-construction survey shall be conducted by a qualified biologist to verify that no California red-legged frogs are present at the project site. The surveys must be conducted within two weeks of starting any equipment work, including not limited to earthwork, materials stockpiling, and vegetation removal. Results of the survey shall be provided in writing to the County. If red-legged frogs are found within the project site, work shall not commence until the U.S. Fish and Wildlife Service has been contacted and has given approval for work to continue.
- BR-9** Prior to project commencement, barrier fencing shall be installed between the project site and the drainage. The barrier shall consist of silt fencing buried to prevent red-legged frogs from entering the work areas. The location of the fencing shall be directed by the project biologist. No work of any kind, including material storage and equipment staging, shall be conducted between the barrier fencing and the drainage except where explicitly approved by the project biologist and County.
- BR-10** For all work approved between the barrier fence and the drainage (such as installation of outfall structures), the project biologist shall work with the project manager to identify the limits of work, conduct pre-construction surveys as appropriate, and monitor construction activities.
- BR-11** During primary grading and grubbing, a qualified biologist shall monitor all construction activities and verify compliance with all project biological resource minimization and protection measures. The biological monitor shall have the authority to halt any action that could result in adverse effects to red-legged frogs or their habitat.
- BR-12** All food-related trash shall be properly contained to avoid attracting predators to the site.

Monitoring: The Department of Planning and Building shall verify compliance in consultation with the Environmental Coordinator. Project planner and building inspector will verify compliance with approved plans.

CULTURAL RESOURCES

- CR-1** Prior to issuance of construction permit, the applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
- List of personnel involved in the monitoring activities;
 - Description of how the monitoring shall occur;
 - Description of frequency of monitoring (e.g. full-time, part time, spot checking);

- d. Description of what resources are expected to be encountered;
- e. Description of circumstances that would result in the halting of work at the project site (e.g. what is considered "significant" archaeological resources?);
- f. Description of procedures for halting work on the site and notification procedures; and
- g. Description of monitoring reporting procedures.

Monitoring: The monitoring plan will be shown on the construction documents. Prior to issuance of a construction permit, the Department of Planning and Building will verify compliance in consultation with the Environmental Coordinator.

CR-2 During all ground disturbing construction activities, the applicant shall retain a qualified archaeologist to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

CR-3 Upon completion of all monitoring activities, and prior to occupancy or final inspection, whichever occurs first, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring activities.

Monitoring: The Department of Planning and Building, in consultation with the Environmental Coordinator, will review and approve the archaeologist's monitoring report before occupancy or final inspection.

GEOLOGY AND SOILS

GS-1 Prior to any ground-disturbing construction activities or issuance of construction or grading permits, the following conditions shall be included on all construction and grading plans:

- a. A certified engineering geologist shall review, approve and stamp construction plans, including all plans for building foundations and excavations.
- b. The certified engineering geologist and the soils and/or civil engineer shall inspect work on-site and verify, as applicable, that building construction, including all foundation work, has been performed in a manner consistent with the intent of the plan review, geology reports and information, and the soils engineering reports (including the following: *Geotechnical Engineering and Geologic Hazards Report, Earth Systems Pacific, July 31, 2007; and Response to County of San Luis Obispo Geologic Review Comments, Earth Systems Pacific, April 9, 2009; Review of July 31, 2007 Geotechnical Engineering and Geologic Hazards Report, Brian Papurello, December 31, 2008; and Review of Response to County of San Luis Obispo Review Comments, Brian Papurello, May 19, 2009*).
- c. The certified engineering geologist shall issue a final engineering geology compliance report as required by the Uniform Building Code that identifies changes observed during construction, recommendations offered for mitigation, and confirmation that construction was completed in compliance with the intent of the geology reports and information (see list in preceding item).
- e. Should the services of the certified engineering geologist be terminated prior to final

inspection and/or occupancy, the applicant shall submit a transfer of responsibility statement to the County Planning and Building Department from the new certified engineering geologist per the Uniform Building Code.

- f. A final report prepared by a soils and/or civil engineer shall be submitted to the County Planning and Building Department's field inspector stating that all work performed is suitable to support the intended structure. Such report shall include any field reports, compaction data, etc.
- g. The applicant shall implement all recommendations in the Observation and Testing Program prepared by the project civil engineer(s), geotechnical engineer(s), and/or certified engineering geologist(s). The Observation and Testing Program may include, but not be limited to, review of the following: project plans, including grading, drainage, foundation, and retaining wall plans; stripping and clearing of vegetation; cut and fill slopes; benching and keying; preparation of paved areas; preparation of soil to receive fill; fill placement and compaction; subsurface drainage control; footing excavations; premoistening of subslab soils; surface and subsurface drainage structures; erosion control measures.

GS-2 During project construction/ground disturbing activities, the applicant shall retain a certified engineering geologist of record and shall provide the engineering geologist's Written Certification of Adequacy of the Proposed Site Development for its Intended Use to the Department of Planning and Building.

Monitoring: Prior to final inspection, the applicant shall submit a summary report to the Department of Planning and Building for review and approval.

GS-3 Prior to occupancy or final inspection, whichever occurs first, the soils engineer and certified engineering geologist of record, shall verify, as applicable, that construction is in compliance with the intent of the plan review, geologic reports and information, and the soils engineering reports (including the following: *Geotechnical Engineering and Geologic Hazards Report, Earth Systems Pacific, July 31, 2007; and Response to County of San Luis Obispo Geologic Review Comments, Earth Systems Pacific, April 9, 2009; Review of July 31, 2007 Geotechnical Engineering and Geologic Hazards Report, Brian Papurello, December 31, 2008; and Review of Response to County of San Luis Obispo Review Comments, Brian Papurello, May 19, 2009*). The soils engineer and certified engineering geologist of record shall provide written verification that the recommendations of the preceding geologic reports and information have been incorporated into the final design and construction, and such verification shall be submitted to the Department of Planning and Building for review and approval.

Monitoring: Prior to final inspection, the applicant shall submit written verification to the Department of Planning and Building showing that construction is in compliance with approved geologic report, soils report, and plan review.

DRAINAGE

GS-4 At the time of application for construction permits, the applicant shall submit a drainage plan prepared by a Registered Civil Engineer for review and approval by the County Public Works Department. The plan shall, at a minimum evaluate: 1) the effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems, and 2) estimates of existing and increased runoff resulting from the proposed improvement. The plan shall include Best Management Practices (BMPs) to address polluted runoff, including, but not limited to minimizing the use of impervious surfaces (e.g., installing pervious driveways and walkways) and directing runoff from roofs and drives to vegetative strips before it leaves the site.

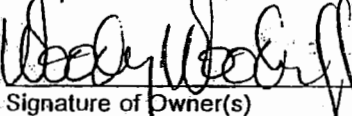
Monitoring: Prior to issuance of a construction permit, the Department of Public Works and the Department of Planning and Building shall review and approve the proposed drainage plan.

GS-5 Prior to issuance of any construction or grading permits, a sedimentation and erosion control plan shall be prepared per County Coastal Zone Land Use Ordinance Section. 23.05.036 for review and approval by the County Public Works Department, and it shall be incorporated into the project to minimize sedimentation and erosion. The plan will need to be prepared by a registered civil engineer and address the following to minimize temporary and long-term sedimentation and erosion: slope surface stabilization, erosion and sedimentation control devices, final erosion control measures, and control of off-site effects.

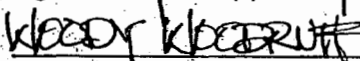
GS-6 Prior to occupancy of final inspection, whichever occurs first, the registered civil engineer shall verify that the recommendations of the approved Drainage Plan and the Sedimentation and Erosion Control Plan have been implemented. This verification shall be submitted in writing to the Department of Planning and Building for review and approval. If required by the County Public Works Department, the applicant shall execute a plan check and inspection agreement with the county, so that the drainage, sedimentation and erosion control facilities can be inspected and approved before final occupancy or final inspection, whichever occurs first.

Monitoring: Prior to final inspection, the Department of Planning and Building will work with the project civil engineer to verify that the approved Drainage Plan and Sedimentation and Erosion Control Plan have been properly implemented.

The applicant understands that any changes made to the project subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.


Signature of Owner(s)

4.12.10
Date


Name (Print)



NEGATIVE DECLARATION & NOTICE OF DETERMINATION

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

FOR OFFICIAL USE ONLY ()

ENVIRONMENTAL DETERMINATION NO. ED09-024

DATE: April 15, 2010

PROJECT/ENTITLEMENT: Goodan Minor Use Permit and Coastal Development Permit
DRC2008-00025

APPLICANT NAME: Eunice Goodan

ADDRESS: 2550 Aberdeen Avenue, Los Angeles, CA 90027

CONTACT PERSON: Woody Woodruff

Telephone: 805-434-2372

PROPOSED USES/INTENT: Request by Eunice Goodan for a Minor Use Permit/Coastal Development Permit to allow: a) the construction of a 5,019 square-foot, two-story single family residence with an approximately 2,500 square-foot footprint, 1,281 square-foot unconditioned basement/workroom, 886 square-foot attached garage, 1,297 square-foot deck, 5,000 gallon water tank, and various drainage and landscape improvements; and b) the use of an existing 1,100 ranch house as a farm support residence. The proposed residence would be located on a 417-acre parcel and the 16-foot wide driveway to the residence would cross an adjoining 61-acre parcel that is under the same ownership. The project proposes to disturb an approximately 35,000 square-foot area, which will include moving approximately 3,200 cubic yards of cut and fill material, on a 417-acre parcel and an adjoining 61-acre parcel. The proposed project is within the Agriculture land use category and is in the rural North Coast planning area.

LOCATION: 500 Harmony Ranch Road, 1.25 miles west of Highway 1, 2 miles south of Cambria

LEAD AGENCY: County of San Luis Obispo Department of Planning & Building
976 Osos Street, Rm. 200
San Luis Obispo, CA 93408-2040

OTHER POTENTIAL PERMITTING AGENCIES: Coastal Commission, Ca. Dept of Fish and Game

ADDITIONAL INFORMATION: Additional information pertaining to this environmental determination may be obtained by contacting the above Lead Agency address or (805) 781-5600.

COUNTY "REQUEST FOR REVIEW" PERIOD ENDS AT 4:30 p.m. on April 29, 2010

30-DAY PUBLIC REVIEW PERIOD begins at the time of public notification

Notice of Determination

State Clearinghouse No. _____

This is to advise that the San Luis Obispo County _____ as ☐ Lead Agency
☐ Responsible Agency approved/denied the above described project on _____, and has made the following determinations regarding the above described project:

The project will not have a significant effect on the environment. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. Mitigation measures were made a condition of the approval of the project. A Statement of Overriding Considerations was not adopted for this project. Findings were made pursuant to the provisions of CEQA.

This is to certify that the Negative Declaration with comments and responses and record of project approval is available to the General Public at:

Department of Planning and Building, County of San Luis Obispo,
976 Osos Street, Room 300, San Luis Obispo, CA 93408-2040

Airlin Singewald

County of San Luis Obispo

Signature

Project Manager Name

Date

Public Agency

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Initial Study Summary – Environmental Checklist

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

(ver 3.3) Initial Form

Project Title & No. Eunice Goodan Minor Use Permit ED09-024 (DRC2008-00025)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED: The proposed project could have a "Potentially Significant Impact" for at least one of the environmental factors checked below. Please refer to the attached pages for discussion on mitigation measures or project revisions to either reduce these impacts to less than significant levels or require further study.

<input checked="" type="checkbox"/> Aesthetics	<input checked="" type="checkbox"/> Geology and Soils	<input type="checkbox"/> Recreation
<input checked="" type="checkbox"/> Agricultural Resources	<input type="checkbox"/> Hazards/Hazardous Materials	<input checked="" type="checkbox"/> Transportation/Circulation
<input type="checkbox"/> Air Quality	<input type="checkbox"/> Noise	<input type="checkbox"/> Wastewater
<input checked="" type="checkbox"/> Biological Resources	<input type="checkbox"/> Population/Housing	<input type="checkbox"/> Water
<input checked="" type="checkbox"/> Cultural Resources	<input checked="" type="checkbox"/> Public Services/Utilities	<input type="checkbox"/> Land Use

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation, the Environmental Coordinator finds that:

- ☐ The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Airlin Singewald
Prepared by (Print)

Signature

Date

Jeff Oliveira
Reviewed by (Print)

Signature

Ellen Carroll,
Environmental Coordinator
(for)

Date

Project Environmental Analysis

The County's environmental review process incorporates all of the requirements for completing the Initial Study as required by the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Initial Study includes staff's on-site inspection of the project site and surroundings and a detailed review of the information in the file for the project. In addition, available background information is reviewed for each project. Relevant information regarding soil types and characteristics, geologic information, significant vegetation and/or wildlife resources, water availability, wastewater disposal services, existing land uses and surrounding land use categories and other information relevant to the environmental review process are evaluated for each project. Exhibit A includes the references used, as well as the agencies or groups that were contacted as a part of the Initial Study. The Environmental Division uses the checklist to summarize the results of the research accomplished during the initial environmental review of the project.

Persons, agencies or organizations interested in obtaining more information regarding the environmental review process for a project should contact the County of San Luis Obispo Environmental Division, Rm. 200, County Government Center, San Luis Obispo, CA, 93408-2040 or call (805) 781-5600.

A. PROJECT

DESCRIPTION: Request by Eunice Goodan for a Minor Use Permit/Coastal Development Permit to allow: a) the construction of a 5,019 square-foot, two-story single family residence with an approximately 2,500 square-foot footprint, 1,281 square-foot unconditioned basement/workroom, 886 square-foot attached garage, 1,297 square-foot deck, 5,000 gallon water tank, and various drainage and landscape improvements; and b) the use of an existing 1,100 ranch house as a farm support residence. The proposed residence would be located on a 417-acre parcel and the 16-foot wide driveway to the residence would cross an adjoining 61-acre parcel that is under the same ownership. The project proposes to disturb an approximately 35,000 square-foot area, which will include moving approximately 3,200 cubic yards of cut and fill material, on a 417-acre parcel and an adjoining 61-acre parcel. The proposed project is within the Agriculture land use category and is located at 500 Harmony Ranch Road, approximately 1.25 miles west of Highway 1, 2 miles south of the community of Cambria. The site is in the North Coast planning area.

BACKGROUND: The proposed residence is located on an approximately 4.5-acre coastal terrace that is bounded by the Pacific Ocean to the southwest, a highly eroded ravine to the southeast, and Harmony Ranch Road to the north. The building envelope for the proposed residence is partially defined by the 208-foot bluff top setback and 100-foot ravine setback recommended by the applicant's geologist. The proposed residence would be located on a 417-acre parcel (APN: 013-201-043) and the driveway to the residence would cross the adjoining 61-acre parcel (APN: 013-201-044), which is currently under the same ownership. Other than the driveway and various drainage improvements near the driveway, the project would not require any off-site improvements. Cal Fire has reviewed the project and determined that no improvements to Harmony Ranch Road would be required for the proposed residence. The proposed building site currently contains utility lines and a water line that is connected to an on-site well.

ASSESSOR PARCEL NUMBER(S): 013-201-043,044

Latitude: 121°2'38.723"W Longitude: 35°31'21.869"N

SUPERVISORIAL DISTRICT # 2

B. EXISTING SETTING

PLANNING AREA: North Coast, Rural

LAND USE CATEGORY: Agriculture

COMBINING DESIGNATION(S): Coastal Access , Sensitive Resource Area, Geologic Study

Exhibit 4 Page 3 of 48

C. ENVIRONMENTAL ANALYSIS

During the Initial Study process, several issues were identified as having potentially significant environmental effects (see following Initial Study). Those potentially significant items associated with the proposed uses can be minimized to less than significant levels.

COUNTY OF SAN LUIS OBISPO INITIAL STUDY CHECKLIST

1.	AESTHETICS - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a)	Create an aesthetically incompatible site open to public view?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Introduce a use within a scenic view open to public view?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c)	Change the visual character of an area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d)	Create glare or night lighting, which may affect surrounding areas?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e)	Impact unique geological or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f)	Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The subject parcel is bound by Highway 1 (a nationally designated scenic byway) to the east and stretches westward to the Pacific Ocean. The interior of the property contains moderately to steeply sloping coastal hills. The project is within the North Coast Shoreline Sensitive Resource Area (SRA). The Land Use Element of the County General Plan describes this area as a "valuable scenic and natural resource which must be protected from excessive and unsightly development." As such, development in this area is subject to applicable visual resource standards in Chapter 4 of the Coastal Zone Land Use Ordinance (CZLUO). These standards require new development to be located in the least visible areas of the site and to be designed (e.g. height, bulk, style, materials, color) to be subordinate to, and blend with, the character of the area. Surrounding parcels contain single family homes and support cattle grazing operations. An unnamed creek traverses the property. The riparian vegetation around this creek is highly degraded by erosion and overgrazing. The proposed residence would be located on a bluff top on the westerly side of the property and would be screened from public views by steep coastal hills that separate the coast from Highway 1.

Impact. The proposed project would not be visible from Highway 1 or any other public road. This project is consistent with CZLUO standards that require new development in the rural North Coast to be sited where hills and slopes would shield development and where no portion of a structure would extend above the ridgeline. The proposed residence is consistent with the existing development pattern in the area which consists of large single family residences on large Agricultural parcels. The installation of outdoor lighting could create glare to neighboring parcels.

Mitigation/Conclusion. The applicant has agreed to provide an exterior lighting plan. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible past the property lines.

2. AGRICULTURAL RESOURCES

- Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Convert prime agricultural land to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Impair agricultural use of other property or result in conversion to other uses?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Conflict with existing zoning or Williamson Act program?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The following area-specific elements relate to the property's importance for agricultural production:

Land Use Category: Agriculture

Historic/Existing Commercial Crops: None

State Classification: Not prime farmland

In Agricultural Preserve? No

Under Williamson Act contract? No

The subject property has been historically used for cattle grazing. Surrounding parcels are also in the Agriculture land use category and support cattle grazing operations. The property currently contains a 1,100 square-foot ranch house and two barns located on the northeastern portion of the property near Highway 1. The applicant is applying to convert the existing single family residence into farm support quarters. The proposed farm support quarters would meet the density standard (CZLUO Section 23.08.167) of one farm support unit for every 320 acres of grazing land.

The soil types on the property vary with the topography. The parcel has relatively level to gently sloping topography on the northeast end along Highway 1 and the southwest end at the coastal bluff terrace. The interior of the parcel consists of moderate to steeply sloping coastal hills.

The residence is proposed within an approximately 35,000 square-foot building envelope on the approximately 4.5-acre coastal bluff terrace. The primary soil type in this area is Marimel silty clay loam. This soil is considered not well drained. The soil has moderate erodibility and moderate shrink-swell characteristics, as well as having potential septic system constraints due to slow percolation. The soil is considered Class III without irrigation and Class I when irrigated.

The primary soil type at the level areas along Highway 1 is Salinas silty clay loam (0 - 2% slopes). This fine loamy bottom soil is considered not well drained. The soil has moderate erodibility and moderate shrink-swell characteristics, as well as having potential septic system constraints due to slow percolation. The soil is considered Class III without irrigation and Class I when irrigated.

The soil types of the steeper interior areas of the parcel include the following:

Los Osos loam (9 - 15 % slope). This moderately sloping loamy claypan soil is considered not well drained. The soil has moderate erodibility and moderate shrink-swell characteristics, as well as having potential septic system constraints due to: shallow depth to bedrock, slow percolation. The soil is considered Class III without irrigation and Class III when irrigated.

Diablo and Cibo clays (30 - 50 % slope). These steeply sloping clayey soils are considered very poorly drained. The soil has moderate erodibility and high shrink-swell characteristics, as well as

having potential septic system constraints due to: steep slopes, slow percolation. The soil is considered Class VI without irrigation and Class is not rated when irrigated.

Gazos-Lodo clay loams (50 - 75% slope). These very steeply sloping fine loamy soils are considered not well drained. The soil has moderate erodibility and moderate shrink-swell characteristics, as well as having potential septic system constraints due to: steep slopes, shallow depth to bedrock, slow percolation. The soil is considered Class VII without irrigation and Class is not rated when irrigated.

Impact. The subject parcel and surrounding parcels are within the Agriculture land use category and support cattle grazing. The proposed residence is consistent with the existing development pattern within the area, characterized by single family residences and agricultural accessory structures on large agricultural parcels. To ensure that the proposed residence would not impair onsite or offsite agricultural operations, the applicant would be required to sign and record a right to farm disclosure agreement.

The proposed residence would be located on Marimel silty clay loam soil. This soil is considered Class III without irrigation and Class I when irrigated. Due to water availability limitations, erosion concerns, and other constraints, this area is not likely to be used for irrigated crops in the future. Although potential building sites exist on the property that are not located on potentially prime soils, these sites would either be on steep (greater than 20 percent slopes) or would be visible from Highway 1. Therefore, the proposed project site balances potential soil impacts with other concerns such as visual and geologic impacts.

The County Agricultural Commissioner indicated that the project would have a less than significant impact on agricultural resources as long as the applicant agrees to a right to farm disclosure (Lynda Auchinachie; January 29, 2009).

Mitigation/Conclusion. The applicant shall sign and record a right to farm disclosure agreement.

3. AIR QUALITY - Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate any state or federal ambient air quality standard, or exceed air quality emission thresholds as established by County Air Pollution Control District?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Expose any sensitive receptor to substantial air pollutant concentrations?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Create or subject individuals to objectionable odors?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Be inconsistent with the District's Clean Air Plan?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The Air Pollution Control District (APCD) has developed the 2003 CEQA Air Quality Handbook to evaluate project specific impacts and help determine if air quality mitigation measures are needed, or if potentially significant impacts could result. To evaluate long-term emissions,

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cumulative effects, and establish countywide programs to reach acceptable air quality levels, a Clean Air Plan has been adopted (prepared by APCD).

Impact. The project proposes to disturb an approximate 35,000 square-foot area, which will include moving approximately 3,200 cubic yards of cut and fill material. This will result in the creation of construction dust, as well as short- and long-term vehicle emissions. Based on Table 1-1 of the CEQA Air Quality Handbook, the project will result in less than 10 lbs./day of pollutants, which is below thresholds warranting any mitigation. The subject property does not contain naturally occurring asbestos (serpentine or ultramafic rock). The project is consistent with the general level of development anticipated and projected in the Clean Air Plan. No significant air quality impacts are expected to occur.

Mitigation/Conclusion. No mitigation measures are necessary.

4. BIOLOGICAL RESOURCES - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Result in a loss of unique or special status species or their habitats?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Reduce the extent, diversity or quality of native or other important vegetation?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) <i>Impact wetland or riparian habitat?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Introduce barriers to movement of resident or migratory fish or wildlife species, or factors, which could hinder the normal activities of wildlife?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The State of California Endangered Species Act (CESA) ensures legal protection for plants listed as rare or endangered, and species of wildlife formally listed as endangered or threatened. The state also lists "Species of Special Concern" based on limited distribution, declining populations, diminishing habitat, or unusual scientific, recreational, or educational value. Under state law, the California Department of Fish and Game (CDFG) reviews projects for their potential to impact state-listed species and Species of Special Concern, and their habitats. Impacts to state-listed species would be evaluated and identification of mitigation measures would likely be required.

The California Natural Diversity Database (CNDDB) identified an array of sensitive plants, wildlife, and habitat areas as potentially occurring on the subject property. To further evaluate these resources, the applicant submitted the following reports:

- Biological Report for the Goodan Ranch (Althouse and Meade, Inc; December 2007).
- Addendum to the December 2007 Biological Report for the Goodan Ranch: Results of Spring Floristic Survey (Althouse and Meade, Inc; April 2009).
- California Red-legged Frog Protocol Survey Site Assessment for the Goodan Ranch (Althouse and Meade, Inc; April 2009).

- Goodan Ranch Red-legged Frog Protection Measures (Althouse and Meade, Inc; September 3, 2009).

The following discussion is based on the findings of these reports:

The site contains suitable habitat for 5 special status plant species and 11 special status animal species. Two special status plant species (California morning glory and Obispo Indian paintbrush) and three special status animal species (golden eagle, loggerhead shrike, and California red-legged frog) were observed on the property. The nearest potential breeding habitat for the red-legged frog is the reservoir on the neighboring property. An unnamed "blue line" tributary to the Perry Creek courses through the subject property. Perry Creek, a tributary to Santa Rosa Creek, is approximately 200 feet west of the proposed project. Numerous intermittent and ephemeral drainages carry run-off west to the Pacific Ocean and east to Perry Creek. Drainages on the property are highly eroded, generally consisting of deeply incised channels with little or no riparian cover. Heavily grazed grasslands are the dominant habitat type on the property. The property also contains several other habitat types (wetlands, intertidal zones, riparian, coastal scrub, coastal bluff, rock outcrop); however these areas are not located near the proposed home site.

Vegetation and Plants

The project site is predominately vegetated with non-native annual grasslands with almost no native vegetation present during summer and fall. Foxtail barley, ripgut brome, mustards, and wild radish are the dominant plants at the proposed home site. The preliminary Biological Report and the Spring Floristic Study identified a total of 152 different plant species on the property. This included 3 planted species, 91 native species, and 58 introduced species.

The preliminary Biological Report identified 10 special status species that could potentially occur on the property. The spring floristic study encountered only two special status plants on the property: Cambria morning glory (*Calystegia subacaulis* ssp. *episcopalis*) and Obispo Indian paintbrush (*Castilleja densiflora* ssp. *obispoensis*). The Biological Report found that the site contained habitat for three other special status plants, including Miles' Milk-vetch (*Astragalus didymocarpus* var. *milesianus*), Jones's Layia (*Layia jonesii*), and Adobe Sanicle (*Sanicula maritima*), however these species were not observed during the surveys. No special status plants were identified near the home site.

Wildlife

The annual grassland habitat and other habitat areas on the property potentially support more than 107 animal species. Twenty-one of these species are considered special status species. The project site contains suitable habitat for 11 of these special status species:

- Grasshopper Sparrow (*Ammodramus savannarum*) – Priority species
- Silvery Legless Lizard (*Anniella pulchra*) – California special concern
- Golden Eagle (*Aquila chrysaetos*)* – California special concern
- Burrowing Owl (*Athene cunicularia*) – California special concern
- Northern Harrier (*Circus cyaneus*) – California special concern
- White-tailed Kite (*Elanus leucurus*) – Fully Protected Species
- California Horned Lark (*Eremophila alpestris actia*) – California special concern
- Loggerhead Shrike (*Lanius ludovicianus*)* – California special concern
- Coast Horned Lizard (*Phrynosoma coronatum frontale*) – California special concern
- California Red-legged Frog (*Rana draytonii*)* – Federally threatened

- Two-striped Garter Snake (*Thamnophis hammondi*) – California special concern

*These species were observed on site.

In addition to these special status species, twenty-nine species of bird were observed on the property during non-breeding season surveys. Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act.

The Biological Report was referred to the U.S. Fish and Wildlife Service for review. Due to the presence of potential habitat on the site for the California Red-legged frog, a federally threatened species, USFWS required the applicant to submit a protocol survey site assessment for the California red-legged frog. The protocol survey (Althouse and Meade, Inc; April 2009) found one juvenile California red-legged frog in one of the drainage areas on the site. No breeding habitat for the red-legged frog was observed on the site. The nearest potential breeding habitat is the reservoir on the neighboring property. The protocol survey's observation of a juvenile red-legged frog in an onsite drainage area indicates that the red-legged frog breeds in the vicinity of the property and that juveniles utilize at least one drainage on the property during the wet season.

Habitats

The project site contains seven distinct habitat types: grassland, wetland, riparian, coastal scrub, coastal bluff, rock outcrop, and intertidal. Heavily grazed grasslands are the dominant habitat type on the property. Numerous intermittent and ephemeral drainages carry run-off west to the Pacific Ocean and east to Perry Creek, a tributary to Santa Rosa Creek. Drainages on the property are highly eroded, generally consisting of deeply incised channels with little or no riparian cover. Small perennial springs are located in several areas, supporting wetland vegetation in drainage bottoms. Coastal scrub habitat remains on the property only on steep hillsides. North slopes tend to be dominated by coyote brush and ferns, while southern exposures are typically dominated by sagebrush. Rock outcrops are occasionally in scrub and grassland habitats. The property extends onto the beach, where a small rocky intertidal zone supports seaweeds, shorebirds, and other plants.

California coastal prairie is a native vegetation community that is known to occur along this section of the coast. Due to heavy grazing, the project site no longer contains coastal prairie. Historically all coastal grasslands on the bluffs in this area were likely coastal prairie, dominated by perennial native grasses and scattered small shrubs. Some less impacted areas of the Harmony Coast could still be described as prairie, but this site has been completely converted to non-native annual grassland.

The proposed home site is located in an area dominated by non-native annual grasses where no native perennial grasses were observed. These grasslands are dominated by Mediterranean annual species, including soft chess brome, wild oats, and foxtail barley. Patches of mustard are common, especially in areas less accessible to grazing. Thistles are common in areas with intense grazing pressure. Several rodents are expected to be present in the grassland habitat. California ground squirrels were observed occasionally. Birds observed in grassland habitat on the property include Western meadowlark, brewer's blackbird, savanna sparrow, and loggerhead shrike. Several special status birds could potentially nest in the grassland habitat.

The property contains potential wetland areas. The largest potential wetland area is located north of Harmony Ranch Road. This area is more than fifteen hundred feet away from the proposed home site. Wetland habitat is not present at the proposed home site. Riparian habitat is located along the various drainages on the site. This riparian area is highly degraded by erosion and overgrazing. The bluff between the beach and the terrace has sparse vegetation due to a high rate of erosion. The bluff vegetation on the property does not conform to northern coastal bluff scrub, a sensitive natural community. Scattered rock outcrops occur on grassland and coastal scrub habitats across the property. Rock outcrops are expected to provide habitat for several rodent species. A narrow intertidal

zone is located below the coastal terrace where the proposed home site would be located. Large piles of beached seaweed have accumulated, and are scavenged upon by several species of gulls. Many invertebrates live in the intertidal zone. The intertidal habitat could be used occasionally by sea lions and elephant seals; however this is not likely due to the small size of the intertidal zone.

Impact.

Habitat Impacts

The proposed residence would be located within an approximately 35,000 square-foot envelope that is partially defined by the 208 foot bluff top and 100 foot ravine setbacks recommended by the project geologist. This site consists of heavily grazed, non-native, annual grassland habitat. Development of the proposed home site, leach field and septic system, and landscaping could impact approximately one acre of this habitat; however, since these are non-native grasslands that do not support special status species, this would be an insignificant impact.

A small area of native bunchgrass grassland extends onto the southeast corner of the project. This patch is part of a larger grassland uphill from the project site. *Nassella pulchra* forms 30 to 50 percent of cover in the herb layer at this location; the patch on the project site is approximately 5,000 square feet in size. This needlegrass patch is an extension of needle grassland on the west side of the access road, which is outside the project area. Mitigation measures are proposed to reduce impacts to native grassland to a level of insignificance.

The project would not impact wetlands. Riparian habitat is present in one of the drainage channels south of the proposed home site. The project includes a 100-foot setback from the top of the bank. Development of the proposed residence would not impact riparian habitat. The project would not impact the coastal scrub, coastal bluff, rock outcrop, or intertidal habitats on the property.

Impacts to nesting birds could occur if grading is conducted during nesting season (March 15 through August 15). Mitigation measures are proposed to avoid impacts to common nesting birds.

Special Status Plant Impacts

No federally listed plants are expected to occur on the property. The project area is dominated by weedy non-native species. Two special status plants, Obispo Indian paintbrush (*Castilleja densiflora* ssp. *obispoensis*) and Cambria morning glory (*Calystegia subacaulis* ssp. *episcopalis*), were observed in grasslands adjoining the existing ranch road. These plants were not observed in the proposed project area; therefore, project-related impacts are not anticipated, and no mitigations are required.

Special Status Animal Impacts

Eleven special status animals could potentially occur on the property, including one federally listed threatened species, the California red-legged frog. Habitat at the proposed home site would be very unlikely to attract temporarily, or support resident individuals of any special status animal species. Seven of the eleven special status species are birds. It would be very unlikely for any of the special status birds to nest at the proposed home site due to poor quality nesting conditions from overgrazing and erosion. The California red-legged frog breeds in the vicinity of the property, and dispersing juveniles utilize at least one drainage on the property during the wet season. Mitigation measures are proposed to avoid potential impacts to red-legged frogs.

Mitigation/Conclusion.

Habitat Mitigation

There is an approximately 5,000 square-foot patch of native bunchgrass grassland at the southeast corner of the project site. Proposed mitigation measures require the project to avoid these areas, whenever possible. If avoidance is not possible, removed bunchgrass grasslands shall be replaced at a one to one ratio.

Impacts to nesting birds could occur if grading is conducted during nesting season (March 15 through August 15). Proposed mitigation measures require nesting bird surveys if work occurs between March 15 and August 15.

Special Status Animal Species Mitigation

Because appropriate nesting habitat was identified on the property for seven special status birds, a pre-construction survey shall be conducted prior to all ground-breaking activities during the breeding season.

A juvenile red-legged frog was found on the property during a protocol level survey. The survey report determined that breeding pools for the red-legged frog are located on an adjacent parcel and that juveniles utilize at least one of the drainages on the subject property.

In accordance with the recommendations of the geology report, the proposed residence would be setback at least 100 feet from the edge of the existing drainage. Therefore, the proposed project would not impact habitat for the red-legged frog. However, due the project's proximity to a breeding pool for the red-legged frog, the project could result in a "take" of this federally protected species.

The applicant shall attain applicable incidental take permits from the U.S. Fish and Wildlife Service and shall comply with various red-legged frog protection measures, which are summarized below:

- Grading for the project shall be conducted during the dry season, from May 1 to October 31, when red-legged frogs are less likely to be active.
- Before issuance of a construction permit, the project manager, grading contractor, and heavy equipment operators shall attend worker education training.
- Prior to commencement of construction, a pre-construction survey shall be conducted by a qualified biologist to verify that no red-legged frogs are present at the site.
- Prior to project commencement, barrier fencing shall be installed between the project site and the drainage.
- For all work approved between the barrier fence and the drainage, the project biologist shall work with the project manager to identify the limits of work, conduct pre-construction surveys and monitor construction activities.
- During primary grading and grubbing, the project biologist shall monitor construction activities.
- All food-related trash shall be properly contained to avoid attracting predators to the site.

These mitigation measures and a detailed list of other required mitigation measures are listed in detail in Exhibit B Mitigation Summary Table. Incorporation of these measures will reduce impacts to biological resources to less than significant levels.

5. CULTURAL RESOURCES -

Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Disturb pre-historic resources?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) <i>Disturb historic resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Disturb paleontological resources?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. CULTURAL RESOURCES -

Will the project:

Potentially
Significant

Impact can
& will be
mitigated

Insignificant
Impact

Not
Applicable

d) *Other:* _____

☐
☐
☐
☐

Setting. The project is located in an area historically occupied by the Obispeno Chumash and Salinan.

This area is considered culturally sensitive due to the presence of physical features typically associated with prehistoric occupation. An unnamed "blue line" tributary to the Perry Creek courses through the subject property. Perry Creek, a tributary to Santa Rosa Creek, is approximately 200 feet west of the proposed project. Potential for the presence or regular activities of the Native Americans increases in close proximity to water sources.

The applicant submitted phase 1 and 2 archeological assessments of the property:

- Phase 1: Cultural Resource Investigation of the Goodan Residence Area (Parker and Associates; August 17, 2007).
- Phase 2: Archaeological Testing at the Goodan Lot, Harmony Ranch, San Luis Obispo, California (Thor Conway; December 9, 2008).

The following discussion is based on the findings of these reports:

Records at the California Historical Resource Inventory System office have plotted archaeological sites CA-SLO-1223 and 1394 on the coast in the immediate vicinity of the project area. These sites were observed as layers of dietary shell exposed and eroding from the sides of banks and gullies. These cultural resources were not visible on the ground surface, as they have been buried to a depth of 3 to 6 feet by colluvial deposits that have migrated to the site from the steep hillsides to the north. Where cultural material could be seen on the project site, a wide range of shellfish species was observed. This included abalone, mussel, black turban snail, wavy turban, limpet, chiton, and crab.

Impact. The Phase 1 surface survey observed surface deposits in the northeast and southern sections of the property along the bluff and ravine edges, and identified a probable site boundary that intersected the southeastern section of the proposed building site. The Phase 1 concluded that the proposed project site is likely near the surface boundary of sites CA-SLO-1223 and 1394, and recommended Phase 2 subsurface testing to assess the potential presence of cultural material beneath the building site. The Phase 2 testing determined that cultural materials do not occur in the area where the house will be built and that Phase 3 mitigation excavations are not required based on the results of the subsurface assessment.

Mitigation/Conclusion. The Phase 1 archaeological survey did not observe surface deposits within the proposed building site. The Phase 2 archaeological testing determined that cultural material is not likely to underlie the building site. Implementation of an archaeological monitoring plan would mitigate potential cultural resource impacts to a level of insignificance.

6. GEOLOGY AND SOILS -

Will the project:

Potentially
Significant

Impact can
& will be
mitigated

Insignificant
Impact

Not
Applicable

a) *Result in exposure to or production of unstable earth conditions, such as landslides, earthquakes, liquefaction, ground failure, land subsidence or other similar hazards?*

☐
☒
☐
☐

6. GEOLOGY AND SOILS - <i>Will the project:</i>	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
b) <i>Be within a California Geological Survey "Alquist-Priolo" Earthquake Fault Zone"?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) <i>Result in soil erosion, topographic changes, loss of topsoil or unstable soil conditions from project-related improvements, such as vegetation removal, grading, excavation, or fill?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) <i>Change rates of soil absorption, or amount or direction of surface runoff?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Include structures located on expansive soils?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) <i>Change the drainage patterns where substantial on- or off-site sedimentation/ erosion or flooding may occur?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) <i>Involve activities within the 100-year flood zone?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) <i>Be inconsistent with the goals and policies of the County's Safety Element relating to Geologic and Seismic Hazards?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) <i>Preclude the future extraction of valuable mineral resources?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j) <i>Other: _____</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting

GEOLOGY - The following relates to the project's geologic aspects or conditions:

Topography: Nearly level to steeply sloping

Within County's Geologic Study Area?: Yes

Landslide Risk Potential: Low to high

Liquefaction Potential: Low

Nearby potentially active faults?: No Distance? Not applicable

Area known to contain serpentine or ultramafic rock or soils?: No

Shrink/Swell potential of soil: Moderate

Other notable geologic features? None

The project is within the Geologic Study area designation and is subject to the preparation of a geologic hazards report per Coastal Zone Land Use Ordinance (CZLUO) Section 23.07.084(c) to

evaluate the area's geological suitability for proposed development.

The applicant submitted the following geology reports:

- Geotechnical Engineering and Geologic Hazards Report, Goodan Residence, Harmony Ranch Road, Harmon California (Earth Systems Pacific; July 31, 2007).
- Response to County of San Luis Obispo Geologic Review Comments (Earth Systems Pacific; April 9, 2008).

In a letter dated May 19, 2009, Brian Papurello, County Geologist, indicated that these reports accurately model the site's geologic conditions and that he concurs with their findings and conclusions.

These reports characterize the site's geologic conditions as follows:

- The proposed building area is relatively level with no significant slopes on or immediately adjacent to the proposed building area. Landsliding was observed along the bluff toe; however, this landsliding should not impact the building area for a 100-year period, as determined from the bluff retreat analysis.
- The project is not located within an Alquist-Priolo fault zone.
- The closest active fault to the site is the Hosgri fault, located approximately 2 miles to the west. The Cambria fault lies approximately 1 mile east of the project site.
- The site is in a region of generally high seismicity; however, design of structures using conventional California Building Code (CBC) seismic parameters will be appropriate for this project.
- Due to the medium dense to dense condition of the marine terrace deposits and low groundwater level, the potentials for seismically induced lateral spreading and liquefaction on the site are essentially nonexistent.
- There are no naturally occurring asbestos rock formations (serpentinite or ultramafic rock) on site.

The project would be located on a coastal bluff terrace. CZLUO Section 23.04.118 requires new development to be setback from the bluff edge a distance sufficient to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection. This section requires applicants to submit a site stability evaluation prepared by a certified engineering geologist that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards. The project geologist identified a 95 foot 100-year bluff setback for the project, but recommended a more conservative setback of 208 feet.

Drainage

The following relates to the project's drainage aspects:

Within the 100-year Flood Hazard designation? No

Closest creek? Perry Creek Distance? Approximately 200 feet

Soil drainage characteristics: Not well drained

For areas where drainage is identified as a potential issue, CZLUO Sec. 23.05.042 includes a provision to prepare a drainage plan to minimize potential drainage impacts. When required, this plan would need to address measures such as: constructing on-site retention or detention basins, or installing surface water flow dissipaters. This plan would also need to show that the increased surface runoff would have no more impacts than that caused by historic flows.

The applicant submitted a Site, Grading and Drainage Plan (North Coast Engineering, Inc; December

29, 2009). This plan involves two swales that direct runoff from Harmony Ranch Road to two grass-lined infiltration basins. Riprap dispersion fields are planned to be constructed on the down slope sides of the basins to reduce the potential for erosion during overflow. One of the basins will be located on the northwest side of the proposed residence, while the other basin will be located on the southeast side. The northwest basin will collect surface water runoff from Harmony Ranch Road and the southeast basin will collect surface water runoff upslope of the residence. The applicant submitted a letter from the project geologist indicating that this drainage system would not cause accelerated bluff erosion or other adverse geologic impacts (Earth Systems Pacific; November 6, 2009). Sedimentation and Erosion

Soil type, amount of disturbance and slopes are key aspects to analyzing potential sedimentation and erosion issues. The project's soil types and descriptions are listed in the previous Agriculture section under "Setting". The Geologic Hazards Report describes the soil erodibility as high.

Soil erodibility: High

When highly erosive conditions exist, a sedimentation and erosion control plan is required (CZLUO Sec. 23.05.036) to minimize these impacts. When required, the plan is prepared by a civil engineer to address both temporary and long-term sedimentation and erosion impacts. Projects involving more than one acre of disturbance are subject to the preparation of a Storm Water Pollution Prevention Plan (SWPPP), which focuses on controlling storm water runoff. The Regional Water Quality Control Board is the local extension who monitors this program.

Impact. As proposed, the project will result in the disturbance of approximately 35,000 square feet and 3,200 cubic yards of material are proposed to be moved. A Geotechnical Engineering and Geologic Hazards Report has been prepared and reviewed by the County Geologist. The major key recommendations and conclusions of this report include:

- The site is suitable from an engineering geology and geotechnical engineering standpoint for the proposed project, provided the recommendations contained in the geologic report are implemented in the design and construction of the project.
- Although surface water was not found in the exploratory borings, it is known to exist in this general area, particularly during the wetter months of the year. Consequently, control of surface and subsurface water on this site will be critical.
- Differential settlement can occur when a foundation system spans materials with significant differences in compression characteristics, such as loose soil found in the upper 3.5 to 4.0 feet across the site. Differential settlement can stress and damage foundations, often resulting in severe cracks and displacement.
- The project is located on expansive soils. These soils tend to swell with seasonal increases in soil moisture and shrink during the dry season as soil moisture decreases. The volume changes that the soils undergo in this cyclical pattern can stress and damage slabs and foundations if precautionary measures are not incorporated into the design and construction.
- The on-site soils are considered to be highly erodible. The potential for erosion could be significant if site development activities result in concentration of drainage, or uncontrolled surface drainage.

The Geotechnical Engineering and Geologic Hazards Report contains specific site preparation, grading, and foundation design recommendations. Implementation of these recommendations would reduce potential impacts related expansive soils, differential settlement, and surface and subsurface water flow to a level of insignificance.

Erosion of graded areas and discharge of sediment down gradient will likely result, if adequate temporary and permanent measures are not taken before, during, and after vegetation removal and grading. If not properly mitigated, these impacts may be significant.

In order to address drainage impacts, preparation of a drainage plan and sedimentation and erosion control plan will be required, with the former plan to include "best management practices," and the latter plan to include both temporary and long-term measures.

Mitigation/Conclusion. The project shall comply with all recommendations of the Geotechnical Engineering and Geologic Hazards Report. These recommendations are outlined in Exhibit B Mitigation Summary Table. In addition, the project will comply with standard measures required by ordinance or codes. Incorporation of these mitigation measures will reduce potential geology, geotechnical, drainage, and sedimentation and erosion impacts to a level of insignificance.

7. HAZARDS & HAZARDOUS MATERIALS - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Result in a risk of explosion or release of hazardous substances (e.g. oil, pesticides, chemicals, radiation) or exposure of people to hazardous substances?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Interfere with an emergency response or evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose people to safety risk associated with airport flight pattern?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Increase fire hazard risk or expose people or structures to high fire hazard conditions?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create any other health hazard or potential hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. With regards to potential fire hazards, the subject project is within moderate Fire Hazard Severity Zone(s). Based on the County's fire response time map, it will take approximately 10-15 minutes to respond to a call regarding fire or life safety. Refer to the Public Services section for further discussion on Fire Safety impacts. The project is not located in an area of known hazardous material contamination and does not propose use of hazardous materials. No significant fire safety risk was identified. The project is not expected to conflict with any regional evacuation plan; nor is it located within an airport flight pattern area. No impacts as a result of hazards or hazardous materials are anticipated. The site plan includes a fire truck turnaround in accordance with Cal Fire standards.

Impact. The project does not propose the use of hazardous materials. The project does not present a significant fire safety risk. The project is not expected to conflict with any regional evacuation plan.

Mitigation/Conclusion. No significant impacts as a result of hazards or hazardous materials are anticipated, and no mitigation measures are necessary.

8. NOISE - Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Expose people to noise levels that exceed the County Noise Element thresholds?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Generate increases in the ambient noise levels for adjoining areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose people to severe noise or vibration?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project is not within close proximity of loud noise sources, and will not conflict with any sensitive noise receptors (e.g., residences). Based on the Noise Element's projected future noise generation from known stationary and vehicle-generated noise sources, the project is within an acceptable threshold area.

Impact. The project is not expected to generate loud noises, nor conflict with the surrounding uses. The project is located in a secluded rural area. The nearest noise receptor to the project is a single family residence located more than 1,000 feet to the northwest. The project is located approximately 1 mile to the southeast of Highway 1 on the opposite side of the Coastal Range.

Mitigation/Conclusion. No significant noise impacts are anticipated, and no mitigation measures are necessary.

9. POPULATION/HOUSING - Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace existing housing or people, requiring construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Create the need for substantial new housing in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Use substantial amount of fuel or energy?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. In its efforts to provide for affordable housing, the county currently administers the Home

Investment Partnerships (HOME) Program and the Community Development Block Grant (CDBG) program, which provides limited financing to projects relating to affordable housing throughout the county.

Impact. The project will not result in a need for a significant amount of new housing, and will not displace existing housing.

Mitigation/Conclusion. No significant population and housing impacts are anticipated, and no mitigation measures are necessary.

10. PUBLIC SERVICES/UTILITIES -
Will the project have an effect upon, or result in the need for new or altered public services in any of the following areas:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Fire protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Police protection (e.g., Sheriff, CHP)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Roads?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Solid Wastes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project area is served by the following public services/facilities:

Police: County Sheriff Location: Community of Cambria (Approximately 7 miles to the north)

Fire: Cal Fire (formerly CDF) Hazard Severity: Moderate Response Time: 10-15 minutes

Location: Community of Cayucos (Approximately 6 miles to the south)

School District: Coast Unified School District.

Impact. No significant project-specific impacts to utilities or public services were identified. This project, along with others in the area, will have a cumulative effect on police and fire protection, and schools. The project's direct and cumulative impacts are within the general assumptions of allowed use for the subject property that was used to estimate the fees in place.

Mitigation/Conclusion. Regarding cumulative effects, public facility (county) and school (State Government Code 65995 et seq.) fee programs have been adopted to address this impact, and will reduce the cumulative impacts to less than significant levels.

11. RECREATION - Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) Increase the use or demand for parks or other recreation opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

11. RECREATION - Will the project:

Potentially
Significant

Impact can
& will be
mitigated

Insignificant
Impact

Not
Applicable

b) Affect the access to trails, parks or other recreation opportunities?

☐
☐
☒
☐

c) Other _____

☐
☐
☐
☐

Setting. The County Trails Plan does not show that a potential trail goes through the proposed project. The project is not proposed in a location that will affect any trail, park or other recreational resource. The project is located between Highway 1 and the ocean. There is currently limited coastal access in this area because Highway 1 is separated by more than 1 mile of steep, rugged terrain. The nearest coastal access is located about 3 miles south of the project site at Harmony Headlands State Park. CZLUO Section 23.04.420 requires new development between the ocean and the first public road paralleling the ocean to provide offers of dedication for vertical (public road to ocean) and horizontal (dry sandy beach) public access. For this section of the coast, the California Coastal Trail is planned to follow Highway 1.

Impact. The proposed project will not create a significant need for additional park or recreational resources. Since the project site is separated from Highway 1 by steep coastal hills, it's not likely to affect access to the coast. The project will be required to comply with ordinance requirements to provide offers of dedication for vertical and lateral coastal access.

Mitigation/Conclusion. No significant recreation impacts are anticipated, and no mitigation measures are necessary. The project must comply with ordinance requirements to provide offers of dedication for vertical and lateral coastal access.

12. TRANSPORTATION/ CIRCULATION - Will the project:

Potentially
Significant

Impact can
& will be
mitigated

Insignificant
Impact

Not
Applicable

a) Increase vehicle trips to local or areawide circulation system?

☐
☒
☐
☐

b) Reduce existing "Levels of Service" on public roadway(s)?

☐
☐
☒
☐

c) Create unsafe conditions on public roadways (e.g., limited access, design features, sight distance, slow vehicles)?

☐
☐
☒
☐

d) Provide for adequate emergency access?

☐
☐
☒
☐

e) Result in inadequate parking capacity?

☐
☐
☒
☐

f) Result in inadequate internal traffic circulation?

☐
☐
☒
☐

**12. TRANSPORTATION/
CIRCULATION - Will the project:**

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
g) <i>Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., pedestrian access, bus turnouts, bicycle racks, etc.)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) <i>Result in a change in air traffic patterns that may result in substantial safety risks?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The county has established the acceptable Level of Service (LOS) on roads for this rural area as "C" or better. The existing road network in the area, including Harmony Ranch Road and Highway 1, is operating at acceptable levels. Based on existing road speeds and configuration (vertical and horizontal road curves), sight distance is considered acceptable.

Referrals were sent to Public Works and CalTrans. No significant traffic-related concerns were identified. The project is within the NORTH COAST AREA E Circulation Fee area. This fee provides the means to collect "fair share" monies from new development to help fund certain regional road improvements that will be needed once the area reaches "buildout." The project will be subject to this fee.

Impact. The proposed project is estimated to generate about 10 trips per day, based on the Institute of Traffic Engineer's manual. This small amount of additional traffic will not result in a project specific significant change to the existing road service or traffic safety levels, but it will contribute to a cumulative areawide impact to North Coast roadways.

Mitigation/Conclusion. No significant traffic impacts were identified, and no mitigation measures are necessary beyond payment of the traffic fee to address cumulative areawide impacts.

13. WASTEWATER - Will the project:

	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate waste discharge requirements or Central Coast Basin Plan criteria for wastewater systems?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Change the quality of surface or ground water (e.g., nitrogen-loading, day-lighting)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Adversely affect community wastewater service provider?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. Regulations and guidelines on proper wastewater system design and criteria are found within the County's Plumbing Code (hereafter CPC; see Chapter 7 of the Building and Construction

Ordinance [Title 19]), the "Water Quality Control Plan, Central Coast Basin" (Regional Water Quality Control Board [RWQCB] hereafter referred to as the "Basin Plan"), and the California Plumbing Code. These regulations include specific requirements for both on-site and community wastewater systems. These regulations are applied to all new wastewater systems.

For on-site septic systems, there are several key factors to consider for a system to operate successfully, including the following:

- ✓ Sufficient land area (refer to County's Land Use Ordinance or Plumbing Code) – depending on water source, parcel size minimums will range from one acre to 2.5 acres;
- ✓ The soil's ability to percolate or "filter" effluent before reaching groundwater supplies (30 to 120 minutes per inch is ideal);
- ✓ The soil's depth (there needs to be adequate separation from bottom of leach line to bedrock [at least 10 feet] or high groundwater [5 feet to 50 feet depending on perc rates]);
- ✓ The soil's slope on which the system is placed (surface areas too steep creates potential for daylighting of effluent);
- ✓ Potential for surface flooding (e.g., within 100-year flood hazard area);
- ✓ Distance from existing or proposed wells (between 100 and 250 feet depending on circumstances);
- ✓ Distance from creeks and water bodies (100-foot minimum).

To assure a successful system can meet existing regulation criteria, proper conditions are critical. Above-ground conditions are typically straight-forward and most easily addressed. Below ground criteria may require additional analysis or engineering when one or more factors exist:

- ✓ the ability of the soil to "filter" effluent is either too fast (percolation rate is faster or less than 30 minutes per inch and has "poor filtering" characteristics) or is too slow (slower or more than 120 minutes per inch);
- ✓ the topography on which a system is placed is steep enough to potentially allow "daylighting" of effluent downslope; or
- ✓ the separation between the bottom of the leach line to bedrock or high groundwater is inadequate.

Based on Natural Resource Conservation Service (NRCS) Soil Survey map, the soil type(s) for the project is provided in the listed in the previous Agricultural Resource section. The applicant submitted engineering plans (North Coast Engineering; November 28, 2009) for the proposed septic system. The proposed system involves a 1,500 gallon septic tank and three separate 4-foot diameter seepage pits, each at a depth of 36 feet and filled with crushed granite. This system was designed to specification for a 4 bedroom residence with an estimated daily flow of 400 gallons per day, and a soil percolation rate greater than 30 minutes per inch.

The Geotechnical Engineering and Geologic Hazards Report prepared for the project indicated the potential for subsurface water from the on-site effluent disposal system to affect the residence, and recommended that all leachfield distribution lines be located such that a plane extended downward at 20 percent from the invert of each line passes a minimum of 5 feet below the deepest foundation element. However, this is no longer an issue because the applicant has since redesigned the project, locating the septic leach field area downslope from the residence. Additionally, the project geologist reviewed the site plan, including the proposed wastewater system, for consistency with the findings and recommendations of the Geologic Hazards Report.

Impacts/Mitigation. Based on the following project conditions or design features, wastewater impacts are considered less than significant:

- ✓ The project has sufficient land area per the County's Land Use Ordinance to support an on-site system;
- ✓ The soil's percolation rate is between 30 to 120 minutes per inch;
- ✓ There is adequate soil separation between the bottom of the leach line to bedrock or high groundwater;
- ✓ The soil's slope is less than 20%;
- ✓ The leach lines are outside of the 100-year flood hazard area;
- ✓ There is adequate distance between proposed leach lines and existing or proposed wells;
- ✓ The leach lines are at least 100 feet from creeks and water bodies.

Based on the above discussion and information provided, the site appears to be able to design an on-site system that will meet CPC/Basin Plan requirements. Prior to building permit issuance and/or final inspection of the wastewater system, the applicant will need to show to the county compliance with the County Plumbing Code/ Central Coast Basin Plan, including any above-discussed information relating to potential constraints. Therefore, based on the project being able to comply with these regulations, potential groundwater quality impacts are considered less than significant.

14. WATER - Will the project:	Potentially Significant	Impact can & will be mitigated	Insignificant Impact	Not Applicable
a) <i>Violate any water quality standards?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Discharge into surface waters or otherwise alter surface water quality (e.g., turbidity, temperature, dissolved oxygen, etc.)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Change the quality of groundwater (e.g., saltwater intrusion, nitrogen-loading, etc.)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Change the quantity or movement of available surface or ground water?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Adversely affect community water service provider?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting. The project proposes to use an on-site well as its water source. The applicant submitted a well pump report indicating a flow of 60 gallons per minute of clear water at a depth of 35 feet. The Environmental Health Division has reviewed the project and did not indicate any concerns regarding water availability or quality in the area. Based on available information, the proposed water source is not known to have any significant availability or quality problems.

The topography of the project is nearly level to steeply sloping. There is an un-named creek onsite. As described in the NRCS Soil Survey, the soil surface is considered to have high erodibility.

Projects involving more than one acre of disturbance are subject to preparing a Storm Water Pollution

Prevention Plan (SWPPP) to minimize on-site sedimentation and erosion. When work is done in the rainy season, the County Ordinance requires that temporary sedimentation and erosion control measures be installed during the rainy season.

Impact. Based on the project description, as calculated on the County's water usage worksheet, the project's water usage is estimated as follows:

Indoor: .01841 acre feet/year (AFY)
 Outdoor: .45 AFY
 Total Use: .46841 AFY

Sources used for this estimate include one or more of the following references: County's Land Use Ordinance, 2000 Census data, Pacific Institute studies (2003), City of Santa Barbara Water Demand Factor & Conservation Study 'User Guide' (1989).

Regarding surface water quality, as proposed, the project will result in the disturbance of approximately 35,000 square feet. The project is not within close proximity to surface water sources.

Mitigation/Conclusion. Since no potentially significant water quantity or quality impacts were identified, no specific measures above standard requirements have been determined necessary. Standard drainage and erosion control measures will be required for the proposed project and will provide sufficient measures to adequately protect surface water quality.

15. LAND USE - Will the project:	Inconsistent	Potentially Inconsistent	Consistent	Not Applicable
a) <i>Be potentially inconsistent with land use, policy/regulation (e.g., general plan [county land use element and ordinance], local coastal plan, specific plan, Clean Air Plan, etc.) adopted to avoid or mitigate for environmental effects?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) <i>Be potentially inconsistent with any habitat or community conservation plan?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) <i>Be potentially inconsistent with adopted agency environmental plans or policies with jurisdiction over the project?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) <i>Be potentially incompatible with surrounding land uses?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) <i>Other:</i> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting/Impact. Surrounding uses are identified on Page 2 of the Initial Study. The proposed project was reviewed for consistency with policy and/or regulatory documents relating to the environment and appropriate land use (e.g., County Land Use Ordinance, Local Coastal Plan, etc.). Referrals were sent to outside agencies to review for policy consistencies (e.g., Cal Fire for Fire Code, APCD for Clean Air Plan, etc.). The project was found to be consistent with these documents (refer also to Exhibit A on reference documents used).

The project is not within or adjacent to a Habitat Conservation Plan area. The project is consistent or compatible with the surrounding uses as summarized on page 2 of this Initial Study.

Mitigation/Conclusion. No inconsistencies were identified and therefore no additional measures above what will already be required was determined necessary.

16. MANDATORY FINDINGS OF SIGNIFICANCE - Will the project:

Potentially Significant Impact can & will be mitigated Insignificant Impact Not Applicable

- | | | | | | |
|----|---|--------------------------|-------------------------------------|-------------------------------------|--------------------------|
| a) | <i>Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) | <i>Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) | <i>Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

For further information on CEQA or the county's environmental review process, please visit the County's web site at "www.sloplanning.org" under "Environmental Information", or the California Environmental Resources Evaluation System at: http://www.ceres.ca.gov/topic/env_law/ceqa/guidelines for information about the California Environmental Quality Act.

Exhibit A - Initial Study References and Agency Contacts

The County Planning or Environmental Divisions have contacted various agencies for their comments on the proposed project. With respect to the subject application, the following have been contacted (marked with an ☒) and when a response was made, it is either attached or in the application file:

<u>Contacted</u>	<u>Agency</u>	<u>Response</u>
<input checked="" type="checkbox"/>	County Public Works Department	Attached
<input checked="" type="checkbox"/>	County Environmental Health Division	Attached
<input checked="" type="checkbox"/>	County Agricultural Commissioner's Office	Attached
<input type="checkbox"/>	County Airport Manager	Not Applicable
<input type="checkbox"/>	Airport Land Use Commission	Not Applicable
<input checked="" type="checkbox"/>	Air Pollution Control District	None
<input checked="" type="checkbox"/>	County Sheriff's Department	None
<input checked="" type="checkbox"/>	Regional Water Quality Control Board	None
<input checked="" type="checkbox"/>	CA Coastal Commission	None
<input checked="" type="checkbox"/>	CA Department of Fish and Game	None
<input checked="" type="checkbox"/>	CA Department of Forestry (Cal Fire)	Attached
<input type="checkbox"/>	CA Department of Transportation	Not Applicable
<input type="checkbox"/>	Community Service District	Not Applicable
<input checked="" type="checkbox"/>	Other <u>North Coast Community Advisory Council</u>	In File**
<input type="checkbox"/>	Other _____	Not Applicable

** "No comment" or "No concerns"-type responses are usually not attached

The following checked ("☒") reference materials have been used in the environmental review for the proposed project and are hereby incorporated by reference into the Initial Study. The following information is available at the County Planning and Building Department.

- | | |
|---|---|
| <ul style="list-style-type: none"><input checked="" type="checkbox"/> Project File for the Subject Application<u>County documents</u><input type="checkbox"/> Airport Land Use Plans<input checked="" type="checkbox"/> Annual Resource Summary Report<input type="checkbox"/> Building and Construction Ordinance<input type="checkbox"/> Coastal Policies<input checked="" type="checkbox"/> Framework for Planning (Coastal & Inland)<input checked="" type="checkbox"/> General Plan (Inland & Coastal), including all maps & elements; more pertinent elements considered include:<ul style="list-style-type: none"><input checked="" type="checkbox"/> Agriculture & Open Space Element<input checked="" type="checkbox"/> Energy Element<input checked="" type="checkbox"/> Environment Plan (Conservation, Historic and Esthetic Elements)<input checked="" type="checkbox"/> Housing Element<input checked="" type="checkbox"/> Noise Element<input type="checkbox"/> Parks & Recreation Element<input checked="" type="checkbox"/> Safety Element<input checked="" type="checkbox"/> Land Use Ordinance<input type="checkbox"/> Real Property Division Ordinance<input type="checkbox"/> Trails Plan<input type="checkbox"/> Solid Waste Management Plan | <ul style="list-style-type: none"><input type="checkbox"/> Area Plan and Update EIR<input type="checkbox"/> Circulation Study<u>Other documents</u><input checked="" type="checkbox"/> Archaeological Resources Map<input checked="" type="checkbox"/> Area of Critical Concerns Map<input checked="" type="checkbox"/> Areas of Special Biological Importance Map<input checked="" type="checkbox"/> California Natural Species Diversity Database<input checked="" type="checkbox"/> Clean Air Plan<input checked="" type="checkbox"/> Fire Hazard Severity Map<input checked="" type="checkbox"/> Flood Hazard Maps<input checked="" type="checkbox"/> Natural Resources Conservation Service Soil Survey for SLO County<input checked="" type="checkbox"/> Regional Transportation Plan<input checked="" type="checkbox"/> Uniform Fire Code<input checked="" type="checkbox"/> Water Quality Control Plan (Central Coast Basin - Region 3)<input checked="" type="checkbox"/> GIS mapping layers (e.g., habitat, streams, contours, etc.)<input type="checkbox"/> Other _____ |
|---|---|

In addition, the following project specific information and/or reference materials have been considered as a part of the Initial Study:

Biological Report for the Goodan Ranch, Althouse and Meade, Inc., December 2007

Addendum to the December 2007 Biological Report for the Goodan Ranch: Results of the Floristic Study, Althouse and Meade, Inc., April 2008

California Red-legged Frog (*Rana draytonii*) Protocol Survey Site Assessment for the Goodan Ranch, Althouse and Meade, Inc., April 2009

Goodan Ranch Red-legged Frog Protection Measures, Althouse and Meade Inc., September 3, 2009

Cultural Resource Investigation of the Goodan Residence Area, Parker and Associates, August 18, 2007

Archaeological Subsurface Testing at the Goodan Lot, Thor Conway, December 9, 2008

Geotechnical Engineering and Geologic Hazards Report, Earth Systems Pacific, July 31, 2007

Review of July 31, 2007 Geotechnical Engineering and Geologic Hazards Report, Brian Papurello, December 31, 2008

Response to County of San Luis Obispo Geologic Review Comments, Earth Systems Pacific, April 9, 2009

Review of Response to County of San Luis Obispo Review Comments, Brian Papurello, May 19, 2009

**DEVELOPER'S STATEMENT FOR:
Goodan Minor Use Permit DRC2008-00025**

The applicant agrees to incorporate the following measures into the project. These measures become a part to the project description and therefore become a part of the record of action upon which the environmental determination is based. All construction/grading activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

AESTHETICS

VR-1 At the time of application for construction permits, the applicant shall provide an exterior lighting plan. The plan shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from neighboring properties. All lighting poles, fixtures, and hoods shall be dark colored. Security lighting shall be shielded so as not to create glare when viewed from neighboring properties.

VR-2 Prior to final inspection or occupancy, whichever occurs first, the approved lighting plan shall be implemented.

Monitoring: The Department of Planning and Building shall verify inclusion of required elements on plans in consultation with the Environmental Coordinator. Project planner and building inspector will verify compliance with approved plans.

AGRICULTURAL RESOURCES

AG-1 Prior to issuance of grading and/or construction permits, the applicant shall disclose to prospective buyers of the property the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm ordinance currently in effect at the time said deed(s) are recorded.

Monitoring: The Department of Planning and Building shall verify compliance prior to issuance of a grading and/or construction permit.

BIOLOGICAL RESOURCES**Bunchgrass grassland**

BR-1 At the time of application for a construction permit, the construction plans shall show the locations of native bunchgrass grassland and proposed fencing on the site. The project shall be designed to avoid and protect native bunchgrass grassland within the conceptual home site and yard. Bunchgrass grassland in the project area, on the same side of the existing road, shall be protected from impacts during construction activities via temporary fencing. Fencing shall be placed prior to the start of ground disturbing activities. A qualified biologist shall oversee placement of fencing to verify that fencing adequately protects bunchgrass grassland.

BR-2 If bunchgrass grassland cannot be avoided, removed native bunchgrass grassland shall be replaced at a one to one ratio. A mitigation plan shall be prepared that specifies replacement

techniques, monitoring methods, and success criteria. The plan shall be submitted to the County of San Luis Obispo Department of Planning and Building for approval prior to issuance of grading and building permits. At a minimum, mitigation shall require replacement of impacted area at a one to one ratio, with percent cover after five years by native bunchgrass grassland species equal to or greater than baseline levels in the original stand. Maintenance and protection from grazing shall be provided during the first five years to fully establish new perennial grasses on the mitigation site.

Monitoring: The Department of Planning and Building shall verify compliance in consultation with the Environmental Coordinator. Project planner and building inspector will verify compliance with approved plans.

Nesting birds

BR-3 Prior to issuance of a construction permit, if work occurs between March 15 and August 15, the applicant shall retain a qualified biological monitor to verify compliance with the following requirements:

- A. Within one week of ground disturbance or tree removal/trimming activities, nesting bird surveys shall be conducted. To avoid impacts to nesting birds, grading and construction activities that affect trees and grasslands shall not be conducted during the breeding season from March 15 to August 15. If construction activities must be conducted during this period, nesting bird surveys shall take place within one week of habitat disturbance. If surveys do not locate nesting birds, construction activities may be conducted. If nesting birds are located, no construction activities shall occur within 100 feet of nests until chicks are fledged. Construction activities shall observe a 300-foot buffer for active raptor nests.
- B. Occupied nests of special status bird species shall be mapped by a qualified biologist working with a licensed land surveyor or accurate Global Positioning System (GPS). The mapped locations shall be overlaid on the grading plans with a 500-foot buffer indicated. Work shall not be allowed within the 500-foot buffer while the nest is in use. The buffer zone shall be delineated on the ground with orange construction fencing where it overlaps work areas.
- C. Occupied nests of special status bird species that are within 500 feet of project work areas shall be monitored bi-monthly through the nesting season to document nest success and check for project compliance with buffer zones. Once nests are deemed inactive and/or chicks have fledged and are no longer dependant on the nest, work may commence within the buffer zone.

BR-4 Prior to final inspection, the biological monitor shall incorporate the findings of the monitoring effort into a final comprehensive construction monitoring report to be submitted to the County of San Luis Obispo Department of Planning and Building.

Monitoring: A qualified biological monitor shall verify compliance with nesting bird mitigation measures and shall submit a final comprehensive construction monitoring report to the Department of Planning and Building prior to final inspection.

California Red-legged frog

- BR-5 Prior to issuance of a construction permit, the applicant shall attain all applicable permits from the U.S. Fish and Wildlife Service.
- BR-6 Primary grubbing and grading for the project shall be conducted during the dry season, from May 1 to October 31, when red-legged frogs are less likely to be active.
- BR-7 Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of vegetation removal and/or grading, the project manager, grading contractor, and heavy equipment operator shall attend a worker education training program, conducted by a qualified biologist, that will inform workers of measures being implemented by the project to avoid any impact to red-legged frogs. At a minimum, the worker education training program shall also include information about the red-legged frog life history, identification, habitat preferences, federal listing status and legal status.
- BR-8 Prior to project commencement, a pre-construction survey shall be conducted by a qualified biologist to verify that no California red-legged frogs are present at the project site. The surveys must be conducted within two weeks of starting any equipment work, including not limited to earthwork, materials stockpiling, and vegetation removal. Results of the survey shall be provided in writing to the County. If red-legged frogs are found within the project site, work shall not commence until the U.S. Fish and Wildlife Service has been contacted and has given approval for work to continue.
- BR-9 Prior to project commencement, barrier fencing shall be installed between the project site and the drainage. The barrier shall consist of silt fencing buried to prevent red-legged frogs from entering the work areas. The location of the fencing shall be directed by the project biologist. No work of any kind, including material storage and equipment staging, shall be conducted between the barrier fencing and the drainage except where explicitly approved by the project biologist and County.
- BR-10 For all work approved between the barrier fence and the drainage (such as installation of outfall structures), the project biologist shall work with the project manager to identify the limits of work, conduct pre-construction surveys as appropriate, and monitor construction activities.
- BR-11 During primary grading and grubbing, a qualified biologist shall monitor all construction activities and verify compliance with all project biological resource minimization and protection measures. The biological monitor shall have the authority to halt any action that could result in adverse effects to red-legged frogs or their habitat.
- BR-12 All food-related trash shall be properly contained to avoid attracting predators to the site.

Monitoring: The Department of Planning and Building shall verify compliance in consultation with the Environmental Coordinator. Project planner and building inspector will verify compliance with approved plans.

CULTURAL RESOURCES

- CR-1 Prior to issuance of construction permit, the applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
- List of personnel involved in the monitoring activities;
 - Description of how the monitoring shall occur;
 - Description of frequency of monitoring (e.g. full-time, part time, spot checking);

- d. Description of what resources are expected to be encountered;
- e. Description of circumstances that would result in the halting of work at the project site (e.g. what is considered "significant" archaeological resources?);
- f. Description of procedures for halting work on the site and notification procedures; and
- g. Description of monitoring reporting procedures.

Monitoring: The monitoring plan will be shown on the construction documents. Prior to issuance of a construction permit, the Department of Planning and Building will verify compliance in consultation with the Environmental Coordinator.

CR-2 During all ground disturbing construction activities, the applicant shall retain a qualified archaeologist to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

CR-3 Upon completion of all monitoring activities, and prior to occupancy or final inspection, whichever occurs first, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring activities.

Monitoring: The Department of Planning and Building, in consultation with the Environmental Coordinator, will review and approve the archaeologist's monitoring report before occupancy or final inspection.

GEOLOGY AND SOILS

GS-1 Prior to any ground-disturbing construction activities or issuance of construction or grading permits, the following conditions shall be included on all construction and grading plans:

- a. A certified engineering geologist shall review, approve and stamp construction plans, including all plans for building foundations and excavations.
- b. The certified engineering geologist and the soils and/or civil engineer shall inspect work on-site and verify, as applicable, that building construction, including all foundation work, has been performed in a manner consistent with the intent of the plan review, geology reports and information, and the soils engineering reports (including the following: *Geotechnical Engineering and Geologic Hazards Report, Earth Systems Pacific, July 31, 2007; and Response to County of San Luis Obispo Geologic Review Comments, Earth Systems Pacific, April 9, 2009; Review of July 31, 2007 Geotechnical Engineering and Geologic Hazards Report, Brian Papurello, December 31, 2008; and Review of Response to County of San Luis Obispo Review Comments, Brian Papurello, May 19, 2009*).
- c. The certified engineering geologist shall issue a final engineering geology compliance report as required by the Uniform Building Code that identifies changes observed during construction, recommendations offered for mitigation, and confirmation that construction was completed in compliance with the intent of the geology reports and information (see list in preceding item).
- e. Should the services of the certified engineering geologist be terminated prior to final

inspection and/or occupancy, the applicant shall submit a transfer of responsibility statement to the County Planning and Building Department from the new certified engineering geologist per the Uniform Building Code.

- f. A final report prepared by a soils and/or civil engineer shall be submitted to the County Planning and Building Department's field inspector stating that all work performed is suitable to support the intended structure. Such report shall include any field reports, compaction data, etc.
- g. The applicant shall implement all recommendations in the Observation and Testing Program prepared by the project civil engineer(s), geotechnical engineer(s), and/or certified engineering geologist(s). The Observation and Testing Program may include, but not be limited to, review of the following: project plans, including grading, drainage, foundation, and retaining wall plans; stripping and clearing of vegetation; cut and fill slopes; benching and keying; preparation of paved areas; preparation of soil to receive fill; fill placement and compaction; subsurface drainage control; footing excavations; premoistening of subslab soils; surface and subsurface drainage structures; erosion control measures.

GS-2 During project construction/ground disturbing activities, the applicant shall retain a certified engineering geologist of record and shall provide the engineering geologist's Written Certification of Adequacy of the Proposed Site Development for its Intended Use to the Department of Planning and Building.

Monitoring: Prior to final inspection, the applicant shall submit a summary report to the Department of Planning and Building for review and approval.

GS-3 Prior to occupancy or final inspection, whichever occurs first, the soils engineer and certified engineering geologist of record, shall verify, as applicable, that construction is in compliance with the intent of the plan review, geologic reports and information, and the soils engineering reports (including the following: *Geotechnical Engineering and Geologic Hazards Report, Earth Systems Pacific, July 31, 2007*; and *Response to County of San Luis Obispo Geologic Review Comments, Earth Systems Pacific, April 9, 2009*; *Review of July 31, 2007 Geotechnical Engineering and Geologic Hazards Report, Brian Papurello, December 31, 2008*; and *Review of Response to County of San Luis Obispo Review Comments, Brian Papurello, May 19, 2009*). The soils engineer and certified engineering geologist of record shall provide written verification that the recommendations of the preceding geologic reports and information have been incorporated into the final design and construction, and such verification shall be submitted to the Department of Planning and Building for review and approval.

Monitoring: Prior to final inspection, the applicant shall submit written verification to the Department of Planning and Building showing that construction is in compliance with approved geologic report, soils report, and plan review.

DRAINAGE

GS-4 At the time of application for construction permits, the applicant shall submit a drainage plan prepared by a Registered Civil Engineer for review and approval by the County Public Works Department. The plan shall, at a minimum evaluate: 1) the effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems, and 2) estimates of existing and increased runoff resulting from the proposed improvement. The plan shall include Best Management Practices (BMPs) to address polluted runoff, including, but not limited to minimizing the use of impervious surfaces (e.g., installing pervious driveways and walkways) and directing runoff from roofs and drives to vegetative strips before it leaves the site.

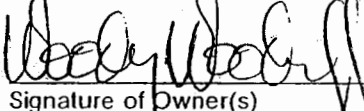
Monitoring: Prior to issuance of a construction permit, the Department of Public Works and the Department of Planning and Building shall review and approve the proposed drainage plan.

GS-5 Prior to issuance of any construction or grading permits, a sedimentation and erosion control plan shall be prepared per County Coastal Zone Land Use Ordinance Section. 23.05.036 for review and approval by the County Public Works Department, and it shall be incorporated into the project to minimize sedimentation and erosion. The plan will need to be prepared by a registered civil engineer and address the following to minimize temporary and long-term sedimentation and erosion: slope surface stabilization, erosion and sedimentation control devices, final erosion control measures, and control of off-site effects.

GS-6 Prior to occupancy of final inspection, whichever occurs first, the registered civil engineer shall verify that the recommendations of the approved Drainage Plan and the Sedimentation and Erosion Control Plan have been implemented. This verification shall be submitted in writing to the Department of Planning and Building for review and approval. If required by the County Public Works Department, the applicant shall execute a plan check and inspection agreement with the county, so that the drainage, sedimentation and erosion control facilities can be inspected and approved before final occupancy or final inspection, whichever occurs first.

Monitoring: Prior to final inspection, the Department of Planning and Building will work with the project civil engineer to verify that the approved Drainage Plan and Sedimentation and Erosion Control Plan have been properly implemented.

The applicant understands that any changes made to the project subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.


Signature of Owner(s)

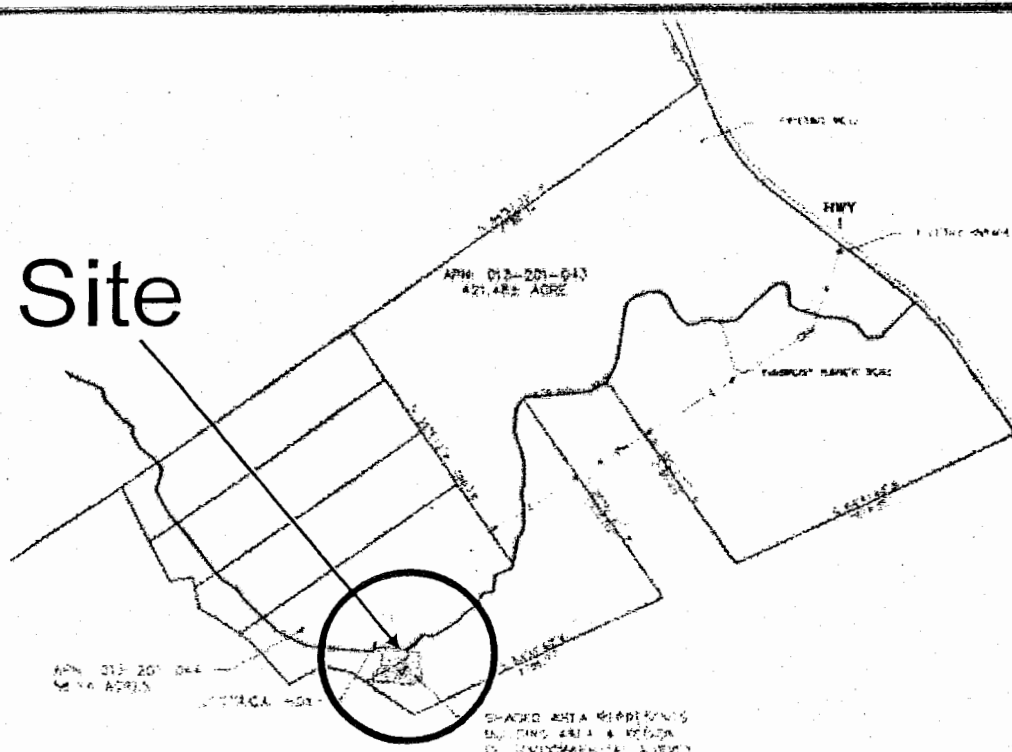
4.12.10
Date

WOODY WOODRUFF
Name (Print)

Minor Use Permit
Goodan DRC2008-00025



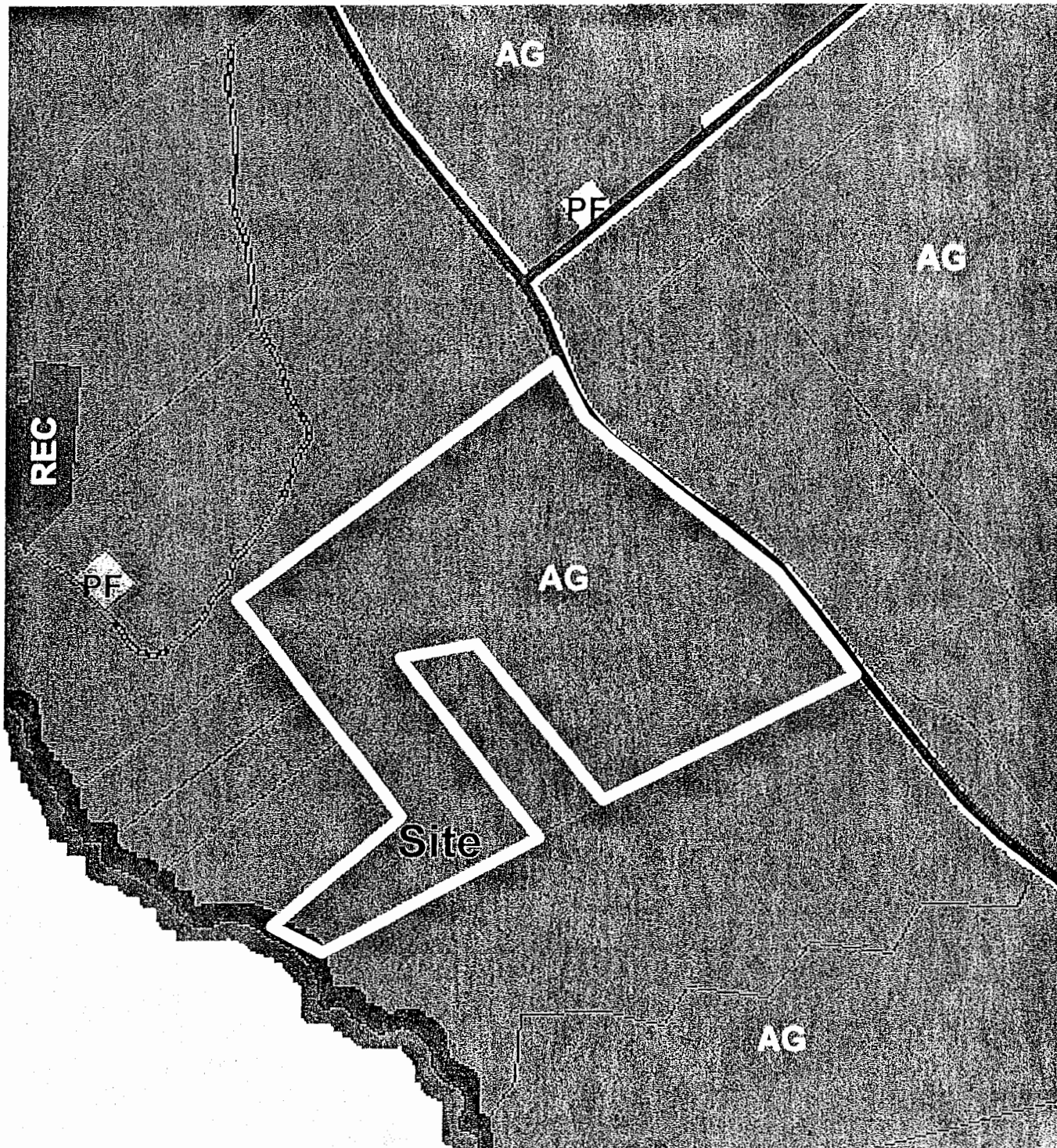
Vicinity Map



Minor Use Permit
Goodan DRC2008-00025



Site Plan



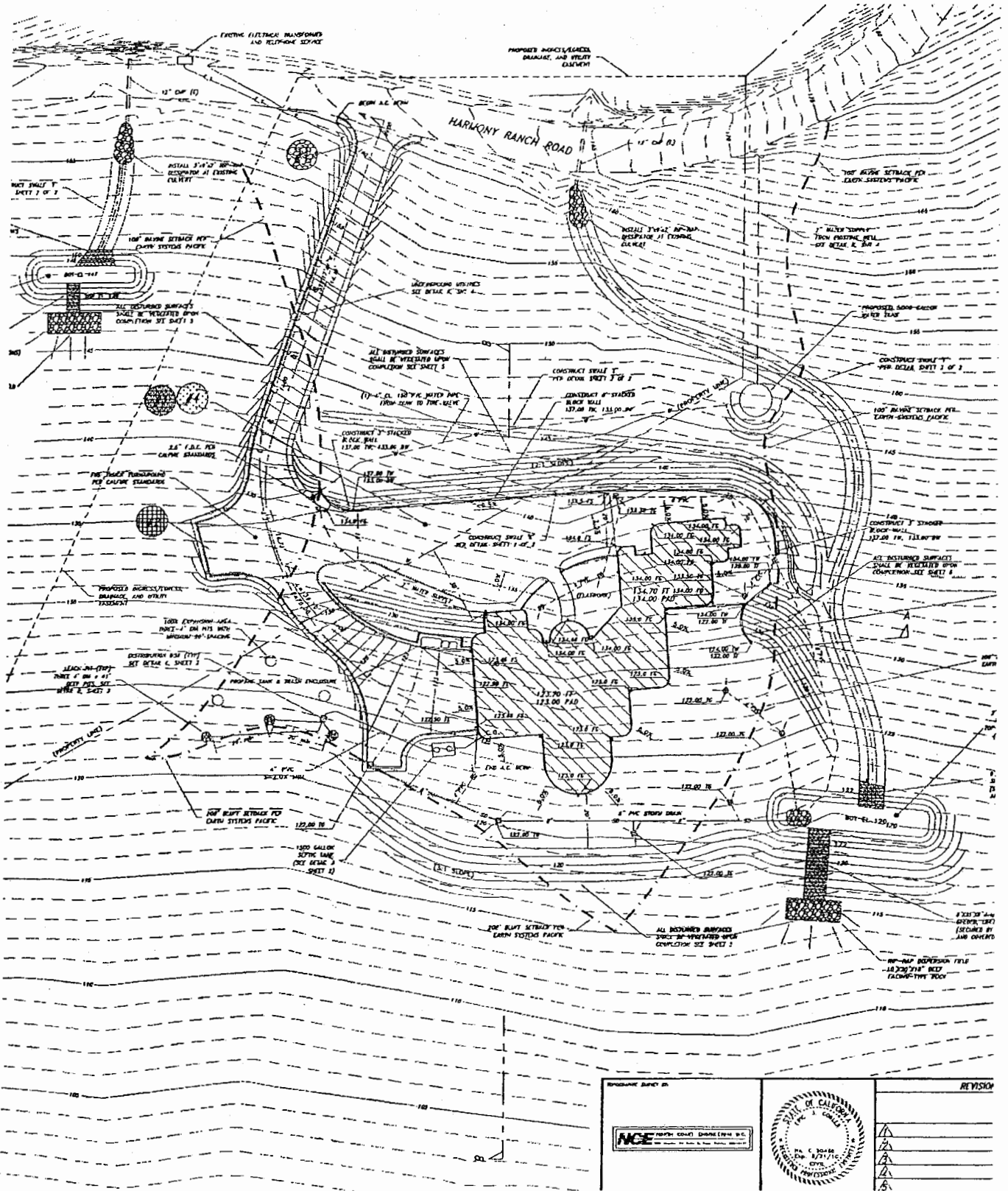
PROJECT

Minor Use Permit
Goodan DRC2008-00025



EXHIBIT

Land Use Category Map



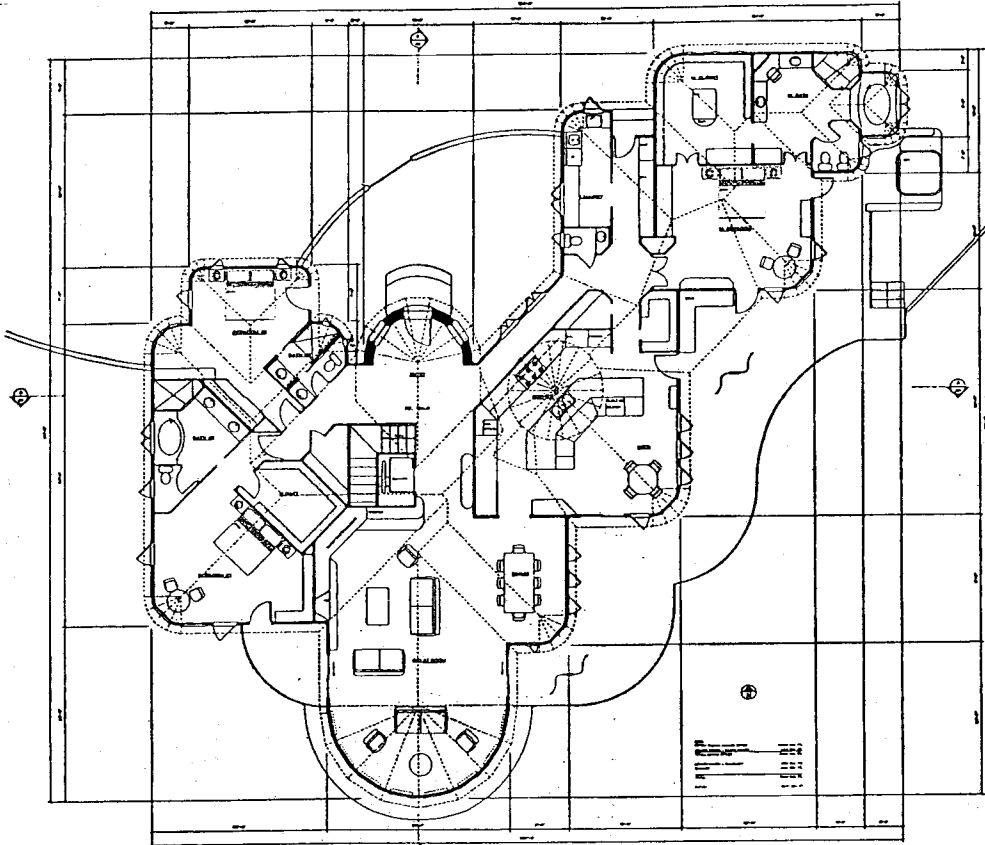
PROJECT

Minor Use Permit
Goodan DRC2008-00025

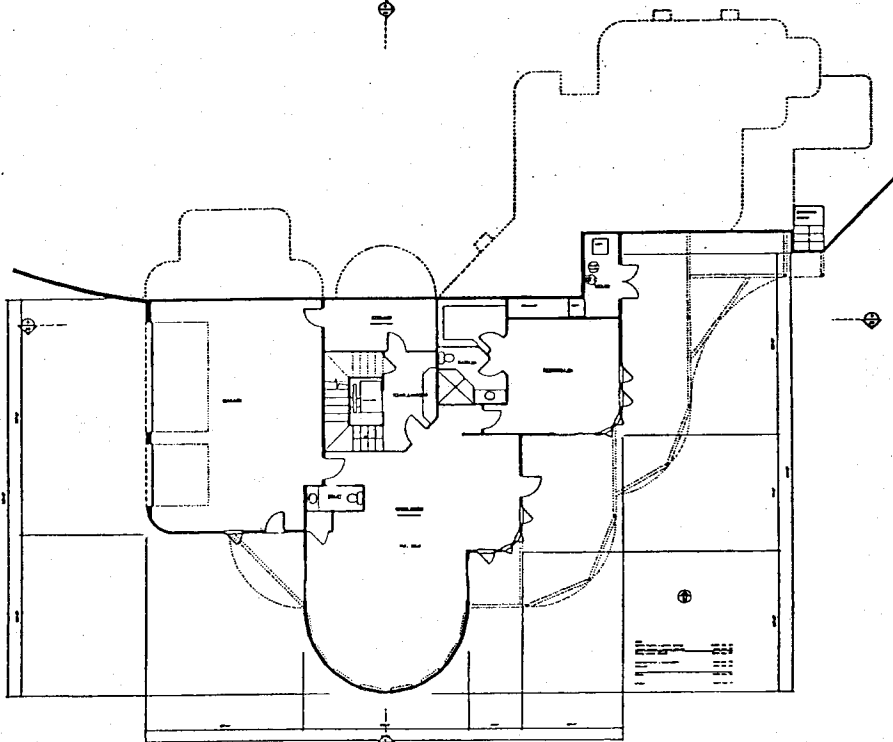


EXHIBIT

Site Plan



First Floor Plan



Lower Floor Plan

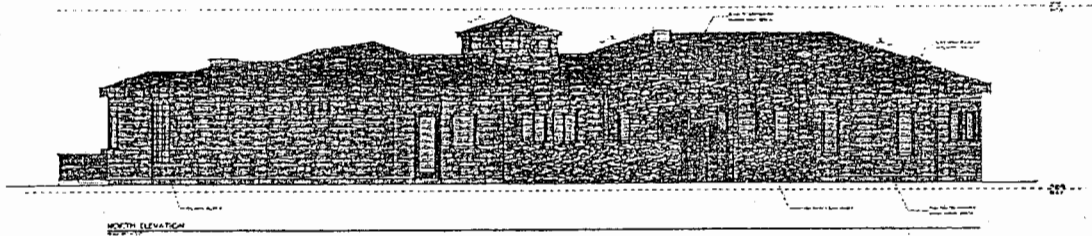
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Minor Use Permit
Goodan DRC2008-00025



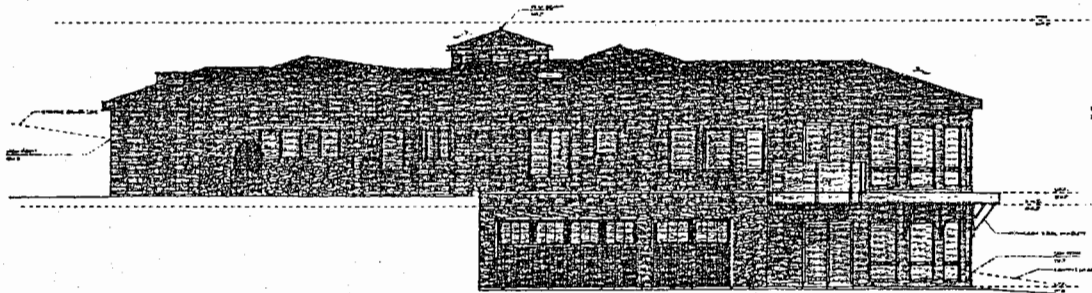
EXHIBIT

Floor Plans

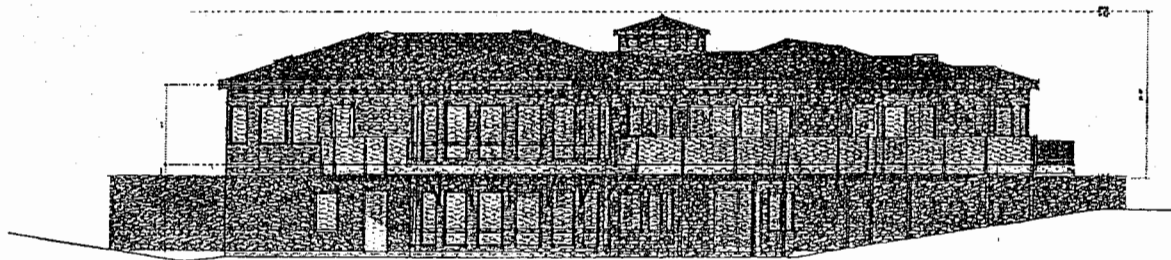


NORTH ELEVATION

ROOF PITCH	12:12
ROOF TYPE	SHED
WALL TYPE	CMU
WALL FINISH	PAINT
WALL COLOR	WHITE
WALL HEIGHT	10'-0"
WALL THICKNESS	16"-0"

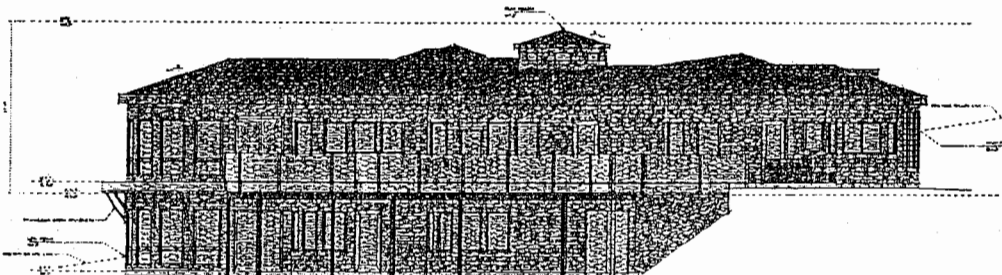


WEST ELEVATION



SOUTH ELEVATION

ROOF PITCH	12:12
ROOF TYPE	SHED
WALL TYPE	CMU
WALL FINISH	PAINT
WALL COLOR	WHITE
WALL HEIGHT	10'-0"
WALL THICKNESS	16"-0"



EAST ELEVATION

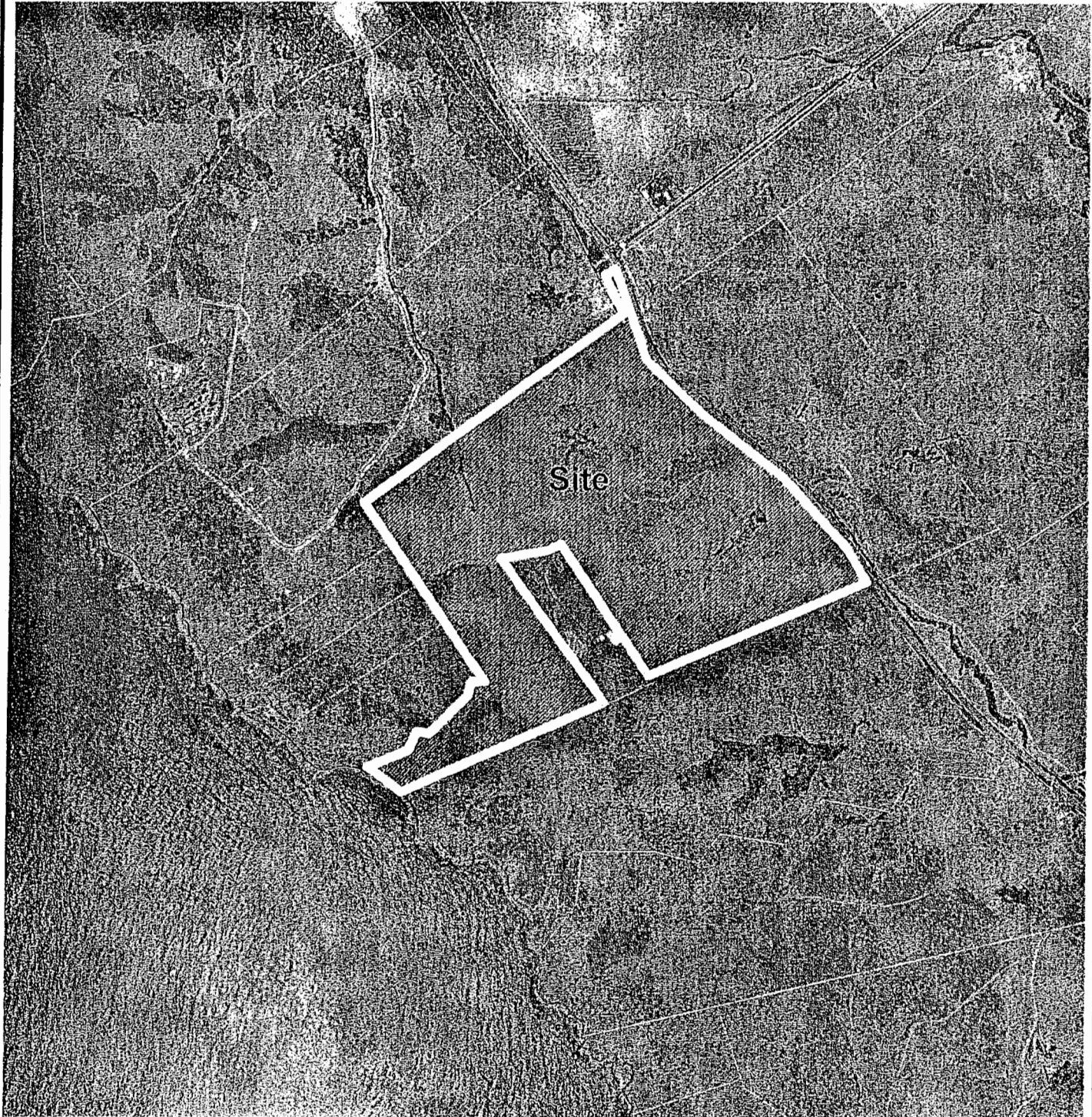
PROJECT

Minor Use Permit
Goodan DRC2008-00025



EXHIBIT

Elevations



PROJECT

Minor Use Permit
Goodan DRC2008-00025



EXHIBIT

Aerial Photograph

ALTHOUSE AND MEADE, INC.

BIOLOGICAL AND ENVIRONMENTAL SERVICES

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

August 4, 2010

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

Woodruff Construction
Attention: Woody Woodruff
P.O. Box 542
Templeton, CA 93465

Re: Goodan Residence, Harmony, San Luis Obispo County
Response to CCC Appeal A-3-SLO-10-031

Dear Mr. Woodruff:

This letter clarifies information regarding potential effects of the proposed Goodan Residence in Harmony, San Luis Obispo County, on the federally threatened California red-legged frog (*Rana draytonii*).

One California red-legged frog (CRLF) was identified on the property on March 9, 2009 approximately 1,200 feet northeast of the proposed home site in a seasonal stream that drains to the Pacific Ocean. The proposed residence maintains a 100-foot setback from this seasonal drainage, as well as from a small ephemeral tributary drainage located due west of the home site. The ephemeral tributary is not suitable habitat for CRLF. The lower reach of the seasonal drainage is severely incised across the coastal terrace (adjacent to the proposed home site) and is poor quality habitat for CRLF. The nearly vertical walls of the seasonal drainage are over 30 feet deep and present a barrier to CRLF movement into or out of the drainage at this location. There is no pool habitat in this area of the seasonal drainage. The seasonal drainage empties to a rocky beach where water quickly infiltrates without forming a lagoon. There is no suitable breeding habitat on the property. The nearest potential breeding habitat is located approximately 0.5 miles north of the proposed home site. The potential breeding habitat is a pond on a neighboring property that has not been surveyed. It is not a known CRLF breeding site. The location of the proposed home site on the coastal bluff is in an area that we do not anticipate red-legged frog overland movements; it is an upland grassland area with steep vertical bluffs on three sides that is not red-legged frog habitat. No aquatic or riparian habitat would be affected by construction of the proposed residence. Therefore, it is our professional opinion that the proposed project would not result in take of the California red-legged frog. Take is defined under the Federal Endangered Species Act as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct". The proposed project would not result in any of these actions. In addition, upon receiving a request by the County of San Luis Obispo, we provided seven CRLF minimization and protection measures to be implemented by the project, including

W166

Susan Craig

From: Mark Massara [mmassara@oneillwetsuits.com]
Sent: Monday, August 09, 2010 12:45 PM
To: Mark Stone; mark.stone@co.santa-cruz.ca.us
Cc: Susan Craig
Subject: O'Neill Seawall

Attachments: 200907886.jpeg



200907886.jpeg
(720 KB)

Hi Mark:

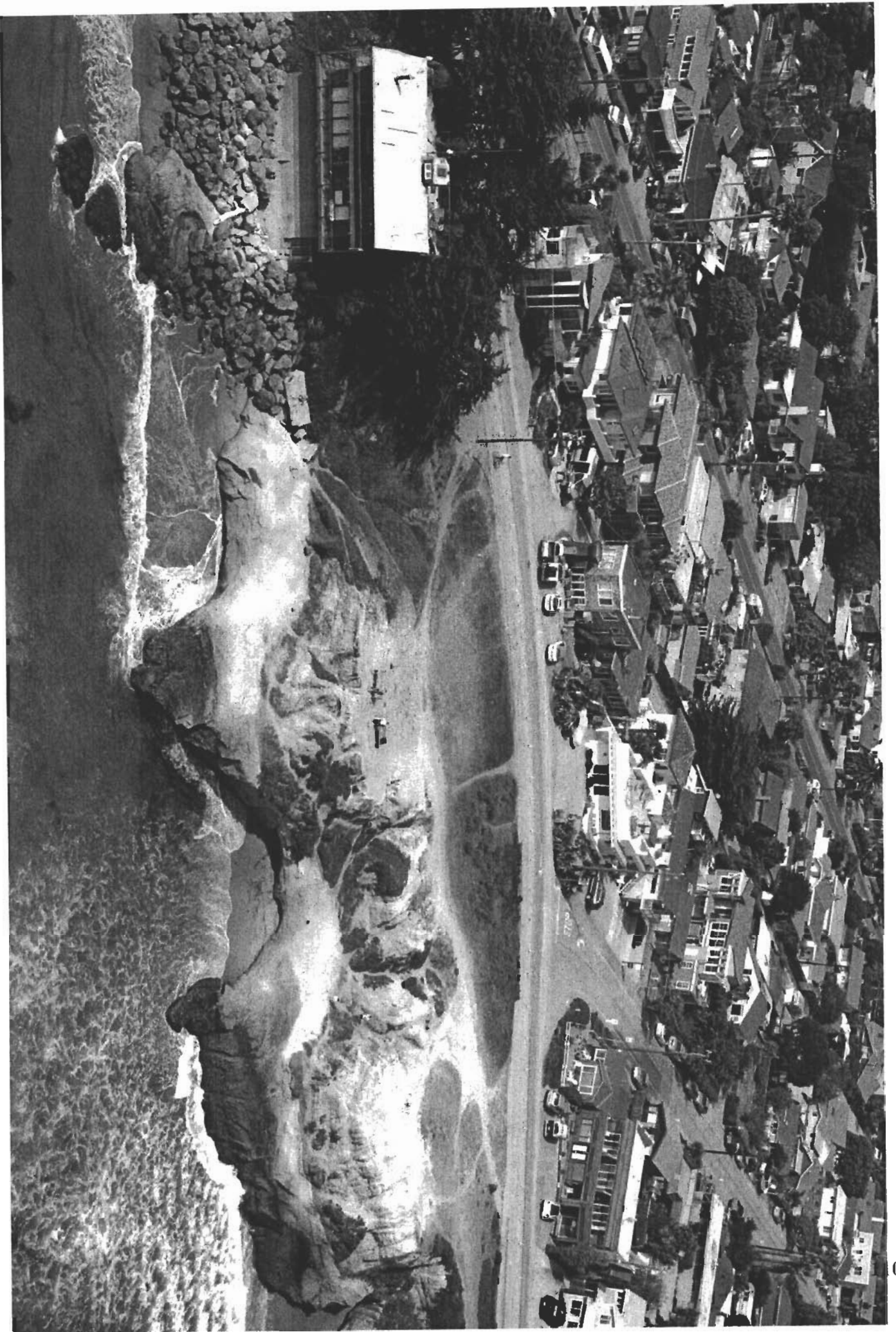
Thanks again for speaking with me this morning. As I said in our phone call, below is a picture of the southeast side of Jack's house and the keyhole/divot area. I have cc'd Susan Craig on this email to insure this email gets into the file.

What you will see in the photo are rip rap rocks, along with the large chunk of concrete culvert (that someone is actually sitting on) that currently fill 'the hole.' Jack's wall, as currently proposed, would wrap around his house and back toward the bluff. Our proposal is to leave the rocks in place to protect the adjacent sandstone bluff and plateau, and the public access way. Staff is recommending removal of the rocks and debris.

Our concern is that removal of the rip rap without any protection will increase wave action and turbulence in the cove area that will remain between Jack's armoring and the sandstone. Our engineer, Mark Mesiti-Miller estimates that without protection the informal public access way and the sandstone bluff will experience dramatic erosion within 5 years. If that happens, it will place in danger the new public parking area, landscaping and bike/hike trail the County is proposing for the bowl shaped area (brown in photo) below East Cliff Drive in the photo.

We would hope the Commission will either allow the rip rap to remain at that location or have the applicant work with the Executive Director to insure Jack's wall ties into the sandstone bluff below the access path to protect the cove/divot/keyhole in the future.

markm



Susan Craig

From: Dan Carl
Sent: Saturday, August 07, 2010 1:34 PM
To: Diana Chapman
Cc: Susan Craig
Subject: FW: Jacks Seawall

RECEIVED

AUG 09 2010

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

From: charles paulden [mailto:yogacharles@yahoo.com]
Sent: Friday, August 06, 2010 7:00 PM
To: Santa Cruz ExCom
Cc: Grant Weseman; Sarah Corbin; Dan Carl; mark.stone@co.santa-cruz.ca.us; Fran Gibson
Subject: Jacks Seawall

<http://documents.coastal.ca.gov/reports/2010/8/W16b-8-2010.pdf>

Too bad that the Commission did not retain the ramp used to build the Pleasure Point Seawall. This could have been retained and incorporated into the seawall in the same manner as O'Neill proposes in this case.

The need to access the beach would have been retained.

Now each time we need to get to the beach, new access needs to be found.

I am sorry that the Commission, the County and Coastal staff did not take this suggestion and incorporate it into the Pleasure Point Wall.

The loss of the groin, increased the risk to Jacks.

The existing groin caught sand up coast and added to the sand and protection for the new stairs.

That groins rip rap was moved to a sandy beach below Jacks house.

Hopefully it is just being stored there and will not be part of the new seawall.

The access to the beach through the property down coast from Jacks, threatens access won through prescriptive rights before O'Neill got the land.

The use of that land as mitigation for this project sounds odd, as it is not develop-able now.

See Gion vs Santa Cruz.

http://beachlaw.info/mcle/mcle01_body.php

The formalization of this decision with a link to deed may or may not be needed.

The storage area, on the property adjacent to his house, is on wetland, if willows are an indicator of wetlands. see pg 45 of the cc staff report.

<http://documents.coastal.ca.gov/reports/2010/8/W16b-8-2010.pdf>

I am glad to see that they are recognizing the loss of lateral access due to sea walls.

The mitigation of a path above high tide is a good start.

All seawalls and repairs need to add this mitigation.

That way we will retain access to the coast and increase access where we would have had it if the coastal retreat was natural.

It is hard to tell if the cove, down coast from the seawall, will have access to the land that is to be deeded to the public (in recognition of the existing public access).

The ability to get up from that beach is important to maintain.

While the construction access is the injury to the insult, it is very hard to question the right of this seawall in relation to other permitted ones.