

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL **SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: County of Santa Barbara
LOCAL DECISION: Approval with Conditions
APPEAL NO.: A-4-STB-11-005
APPLICANT: Agua Azul Partnership
APPELLANT: Commissioners Sara Wan and Esther Sanchez
PROJECT LOCATION: Parcel 80, Hollister Ranch, unincorporated Santa Barbara County (Assessor Parcel No. 083-680-030)

PROJECT DESCRIPTION: Construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, 2 private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).

MOTION & RESOLUTION: Pages 5-6

NOTE:

The Commission will not take public testimony during this phase of the appeal hearing unless at least three commissioners request it. If the Commission finds that the appeal raises a substantial issue, it will schedule the de novo phase of the hearing for a future meeting, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the appellants' assertions that the project is not consistent with the environmentally sensitive habitat area (ESHA), oak woodland habitat, riparian habitat and wetland policies of the certified Local Coastal Program (LCP). Specifically, the appeals assert that the project fails to provide an adequate buffer for new development from sensitive riparian habitat and wetlands, the development will impact native vegetation because the main house and guest house are not clustered, and that the

County has not completed an analysis of feasible alternatives that would avoid or reduce impacts to the creek corridor and native vegetation.

As approved by the County, the main residence and access driveway would have an inadequate buffer from Agua Creek and sensitive riparian habitat and is inconsistent with LCP setback requirements. Specifically, as approved by the County, the project would not comply with the 100 ft. setback requirement from Agua Creek, an environmentally sensitive habitat area. The residence will be located only 45 ft. from the top of bank of the creek. Moreover, the approved residence will utilize an unpermitted, as-built driveway located as close as 2-3 feet from the top of bank of Agua Creek. Although not identified as part of the approved project, the main residence would be accessed via an unpermitted approximately 400 ft. long driveway located immediately adjacent to the riparian and wetland habitat on site. Thus, as approved by the County, this project also effectively includes the after-the-fact approval of the unpermitted driveway. Based on a review of historical aerial photographs by Commission staff, it appears the unpermitted driveway on site was constructed after 1986 without the required coastal development permit. The unpermitted driveway is also located within the 100 foot buffer from an identified wetland on site. Although the as-built driveway fails to comply with the required 100 ft. setback from either the sensitive riparian habitat or wetland on site, in its approval of the new residential development on site, the County incorrectly assumed that the unpermitted driveway on site had legally existed on site prior to the Coastal Act and; therefore, did include any analysis in their staff report regarding impacts to the adjacent riparian and wetland areas that would result from the construction and use of the driveway.

Moreover, Fire Department fuel modification requirements for the new residence will result in impacts to the oak woodland that exists along the creek corridor. Based on the findings of the County's Final Mitigated Negative Declaration, at least 4,658 sq. ft of riparian buffer will be directly disturbed as a result of the proposed development and fuel modification requirements.

Further, as approved, development on the subject site would not be clustered in a manner that would serve to minimize adverse impacts to environmentally sensitive habitat areas (ESHA) or minimize impacts to native plant communities, as required by LCP policies. The approved detached guest house and garage will be located on the top of a relatively distant ridge, more than approximately 500 feet from the approved main residence and garage. Since the guest house will not be located in the same area as the primary residence, development on site would not be clustered in a manner that would serve to minimize the loss of native plant communities. The substantial distance between the main residence and the guest house will result in the creation of two distinctly separate development areas on site, thus resulting in substantially greater adverse impacts to ESHA on site due to increased noise, lighting, additional grading/vegetation removal and fuel modification requirements for each development footprint. A total of approximately 16,135 sq. ft. of Venturan coastal sage scrub habitat, a native plant community, will need to be removed according to the biological report.

Moreover, there are alternatives to the approved project that would serve to avoid significant adverse impacts to ESHA, riparian, and wetland habitat on site. However, in

its staff report, the County failed to analyze any alternatives to the approved project. One feasible alternative is to locate new development in a clustered development envelope that would maintain a minimum 100 ft. buffer from ESHA, riparian habitat, and wetland areas on site in order to avoid adverse impacts to these areas, such as locating both residence and guest house in the proposed location for the guest house or eliminating the guest house and constructing the main residence in the identified guest house location.

Table of Contents

I. APPEAL JURISDICTION AND PROCEDURES	4
A. APPEAL JURISDICTION	4
B. APPEAL PROCEDURES	4
1. <i>Grounds for Appeal</i>	4
2. <i>Substantial Issue Determination</i>	4
3. <i>De Novo Permit Review</i>	5
C. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL	5
II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE.....	5
III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE.....	6
A. PROJECT DESCRIPTION AND BACKGROUND.....	6
B. LOCAL PERMIT HISTORY	8
C. APPELLANTS' CONTENTIONS	8
D. ANALYSIS OF SUBSTANTIAL ISSUE.....	9
1. <i>Environmentally Sensitive Riparian Habitat and Native Plant Communities</i>	10
2. <i>Substantial Issue Factors considered by the Commission</i>	22
E. CONCLUSIONS REGARDING SUBSTANTIAL ISSUE	23

EXHIBITS

- Exhibit 1.** Vicinity Map
 - Exhibit 2.** Post-LCP Certification Map
 - Exhibit 3.** Parcel Map
 - Exhibit 4.** Project Plans (3 pages)
 - Exhibit 5.** Final Local Action Notice
 - Exhibit 6.** Commissioner Appeals
 - Exhibit 7.** Aerial Photographs
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SUBSTANTIVE FILE DOCUMENTS: County of Santa Barbara Local Coastal Program; Proposed Final Mitigated Negative Declaration, 10NGD-00000-00018, (County of Santa Barbara, January 10, 2011); *Sensitive Species and Community Survey*, prepared by

Mary Carroll, dated January 2009; and *Addendum to Sensitive Species and Communities Report*, dated June 4, 2009, prepared by Mary Carroll.

I. APPEAL JURISDICTION AND PROCEDURES

A. APPEAL JURISDICTION

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

In this case, the project site is located between the first public road and the sea and, therefore, within the geographic appeals area of the County's jurisdiction as shown on the Post Local Coastal Program (LCP) Certification Permit and Appeal Jurisdiction map (Santa Barbara County Coastal Zone Map Sheet 120, Exhibit 2) certified for the County of Santa Barbara. This project is also located within 100 ft. of Agua Creek. Thus, the project is appealable to the Commission.

B. APPEAL PROCEDURES

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

1. Grounds for Appeal

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

2. Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed. When Commission staff recommends that a substantial

issue exists with respect to the grounds of the appeal, a substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. Pursuant to Section 13117 of the Commission's regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised by the appeal.

3. De Novo Permit Review

If a substantial issue is found to exist, the Commission will evaluate the project under a de novo permit review. The de novo permit may be considered by the Commission at the same time as the substantial issue hearing or at a later time. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program and the public access and public recreation policies of the Coastal Act. If a de novo hearing is held, testimony may be taken from all interested persons.

C. LOCAL GOVERNMENT ACTION AND FILING OF APPEAL

On January 10, 2011, the Zoning Administrator of the County of Santa Barbara approved Coastal Development Permit No. 08CDH-00000-00018 to construct a 2,739 sq. ft. single-family residence with attached garage, patios and decks, and a detached approximately 800 sq. ft. guest house with patios and decks, attached garage, attached workshop, a shed, 2 water tanks, access road improvements, and private septic systems. The Notice of Final Action for the project was received by Commission staff on January 26, 2011. A ten working-day appeal period was set and notice provided beginning January 27, 2011, and extending to February 9, 2011.

An appeal of the County's action was filed by Commissioners Sara Wan and Esther Sanchez on February 9, 2011, during the appeal period. Commission staff notified the County, the applicant, and all interested parties that were listed on the appeals and requested that the County provide its administrative record for the permit.

II. STAFF RECOMMENDATION FOR SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-STB-11-005 raises NO substantial issue with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-STB-11-005 presents a substantial issue with respect to the grounds on which the appeals have been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

On January 10, 2011, the Zoning Administrator of the County of Santa Barbara undertook final discretionary action to approve a coastal development permit for the construction of a new single-family home, separate guest house, and related residential improvements.

The project includes the construction of a new 2,739 sq. ft., two-story 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, 2 private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill). Although not identified as existing development in the County's approval, the approved project includes after-the-fact authorization for existing unpermitted development on the site, including: two existing water tanks (5,000 gallon tank and 7,500 gallon tank), water well, shed, and access road. The main residence would be accessed via an unpermitted approximately 400 ft. long driveway located immediately adjacent to the riparian and wetland habitat on site. (Exhibit 7) Thus, as approved by the County, this project also effectively includes the after-the-fact approval of the unpermitted driveway, water tanks, water well, and shed. (Exhibits 4 & 7)

As approved, the main residence would be located in a canyon near the western fork of Agua Creek, approximately 50 feet from the top of bank of the creek. An existing unpermitted ranch road (constructed after 1986 without the required coastal development permit) runs parallel to the creek for at least approximately 300 ft., at the

top of the creek bank and directly adjacent to an existing wetland on site, and will serve as the accessway for the main residence. (Exhibit 4). The guest house is proposed to be located approximately 500 feet away from the main residence on a ridge and will utilize the adjacent Agua Road for access, an existing Hollister Ranch common road.

The subject 117.93 acre parcel (Assessor Parcel No. 083-680-030, Exhibit 3) is located in Hollister Ranch and zoned *Agriculture*, minimum 320 acres (AG-II-320). The County's staff report indicates that the project site is currently used for cattle grazing as part of the larger Hollister Ranch grazing cooperative. The parcel is located in the central portion of Hollister Ranch, approximately six miles west of Gaviota State Park and Highway 101 (Exhibits 1 & 2). The proposed residence and guest house would be located in the northern portion of the 117.93 acre parcel just below Agua Road (a Hollister Ranch common road) as it turns west. The site contains an existing, unpermitted, private driveway (constructed between 1986 and 2011 without the required coastal development permit) to access the building site for the main residence, an unpermitted small shed near the unpermitted private access road, two water tanks, and a water well (Exhibit 4). A majority of the parcel contains steep slopes. Slopes at the building sites are approximately 20-30% and some areas of the parcel contain slopes up to 50%.

The two separate approved development areas for the main residence and guest house are located between the western and eastern forks of Agua Creek, part of the Canada del Agua watershed. A spring is located along the western tributary of the western fork of Agua Creek, immediately north of Agua Road. The two forks join just south of the parcel where the creek flows in a southerly direction and joins Panochas Creek before ultimately discharging into the Pacific Ocean.

The parcel is located on the southern slopes of the Santa Ynez Mountains and contains a north-south trending ridge that separates the west and east fork of Agua Creek. The proposed building site for the main residence slopes gently to the southwest at approximately 650 feet above mean sea level (msl), steeper slopes rise up immediately to the east behind the main residence building site. The guest house would be located to the east upslope at the top of the ridge separating the two forks of Agua Creek at about 850 feet above msl. The highest elevation on the site is approximately 1,040 feet msl.

Geologically, the site is underlain by Cozy Dell shale, which is exposed in a long narrow strip on Hollister Ranch parallel to the coastline; portions of the site may support the Sacate formation. Soils on the site have been mapped as the Los Osos-Maymen complex. The soils consist of clay loams, fine sandy loams, and rock outcrops.

Plant communities on the subject parcel consist of coast live oak woodland, Venturan coastal sage scrub, California annual grassland, riparian forest, and freshwater marsh. At the site, coast live oak woodland occurs on the west-facing slope immediately below the proposed guest house and along Agua Creek, transitioning to coast live oak riparian forest. The coast live oak riparian forest, lining both banks of Agua Creek, contains western sycamore and arroyo willow. The understory consists of shrubs such as toyon, poison-oak, and California coffeeberry. California blackberry forms dense clumps in

places along with mugwort. Agua Creek hosts some exotic species, including curly dock, wild celery, and marsh-parsley. A clump of Pacific wax-myrtle shrubs also occurs near the creek. A small wetland/freshwater marsh is located to the south of the proposed main residence development area. The existing marsh vegetation is characterized by common rush, iris-leaved rush, tall flat-sedge, water cress, and willow-herb. The biological survey prepared for the site indicates that Venturan sage scrub is present in the building envelope both of the proposed structures and indicates that at least two sensitive wetland communities are located adjacent to building area for the main residence. The main residence would be located within an area dominated by annual grassland with scattered patches of coastal sage scrub and would be located approximately 45 feet from the riparian canopy of Agua Creek and approximately 120 feet from the freshwater marsh. The access road for the main residence will be located as close as 2 to 3 feet from the top of bank of the creek and within 100 ft. of the existing wetland site (Exhibit 4) The guest house site contains coastal sage scrub, scattered oaks, and non-native grassland.

B. LOCAL PERMIT HISTORY

On January 10, 2011, the Zoning Administrator of the County of Santa Barbara approved a coastal development permit (08CDH-00000-00018) for the project subject to 35 conditions of approval. The project as approved consists of the construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).

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

Commission staff received the Notice of Final Action for the Zoning Administrator's approval of the Coastal Development Permit (08CDH-00000-00018) on January 26, 2011. A 10 working day appeal period was set, extending to February 9, 2011. Appeals were received from Commissioners Sara Wan and Esther Sanchez on February 9, 2011.

C. APPELLANTS' CONTENTIONS

The appeals filed by Commissioners Wan and Sanchez are attached as Exhibit 6. The appeals contend that the approved project is not consistent with the provisions of the certified LCP the protection of environmentally sensitive habitat areas, riparian habitat, oak woodland habitat, and wetlands. The appeals assert that the project fails to provide an adequate buffer for new development from sensitive riparian habitat and wetlands, the development will impact native vegetation because the main house and guest house are not clustered, and that the County has not completed an analysis of feasible

alternatives that would avoid or reduce impacts to the creek corridor and native vegetation.

The appeals assert that the project is inconsistent with the following LCP provisions: Policy Sections 1-1, 1-2, 2-11, 3-14, 9-9, 9-14, 9-16(a), 9-35, 9-36, 9-37, 9-38; Coastal Act Sections 30107.5, 30121, 30240, 30231 as incorporated into the LCP pursuant to Policy 1-1; and Article II of the Zoning Code Sections 35-53, 35-58, 35-97.3, 35-97.7, 35-97.18, 35-97.19, and 35-97.9. The cited LCP provisions limit development in and around environmentally sensitive habitat areas, riparian corridors, wetlands, and oak woodland habitats. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

D. ANALYSIS OF SUBSTANTIAL ISSUE

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for an appeal is whether a substantial issue exists with respect to the grounds raised by the appellants relative to the project's conformity to the policies contained in the certified County of Santa Barbara Local Coastal Program (LCP) or the public access policies of the Coastal Act. The appellants contend that the project, as approved by the County, is inconsistent with the County of Santa Barbara's LCP policies regarding environmentally sensitive habitat areas, stream habitats, wetlands, and oak woodland habitats.

Based on the findings presented below, the Commission finds that a substantial issue exists with respect to the grounds on which the appeal has been filed because the appeals raise significant issues about whether the approved project is consistent with the policies of the LCP for the specific reasons discussed below.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., Title 14, Section 13115(b)).

In evaluating the issue of whether the appeals raise a substantial issue, the Commission considers the following factors:

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County raises a substantial issue with regard to the appellants' contentions.

1. Environmentally Sensitive Riparian Habitat and Native Plant Communities

The appellants contend that the project, as approved by the County, does not conform to the policies of the LCP with regard to oak woodlands, environmentally sensitive habitat areas (ESHA), wetlands, and native plant communities. The appeals assert that the project does not comply with the LCP policies (outlined below) because the County failed to require an adequate buffer from sensitive riparian habitat, the development will impact native plants because the main house and guest house are not clustered, and the County has not completed an analysis of alternatives that would avoid or reduce impacts to the creek corridor environmentally sensitive habitat area, wetlands, and other native vegetation.

The appellants assert that the project, as approved by the County, raises issues with respect to consistency with the following provisions of the County of Santa Barbara LCP:

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

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

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

Section 30240 of the Coastal Act states:

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

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

Section 30231 of the Coastal Act states:

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

waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

Section 30121 of the Coastal Act states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Policy 1-2 Resource Protection:

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

Policy 2-11 (Development Policies):

All development, including agriculture, adjacent to areas designated on the land use plan or resources maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

Policy 3-14 (Hillside and Watershed Protection):

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

Policy 9-9 (Wetlands):

A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences or structures necessary to support the uses in Policy 9-10.

The upland limit of a wetland shall be defined as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or 2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

Policy 9-14 (Wetlands):

New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

Policy 9-16(a):

No grazing or other agricultural uses shall be permitted in coastal wetlands.

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

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

Policy 9-36 Native Plant Communities:

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

Policy 9-37 (Streams):

The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams:

- a. soil type and stability of stream corridors;***
- b. how surface water filters into the ground;***
- c. slope of the land on either side of the stream; and***
- d. location of the 100-year flood plain boundary.***

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.

Policy 9-38 (Streams):

No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other

development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.

Definitions within the LCP Habitat Type Section for Streams:

Stream: watercourses, including major and minor streams, drainageways and small lakes, ponds and marshy areas through which streams pass. (Coastal wetlands are not included.)

Riparian Vegetation: vegetation normally found along the banks and beds of streams, creeks, and rivers.

Stream Corridor: a stream and its minimum prescribed buffer strip.

Buffer: a designated width of land adjacent to the stream which is necessary to protect biological productivity, water quality, and hydrological characteristics of the stream. A buffer strip is measured horizontally from the banks or high water mark of the stream landward.

Section 35-58 Definitions:

Major Stream: A stream with a drainage area in excess of 500 acres.

Wetland: Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

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

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

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

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

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

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

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

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

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

- 1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.*
- 2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Sec. 35-97.19 Development Standards for Stream Habitats:

1. The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the California Department of Fish and Game and California Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:

- a. Soil type and stability of stream corridors.*
- b. How surface water filters into the ground.*
- c. Slope of land on either side of the stream.*
- d. Location of the 100-year flood plain boundary.*

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.

2. No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects; flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.

3. Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.

4. All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.

5. All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

6. Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.

Sec. 35-97.9 (4) and (9) Development Standards for Wetland Habitats:

4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Paragraph 5 of this Section, below. The upland limit of a wetland shall be defined as:

a. The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or

b. The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

c. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

9. New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

The County found the project consistent with the biological resources policies of the LCP and provided the following analysis with regard to the project's consistency with LCP policies 2-11, 9-35, 9-36, and 9-37 in its December 20, 2010 staff report:

The subject property contains the upper reaches of two forks of Agua Creek. The forks and their associated onsite riparian vegetation are not mapped as environmentally sensitive habitat on the County habitat on the County biological resource maps. However, vegetation commonly associated with sensitive riparian areas including willows, sycamores, and oak trees is present within the banks of the creek and within some adjacent upland areas. The guest house will be located on top

of a ridge between two tributaries where its construction is not anticipated to impact any sensitive resources.

A Sensitive Plan Species and Community Survey dated January, 2009 was prepared by biologist Mary Carroll and accepted by the County as adequate. The document acknowledges that the residence would be located wholly within the 100-foot buffer of the western fork prescribed by Policy 9-37 and approximately 50 feet east of its top of bank. This area of the creek contains no understory and has been substantially degraded due to consistent and heavy cattle grazing associated with the Hollister Ranch grazing cooperative. Additionally, a ranch road exists along the top of bank of the drainage in this area separating the creek tributary from the building site. The existing roadway would act as a buffer between the proposed development activities and the riparian vegetation associated with the creek. Additionally, Condition of Approval 9 would require the entire creek area adjacent to the driveway to be restored with native understory vegetation prior to occupancy of the residence. Because of these factors, impacts from development of the residence approximately 50 feet from the top of bank can be minimized and reduction of the prescribed buffer is acceptable.

In order to minimize impacts to riparian vegetation across the driveway from the residential building site, Negative Declaration 10NGD-00000-00018 includes several mitigation measures intended to protect riparian habitat during construction activities. Those mitigation measures have been incorporated into the project as conditions of approval and include sedimentation/erosion control measures, limitations on the use of heavy equipment, tree protection measures and the above-mentioned restoration plan.

No tree removal would be necessary to implement the project.

a. Failure to provide adequate buffer for new development from Agua Creek and sensitive riparian habitat, inconsistent with LCP setback requirements.

The appellants assert that the development is inconsistent with the above cited policies because the County failed to require an adequate 100 ft. buffer from sensitive riparian habitat and a wetland. According to a biological report prepared by Mary Carroll, dated January 2009, five plant communities can be found on the site, including Venturan Coastal sage scrub, coast live oak woodland, annual grassland, and two wetland communities along Agua Creek, including coast live oak riparian forest (with patches of southern mixed riparian forest) and coastal and valley freshwater marsh. The approved 2,739 sq. ft. main residence, 770 sq. ft. attached garage, 1,149 sq. ft. of decks and patios, and driveway will be located within the normally required 100 ft. buffer for Agua Creek. The single-family residence would be located approximately 45 feet or less from the edge of the riparian canopy and oak woodland habitat and approximately 50 feet from the top of edge of stream bank. The driveway is located, at its closest point to the creek, approximately 2 to 3 feet from the top of bank of Agua Creek. The lack of an adequate buffer between the proposed residential development/access road and the riparian canopy would negatively impact the riparian ESHA on the site, inconsistent with the provisions in the certified Local Coastal Plan (LCP).

Agua Creek and the associated riparian corridor constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP by Policy 1-1, requires that "environmentally sensitive habitat areas shall be

protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.” Further, LCP Policies 1-2, 9-18, 9-35, 9-36, and Zoning Ordinance Sections 35-97.7, 35.97.10 and 35-97.18 necessitate measures including siting the project with setbacks and buffers to prevent impacts which would degrade these sensitive resources. Policy 9-35 requires that oak trees, because they are particularly sensitive to environmental conditions, shall be protected.

In addition, both Policy 9-37 and Section 35-97.19 of the certified LCP specifically require that new development in rural areas, such as the subject site, shall be sited in a manner that provides for a minimum buffer of 100 ft. buffer from streams and their associated riparian habitat areas. Policy 9-37 only allows for adjustments to the normally required 100 ft. buffer after (1) consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams and (2) based on an investigation of the following four factors:

- 1. soil type and stability of stream corridors;**
- 2. how surface water filters into the ground;**
- 3. slope of the land on either side of the stream; and**
- 4. location of the 100-year flood plain boundary.**

In this case, the approved main residence would be located only 50 ft. from the top of bank for the adjacent stream and only 45 ft. from the canopy of the riparian vegetation on site. The unpermitted access driveway is located approximately 2 to 3 feet from the top of bank of the creek, at the closest point. Therefore, the approved residence and driveway would not be setback at least 100 ft. from the stream and its associated riparian habitat as required by Policy 9-37 and Section 35-97.19.

The LCP provides that a reduced buffer may only be allowed after (1) consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams and (2) based on a site specific analysis of the above four factors relative to protection of riparian habitat. However, although the County provided evidence of email communication with the Department of Fish and Game regarding the project, County staff informed Commission staff that consultation with the California Regional Water Quality Control Board did not take place in this case. Regardless, in its approval of the permit, the County did not provide any analysis of the above four factors specifically required pursuant to either Policy 9-37 or Section 35-97.19 in order to justify a reduction of the normally required 100 ft. buffer to only 45 feet. Thus, the County’s staff report did not include any of the necessary findings pursuant to Policy 9-37 and Section 35-97.19 in order to support the use of a reduced buffer for new development on site. Moreover, instead of applying the above referenced criteria of LCP Policy 9-37 to justify a reduced buffer, the County incorrectly found that, in this case, a reduced buffer could be allowed because the area of the creek has been previously disturbed and contains little understory vegetation (apparently due to cattle grazing operations) and that the existing ranch road would act

as a “buffer” for the new development from the riparian habitat. However, there is no basis for the County’s rationale to allow for the reduced buffer for development on site pursuant to Policy 9-37, Section 35-97.19, or any other policy of the certified. Thus, the County’s approval of the project raises substantial issue with the resource protection policies of the LCP, including Policy 9-37 and Section 35-97.19.

Further inconsistent with Policy 9-37, the County found that the reduction in the required development setback should be allowed because restoration of the riparian habitat area adjacent to the road would be required as a condition of approval. However, Section 30240 of the Coastal Act, as incorporated in the LCP, requires that, when feasible, new development be designed and located in a manner that avoids adverse impacts to ESHA. Thus, the County must first analyze all feasible alternatives that would avoid adverse impacts to ESHA rather than simply requiring mitigation for impacts that could otherwise be avoided.

In addition, Policy 9-38 states that no structures shall be located within the stream corridor except for public trails, dams for necessary water supply projects, certain flood control projects, and other development where the primary function is for the improvement of fish and wildlife habitat. A stream corridor is defined by the LCP as a stream and its minimum prescribed buffer. In this case, both the unpermitted driveway and the new residence would be located within the normally required 100 ft. buffer from the stream and riparian habitat. Thus, as approved, the project would also be inconsistent with the provisions of Policy 9-38.

Further, based on a site visit by Commission staff, the creek, and its associated riparian habitat area, does contain a significantly developed understory despite some disturbance from cattle grazing. The biological report for the site explains that the site includes coast live oak riparian forest, dominated by coast live oak along both banks of Agua Creek, including patches of mixed riparian forest including western sycamore and arroyo willow. The biological report states that other native shrubs are growing beneath the canopy of sycamores, oaks, and willows, including toyon, poison-oak, California coffeeberry, California blackberry, and mugwort. Although cattle grazing may have impacted the riparian vegetation within the creek corridor, the policy suggests that this should weigh more heavily in favor of an increased buffer. A buffer of at least 100 ft. is necessary in this case to protect the riparian ESHA, prevent removal of ESHA for fire protection purposes, and allow for the previously disturbed riparian habitat area to be adequately restored.

Additionally, a potentially unpermitted existing driveway for the main residence is located parallel (as close as 2-3 feet) and adjacent to the top of bank of Agua Creek for approximately 300 linear feet. The County’s staff report references the road as an “existing ranch road”, inferring that the road was legally constructed. Moreover, the County’s analysis assumes that the road is existing and not part of the proposed development. However, based on a preliminary review of historic aerial photographs by Commission staff, it appears that the road was actually constructed after the effective date of the Coastal Act of 1976 without the required Coastal Development Permit. Thus, the unpermitted road and its impacts to the riparian corridor should have been analyzed by the County as part of the proposed development. For example, although

not analyzed in the County's staff report, the County has previously required a 10 foot clearance on both sides of access driveways for fire clearance. Here, clearance for the road would have significant impacts to the riparian vegetation and oak woodland. In this case, if the applicant had requested after-the-fact approval for the road, because the road is immediately adjacent to the riparian habitat on site, it could not meet the requirement that new development be set back at least 100 ft. from these habitat areas.

The appellants also assert that the proposed development is inconsistent with the LCP policies protecting wetlands. The biological report prepared for the site identifies a freshwater marsh located along the bank of Agua Creek, and identifies vegetation as being characterized by common rush, iris-leaved rush, tall flat-sedge, water cress, and willow-herb. The existence of this wetland was also confirmed by the Commission's staff biologist during a site visit. The apparently unpermitted driveway/road, described above, is located directly adjacent to the small wetland and would encroach into the 100 ft. buffer required by LCP Policy 9-9 and Sec. 35-97.9 (4) and (9) of the County's zoning code. The wetland was not addressed in the staff report; however, County staff have verbally indicated to Commission staff that the wetland is located approximately 120 ft. from the main residence. Thus, although the new residence may potentially be located more than 100 ft. from the wetland, the unpermitted driveway/road would be immediately adjacent to both wetland and Agua Creek and, thus, would not meet required setbacks from wetland or stream, as required by the County's LCP.

b. Development is not clustered to preserve ESHA and minimize impacts to native plant communities as required by LCP policies.

The appellants assert that the development is inconsistent with the above cited policies because the approved development is not sited in a manner that will minimize or avoid impacts to both ESHA and native plant communities to the extent feasible. Policy 9-36 requires that new development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. However, as approved, rather than clustering development within a single area on site in order to minimize vegetation clearance, landform alteration, and fuel modification requirements, the development will consist of two distinct development areas located more than 500 ft. apart from each other on the site. The guest house would be located approximately 500 ft. east of the main house, on a ridge adjacent to Agua Road, a Hollister Ranch common road. The 798 sq. ft. guest house will include a 340 sq. ft. attached garage, a 240 sq. ft. workshop, and 1,112 sq. ft. of decks and patios. The distance between the main residence and the guest house result in separate impacts from residential use of the site (e.g., noise, lighting, or other impacts associated with presence and use by residents) as well as separate grading/vegetation removal and fuel modification requirements for each development footprint. These separate impacts are significant in this case because of the proximity of riparian ESHA and native plant communities. Thus, as approved, the project does not comply with the requirements of Policy 9-36 which requires new development be sited and designed in a manner to minimize adverse impacts to native vegetation.

The Santa Barbara County Fire Department requires the following fuel clearance zones: 1) 0-30 feet: full clearance of flammable vegetation and 2) 30-100 feet: selective thinning of vegetation and the limbing of mature trees to a height of 6 feet to limit flammable materials and fuel ladders. Thus, a total of 100 feet of vegetation clearing is typically required by the Fire Department to reduce flammable vegetation adjacent to structures. According to the biological report, construction of the residence and the adjacent driveway would permanently remove approximately 4,658 sq. ft. of vegetation within the 100 foot riparian buffer. Additionally, the easternmost wall of the main house will be located within approximately 15 ft. of Venturan coastal sage scrub and approximately 8,235 sq. ft. of Venturan coastal sage scrub would be removed for fire clearance for the main residence. The easternmost wall of the guest house will be located within 20 ft. of Venturan coastal sage scrub. Fire clearance of a 100 ft. area surrounding the guest house would require the removal and thinning of an additional approximately 7,900 sq. ft. of Venturan coastal sage scrub. Thus, according to the biological report, a total of approximately 16,135 sq. ft. of Venturan coastal sage scrub habitat will need to be removed. The biological report did not quantify the amount of oak woodland that will need to be thinned or removed for construction of the main residence. Given that the main residence is located 45 ft. from the top of bank, a significant amount of riparian vegetation may be impacted as a result of the project.

Section 35-97.18 of the LCP identifies coastal sage scrub as a native plant community. Policy 9-36 (Native Plant Communities) requires that, when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. Policy 9-36 further requires that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees, including oak trees. . Additionally, Policy 3-14 requires that all development shall be designed to minimize grading, landform alteration, and to preserve native vegetation to the maximum extent feasible.

As proposed, the main residence and guest house will not be clustered and will not utilize shared/overlapping fuel modification zones. If the main residence and guest house were to be clustered, fuel modification could be minimized, thus minimizing disturbance to native coastal sage scrub habitat required by LCP Policy 9-36 and 3-14. Further, two separate development areas, one for the main house and one for the guest house, will not minimize grading and landform alteration, but may actually increase potential for erosion on the steep slopes where fuel modification will occur in between the guest house and main residence. Thus, the proposed development of the main residence and guest house, approximately 500 feet apart, have the potential to result in significant impacts to native vegetation and natural landforms and raise substantial issue with the above referenced policies of the certified LCP.

c. Siting and design alternatives to minimize impacts to ESHA, sensitive riparian and wetland habitat areas, and native plant communities were not evaluated as required by LCP policies.

The LCP policies applied together require siting and design measures to protect native plant communities, oak woodland habitat, and individual oak trees. In its approval of the permit, the County did not analyze alternatives to reduce the impacts of residential development through alternative siting locations or designs.

Agua Creek and the associated riparian corridor constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP by Policy 1-1, requires that “environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.” Further, LCP Policies 1-2, 9-18, 9-35, 9-36, and Zoning Ordinance Sections 35-97.7, 35.97.10 and 35-97.18 necessitate measures including siting the project with setbacks and buffers to prevent impacts which would degrade these sensitive resources. Policy 9-35 requires that oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.

Native Plant Communities, including coastal sage scrub, chaparral, California native oak woodland, individual oak trees, endangered and rare plant species & other plants of special interest, are addressed under Policy 9-36. Policy 9-36 dictates that when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.

Based on a site visit by Commission staff, there appear to be alternative locations on site to construct a residence (and potentially a clustered guest house) which would provide for the 100 foot buffer from the sensitive riparian area. One alternative would be to build the main residence in the proposed location of the guest house. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative may require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered with the main residence at the top of the ridge. Given that a guest house is a non-essential accessory structure, the elimination of the guest house is a feasible alternative. Although scattered oak trees are located in that area, design and siting alternatives could avoid any encroachment into oak tree canopies and any potential impacts to oak tree habitat.

In addition, it appears that the development could be feasibly located at the base of the ridge near the area proposed for the main residence, provided the residence is redesigned to allow for the required 100 ft. setback from the adjacent riparian and wetland habitat. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative may also require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered within the same area as the relocated residence, provided that a 100 ft. setback from riparian and wetland habitat areas could be maintained. Given that a guest

house is a non-essential accessory structure, the elimination of the guest house is a feasible alternative.

Further, the subject site is 117.93 acres in size, there may be other feasible alternative building locations that would avoid or further minimize adverse impacts to environmentally sensitive habitat areas and allow for clustering of development to protect agriculture on site. However, the County's staff report did not provide an analysis of any alternative locations on the site or designs that would minimize encroachment into the buffer or that would minimize native vegetation removal. Further, the Mitigated Negative Declaration for the project (10NGD-00000-00018) states: "[a]s no potentially significant, adverse unmitigable impacts would result from the proposed development, project alternatives have not been evaluated." (Section 8.0 Project Alternatives, p.34)

As previously discussed, the applicant is proposing a guest house in an area that would avoid impacts to the riparian ESHA. This demonstrates that an alternative is available to allow a residential use of the site without impacting ESHA to provide an economically viable use. However, the County did not address this alternative in its analysis in its findings for approval of this project as required by the LCP.

2. Substantial Issue Factors considered by the Commission

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., Title 14, Section 13115(b)).

In evaluating the issue of whether the appeals raise a substantial issue, the Commission considers the following factors:

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

In this case, the County has not provided a high degree of factual and legal support for the decision that the proposed development is consistent with the certified LCP policies related to biological resource protection, as explained in detail above. The County has not provided an adequate policy basis for reducing the required 100 foot riparian buffer to 45 feet for the residence and as little as 2 to 3 feet for the driveway. In addition, the County's staff report does not include adequate findings to support approval of the unpermitted driveway within the 100 ft. wetland buffer and riparian corridor. Further, the

County has not provided any analysis of alternatives that could provide for the appropriate buffer from the sensitive riparian habitat or the wetland, nor has it provided alternatives to reduce impacts to native vegetation.

The significance of coastal resources and the extent and scope of development, as well as the coastal resources affected by the County's approval, are important because the development will impact environmentally sensitive habitat area, coastal sage scrub, and oak woodland and riparian habitat and will encroach into a wetland buffer. These coastal resources, as described in the applicant's biological report prepared by Mary Carroll, are important to preserve, particularly in the coastal rural area of Hollister Ranch. The site is located in an important biological transition zone and the Hollister Ranch area contains vast tracts of undeveloped lands, which allow for wildlife corridors and biotic exchange across communities and watersheds. Further, the precedential value of the County's decision for future interpretation of its LCP is important because many other undeveloped lots may be developed in the Hollister Ranch community that will undoubtedly have similar resource issues. Under the certified LCP, oak woodlands and riparian habitats are specifically identified as unique, rare, and fragile habitats and specific policies are included in the LCP to provide protection of these resources. The certified LCP includes policies that require development adjacent to ESHA to be designed and located in a manner that will avoid adverse impacts to habitat resources, including measures such as setbacks, buffers, grading and water quality controls. If residential development is not approved consistent with LCP policies, cumulative impacts of residential development in Hollister Ranch could result the degradation of coastal resources over time. Lastly, the appeal not only raises local issues, but also has implications for resources of regional or statewide significance, such as the development of rural agricultural land for residential uses.

Therefore, for all of these reasons, the Commission finds that a substantial issue is raised with respect to the appellants' contention that the project does not meet provisions of the certified Local Coastal Program regarding oak woodland, native plant communities, oak woodland habitat, and ESHA protection.

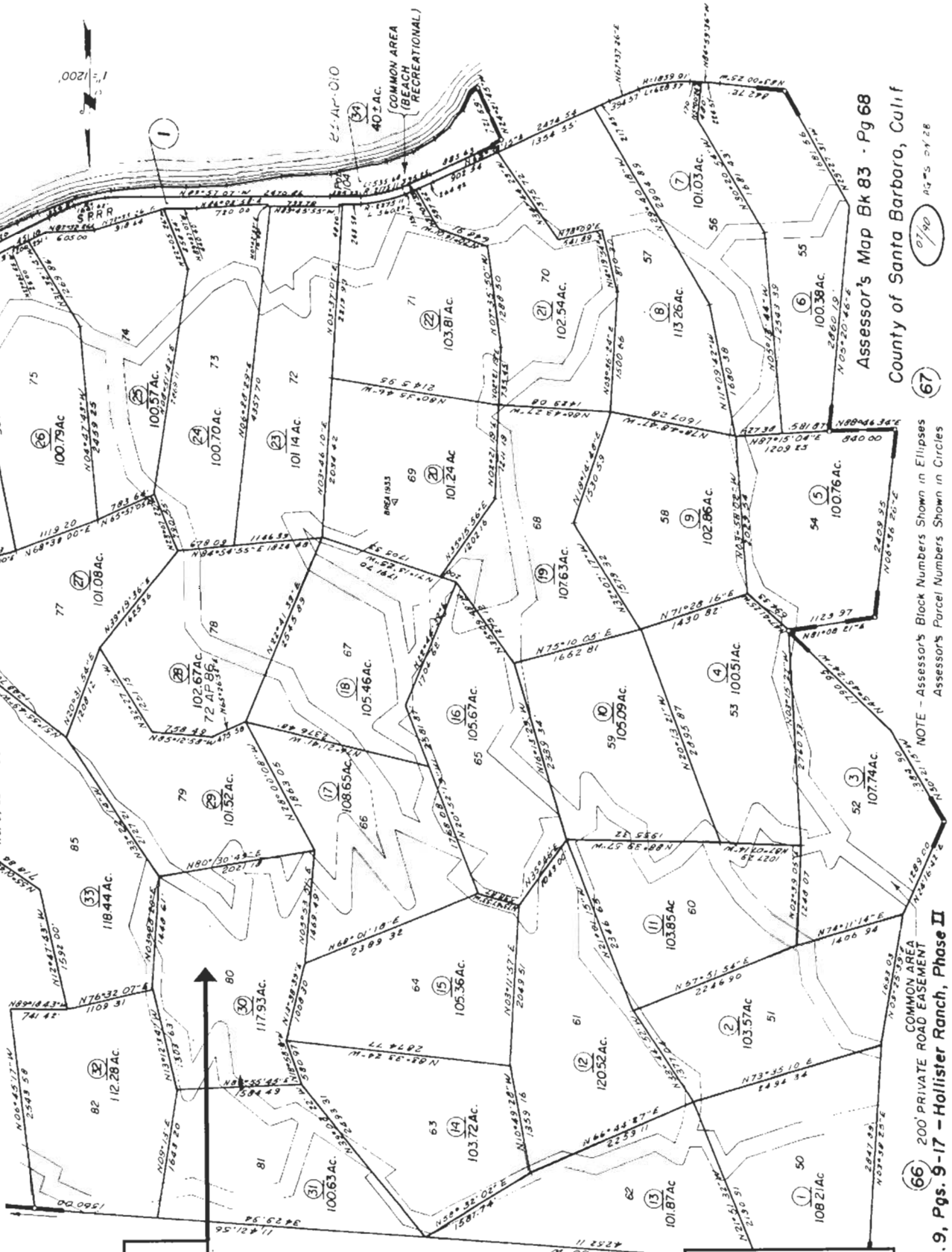
E. CONCLUSIONS REGARDING SUBSTANTIAL ISSUE

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



Exhibit 1
A-4-STB-11-005
Vicinity Map

POR. RANCHO NUESTRA SENORA DEL REFUGIO



Assessor's Map Bk 83 - Pg 68
County of Santa Barbara, Calif

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Exhibit 3
A-4-STB-11-005
Parcel Map

Exhibit 4
A-4-STB-11-005
Project Plans (3 pages)



RECEIVED

JAN 26 2011

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

4-STB-11-006
County of Santa Barbara

Planning and Development

Glenn S. Russell, Ph.D., Director

Heather Black, Director of Development Services

Jeffrey S. Hunt, Director of Long Range Planning

NOTICE OF FINAL ACTION

January 24, 2011

On January 10, 2011, Santa Barbara County took final action on the appealable development described below:

- X Appealable Coastal Development Permit 08CDH-00000-00018
☐ Appealable Coastal Development Permit [case number] following discretionary case [#]
☐ Discretionary action on a [case type, case#]

Project Applicant:

Bill Swanson
Hollister Ranch Parcel 69
Goleta, CA 93117

Property Owner:

Agua Azul Partnership
c/o Art McLean
1551 Bishop Street
San Luis Obispo, Ca 93401

Project Description: Hearing on the request of Bill Swanson, agent for the owner Agua Azul Partnership, to consider Case No. 08CDH-00000-00018, [application filed on May 14, 2008] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-320 to allow the development of a new residence and guest house; and to adopt the Mitigated Negative Declaration 10NGD-00000-00018 pursuant to the State Guidelines for Implementation of the California Environmental Quality Act.

Location: The application involves AP No. 083-680-030, located at Hollister Ranch Parcel 80, in the Gaviota area, Third Supervisorial District.

The receipt of this letter and the attached materials start the 10 working day appeal period during which the County's decision may be appealed to the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office. Please contact Errin Briggs, the case planner at 568-2047 if you have any questions regarding the County's action or this notice.

Errin Briggs, Project Planner

1/24/11

Date

Attachments:

Coastal Development Permit 08CDH-00000-00018
Final Action Letter dated January 13, 2011

cc: Bill Swanson, Hollister Ranch Parcel 69, Gaviota, CA 93117
Owner: Agua Azul Partnership, c/o Art McLean, 1551 Bishop Street, San Luis Obispo, Ca 93401

Exhibit 5
Final Local Action Notice
A-4-STB-11-005



COUNTY OF SANTA BARBARA

Planning and Development

COASTAL DEVELOPMENT PERMIT

Case No.: 08CDH-00000-00018

Project Name: Agua Azul New Single Family Residence & Guest House

Project Address: Hollister Ranch Parcel 80

Assessor's Parcel No.: 083-680-030

Applicant Name: Agua Azul Partnership

The Zoning Administrator hereby approves this Coastal Development Permit for the development described below, based upon the required findings and subject to the attached terms and conditions.

Associated Case Number(s): 10NGD-00000-00018

Project Description Summary: See Attached Description

Project Specific Conditions: See Attached Conditions

Permit Compliance Case: ☒ Yes ☐ No

Permit Compliance Case No.: _____

Appeals: The approval of this Coastal Development Permit may be appealed to the Planning Commission by the applicant or an aggrieved person. The written appeal and accompanying fee must be filed with the Planning and Development Department at either 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, by 5:00 p.m. on or before January 20, 2011.

The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission after the appellant has exhausted all local appeals. Therefore a fee is not required to file an appeal of this Coastal Development Permit.

Terms of Permit Issuance:

- 1. Work Prohibited Prior to Permit Issuance.** No work, development, or use intended to be authorized pursuant to this approval shall commence prior to issuance of this Coastal Development Permit and/or any other required permit (e.g., Building Permit). **Warning! This is not a Building/Grading Permit.**
- 2. Date of Permit Issuance.** This Permit shall be deemed effective and issued on January 21, 2011 above, provided an appeal of this approval has not been filed.
- 3. Time Limit.** The approval of this Coastal Development Permit shall be valid for one year from the date of approval. Failure to obtain a required construction, demolition, or grading permit and to lawfully commence development within two years of permit issuance shall render this Coastal Development Permit null and void.

NOTE: Approval and issuance of a Coastal Development Permit for this project does not allow construction or use outside of the project description, terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any County Policy, Ordinance or other governmental regulation.

Owner/Applicant Acknowledgement: Undersigned permittee acknowledges receipt of this pending approval and agrees to abide by all terms and conditions thereof.

Eric Bygg For Agua Azul Partnership / 1/10/11
Print Name Signature Date

Date of Zoning Administrator Approval: January 10, 2011

Planning and Development Department Issuance by:

Print Name Signature Date

PUBLIC Health

DEPARTMENT

Environmental Health Services

2125 S. Centerpointe Pkwy. #333 • Santa Maria, CA 93455-1340 805/346-8460 • FAX 805/346-8485

Takeshi M. Wada, MD, MPH *Director/Health Officer*
Anne M. Fearon *Deputy Director*
Suzanne Jacobson, CPA *Chief Financial Officer*
Michele Micklewicz, MPH *Deputy Director*
Elizabeth Snyder, MHA *Deputy Director*

Jennifer Bernstein, *Interim Director of Environmental Health*

TO: Errin Briggs, Planner
Planning & Development Department
Development Review Division

FROM: Paul Jenzen
Environmental Health Services

DATE: October 11, 2010

SUBJECT: Case No. 08CDH-00000-00018

Gaviota Area

Applicant: Agua Azul Partnership c/o Art McClean
1551 Bishop Street
San Luis Obispo, CA. 93401

Property Location: Assessor's Parcel No. 083-680-030, zoned AG-II-320, located at Parcel 80 of the Hollister Ranch.

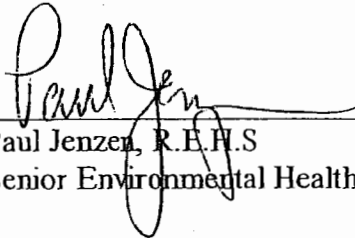
Case No. 08CDH-00000-00018 represents a request to construct an approximately 2,739 square foot main residence and an approximately 800 square foot guest house. Additionally garages and a workshop are proposed.

Domestic water supply is proposed to be provided by a private single-parcel water system. The applicant has provided to Environmental Health Services well information from tests completed circa 1993 that indicate adequate amounts of water are available from a horizontal well located onsite. This information will need to be updated and submitted to Environmental Health Services with a single parcel water system application.

Sewage disposal is proposed to be provided by an onsite wastewater treatment system. The applicant has provided to Environmental Health Services a passing percolation test for the Main Residence completed by Coast Valley Testing and dated May 29, 2009 that indicates that an onsite wastewater treatment system could be constructed. Additionally, drywell performance tests for the Guest House were also submitted which also show that an onsite wastewater treatment system is feasible. Applications for both onsite wastewater systems have been submitted but will need to be approved prior to Zoning Clearance.

Providing the Zoning Administrator grants approval of the applicant's request, Environmental Health Services recommends the following be included as Conditions of Approval:

1. Prior to Issuance of Zoning Clearance, an application for a **Single Parcel Water System** Permit shall be reviewed and approved by Environmental Health Services in accordance with Santa Barbara County Code Chapter 34B.
2. Prior to Issuance of Zoning Clearance, an application for both onsite wastewater treatment systems (OWTS) permit shall be reviewed and approved by Environmental Health Services.



Paul Jenzen, R.E.H.S.
Senior Environmental Health Specialist

cc: Applicant
Agent, Bill Swanson, Hollister Ranch Parcel 69 Gaviota, CA. 93117
Mike Zimmer, Planning & Development Dept, Building Div., Santa Barbara
Norman Fujimoto, Environmental Health Services

LU-5036

Memorandum

RECEIVED

MAY 20 2008

S.B. COUNTY
BUILDING DIVISION



Date: May 20, 2008

To: Petra Leyva / *Seth Shank*
Planning & Development
Santa Barbara

From: Martin Johnson, Captain *mj*
Fire Department

Subject: APN: 083-680-030; Case #: 08CDH-00018
Site: Hollister Ranch, Lot 80
Project Description: New Single Family Dwelling; New Guest House

DETERMINATION OF APPLICATION INCOMPLETENESS

I have reviewed your project and find that it will require some corrections before it can be approved by the Santa Barbara County Fire Department. The following information must be included with your revised plans:

PRIOR TO COMPLETENESS DETERMINATION FOR ISSUANCE OF A COASTAL DEVELOPMENT PERMIT THE FOLLOWING CONDITIONS MUST BE MET

1. Revised plans must include a complete driveway/access plan showing the following:
 - Width of driveway/access way
 - Percent of slope (including a profile section view)
 - Type of paving or surface material to be used
 - Turnouts (if required)
 - Turnaround (if required)
 - Structural section view showing how the driveway/access will be constructed
 - Driveway shall require civil engineering design and certification.

All plans must be drawn to scale and shall call out all dimensions and turning radii requirements. Please refer to the attached copies of the Santa Barbara County Fire Department Development Standard #1 and the Engineering Design Standards for Santa Barbara County, Page 8-4.

NOTE: Existing driveway as proposed, appears far outside of standard. Please submit fully engineered driveway plans in compliance with Santa Barbara County Fire Department Development Standard #1.

Portions of the Common Ranch Road (Agua) will also need improvement. Much work has recently been completed on this road; however, much more will need to be done to support additional development.

2. Show size and location of any on-site or proposed propane tanks on revised plans. Tanks must be installed per Article 82 of the California Fire Code. Location of tank(s) from structures and/or ignition sources is based on the size of the tank in water gallons.
 - Less than 500 gallons: Must be located no closer than 10 feet from any structure or ignition source.
 - From 501 to 2000 gallons: Must be located no closer than 25 feet from any structure or ignition source.
 - From 2001 to 30,000 gallons: Must be located no closer than 50 feet from any structure or ignition source.
3. Provide a complete Stored Water Fire Protection System Plan. This plan must show and note all of the elements of a Stored Water Fire Protection System Plan as outlined in Santa Barbara County Fire Department Development Standard #3 (attached).

In addition, the following fire department conditions will be required for the Fire Protection Certificate:

GENERAL NOTICE

4. Stop work immediately and contact the County Fire Department, Hazardous Materials Unit if visual contamination or chemical odors are detected while implementing the approved work at this site. Resumption of work requires approval of the HMU.

PRIOR TO ERECTION OF COMBUSTIBLE BUILDING MATERIALS THE FOLLOWING CONDITIONS MUST BE MET

5. All access ways (public or private) shall be installed and made serviceable. Roadway plans, acceptable to the fire department, shall be submitted for approval prior to any work being undertaken.

Driveway width shall be a minimum of 16 feet.

Driveways serving one residential dwelling are required to have a minimum width of 12 feet. Driveways serving two residential dwellings are required to have a minimum width of 16 feet. Driveways serving three to nine residential dwellings are required to have a minimum width of 20 feet. If any future development is planned for this parcel or will be served by this

driveway, the applicant is encouraged to coordinate these standards into their plans and with other interested parties.

6. Plans for a stored water fire protection system shall be submitted and approved by the fire department. Water storage shall be 2,500 gallons above the amount required for domestic usage and shall be reserved for fire protection purposes exclusively
7. Santa Barbara County Fire Department High Fire Hazard Area Requirements must be met.

**PRIOR TO OCCUPANCY CLEARANCE
THE FOLLOWING CONDITIONS MUST BE MET**

8. Santa Barbara County Fire Department fire sprinkler system requirements shall be met. Fire sprinkler system plans shall be approved prior to installation. Location of any fire department connection shall be determined by the fire department.
9. Building address numbers shall be posted in conformance with fire department standards.
10. When access ways are gated a fire department approved locking system shall be installed.
11. Access way entrance gates shall conform to Development Standard #7.
12. Payment of development impact fees is required. The fees shall be computed on each new building, including non-habitable spaces.

Fees will be calculated as follows:

- Mitigation Fee at \$.10 per square foot for structures with fire sprinkler systems

These conditions apply to the project as currently described. Future changes, including but not limited to further division, change of occupancy, intensification of use, or increase in hazard classification, may require additional mitigation to comply with applicable development standards in effect at the time of change.

As always, if you have any questions or require further information please call 681-5500.

MJ:jmd

c: Art McLean/Agua Azul Partnership, 1551 Bishop St., San Luis Obispo, CA 93401
Bill Swanson, 69 Hollister Ranch Rd, Gaviota, CA 93117
Kornreich Architects, 1135 Marsh St, San Luis Obispo, CA 93401
APN



**Santa Barbara County
Air Pollution Control District**

Our Vision Clean Air

RECEIVED

JUN 10 2008

**S.B. COUNTY
BUILDING DIVISION**

To: South County Planning & Development Dept.

Attn: Petra Leyva, Project Planner

From: Vijaya L. Jammalamadaka *VJ*

Date: June 9, 2008

Case #: 08CDH-00000-00018; Agua Azul New SFD.Guesthouse

APN #'s: 083-680-030

The Air Pollution Control District has reviewed the referenced case and offers the following:

- ☐ The APCD has no comment on this project at this time.
- ☐ Applicant must be issued an APCD permit prior to construction or operation of this project.
- ☐ Applicant musts apply for an APCD permit exemption prior to land use clearance.
- ☐ The applicant should determine whether the structure(s) proposed for demolition contains asbestos that is friable or has the potential to become friable during demolition or disposal. If the structure does contain friable asbestos, the asbestos should be removed by a contractor that is state certified for asbestos removal.
- ☐ Applicant is required to complete the "Notification for Renovation and Demolition" form (available on the APCD website). The completed form should be mailed to the Santa Barbara APCD no later than the date specified in Section I.B.1 of the instructions.
- ☒ Standard dust mitigation are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.

Attachment

cc: Bill Swanson, Agent
TEA Chron File

Terence E. Dressler - Air Pollution Control Officer

260 North San Antonio Road, Suite A - Santa Barbara, CA - 93110 - www.sbcapcd.org - 805.961.8800 - 805.961.8801 (fa



STANDARD DUST CONTROL REQUIREMENTS

The first measure is required for all projects involving earthmoving activities regardless of the project size or duration; the other measures must be implemented as applicable to the project. Proper implementation of all of these measures, as necessary, is assumed to reduce fugitive dust emissions to a level of insignificance and is strongly recommended for all discretionary projects involving earthmoving.

- During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this should include wetting down such areas in the late morning and after work is completed for the day.
- Increased watering frequency should be required whenever the wind speed exceeds 15 mph. Reclaimed water should be used whenever possible, unless prohibited by law. Reclaimed water should not be used in or around crops grown for human consumption.
- Minimize amount of disturbed area and reduce on site vehicle speeds to 15 miles per hour or less.
- Gravel pads must be installed at all access points to prevent tracking of mud on to public roads. A vacuum truck or suction sweeper should be used to collect soil on paved surfaces. The use of leaf blowers is prohibited.
- If importation, exportation, and stockpiling of fill material are involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting fill material to and from the site shall be tarped from the point of origin.
- After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, or revegetating, or by spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur.
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the Air Pollution Control District prior to land use clearance.
- Prior to land use clearance for map recordation (as applicable), the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans. ●

CONDITIONS OF APPROVAL 08CDH-00000-00018

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked A-F, dated January 10, 2011, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

The request is for a Coastal Development Permit with Hearing (CDPH) to allow the construction of a new single-family residence with attached garage and guest house with attached garage and associated access improvements on a currently vacant parcel.

The single-family residence would be approximately 2,739 square feet in size and a maximum of 28 feet in height above existing grade. The attached garage would be 770 square feet in size. The guest house would be approximately 800 square feet in size and a maximum of 19 feet in height above existing grade. Attached to the guest house would be a garage of 340 square feet in size and a 240 square foot workshop. A 120 square foot shed and 2 water tanks (5,000 and 7,500 gallon capacity) are also included with the project. The residence and guest house would be separated by approximately 500 feet.

Grading would include 680 cubic yards of cut and 680 cubic yards of fill. No trees are proposed for removal. The parcel would be served by an existing, private water well located on site, private septic systems, and the Santa Barbara County Fire Department. Access would be provided from Agua Road. The property is a 117.9-acre parcel zoned AG-II-320 and shown as Assessor's Parcel Number 083-680-030, located at 80 Hollister Ranch in Hollister Ranch, 3rd Supervisorial District.

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

MITIGATION MEASURES FROM 10NGD-00000-00018

2. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the CBAR. **MONITORING:** P&D and CBAR shall review a Lighting Plan for compliance with this measure prior to issuance of a Coastal Development Permit for structures. Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.
3. Natural building materials and colors compatible with the surrounding terrain (earthtones and

non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. **Plan Requirement:** Project plans including architectural and landscape, shall be reviewed and approved by the Central Board of Architectural Review. Materials shall be denoted on building plans. **Timing:** Structures shall be painted prior to occupancy clearance. **MONITORING:** P&D shall inspect prior to occupancy clearance.

4. If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:
 - a. seeding and watering to re-vegetate graded areas; and/or
 - b. spreading of soil binders; and/or
 - c. any other methods deemed appropriate by Planning and Development.

Plan Requirements: These requirements shall be noted on all plans. **Timing:** Plans are required prior to issuance of Coastal Development Permits. **MONITORING:** Grading Inspector shall perform periodic site inspections.

5. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below.
 - a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
 - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

Plan Requirements: All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods. **MONITORING:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

6. Air Pollution Control District (APCD) Measures:

- a. Standard APCD dust mitigations are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of the Coastal Development Permit.
- b. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The text of the rule can be viewed on the APCD website at <http://www.sbcapcd.org/rules/download/rule345.pdf>.
- c. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in APCD's "Diesel Particulate and NOx Emission Measures" document to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.

- d. Prior to occupancy, APCD permits must be obtained for all equipment that requires an APCD permit. APCD Authority to Construct permits are required for diesel engines rated at 50 bhp and greater (e.g., firewater pumps and emergency standby generators) and boilers/large water heaters whose combined heat input rating exceeds 2.0 million BTUs per hour.
 - e. All portable diesel-fired construction engines rated at 50 brake-horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or APCD permits prior to operation. Construction engines with PERP certificates are exempt from APCD permit, provided they will be on-site for less than 12 months.
 - f. At a minimum, prior to occupancy each building should reduce emissions of greenhouse gases by:
 - Increasing energy efficiency beyond Title 24 requirements;
 - Encouraging the use of transit, bicycling and walking by the occupants;
 - Increasing recycling goals (e.g., separate waste and recycling receptacles); and
 - Increasing landscaping (shade trees decrease energy requirements and also provide carbon storage.)
 - g. Asphalt paving activities shall comply with APCD Rule 329, *Cutback and Emulsified Asphalt Paving Materials*.
7. The applicant shall retain and pay for a P&D approved biologist to inspect and monitor the project site for bird and raptor nesting activity. If construction is to take place during the nesting season (March to September), a P&D approved biologist shall conduct a pre-construction bird and raptor nesting inspection not more than one week prior to the proposed beginning of construction activity. If birds or raptors are determined to be nesting on or within the vicinity of the project site, no construction activities, including, but not limited to grading or heavy equipment operation, shall take place within 500 feet of the bird or raptor nest. Certain construction activities may be allowed on a case-by-case basis as reviewed and approved by P&D. **Plan Requirements and Timing:** At a minimum of two days prior to the proposed beginning of construction activity, the results of the survey shall be reviewed and approved by P&D. This condition shall be printed on all final construction, grading, and building plans. **Monitoring:** P&D staff shall perform site inspections throughout the construction phase and receive the report from the P&D approved biologist.
8. The use of heavy equipment and vehicles shall be limited to existing roadways and defined staging areas/access points. The boundaries of each work area shall be clearly defined and marked in the field with visible flagging and/or orange protective fencing. The Agua Creek riparian vegetation shall be protected by the placement of orange protection fencing outside the dripline of oak trees or at the western edge of the access drive, whichever is further from the creek. **Plan Requirements/Timing:** The boundaries of the work area shall be clearly delineated on the plans prior to issuance of the grading and building permits. Protective fencing shall be in place prior to the commencement of grading activities and maintained throughout construction. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall site inspect during construction to ensure staging areas and work boundaries are marked according to the approved plan.
9. **Habitat Restoration.** The Owner/Applicant shall submit for P&D approval a Creek Restoration Plan prepared by a P&D-approved biologist and designed to restore the understory of the Agua Creek riparian corridor within the cattle-exclusion fenced area. The plan shall provide for a mitigation ratio of 5 to 1 (aerial extent) to the area of creek buffer impacted (4,658 square feet) and include the following components:

1. Restoration plant materials shall be native riparian species found in the Agua Creek watershed including, but not limited to toyon, California coffeeberry, and poison-oak.
2. Species shall be from locally obtained plants and seed stock.
3. The new plantings shall be irrigated with drip irrigation on a timer, and shall be weaned off of irrigation over a period of two to three years.
4. Agua Creek adjacent to the work areas shall be fenced with 6-foot construction fencing, staked a minimum of every six feet or as necessary to keep fencing from collapsing.
5. All restoration plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
6. If appropriate, non-native species, shall be removed from the creek, however, removal of native species in the creek shall be prohibited.

Plan Requirements/Timing: The final restoration plans shall be submitted prior to issuance of the Coastal Development Permit for review and approval by P&D. The Owner/Applicant shall post a performance security to ensure installation prior to issuance of the CDP and maintenance for three years. **Monitoring:** The Owner/Applicant shall demonstrate to P&D compliance staff that all required components of the approved plan(s) are in place as required prior to Final Inspection Clearance and maintained throughout the maintenance period. P&D compliance staff signature is required to release the installation security upon satisfactory installation of all items in approved plans and maintenance security upon successful implementation of this plan.

10. Tree Protection & Mitigation: In order to protect existing trees and minimize adverse effects of grading and construction onsite, the applicant shall implement a tree protection and replacement plan. All grading, trenching, ground disturbance, construction activities and structural development shall occur outside the critical root zone of all onsite oak trees. No ground disturbance including grading for buildings, driveways, easements and subsurface grading shall occur within the critical root zone of any tree unless specifically authorized by the approved tree protection plan. The tree protection and replacement plan shall include the following:

- a. An exhibit showing the location, diameter and critical root zone of all trees located onsite and within the construction areas of the residence and the guest house and their associated driveways.
- b. Fencing of all trees to be protected at or outside of the critical root zone. Fencing shall be at least three feet in height of chain link or other material acceptable to P&D and shall be staked every 6 feet. The applicant shall place signs stating "tree protection area" at 15 foot intervals on the fence. Said fencing and signs shall be shown on the tree protection exhibit, shall be installed prior to commencement of grading activities and shall remain in place throughout all grading and construction activities.
- c. The tree protection plan shall clearly identify any areas where grading, trenching or construction activities would encroach within the critical root zone of any native or specimen tree. All encroachment is subject to review and approval by P&D.
- d. Construction equipment staging and storage areas shall be located outside of the protected area and shall be depicted on project plans submitted for land use clearance. No construction equipment shall be parked, stored or operated within the protected area. No fill soil, rocks or construction materials shall be stored or placed within the protected area.
- e. Any proposed tree wells or retaining walls shall be shown on the tree protection plan exhibit as well as grading and construction plans and shall be located outside of the critical root zone of all protected trees unless specifically authorized.
- f. No permanent irrigation shall occur within the critical root zone of any oak tree. Drainage plans shall be designed so that tree trunk areas are properly drained to avoid ponding.
- g. Only trees designated for removal on the approved tree protection plan shall be removed.
- h. Any protected trees which are removed, relocated and/or damaged (more than 20% encroachment into the critical root zone) shall be replaced on a 10:1 basis with 5-gallon size trees. A drip

irrigation system with a timer shall be installed. Trees shall be planted prior to occupancy clearance and irrigated and maintained until established (five years). The plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.

- i. Any unanticipated damage that occurs to native trees or sensitive habitats resulting from construction activities shall be mitigated in a manner approved by P&D. This mitigation may include but is not limited to posting of a performance security, tree replacement on a 10:1 ratio and hiring of an outside consultant biologist to assess the damage and recommend mitigation. The required mitigation shall be done immediately under the direction of P&D prior to any further work occurring on site.

Plan Requirements: Prior to issuance of a Coastal Development Permit, the applicant shall submit grading plans and the tree protection and replacement plan to P&D for review and approval. All aspects of the plan shall be implemented as approved. **Timing:** Timing on each measure shall be stated where applicable; where not otherwise stated, all measures must be in place throughout all grading and construction activities. **Monitoring:** Permit Compliance staff shall conduct site inspections throughout all phases of development to ensure compliance with and evaluate all tree protection and replacement measures.

11. Erosion control measures shall be implemented to prevent runoff into Agua Creek. This shall include installation of protective fencing along the boundary of the work area to prevent stockpiling and other activities adjacent to the creek. Silt fencing, in conjunction with other methods, shall be used to prevent erosion and siltation of the nearby stream channel and to prevent runoff and associated residual water from entering Agua Creek. **Plan Requirements/Timing:** The boundaries of the creek-bank and location of protective/silt fencing shall be clearly delineated on the plans prior to issuance of the grading permit. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall site inspect during construction to ensure erosion control and sedimentation measures are marked according to the approved plan.
12. **Equipment Washout-Construction.** The Owner/Applicant shall designate one or more washout areas for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to Agua Creek and the surrounding area. Note that polluted water and materials shall be contained in these areas and removed from the site as necessary. The areas shall be located at least 100 feet from Agua Creek or sensitive biological resources. **Plan Requirements:** The Owner/Applicant shall designate the P&D approved location on all building and grading permits. **Timing:** The Owner/Applicant shall install the area prior to commencement of construction. **Monitoring:** P&D compliance monitoring staff shall ensure compliance prior to and throughout construction.
13. In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D shall check plans prior to approval of Coastal Development Permits and shall spot check in the field.
14. To minimize fire hazards, a Fire Protection Plan shall be implemented. The plan shall include the following:
 - a. In order to reduce impacts to native vegetation relating to fire hazard reduction, all brushing shall be limited to a 30' radius from all proposed and existing structures. Live natural vegetation

having trunks of four inches or greater may remain within the 30' perimeter provided that specimens are maintained free of dead, decadent limbs and branches. Natural vegetation which is dead and/or decadent shall be removed or chipped within 100 feet from structures. Limbs larger than four inches in diameter, leaves, mulch and duff do not require abatement.

- b. Installation of shutters on all windows on the exposed side of the structure.
- c. Installation of class "A" or "B" roofs.
- d. Construction of all decks with heavy timber.

Plan Requirements and Timing: A Fire Protection Plan shall be submitted to Planning and Development and the Fire Department for review and approval prior to issuance of Coastal Development Permits. **MONITORING:** A site inspection shall be conducted by Fire and P&D personnel prior to occupancy clearance.

15. Individual landscaping plans shall utilize fire resistant native species within 100 feet of residences. **Plan Requirements:** Prior to issuance of Coastal Development Permits, the applicant shall submit landscape plans to P&D and the Fire Department for review and approval. The landscape plan shall also be approved by the CBAR. This mitigation shall be incorporated into landscape plans for future development. **Timing:** The applicant shall install the landscaping consistent with the approved plan prior to occupancy clearance. **MONITORING:** Permit Compliance shall site inspect to verify landscape installation and once each year to monitor landscape maintenance during the maintenance period.

16. The following fire prevention methods shall be used for all future structures:

- a. Building materials for all structures including residences, fences and accessory structures shall be constructed of fire resistant materials.
- b. P&D Building & Safety Class A or B roofing (i.e., non-combustible tile or asphalt composite shakes) shall be required for all future on-site structures.
- c. Spark arresters shall be required for wood burning fireplaces.
- d. Private decks and structural overhangs proposed for all new structures shall be constructed with fire retardant materials or heavy timber.

Plan Requirements: Where appropriate, the fire prevention measures shall be graphically depicted on grading and building plans. **Timing:** Measures shall be installed prior to occupancy clearance. **MONITORING:** P&D building inspectors shall site inspect during construction.

17. The applicant shall limit excavation and grading to the dry season of the year (i.e. April 15 to November 1) unless a Building & Safety approved erosion and sediment control plan is in place and all measures therein are in effect. All exposed graded surfaces shall be reseeded with ground cover vegetation to minimize erosion. **Plan Requirements:** This requirement shall be noted on all grading and building plans. **Timing:** Graded surfaces shall be reseeded within 4 weeks of grading completion, with the exception of surfaces graded for the placement of structures. These surfaces shall be reseeded if construction of structures does not commence within 4 weeks of grading completion. **MONITORING:** P&D shall site inspect during grading to monitor dust generation and 4 weeks after grading to verify reseeded and to verify the construction has commenced in areas graded for placement of structures.
18. Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:00 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Three signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout

grading and construction activities. Violations may result in suspension of permits. **MONITORING:** Building Inspectors and Permit Compliance shall spot check and respond to complaints.

19. Prior to issuance of the Coastal Development Permit, the standard State fee of \$5,000 shall be paid to the State of California Coastal Conservancy in lieu of granting public access to the beach. Proof of payment shall be submitted to P&D. A cashier's check shall be submitted to: California Coastal Conservancy, 1330 Broadway, Suite 1300, Oakland, CA 94612, Attn.: Terri Nevins (510) 286-4161. **Timing/Monitoring:** P&D shall verify payment of fees prior to issuance of the CDP.

20. **Storm Water Retention-Driveway Design.** To reduce potential erosion of the eastern bank of Agua Creek by stormwater runoff, allow for infiltration, reduce pollutants and minimize degradation of storm water quality from parking areas and other paved surfaces, the Owner/Applicant shall initially drain the private drive away from Agua Creek into a vegetated swale that will address pollutants, slow stormwater flows and ultimately drain into the creek. The project shall also implement one of the following parking area designs: paving only under wheels, flared driveway, or use of permeable surfaces for parking areas. **Plan Requirements:** The Owner/Applicant shall include the driveway design, including materials on all building plans and as needed on grading plans depicted graphically subject to review and approval by P&D. **Monitoring:** P&D compliance monitoring staff shall site inspect for installation prior to Final Building Inspection Clearance.

PROJECT SPECIFIC CONDITIONS

21. All elements of the project (e.g., design, scale, character, colors, materials and landscaping) shall be compatible with vicinity development and shall conform in all respects to CBAR approval 08BAR-00000-00113. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and shall obtain final approval by the Board of Architectural Review prior to issuance of Coastal Development Permits. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.
22. A recorded Notice to Property Owner document is necessary to ensure that the proposed guest house is used only for its permitted uses. The property owner shall notarize and record the NTPO document prior to issuance of Coastal Development Permits.
23. **Compliance with Departmental letters required as follows:**
- a. Air Pollution Control District dated June 9, 2008
 - b. County Fire Department dated May 20, 2008
 - c. Environmental Health Services dated October 11, 2010

APPEALABLE COASTAL DEVELOPMENT PERMIT CONDITIONS

24. **Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.
25. **CDP Expiration.** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Zoning Administrator. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good

cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

26. Additional Permits Required. The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

COUNTY RULES & REGULATIONS/LEGAL REQUIREMENTS

27. Print & illustrate conditions on plans: All applicable final conditions of approval (*Zoning Administrator*) shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.

28. Mitigation Monitoring Required. The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:

- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
- b. Pay a \$500 fee prior to issuance of the Coastal Development Permit as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;
- c. Note the following on each page of grading and building plans "This project is subject to Condition Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval."; and
- d. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.

29. DIMF Fees-Transportation. In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total DIMF amount for Transportation is assessed at \$1,976. This is based on a project type of single-family residence. **Timing:** Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to Coastal Development Permit issuance.

30. DIMF Fees-Parks. In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance

the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Parks DIMF amount is assessed at \$1,153. This is based on a project type of single-family residence. **Timing:** Parks DIMFs shall be paid to the County Parks Department prior to Final Building Inspection.

- 31. DIMF Fees-Fire.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Fire DIMF amount assessed is \$489 and is based upon a calculation of \$0.10 per square foot for buildings that are equipped with fire sprinklers. This is based on a project type of single-family residence. **Timing:** Fire DIMFs shall be paid to the County Fire Department prior to Final Building Inspection and shall be based on the fee schedules in effect when paid.
- 32. Plans Requirements.** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
- 33. Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.
- 34. Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 35. Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the review authority and no approval shall be issued unless substitute feasible conditions/measures are imposed.



**Santa Barbara County
Air Pollution Control District**

A. Shank
Our Vision: Clean Air

RECEIVED

JUN 10 2008

**S.B. COUNTY
BUILDING DIVISION**

To: South County Planning & Development Dept.

Attn: Petra Leyva, Project Planner

From: Vijaya L. Jammalamadaka *VJ*

Date: June 9, 2008

Case #: 08CDH-00000-00018; Agua Azul New SFD.Guesthouse

APN #'s: 083-680-030

The Air Pollution Control District has reviewed the referenced case and offers the following:

- ☐ The APCD has no comment on this project at this time.
- ☐ Applicant must be issued an APCD permit prior to construction or operation of this project.
- ☐ Applicant musts apply for an APCD permit exemption prior to land use clearance.
- ☐ The applicant should determine whether the structure(s) proposed for demolition contains asbestos that is friable or has the potential to become friable during demolition or disposal. If the structure does contain friable asbestos, the asbestos should be removed by a contractor that is state certified for asbestos removal.
- ☐ Applicant is required to complete the "Notification for Renovation and Demolition" form (available on the APCD website). The completed form should be mailed to the Santa Barbara APCD no later than the date specified in Section I.B.1 of the instructions.
- ☒ Standard dust mitigation are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of land use clearance.

Attachment

cc: Bill Swanson, Agent
TEA Chron File

Terence E. Dressler • Air Pollution Control Officer

260 North San Antonio Road, Suite A • Santa Barbara, CA • 93110 • www.sbapcd.org • 805.961.8800 • 805.961.8801 (fax)



COUNTY OF SANTA BARBARA

Planning and Development

COASTAL DEVELOPMENT PERMIT

Case No.: 08CDH-00000-00018

Project Name: Agua Azul New Single Family Residence & Guest House

Project Address: Hollister Ranch Parcel 80

Assessor's Parcel No.: 083-680-030

Applicant Name: Agua Azul Partnership

The Zoning Administrator hereby approves this Coastal Development Permit for the development described below, based upon the required findings and subject to the attached terms and conditions.

Associated Case Number(s): 10NGD-00000-00018

Project Description Summary: See Attached Description

Project Specific Conditions: See Attached Conditions

Permit Compliance Case: ☒ Yes ☐ No

Permit Compliance Case No.: _____

Appeals: The approval of this Coastal Development Permit may be appealed to the Planning Commission by the applicant or an aggrieved person. The written appeal and accompanying fee must be filed with the Planning and Development Department at either 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, by 5:00 p.m. on or before January 20, 2011.

The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission after the appellant has exhausted all local appeals. Therefore a fee is not required to file an appeal of this Coastal Development Permit.

Terms of Permit Issuance:

- 1. Work Prohibited Prior to Permit Issuance.** No work, development, or use intended to be authorized pursuant to this approval shall commence prior to issuance of this Coastal Development Permit and/or any other required permit (e.g., Building Permit). **Warning! This is not a Building/Grading Permit.**
- 2. Date of Permit Issuance.** This Permit shall be deemed effective and issued on January 21, 2011 above, provided an appeal of this approval has not been filed.
- 3. Time Limit.** The approval of this Coastal Development Permit shall be valid for one year from the date of approval. Failure to obtain a required construction, demolition, or grading permit and to lawfully commence development within two years of permit issuance shall render this Coastal Development Permit null and void.

NOTE: Approval and issuance of a Coastal Development Permit for this project does not allow construction or use outside of the project description, terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any County Policy, Ordinance or other governmental regulation.

Owner/Applicant Acknowledgement: Undersigned permittee acknowledges receipt of this pending approval and agrees to abide by all terms and conditions thereof.

Print Name
Signature
/ Date

Date of Zoning Administrator Approval: January 10, 2011

Planning and Development Department Issuance by:

Print Name
Signature
/ Date

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

- 1.1 CONSIDERATION OF THE NEGATIVE DECLARATION AND FULL DISCLOSURE**
The Zoning Administrator has considered the Negative Declaration 10NGD-00000-00018 together with the comments received and considered during the public review process. The Negative Declaration reflects the independent judgment and analysis of the Zoning Administrator and has been completed in compliance with CEQA, and is adequate for this proposal.
- 1.2 FINDING OF NO SIGNIFICANT EFFECT**
On the basis of the whole record, including the negative declaration and any comments received, the Zoning Administrator finds that through feasible conditions placed upon the project, the significant impacts on the environment have been eliminated or substantially mitigated and on the basis of the whole record there is no substantial evidence that the project will have a significant effect on the environment.
- 1.3 LOCATION OF DOCUMENTS**
The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Zoning Administrator of the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, CA 93101.
- 1.4 ENVIRONMENTAL REPORTING AND MONITORING PROGRAM**
Public Resources Code Section 21081.6 and CEQA Guidelines Section 15074(d) require the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to avoid or substantially lessen significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the reporting and monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

2.0 ADMINISTRATIVE FINDINGS

Findings required for Coastal Development Permit applications subject to Section 35-169.4.2. In compliance with Section 35-169.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.2 the review authority shall first make all of the following findings:

- 2.1** *The proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article or the project falls within the limited exception allowed under Section 35-161.7. (Nonconforming use of Land, Buildings and Structures).*

As discussed in Sections 6.2 and 6.3 of the staff report dated January 10, 2011 and incorporated herein by reference, the proposed project would be consistent with all applicable policies of the Comprehensive Plan including the Coastal Land Use Plan and the applicable provisions of the Article II Zoning Ordinance. As conditioned, the proposed project would be consistent with all policies and provisions relating to agricultural resources, retention and protection of natural drainages, archeological resources, biological resources, geological processes, water resources and visual resources/aesthetics. Therefore, this finding can be made.

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

The proposed project would occur on a legal lot, identified as Lot No. 80 of the Hollister Ranch Tract, phase II, recorded in Book 9, pages 9-17 dated December 23, 1971. Therefore, this finding can be made.

2.3 *The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).*

There are no existing structures or development located on the project site. Additionally, there are no current zoning violations associated with the property. Therefore, the project site is in compliance with all laws, rules and regulations pertaining to zoning uses and all other applicable provisions of Article II and this finding can be made.

2.4 *The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.*

The project consists of the construction of a new residence of approximately 2,739 square feet and a guest house of approximately 800 square feet with associated garages and driveway improvements. These development activities would not result in the obstruction of views from any public road as the roads in Hollister Ranch are private. Additionally, the project site is located over one mile from the Pacific Ocean and no public views of the site are available. The project would not be visible from any public recreation area. Therefore, this finding can be made.

2.5 *The development is compatible with the established physical scale of the area.*

The proposed project would be compatible with the established physical scale of the Hollister Ranch area. The proposed residence and guest house are each designed to be compatible with a rural, agricultural style. The guest house would have a maximum height of 19 feet, the residence would have a maximum height of 28 feet and each building would be developed in locations where they fit into the natural topography. The project has been conceptually reviewed by the Central Board of Architectural Review which found the project to be compatible with the site's surroundings and directed the applicant to return for preliminary/final approval after project approval by the decision-maker. Therefore, the project would be compatible with the established physical scale of the area and this finding can be made.

2.6 *The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.*

The proposed project would not impact public access to the beaches along this area of the coast as the project site is located approximately 1 mile from the ocean in a private subdivision. Additionally, because the project site is located within the Hollister Ranch, the applicant is required to pay a \$5,000 fee to the Coastal Conservancy in lieu of the Hollister Ranch subdivision providing public access to the beach pursuant to Coastal Plan policy 2-15. Therefore, this finding can be made.



COURT HOUSE

COUNTY OF SANTA BARBARA CALIFORNIA

ZONING ADMINISTRATOR

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU STREET
SANTA BARBARA, CALIFORNIA 93101-2058
PHONE: (805) 568-2000

January 13, 2011

Bill Swanson
Hollister Ranch Parcel 69
Goleta, CA 93117

ZONING ADMINISTRATOR
HEARING OF JANUARY 10, 2011

RE: Agua Azul New Single-Family Residence & Guesthouse, 08CDH-00000-00018

Hearing on the request of Bill Swanson, agent for the owner Agua Azul Partnership, to consider Case No. 08CDH-00000-00018, [application filed on May 14, 2008] for a Coastal Development Permit in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned AG-II-320 to allow the development of a new residence and guest house; and to adopt the Mitigated Negative Declaration 10NGD-00000-00018 pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. As a result of this project, significant but mitigable effects on the environment are anticipated in the following categories: Aesthetic/Visual Resources, Air Quality, Biological Resources, Cultural Resources, Fire Protection, Geologic Resources, Noise and Water Resources. The ND and all documents may be reviewed at the Planning and Development Department, 123 E. Anapamu St., Santa Barbara. The ND is also available for review at the Central Branch of the City of Santa Barbara Library, 40 E. Anapamu St., Santa Barbara. The application involves AP No. 083-680-030, located at Hollister Ranch Parcel 80, in the Gaviota area, Third Supervisorial District.

Dear Mr. Swanson:

At the regular hearing of the Santa Barbara County Zoning Administrator on January 10, 2011, Case No. 08CDH-00000-00018 marked "Officially Accepted, County of Santa Barbara January 10, 2011, Zoning Administrator Exhibit #A-F" was conditionally approved, based upon the project's consistency with the Comprehensive Plan including the Coastal Land Use Plan and based on the ability to make the required findings. The Zoning Administrator also took the following action:

1. Made the required findings for approval of the project specified in Attachment A of this staff report dated December 20, 2010, including the California Environmental Quality Act (CEQA) findings;
2. Determined the Negative Declaration 10NGD-00000-00018, included as Attachment C of this staff report dated December 20, 2011, to be adequate environmental review for Case No. 08CDH-00000-00018, and adopt the mitigation monitoring program contained in the conditions of approval; and

3. Approved the project, Case No. 08CDH-00000-00018 subject to the conditions included as Attachment B of the staff report dated December 20, 2010.

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

- The action of the Zoning Administrator to approve, conditionally approve, or deny the project may be appealed to the Planning Commission by the applicant, or an aggrieved person, as defined under Section 35-58 of the Coastal Zoning Ordinance, adversely affected by the decision within the 10 calendar days following the date of action by the Zoning Administrator.
- An appeal, which shall be in writing, shall be filed with the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, or 624 West Foster Road, Suite C, Santa Maria, prior to expiration of the appeal period specified above.
- This project is defined as development that may be appealed to the Coastal Commission in compliance with Public Resources Code Section 30603(a), therefore a fee is not required to file the appeal.
- Please be advised that if a local appeal is filed, the final action on the appeal by the Board of Supervisors to approve or conditionally approve the project may be appealed to the California Coastal Commission.
- **Local appeal period expires on Thursday, January 20, 2011 at 5:00 P.M.**

Sincerely,



VICKI PARKER
Zoning Administrator

xc: Planner: Errin Briggs
Case File: 08CDH-00000-00018
Hearing Support Zoning Administrator File
Owner: Agua Azul Partnership
c/o Art McLean, 1551 Bishop Street, San Luis Obispo, Ca 93401
Address File: Hollister Ranch, Parcel 80, Goleta, CA 93117
Shana Gray, California Coastal Commission, 89 South California St., Ste 200, Ventura, CA 93001
Supervisor: Doreen Farr, Third District Supervisor

Attachments: Attachment A – Findings
Attachment B – Coastal Development Permit & Conditions of Approval

VP:sf

Santa Barbara County
PUBLIC Health
DEPARTMENT

Environmental Health Services

2125 S. Centerpointe Pkwy. #333 • Santa Maria, CA 93455-1340 805/346-8460 • FAX 805/346-8485

Takashi M. Wada, MD, MPH Director/Health Officer
Anne M. Fearon Deputy Director
Suzanne Jacobson, CPA Chief Financial Officer
Michele Mickiewicz, MPH Deputy Director
Elizabeth Snyder, MHA Deputy Director

Jennifer Bernstein, Interim Director of Environmental Health

TO: Errin Briggs, Planner
Planning & Development Department
Development Review Division

FROM: Paul Jenzen
Environmental Health Services

DATE: October 11, 2010

SUBJECT: Case No. 08CDH-00000-00018

Gaviota Area

Applicant: Agua Azul Partnership c/o Art McClean
1551 Bishop Street
San Luis Obispo, CA. 93401

Property Location: Assessor's Parcel No. 083-680-030, zoned AG-II-320, located at Parcel 80 of the Hollister Ranch.

Case No. 08CDH-00000-00018 represents a request to construct an approximately 2,739 square foot main residence and an approximately 800 square foot guest house. Additionally garages and a workshop are proposed.

Domestic water supply is proposed to be provided by a private single-parcel water system. The applicant has provided to Environmental Health Services well information from tests completed circa 1993 that indicate adequate amounts of water are available from a horizontal well located onsite. This information will need to be updated and submitted to Environmental Health Services with a single parcel water system application.

Sewage disposal is proposed to be provided by an onsite wastewater treatment system. The applicant has provided to Environmental Health Services a passing percolation test for the Main Residence completed by Coast Valley Testing and dated May 29, 2009 that indicates that an onsite wastewater treatment system could be constructed. Additionally, drywell performance tests for the Guest House were also submitted which also show that an onsite wastewater treatment system is feasible. Applications for both onsite wastewater systems have been submitted but will need to be approved prior to Zoning Clearance.

Providing the Zoning Administrator grants approval of the applicant's request, Environmental Health Services recommends the following be included as Conditions of Approval:

NOTE: Existing driveway as proposed, appears far outside of standard. Please submit fully engineered driveway plans in compliance with Santa Barbara County Fire Department Development Standard #1.

Portions of the Common Ranch Road (Agua) will also need improvement. Much work has recently been completed on this road; however, much more will need to be done to support additional development.

2. Show size and location of any on-site or proposed propane tanks on revised plans. Tanks must be installed per Article 82 of the California Fire Code. Location of tank(s) from structures and/or ignition sources is based on the size of the tank in water gallons.
 - Less than 500 gallons: Must be located no closer than 10 feet from any structure or ignition source.
 - From 501 to 2000 gallons: Must be located no closer than 25 feet from any structure or ignition source.
 - From 2001 to 30,000 gallons: Must be located no closer than 50 feet from any structure or ignition source.
3. Provide a complete Stored Water Fire Protection System Plan. This plan must show and note all of the elements of a Stored Water Fire Protection System Plan as outlined in Santa Barbara County Fire Department Development Standard #3 (attached).

In addition, the following fire department conditions will be required for the Fire Protection Certificate:

GENERAL NOTICE

4. Stop work immediately and contact the County Fire Department, Hazardous Materials Unit if visual contamination or chemical odors are detected while implementing the approved work at this site. Resumption of work requires approval of the HMU.

PRIOR TO ERECTION OF COMBUSTIBLE BUILDING MATERIALS THE FOLLOWING CONDITIONS MUST BE MET

5. All access ways (public or private) shall be installed and made serviceable. Roadway plans, acceptable to the fire department, shall be submitted for approval prior to any work being undertaken.

Driveway width shall be a minimum of 16 feet.

Driveways serving one residential dwelling are required to have a minimum width of 12 feet. Driveways serving two residential dwellings are required to have a minimum width of 16 feet. Driveways serving three to nine residential dwellings are required to have a minimum width of 20 feet. If any future development is planned for this parcel or will be served by this

driveway, the applicant is encouraged to coordinate these standards into their plans and with other interested parties.

6. Plans for a stored water fire protection system shall be submitted and approved by the fire department. Water storage shall be 2,500 gallons above the amount required for domestic usage and shall be reserved for fire protection purposes exclusively
7. Santa Barbara County Fire Department High Fire Hazard Area Requirements must be met.

**PRIOR TO OCCUPANCY CLEARANCE
THE FOLLOWING CONDITIONS MUST BE MET**

8. Santa Barbara County Fire Department fire sprinkler system requirements shall be met. Fire sprinkler system plans shall be approved prior to installation. Location of any fire department connection shall be determined by the fire department.
9. Building address numbers shall be posted in conformance with fire department standards.
10. When access ways are gated a fire department approved locking system shall be installed.
11. Access way entrance gates shall conform to Development Standard #7.
12. Payment of development impact fees is required. The fees shall be computed on each new building, including non-habitable spaces.

Fees will be calculated as follows:

- Mitigation Fee at \$.10 per square foot for structures with fire sprinkler systems

These conditions apply to the project as currently described. Future changes, including but not limited to further division, change of occupancy, intensification of use, or increase in hazard classification, may require additional mitigation to comply with applicable development standards in effect at the time of change.

As always, if you have any questions or require further information please call 681-5500.

MJ:jmd

c: Art McLean/Agua Azul Partnership, 1551 Bishop St., San Luis Obispo, CA 93401
Bill Swanson, 69 Hollister Ranch Rd, Gaviota, CA 93117
Kornreich Architects, 1135 Marsh St, San Luis Obispo, CA 93401
APN

CONDITIONS OF APPROVAL

08CDH-00000-00018

1. This Coastal Development Permit is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked A-F, dated January 10, 2011, and conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

The request is for a Coastal Development Permit with Hearing (CDPH) to allow the construction of a new single-family residence with attached garage and guest house with attached garage and associated access improvements on a currently vacant parcel.

The single-family residence would be approximately 2,739 square feet in size and a maximum of 28 feet in height above existing grade. The attached garage would be 770 square feet in size. The guest house would be approximately 800 square feet in size and a maximum of 19 feet in height above existing grade. Attached to the guest house would be a garage of 340 square feet in size and a 240 square foot workshop. A 120 square foot shed and 2 water tanks (5,000 and 7,500 gallon capacity) are also included with the project. The residence and guest house would be separated by approximately 500 feet.

Grading would include 680 cubic yards of cut and 680 cubic yards of fill. No trees are proposed for removal. The parcel would be served by an existing, private water well located on site, private septic systems, and the Santa Barbara County Fire Department. Access would be provided from Agua Road. The property is a 117.9-acre parcel zoned AG-II-320 and shown as Assessor's Parcel Number 083-680-030, located at 80 Hollister Ranch in Hollister Ranch, 3rd Supervisorial District.

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

MITIGATION MEASURES FROM 10NGD-00000-00018

2. Any exterior night lighting installed on the project site shall be of low intensity, low glare design, minimum height, and shall be fully hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels. Applicant shall develop a Lighting Plan incorporating these requirements and provisions for dimming lights after 10:00 p.m. **Plan Requirements:** The locations of all exterior lighting fixtures and an arrow showing the direction of light being cast by each fixture and the height of the fixtures shall be depicted on a Lighting Plan to be reviewed and approved by P&D and the CBAR. **MONITORING:** P&D and CBAR shall review a Lighting Plan

for compliance with this measure prior to issuance of a Coastal Development Permit for structures. Permit Compliance shall inspect structures upon completion to ensure that exterior lighting fixtures have been installed consistent with their depiction on the final Lighting Plan.

3. Natural building materials and colors compatible with the surrounding terrain (earthtones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. **Plan Requirement:** Project plans including architectural and landscape, shall be reviewed and approved by the Central Board of Architectural Review. Materials shall be denoted on building plans. **Timing:** Structures shall be painted prior to occupancy clearance. **MONITORING:** P&D shall inspect prior to occupancy clearance.
4. If the construction site is graded and left undeveloped for over four weeks, the applicant shall employ the following methods immediately to inhibit dust generation:
 - a. seeding and watering to re-vegetate graded areas; and/or
 - b. spreading of soil binders; and/or
 - c. any other methods deemed appropriate by Planning and Development.

Plan Requirements: These requirements shall be noted on all plans. **Timing:** Plans are required prior to issuance of Coastal Development Permits. **MONITORING:** Grading Inspector shall perform periodic site inspections.

5. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below.
 - a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
 - b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
 - c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.

Plan Requirements: All requirements shall be shown on grading and building plans. **Timing:** Condition shall be adhered to throughout all grading and construction periods. **MONITORING:** P&D shall ensure measures are on plans. P&D Grading and Building inspectors shall spot check; Grading and Building shall ensure compliance on-site. APCD inspectors shall respond to nuisance complaints.

6. Air Pollution Control District (APCD) Measures:

- a. Standard APCD dust mitigations are recommended for all construction and/or grading activities. The name and telephone number of an on-site contact person must be provided to the APCD prior to issuance of the Coastal Development Permit.
- b. APCD Rule 345, *Control of Fugitive Dust from Construction and Demolition Activities*, became effective on July 21, 2010 and establishes new limits on the generation of visible fugitive dust emissions at demolition and construction sites. The rule includes measures for minimizing fugitive dust from on-site activities and from trucks moving on- and off-site. The

text of the rule can be viewed on the APCD website at <http://www.sbcapcd.org/rules/download/rule345.pdf>.

- c. Fine particulate emissions from diesel equipment exhaust are classified as carcinogenic by the State of California. Therefore, during project grading, construction, and hauling, construction contracts must specify that contractors shall adhere to the requirements listed in APCD's "Diesel Particulate and NOx Emission Measures" document to reduce emissions of ozone precursors and fine particulate emissions from diesel exhaust.
 - d. Prior to occupancy, APCD permits must be obtained for all equipment that requires an APCD permit. APCD Authority to Construct permits are required for diesel engines rated at 50 bhp and greater (e.g., firewater pumps and emergency standby generators) and boilers/large water heaters whose combined heat input rating exceeds 2.0 million BTUs per hour.
 - e. All portable diesel-fired construction engines rated at 50 brake-horsepower or greater must have either statewide Portable Equipment Registration Program (PERP) certificates or APCD permits prior to operation. Construction engines with PERP certificates are exempt from APCD permit, provided they will be on-site for less than 12 months.
 - f. At a minimum, prior to occupancy each building should reduce emissions of greenhouse gases by:
 - Increasing energy efficiency beyond Title 24 requirements;
 - Encouraging the use of transit, bicycling and walking by the occupants;
 - Increasing recycling goals (e.g., separate waste and recycling receptacles); and
 - Increasing landscaping (shade trees decrease energy requirements and also provide carbon storage.)
 - g. Asphalt paving activities shall comply with APCD Rule 329, *Cutback and Emulsified Asphalt Paving Materials*.
7. The applicant shall retain and pay for a P&D approved biologist to inspect and monitor the project site for bird and raptor nesting activity. If construction is to take place during the nesting season (March to September), a P&D approved biologist shall conduct a pre-construction bird and raptor nesting inspection not more than one week prior to the proposed beginning of construction activity. If birds or raptors are determined to be nesting on or within the vicinity of the project site, no construction activities, including, but not limited to grading or heavy equipment operation, shall take place within 500 feet of the bird or raptor nest. Certain construction activities may be allowed on a case-by-case basis as reviewed and approved by P&D. **Plan Requirements and Timing:** At a minimum of two days prior to the proposed beginning of construction activity, the results of the survey shall be reviewed and approved by P&D. This condition shall be printed on all final construction, grading, and building plans. **Monitoring:** P&D staff shall perform site inspections throughout the construction phase and receive the report from the P&D approved biologist.
8. The use of heavy equipment and vehicles shall be limited to existing roadways and defined staging areas/access points. The boundaries of each work area shall be clearly defined and marked in the field with visible flagging and/or orange protective fencing. The Agua Creek riparian vegetation shall be protected by the placement of orange protection fencing outside the dripline of oak trees or at the western edge of the access drive, whichever is further from the creek. **Plan Requirements/Timing:** The boundaries of the work area shall be clearly delineated on the plans prior to issuance of the grading and building permits. Protective fencing shall be in place prior to

the commencement of grading activities and maintained throughout construction. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall site inspect during construction to ensure staging areas and work boundaries are marked according to the approved plan.

9. **Habitat Restoration.** The Owner/Applicant shall submit for P&D approval a Creek Restoration Plan prepared by a P&D-approved biologist and designed to restore the understory of the Agua Creek riparian corridor within the cattle-exclusion fenced area. The plan shall provide for a mitigation ratio of 5 to 1 (aerial extent) to the area of creek buffer impacted (4,658 square feet) and include the following components:
1. Restoration plant materials shall be native riparian species found in the Agua Creek watershed including, but not limited to toyon, California coffeeberry, and poison-oak.
 2. Species shall be from locally obtained plants and seed stock.
 3. The new plantings shall be irrigated with drip irrigation on a timer, and shall be weaned off of irrigation over a period of two to three years.
 4. Agua Creek adjacent to the work areas shall be fenced with 6-foot construction fencing, staked a minimum of every six feet or as necessary to keep fencing from collapsing.
 5. All restoration plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
 6. If appropriate, non-native species, shall be removed from the creek, however, removal of native species in the creek shall be prohibited.

Plan Requirements/Timing: The final restoration plans shall be submitted prior to issuance of the Coastal Development Permit for review and approval by P&D. The Owner/Applicant shall post a performance security to ensure installation prior to Issuance of the CDP and maintenance for three years. **Monitoring:** The Owner/Applicant shall demonstrate to P&D compliance staff that all required components of the approved plan(s) are in place as required prior to Final Inspection Clearance and maintained throughout the maintenance period. P&D compliance staff signature is required to release the installation security upon satisfactory installation of all items in approved plans and maintenance security upon successful implementation of this plan.

10. **Tree Protection & Mitigation:** In order to protect existing trees and minimize adverse effects of grading and construction onsite, the applicant shall implement a tree protection and replacement plan. All grading, trenching, ground disturbance, construction activities and structural development shall occur outside the critical root zone of all onsite oak trees. No ground disturbance including grading for buildings, driveways, easements and subsurface grading shall occur within the critical root zone of any tree unless specifically authorized by the approved tree protection plan. The tree protection and replacement plan shall include the following:
- a. An exhibit showing the location, diameter and critical root zone of all trees located onsite and within the construction areas of the residence and the guest house and their associated driveways.
 - b. Fencing of all trees to be protected at or outside of the critical root zone. Fencing shall be at least three feet in height of chain link or other material acceptable to P&D and shall be staked every 6 feet. The applicant shall place signs stating "tree protection area" at 15 foot intervals on the fence. Said fencing and signs shall be shown on the tree protection exhibit, shall be installed prior to commencement of grading activities and shall remain in place throughout all grading and construction activities.

- c. The tree protection plan shall clearly identify any areas where grading, trenching or construction activities would encroach within the critical root zone of any native or specimen tree. All encroachment is subject to review and approval by P&D.
- d. Construction equipment staging and storage areas shall be located outside of the protected area and shall be depicted on project plans submitted for land use clearance. No construction equipment shall be parked, stored or operated within the protected area. No fill soil, rocks or construction materials shall be stored or placed within the protected area.
- e. Any proposed tree wells or retaining walls shall be shown on the tree protection plan exhibit as well as grading and construction plans and shall be located outside of the critical root zone of all protected trees unless specifically authorized.
- f. No permanent irrigation shall occur within the critical root zone of any oak tree. Drainage plans shall be designed so that tree trunk areas are properly drained to avoid ponding.
- g. Only trees designated for removal on the approved tree protection plan shall be removed.
- h. Any protected trees which are removed, relocated and/or damaged (more than 20% encroachment into the critical root zone) shall be replaced on a 10:1 basis with 5-gallon size trees. A drip irrigation system with a timer shall be installed. Trees shall be planted prior to occupancy clearance and irrigated and maintained until established (five years). The plantings shall be protected from predation by wild and domestic animals and from human interference by the use of staked, chain link fencing and gopher fencing during the maintenance period.
- i. Any unanticipated damage that occurs to native trees or sensitive habitats resulting from construction activities shall be mitigated in a manner approved by P&D. This mitigation may include but is not limited to posting of a performance security, tree replacement on a 10:1 ratio and hiring of an outside consultant biologist to assess the damage and recommend mitigation. The required mitigation shall be done immediately under the direction of P&D prior to any further work occurring on site.

Plan Requirements: Prior to issuance of a Coastal Development Permit, the applicant shall submit grading plans and the tree protection and replacement plan to P&D for review and approval. All aspects of the plan shall be implemented as approved. **Timing:** Timing on each measure shall be stated where applicable; where not otherwise stated, all measures must be in place throughout all grading and construction activities. **Monitoring:** Permit Compliance staff shall conduct site inspections throughout all phases of development to ensure compliance with and evaluate all tree protection and replacement measures.

- 11. Erosion control measures shall be implemented to prevent runoff into Agua Creek. This shall include installation of protective fencing along the boundary of the work area to prevent stockpiling and other activities adjacent to the creek. Silt fencing, in conjunction with other methods, shall be used to prevent erosion and siltation of the nearby stream channel and to prevent runoff and associated residual water from entering Agua Creek. **Plan Requirements/Timing:** The boundaries of the creek-bank and location of protective/silt fencing shall be clearly delineated on the plans prior to issuance of the grading permit. This condition shall be printed on all building and grading plans prior to permit issuance. **Monitoring:** Permit Compliance staff shall site inspect during construction to ensure erosion control and sedimentation measures are marked according to the approved plan.
- 12. **Equipment Washout-Construction.** The Owner/Applicant shall designate one or more washout areas for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to Agua Creek and the surrounding area. Note that polluted water and materials shall be contained in these areas and removed from the site as necessary. The areas shall be located at least 100 feet from Agua Creek or sensitive biological resources. **Plan Requirements:** The Owner/Applicant shall designate the P&D approved location on all building

and grading permits. **Timing:** The Owner/Applicant shall install the area prior to commencement of construction. **Monitoring:** P&D compliance monitoring staff shall ensure compliance prior to and throughout construction.

13. In the event archaeological remains are encountered during grading, work shall be stopped immediately or redirected until a P&D qualified archaeologist and Native American representative are retained by the applicant to evaluate the significance of the find pursuant to Phase 2 investigations of the County Archaeological Guidelines. If remains are found to be significant, they shall be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D shall check plans prior to approval of Coastal Development Permits and shall spot check in the field.
14. To minimize fire hazards, a Fire Protection Plan shall be implemented. The plan shall include the following:
- a. In order to reduce impacts to native vegetation relating to fire hazard reduction, all brushing shall be limited to a 30' radius from all proposed and existing structures. Live natural vegetation having trunks of four inches or greater may remain within the 30' perimeter provided that specimens are maintained free of dead, decadent limbs and branches. Natural vegetation which is dead and/or decadent shall be removed or chipped within 100 feet from structures. Limbs larger than four inches in diameter, leaves, mulch and duff do not require abatement.
 - b. Installation of shutters on all windows on the exposed side of the structure.
 - c. Installation of class "A" or "B" roofs.
 - d. Construction of all decks with heavy timber.

Plan Requirements and Timing: A Fire Protection Plan shall be submitted to Planning and Development and the Fire Department for review and approval prior to issuance of Coastal Development Permits. **MONITORING:** A site inspection shall be conducted by Fire and P&D personnel prior to occupancy clearance.

15. Individual landscaping plans shall utilize fire resistant native species within 100 feet of residences. **Plan Requirements:** Prior to issuance of Coastal Development Permits, the applicant shall submit landscape plans to P&D and the Fire Department for review and approval. The landscape plan shall also be approved by the CBAR. This mitigation shall be incorporated into landscape plans for future development. **Timing:** The applicant shall install the landscaping consistent with the approved plan prior to occupancy clearance. **MONITORING:** Permit Compliance shall site inspect to verify landscape installation and once each year to monitor landscape maintenance during the maintenance period.
16. The following fire prevention methods shall be used for all future structures:
- a. Building materials for all structures including residences, fences and accessory structures shall be constructed of fire resistant materials.
 - b. P&D Building & Safety Class A or B roofing (i.e., non-combustible tile or asphalt composite shakes) shall be required for all future on-site structures.
 - c. Spark arresters shall be required for wood burning fireplaces.
 - d. Private decks and structural overhangs proposed for all new structures shall be constructed with fire retardant materials or heavy timber.

Plan Requirements: Where appropriate, the fire prevention measures shall be graphically depicted on grading and building plans. **Timing:** Measures shall be installed prior to occupancy clearance. **MONITORING:** P&D building inspectors shall site inspect during construction.

17. The applicant shall limit excavation and grading to the dry season of the year (i.e. April 15 to November 1) unless a Building & Safety approved erosion and sediment control plan is in place and all measures therein are in effect. All exposed graded surfaces shall be reseeded with ground cover vegetation to minimize erosion. **Plan Requirements:** This requirement shall be noted on all grading and building plans. **Timing:** Graded surfaces shall be reseeded within 4 weeks of grading completion, with the exception of surfaces graded for the placement of structures. These surfaces shall be reseeded if construction of structures does not commence within 4 weeks of grading completion. **MONITORING:** P&D shall site inspect during grading to monitor dust generation and 4 weeks after grading to verify reseeded and to verify the construction has commenced in areas graded for placement of structures.
18. Construction activity for site preparation and for future development shall be limited to the hours between 7:00 a.m. and 4:00 p.m., Monday through Friday. No construction shall occur on State holidays (e.g., Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Three signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** Signs shall be in place prior to beginning of and throughout grading and construction activities. Violations may result in suspension of permits. **MONITORING:** Building Inspectors and Permit Compliance shall spot check and respond to complaints.
19. Prior to issuance of the Coastal Development Permit, the standard State fee of \$5,000 shall be paid to the State of California Coastal Conservancy in lieu of granting public access to the beach. Proof of payment shall be submitted to P&D. A cashier's check shall be submitted to: California Coastal Conservancy, 1330 Broadway, Suite 1300, Oakland, CA 94612, Attn.: Terri Nevins (510) 286-4161. **Timing/Monitoring:** P&D shall verify payment of fees prior to issuance of the CDP.
20. **Storm Water Retention-Driveway Design.** To reduce potential erosion of the eastern bank of Agua Creek by stormwater runoff, allow for infiltration, reduce pollutants and minimize degradation of storm water quality from parking areas and other paved surfaces, the Owner/Applicant shall initially drain the private drive away from Agua Creek into a vegetated swale that will address pollutants, slow stormwater flows and ultimately drain into the creek. The project shall also implement one of the following parking area designs: paving only under wheels, flared driveway, or use of permeable surfaces for parking areas. **Plan Requirements:** The Owner/Applicant shall include the driveway design, including materials on all building plans and as needed on grading plans depicted graphically subject to review and approval by P&D. **Monitoring:** P&D compliance monitoring staff shall site inspect for installation prior to Final Building Inspection Clearance.

PROJECT SPECIFIC CONDITIONS

21. All elements of the project (e.g., design, scale, character, colors, materials and landscaping) shall be compatible with vicinity development and shall conform in all respects to CBAR approval 08BAR-00000-00113. **Plan Requirement and Timing:** The applicant shall submit architectural drawings of the project for review and shall obtain final approval by the Board of Architectural Review prior to issuance of Coastal Development Permits. Grading plans, if required, shall be submitted to P&D concurrent with or prior to Board of Architectural Review plan filing.

22. A recorded Notice to Property Owner document is necessary to ensure that the proposed guest house is used only for its permitted uses. The property owner shall notarize and record the NTPO document prior to issuance of Coastal Development Permits.
23. **Compliance with Departmental letters required as follows:**
- a. Air Pollution Control District dated June 9, 2008
 - b. County Fire Department dated May 20, 2008
 - c. Environmental Health Services dated October 11, 2010

APPEALABLE COASTAL DEVELOPMENT PERMIT CONDITIONS

24. **Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.
25. **CDP Expiration.** The approval or conditional approval of a Coastal Development Permit shall be valid for one year from the date of action by the Zoning Administrator. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.
26. **Additional Permits Required.** The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

COUNTY RULES & REGULATIONS/LEGAL REQUIREMENTS

27. **Print & illustrate conditions on plans:** All applicable final conditions of approval (*Zoning Administrator*) shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
28. **Mitigation Monitoring Required.** The Owner/Applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the Owner/Applicant shall:
- a. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;

- b. Pay a \$500 fee prior to issuance of the Coastal Development Permit as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the Owner/Applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;
 - c. Note the following on each page of grading and building plans "This project is subject to Condition Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval."; and
 - d. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.
29. **DIMF Fees-Transportation.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for transportation. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total DIMF amount for Transportation is assessed at \$1,976. This is based on a project type of single-family residence. **Timing:** Transportation DIMFs shall be paid to the County Public Works Department-Transportation Division prior to Coastal Development Permit issuance.
30. **DIMF Fees-Parks.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Parks Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Parks DIMF amount is assessed at \$1,153. This is based on a project type of single-family residence. **Timing:** Parks DIMFs shall be paid to the County Parks Department prior to Final Building Inspection.
31. **DIMF Fees-Fire.** In compliance with the provisions of ordinances and resolutions adopted by the County, the Owner/Applicant shall be required to pay development impact mitigation fees to finance the development of facilities for the Fire Department. Required mitigation fees shall be as determined by adopted mitigation fee resolutions and ordinances and applicable law. The total Fire DIMF amount assessed is \$489 and is based upon a calculation of \$0.10 per square foot for buildings that are equipped with fire sprinklers. This is based on a project type of single-family residence. **Timing:** Fire DIMFs shall be paid to the County Fire Department prior to Final Building Inspection and shall be based on the fee schedules in effect when paid.
32. **Plans Requirements.** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
33. **Change of Use:** Any change of use in the proposed building or structure shall be subject to environmental analysis and appropriate review by the County including building code compliance.

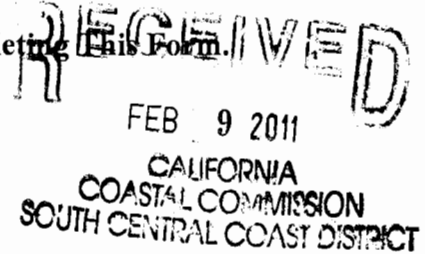
- 34. Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Coastal Development Permit. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
- 35. Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the review authority and no approval shall be issued unless substitute feasible conditions/measures are imposed.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1801 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

**SECTION I. Appellant(s)**

Name: Sara Wan

Mailing Address: 89 S. California Street

City: Ventura

Zip Code: 93001

Phone: 805-585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds fill).

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

80 Hollister Ranch, Gaviota Area, Unincorporated Santa Barbara County (Assessor Parcel No. 083-680-030)

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-STB-11-005

DATE FILED: 2/9/11

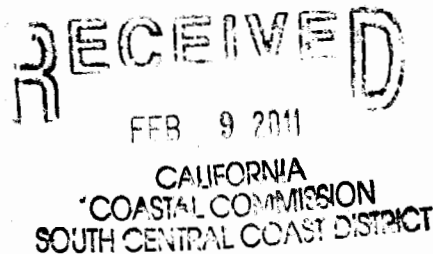
DISTRICT: So. Central Coast

Exhibit 6
A-4-STB-11-005
Commissioner Appeals

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

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

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



6. Date of local government's decision: January 10, 2011

7. Local government's file number (if any): 08CDH-00000-00018

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

OWNER/APPLICANT
Agua Azul Partnership
c/o Art McLean
1551 Bishop Street
San Luis Obispo, CA 93401

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

(1) Agent:
Bill Swanson
Hollister Ranch Parcel 69
Gaviota, CA 93117

(2)

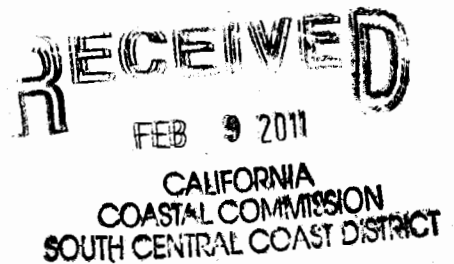
(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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

SEE ATTACHED



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

SECTION V. Certification

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

Signed: Laura J. Wan
Appellant or Agent

Date: 2/9/11

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

Signed: _____

Date: _____

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1801 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

SECTION I. Appellant(s)

Name: Esther Sanchez

Mailing Address: 89 S. California Street

City: Ventura

Zip Code: 93001

RECEIVED
FEB 9 2011
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
Phone: 805-585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

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

80 Hollister Ranch, Gaviota Area, Unincorporated Santa Barbara County (Assessor Parcel No. 083-680-030)

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-ST B-11-005

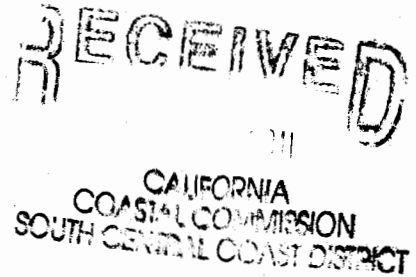
DATE FILED: 2/9/11

DISTRICT: So. Central Coast

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

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

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



6. Date of local government's decision: January 10, 2011

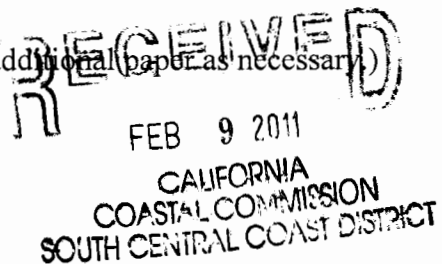
7. Local government's file number (if any): 08CDH-00000-00018

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

OWNER/APPLICANT
Agua Azul Partnership
c/o Art McLean
1551 Bishop Street
San Luis Obispo, CA 93401



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

(1) Agent:
Bill Swanson
Hollister Ranch Parcel 69
Gaviota, CA 93117

(2)

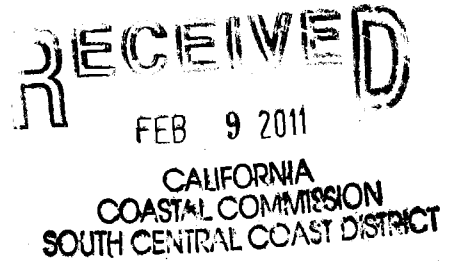
(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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

SEE ATTACHED



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

SECTION V. Certification

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

Signed: John P. Sandy
Appellant or Agent

Date: 2/9/11

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

Signed: _____

Date: _____

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

Appeal of decision by Santa Barbara County granting a coastal development permit for the construction of a new 2,739 sq. ft., 28 ft. tall single-family residence, attached 770 sq. ft. garage, and 1,149 sq. ft. of patios and decks, a detached approximately 800 sq. ft., 19 ft. tall guest house with 1,112 sq. ft. of patios and decks, attached 340 sq. ft. garage and 240 sq. ft. workshop, a 120 sq. ft. shed, 2 water tanks (5,000 gallon tank and 7,500 gallon tank), access road improvements, private septic systems, and 1,360 cu.yds. grading (680 cu. yds. cut and 680 cu. yds. fill) located at 80 Hollister Ranch (APN 083-680-030) in Hollister Ranch, Santa Barbara County, based on the following grounds:

The project is appealed on the grounds that it is inconsistent with the County of Santa Barbara's Local Coastal Program (LCP) policies regarding environmentally sensitive habitat areas, stream habitats, wetlands, and oak woodland habitats.

LCP Policies 1-1, 1-2, 2-11, 3-14, 9-9, 9-14, 9-16(a), 9-35, 9-36, 9-37, 9-38; Coastal Act Sections 30107.5, 30121, 30240, 30231 as incorporated into the LCP pursuant to Policy 1-1; and Article II of the Zoning Code Sections 35-53, 35-58, 35-97.3, 35-97.7, 35-97.18, 35-97.19, and 35-97.9 (see below) limit development in and around environmentally sensitive habitat areas, riparian corridors, wetlands, and oak woodland habitats. Additionally, these policies provide that development must be sited and designed to prevent impacts to these resources.

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

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

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

Section 30121 of the Coastal Act states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30240 of the Coastal Act states:

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

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

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

Section 30231 of the Coastal Act states:

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

Policy 1-2 (Resource Protection):

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

Policy 2-11 (Development Policies):

All development, including agriculture, adjacent to areas designated on the land use plan or resources maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

Policy 3-14 (Hillside and Watershed Protection):

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

Policy 9-9 (Wetlands):

A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences or structures necessary to support the uses in Policy 9-10.

The upland limit of a wetland shall be defined as: 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or 2) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

Policy 9-14 (Wetlands):

New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

Policy 9-16(a):

No grazing or other agricultural uses shall be permitted in coastal wetlands.

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

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

Policy 9-36 (Native Plant Communities):

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

Policy 9-37 (Streams):

The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity of water quality of streams:

- a. soil type and stability of stream corridors;*
- b. how surface water filters into the ground;*
- c. slope of the land on either side of the stream; and*
- d. location of the 100-year flood plain boundary.*

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

Policy 9-38 (Streams):

No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.

Definitions within the LCP Habitat Type Section for Streams:

Stream: watercourses, including major and minor streams, drainageways and small lakes, ponds and marshy areas through which streams pass. (Coastal wetlands are not included.)

Riparian Vegetation: vegetation normally found along the banks and beds of streams, creeks, and rivers.

Stream Corridor: a stream and its minimum prescribed buffer strip.

Buffer: a designated width of land adjacent to the stream which is necessary to protect biological productivity, water quality, and hydrological characteristics of the stream. A buffer strip is measured horizontally from the banks or high water mark of the stream landward.

Section 35-58 Definitions:

Major Stream: A stream with a drainage area in excess of 500 acres.

Wetland: Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

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

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

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

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

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

A coastal development permit may be issued subject to compliance with conditions set forth in the permit which are necessary to ensure protection of the habitat area(s).

Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County) Grounds for Appeal

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

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

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

- 1. Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.*
- 2. When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Sec. 35-97.19 Development Standards for Stream Habitats:

1. The minimum buffer strip for streams in rural areas, as defined by the Coastal Land Use Plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the California Department of Fish and Game and California Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:

- a. Soil type and stability of stream corridors.*
- b. How surface water filters into the ground.*
- c. Slope of land on either side of the stream.*
- d. Location of the 100-year flood plain boundary.*

Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.

2. No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects; flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.

3. Dams or other structures that would prevent upstream migration of anadromous fish shall not be allowed in streams targeted by the California Department of Fish and Game unless other measures are used to allow fish to bypass obstacles. These streams include: San Antonio Creek (Los Alamos area), Santa Ynez River, Jalama Creek, Santa Anita Creek, Gaviota Creek, and Tecolote Creek.

4. All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in paragraph 2 of this Section, above. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.

5. All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.

6. Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the Coastal Zone shall be permitted unless consistent with the provisions of P.R.C. § 30236 of the Coastal Act.

Sec. 35-97.9 (4) and (9) Development Standards for Wetland Habitats:

4. Except for lots which abut the El Estero (Carpinteria Slough), a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Paragraph 5 of this Section, below. The upland limit of a wetland shall be defined as:

a. The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; or

b. The boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or

c. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

9. New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

Failure to Require Adequate Buffer from a Sensitive Riparian Habitat:

According to a biological report prepared by Mary Carroll, dated January 2009, five plant communities can be found on the site, including Venturan Coastal sage scrub, coast live oak woodland, annual grassland, and two wetland communities along Agua Creek, including coast live oak riparian forest (with patches of southern mixed riparian forest) and coastal and valley freshwater marsh. The proposed 2,739 sq. ft. main residence, 770 sq. ft. attached garage, 1,149 sq. ft. of decks and patios, and driveway will be located within the 100 ft. buffer of Agua Creek. The single-family residence and driveway would be located approximately 45 feet or less from the edge of the riparian canopy and oak woodland habitat and approximately 50 feet from the top of edge of stream bank. The lack of an adequate buffer between the proposed residential development/access road and the riparian canopy would negatively impact the riparian ESHA on the site, inconsistent with the provisions in the certified Local Coastal Plan (LCP).

The County's LCP specifically identifies oak trees and oak woodlands as sensitive habitats. The County's LCP requires that new development provide for a 100 ft. buffer from streams and riparian habitat in rural areas and a minimum 50 ft. buffer in urban areas. The LCP provides that a reduced buffer may be allowed based on an analysis of several factors listed in LCP Policy 9-37. To determine the appropriate buffer other than 100 ft. for rural areas or 50 ft. for urban areas, Policy 9-37 of the County's LCP requires consultation with both the California Department of Fish and Game and the California Regional Water Quality Control Board, as well as an analysis of: soil type and stability of stream corridors, how surface water filters into the ground, slope of land on either side of the stream, and the location of the 100-year flood plain boundary. Policy 9-37 also requires that, where riparian vegetation has been previously removed, the buffer shall allow for the re-establishment of riparian vegetation to its prior extent to the greatest degree possible.

In its approval of the permit, the County did not provide the required analysis and findings to justify reducing the normally required 100 ft. buffer to only 45 feet. Specifically, the County's staff report failed to provide a basis for the reduced buffer consistent with the provisions of LCP Policy 9-37, but instead simply found that, in this case, a reduced buffer would be appropriate because the area of the creek contains little understory vegetation (apparently due to cattle grazing operations) and has been degraded and that the existing ranch road would act as a "buffer" for the new development from the riparian habitat. Further inconsistent with Policy 9-37, the County found that the reduction in the required development setback should be allowed because restoration of the riparian habitat area adjacent to the road would be required as a condition of approval. However, Section 30240 of the Coastal Act, as incorporated in the LCP, requires that, when feasible, new development be designed and located in a manner that avoids adverse impacts to ESHA. Thus, the County must first analyze all feasible alternatives that would avoid adverse impacts to ESHA rather than simply requiring mitigation for impacts that could otherwise be avoided. Moreover, the stated reasons do not justify a reduced buffer according to LCP Policy 9-37. Further, based on a site visit by Commission staff, the creek, and its associated riparian habitat area, does

Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal

contain a significantly developed understory despite some disturbance from cattle grazing. The biological report for the site explains that the site includes coast live oak riparian forest, dominated by coast live oak along both banks of Agua Creek, including patches of mixed riparian forest including western sycamore and arroyo willow. The biological report states that other native shrubs are growing beneath the canopy of sycamores, oaks, and willows, including toyon, poison-oak, California coffeeberry, California blackberry, and mugwort. Although cattle grazing may have impacted the riparian vegetation within the creek corridor, the policy suggests that this should weigh more heavily in favor of an increased buffer. Additionally, a buffer of at least 100 ft. is necessary to protect the riparian ESHA and to prevent removal of ESHA for fire protection purposes.

Development Not Clustered:

The approved development is not sited in a manner that clusters development on site in order to avoid impacts to both ESHA and native plant communities. The proposed 798 sq. ft. guest house is not located in the same area of the site where the main residence is proposed. In fact, the guest house would be located approximately 500 ft. east of the main house, on a ridge adjacent to Agua Road, a Hollister Ranch common road. The 798 sq. ft. guest house will include a 340 sq. ft. attached garage, a 240 sq. ft. workshop, and 1,112 sq. ft. of decks and patios. The distance between the main residence and the guest house result in separate impacts from residential use of the site (e.g., noise, lighting, or other impacts associated with presence and use by residents) as well as separate grading/vegetation removal and fuel modification requirements for each development footprint. These separate impacts are significant in this case because of the proximity of riparian ESHA and native plant communities.

The Biological Report, prepared by Mary Carroll, dated January 2009, indicates that 100 feet of vegetation clearing is typically required by the Fire Department to reduce flammable vegetation adjacent to structures. According to the biological report, development of the main residence will encroach into at least 4,658 sq. ft. of riparian buffer. Additionally, the easternmost wall of the main house will be located within approximately 15 ft. of Venturan coastal sage scrub and approximately 8,235 sq. ft. of Venturan coastal sage scrub may need to be removed for fire clearance for the main residence. The easternmost wall of the guest house will be located within 20 ft. of Venturan coastal sage scrub. Fire clearance of a 100 ft. area surrounding the guest house would require the removal and thinning of an additional approximately 7,900 sq. ft. of Venturan coastal sage scrub. Thus, a total of approximately 16,135 sq. ft. of Venturan coastal sage scrub habitat will need to be removed according to the biological report.

Section 35-97.18 of the LCP identifies coastal sage scrub as a native plant community. Policy 9-36 (Native Plant Communities) requires that, when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. Policy 9-36 further requires that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not

Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County) Grounds for Appeal

adversely affect root zone aeration and stability of native trees. Additionally, Policy 3-14 requires that all development shall be designed to minimize grading, landform alteration, and to preserve native vegetation to the maximum extent feasible.

As proposed, the main residence and guest house will not be clustered and will not utilize shared/overlapping fuel modification zones. If the main residence and guest house were to be clustered, fuel modification could be minimized, thus minimizing disturbance to native coastal sage scrub habitat. Further, two separate development areas, one for the main house and one for the guest house, will not minimize grading and landform alteration, but may actually increase potential for erosion on the steep slopes where fuel modification will occur in between the guest house and main residence. Thus, the proposed development of the main residence and guest house, approximately 500 feet apart, have the potential to result in significant impacts to native vegetation and natural landforms.

Unpermitted Access Driveway within Buffer:

A potentially unpermitted existing driveway for the main residence is located parallel and adjacent to the top of bank of Agua Creek for approximately 300 linear feet. The County's staff report references the road as an "existing ranch road", inferring that the road was legally constructed. Moreover, the County's analysis assumes that the road is existing and not part of the proposed development. However, based on a preliminary review of historic aerial photographs by Commission staff, it appears that the road was actually constructed after the effective date of the Coastal Act of 1976 without the required Coastal Development Permit. Thus, the unpermitted road should have been analyzed by the County as part of the proposed development. However, if the applicant had requested after-the-fact approval for the road, because the road is immediately adjacent to both the riparian and wetland habitat on site, it could not meet the requirement that new development be set back at least 100 ft. from these habitat areas.

The biological report prepared for the site identifies a freshwater marsh located along the bank of Agua Creek, and identifies vegetation as being characterized by common rush, iris-leaved rush, tall flat-sedge, water cress, and willow-herb. The existence of this wetland was also confirmed by the Commission's staff biologist during a site visit. The apparently unpermitted driveway/road is located directly adjacent to the small wetland and would encroach into the 100 ft. buffer required by the LCP. However, the wetland was not addressed in the staff report although County staff have verbally indicated to Commission staff that the wetland is located approximately 120 ft. from the main residence. Thus, although the new residence may potentially be located more than 100 ft. from the wetland, the unpermitted driveway/road would be immediately adjacent to both wetland and Agua Creek and, thus, would not meet required setbacks from wetland or stream, as required by the County's LCP.

Inadequate Alternatives Analysis:

In its approval of the permit, the County did not analyze alternatives to reduce the impacts of residential development through alternative siting locations. Based on a site

**Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal**

visit by Commission staff, there appear to be alternative locations on site to construct a residence (and potentially a clustered guest house) which would provide for the 100 foot buffer from the sensitive riparian area. One alternative would be to build the main residence in the proposed location of the guest house. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative would require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered in the location of the main residence. Given that a guest house is a non-essential accessory structure, the elimination of the guest house is a feasible alternative. Although scattered oak trees are located in that area, design and siting alternatives could avoid any encroachment into oak tree canopies and any potential impacts to oak tree habitat.

In addition, it appears that the development could be located at the base of the ridge near the area proposed for the main residence, provided the residence is redesigned to allow for the required 100 ft. setback from the adjacent riparian and wetland habitat. Given the potential impacts described above resulting from the separation of the guest house and main residence, this alternative would require the elimination of the guest house in its entirety, or alternately, if feasible, a guest house clustered in the location of the main residence. Given that a guest house is a non-essential accessory structure, the elimination of the guest house is a feasible alternative.

Further, the subject site is 117.93 acres in size, there may be other feasible alternative building locations that would avoid or further minimize adverse impacts to environmentally sensitive habitat areas and allow for clustering of development to protect agriculture on site. However, the County's staff report did not provide an analysis of any alternative locations on the site or designs that would minimize encroachment into the buffer or that would minimize native vegetation removal.

Agua Creek and the associated riparian corridor constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act, as incorporated in the LCP, requires that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Section 30240, as incorporated in the LCP, restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a new house, accessory structures, and driveway on the parcel, which could result in the loss of ESHA and native plant communities. In this situation, both the local government and the Commission must evaluate all feasible alternatives that would avoid or minimize impacts that would disrupt and/or degrade environmentally sensitive habitat.

However, as previously discussed, the applicant is proposing a guest house in an area that would avoid impacts to the riparian ESHA. This demonstrates that an alternative is available to allow a residential use of the site without impacting ESHA to provide an economically viable use. However, the County did not address this alternative in its analysis in its findings for approval of this project. Further, the Mitigated Negative Declaration for the project (10NGD-00000-00018) states: "[a]s no potentially significant,

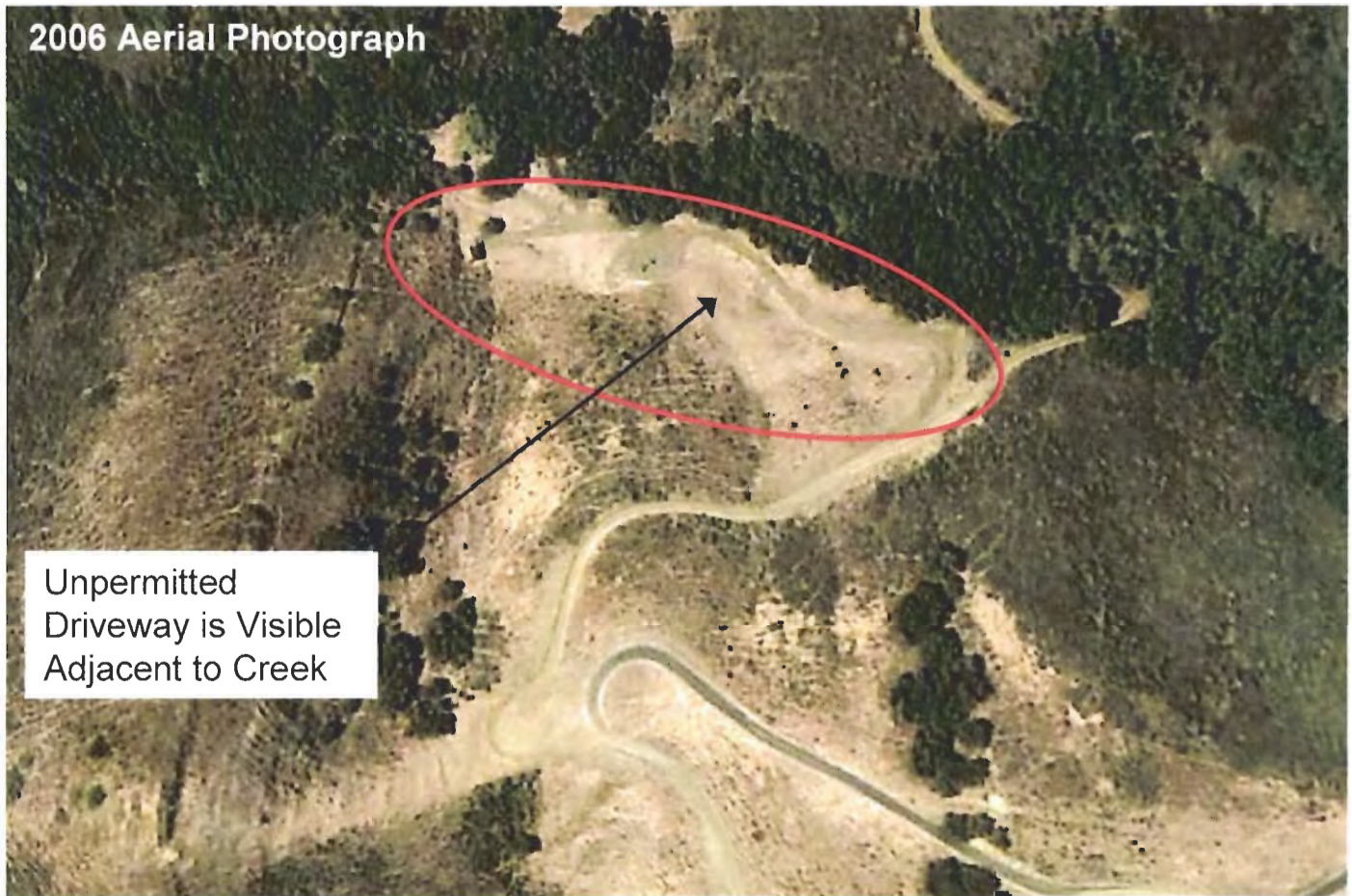
Agua Azul Partnership- Parcel 80 (Hollister Ranch, Santa Barbara County)
Grounds for Appeal

adverse unmitigable impacts would result from the proposed development, project alternatives have not been evaluated." (Section 8.0 Project Alternatives, p.34)

Conclusion:

Thus, for all the reasons discussed above, a substantial issue exists regarding the proposed project relative to its consistency with the LCP policies regarding environmentally sensitive habitat areas, riparian areas, wetlands, and oak woodland habitats.

2006 Aerial Photograph



Unpermitted
Driveway is Visible
Adjacent to Creek

1986 Aerial Photograph



No Driveway is
Present

Exhibit 7
A-4-STB-11-005
Aerial Photos