

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
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Th9

**NORTH CENTRAL COAST DISTRICT
(SAN FRANCISCO)
DEPUTY DIRECTOR'S REPORT**

For the

MAY Meeting of the California Coastal Commission

MEMORANDUM

May 12, 2011

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

There were no waivers, emergency permits, immaterial amendments or extensions issued by the North Central Coast District Office for the **May 12, 2011 Coastal Commission hearing.**

This report contains additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the North Central Coast Area.

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**Memorandum****May 10, 2011**

To: Commissioners and Interested Parties

FROM: Charles Lester, Deputy Director
 North Central Coast District

Re: *Additional Information for Commission Meeting*
Thursday, May 12, 2011

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Th12a



Prepared May 9, 2011 (for May 12, 2011 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Ruby Pap, District Supervisor
Nicholas Dreher, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Item Th12a
Coastal Development Permit no. 2-09-013 (Tomales Farm & Dairy, LLC)**

This staff report addendum, in part, reflects staff's efforts to work with the Applicant and results in the staff's recommendation of approval of this project under certain special conditions. The purpose of this staff report addendum is to: 1) revise special condition #1 to provide more clarity regarding the description of property subject to the enumerated restrictions; 2) amend special condition #3 to clarify that the Coastal Commission has jurisdiction over future development of the restricted portions of property; and 3) add findings and provide further evaluation of Coastal Act Policies 30250 and 30241 regarding impacts of residential and commercial development on agricultural land in response to the Applicant's May 2, 2011 comments to staff's April 22, 2011 recommendation. Deletions are shown in ~~strikethrough~~ and additions are shown in underline.

Staff continues to recommend approval of this project as conditioned.

1. Amend Special Condition #1 as follows:

1. **Agricultural and Open Space Deed Restriction**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur within:

- (1) the portion of existing central lot 3 ~~that will become~~ identified on Exhibit 10,
which will become proposed central lot 2 as shown on Exhibit 7 ~~proposed central~~
~~lot 2;~~
- (2) the portion of existing west lots ~~2,~~ 3 and 4 ~~that will become~~ identified on Exhibit
10, which will become proposed west lot 3 as shown on Exhibit 6 ~~proposed west~~
~~lot 3; or~~
- (3) the portion of existing west lots 1, 3 and 4 ~~that will become~~ identified on Exhibit
10, which will become proposed west lot 4 as shown on Exhibit 6, ~~proposed west~~
~~lot 4 as depicted on the final exhibit attached to the NOI for this coastal~~
development permit, except for:

1. The following agricultural activities:

- a. Agricultural production activities defined as "activities that are directly

related to the cultivation of agricultural commodities for sale.” Such activities include the existing cattle grazing operations currently occurring on the site. Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material.

b. Grazing activities.

2. The following development if approved as a coastal development permit amendment:

a. Construction and maintenance of agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds, except that no structures shall be located within any wetlands, streams, riparian corridor, or sensitive habitat areas as generally depicted in **Exhibit 9**, or within a 100-foot buffer from these areas as generally depicted in **Exhibit 9**. For riparian areas, the buffer shall be measured from the limit of riparian vegetation or the high water point if no riparian vegetation exists. For wetlands, the buffer shall be measured from the outermost line of wetland vegetation.

b. Construction and operation of facilities for processing or retail sale of agricultural products on the portion of existing central lot 3 that will become proposed central lot 2, located outside of Blucher-Cole Complex soils near and within Keys Creek, except that no structures shall be located within any wetlands, streams, riparian corridor, or sensitive habitat areas generally depicted in **Exhibit 9**, within a 100-foot buffer from these areas as generally depicted in **Exhibit 9**. For riparian areas, the buffer shall be measured from the limit of riparian vegetation or the high water point if no riparian vegetation exists. For wetlands, the buffer shall be measured from the outermost line of wetland vegetation.

c. Construction of underground utilities.

3. Repair or Maintenance of the following:

a. Underground utilities.

b. Repair and Maintenance of the following existing development ~~on existing lots. Specifically:~~ (i) the single-family residence, two sheds and fencing on existing west lot 2; and (ii) the fencing and the two barns and wells on existing central lot 3.

B. PRIOR TO THE ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS COASTAL DEVELOPMENT PERMIT, the Property Owner shall submit for the review and

approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal metes and bounds legal description and corresponding graphic depiction of (1) the area restricted by subsection 1A and (2) the area restricted by 2a and 2b, prepared by a licensed surveyor, of the portion of the subject property affected by this condition, as generally depicted on both **Exhibit 9** and **Exhibit 10** attached to the findings in support of approval of this permit

2. Amend Special Condition #3 as follows:

3. Future Development Restriction

This permit is only for the development (merger, re-division and land division) described in Coastal Development Permit No. 2-09-013. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, development of a dairy creamery, further division of the subject property, or other changes in the density or intensity of use land, shall require an additional coastal development permit from the California Coastal Commission ~~or from~~ Marin County.

3. Amend the following paragraph beginning on the bottom of page 3, as follows:

The Commission's retained jurisdictional boundary follows Keys Creek through existing west lot 3, west lot 4 and the central lot. The retained jurisdiction touches all the lots as they currently exist, prior to the proposed merger, re-division and division. The newly configured lot lines will be located within both the Coastal Commission's and local government's coastal development permit jurisdictions. In the case of any such division of land, the permit is issued by the Commission only for lots or parcels created which require any new lot lines or portions of new lot lines within the area subject to the Commission's retained jurisdiction. In such an instance the Commission's review is confined to those lots or portions of lots within its jurisdiction. In this case, all of the newly configured lots except new west lot 1, west lot 2, central lot 1 and central lot 3 require new lot lines or portions of lot lines that are outside the Commission's retained jurisdiction and new west lot 3, west lot 4 and central lot 2 are in the area of the Commission's retained jurisdiction.

4. Amend the following paragraph beginning on the bottom of page 13, as follows:

The Marin County certified LCP and certified zoning map reflect the intent of Coastal Act Section 30250, which regulates the location of new development. First, the LCP identifies the Tomales Community Plan boundary as the urban-rural boundary and acknowledges that as delineated, it would provide for future growth at "urban" density and intensity while maintaining rural lands outside the urban area. Specifically, the various zoning districts within and outside a coastal community generally reflect the anticipated build-out potential of the area. Where largely rural communities are concerned, it is critically important to adhere to the existing anticipated build-out consistent with the community boundary, because extending community boundaries has the potential to directly and indirectly negatively impact agricultural viability, productivity and rural character outside the community boundary. In this instance, the subject property is situated on the border of the Tomales

village community boundary.¹ The certified Marin LCP (Unit II) states the following regarding the Tomales community boundary:

[T]he main criterion used in drawing that community's expansion boundary was "to avoid development intrusion into surrounding lands zoned and used for agricultural purposes located within the Marin County Agricultural Preserve" (Tomales Community Plan, p. 1-2). The expansion boundary was also drawn to include those parcels that are too small for large-scale agricultural use and those parcels that are zoned for commercial use. The expansion boundary for Tomales thus encompasses a core of lots zoned VCR and C-RSP for higher residential densities at one unit per 6,000 square feet, surrounded by a buffer of parcels two to 15 acres in size zoned for lower residential densities that range from one unit per two acres to one unit per 20 acres. Except for two public school sites, no parcel larger than 15 acres lies within the expansion boundary. Outside the boundary, all lands are zoned either C-ARP-20 or C-APZ-60.

The expansion boundary for Tomales clearly divides urban and rural residential from agricultural areas. The parcel and zoning pattern creates a low density buffer between the village center and surrounding agricultural lands. Provision for reasonable growth in the future has been made. In addition, the community expansion boundary as adopted in the Tomales Community Plan has been endorsed by the Regional Coastal Commission. For these reasons, the boundary appears to meet the intent of Section 30241 of the Coastal Act and thus can be adopted for the purposes of the LCP.

Although not the standard of review, the certified LCP may serve as guidance when evaluating the land division's conformity with the Coastal Act. All references to zoning herein refer to local zoning districts locally approved by Marin County. The Commission did not certify the relevant zoning districts within the Commission's original permit jurisdiction. Within the Community boundary, the zoning districts, as identified in the Marin County certified zoning map, vary between Coastal, Planned Commercial (C-CP), Coastal, Agricultural, Residential Planned (C-ARP-2/C-ARP-5/C-ARP-10/C-ARP-20), Coastal, Village, Commercial-Residential (C-VCR:B-1/C-VCR:B-3.5/C-VCR:B-4), and Coastal, Residential, Single-Family Planned (C-RSP-1.6/C-RSP-7.26). While the subject site is mostly zoned for agriculture, proposed central lot 1 and approximately one-third of proposed central lot 2 are zoned C-VCR:B-1 and C-VCR:B-4 respectively and are within the community boundary. The remainder of proposed central lot 2 and all of proposed central lot 3 are zoned C-ARP-20 and outside the community boundary. Proposed west lot 2 and approximately 2 acres of proposed west lot 3 are zoned C-ARP-2 and are within the community boundary. The remainder of proposed west lot 3, proposed west lot 1 and proposed west lot 4 are zoned Coastal, Agricultural Production Zone (C-APZ-60) and outside the community boundary.

5. Amend the following paragraph beginning on the bottom of page 15, as follows:

¹ The Tomales Community Plan and maps within, while not certified as part of the Marin LCP, are referenced in the LCP language.

Proposed west lot 3 (21.04 acres) would mostly be located outside the Tomales Community boundary and would be split-zoned C-ARP-2 (approx. 2 acres) and C-APZ-60 (approx. 19 acres). This proposed lot absorbs the existing development on existing west lot 2, which is within the community boundary. Proposed west lot 3 would be smaller than the 71 acre average and 27-acre median because it surrenders roughly 15 acres to proposed west lot 4 for agricultural and natural resource protection purposes (see below) and surrenders roughly 3 acres to west lots 1 and 2. While the proposed west lot 3 would still remain below both the 71 acre average and 27-acre median, inconsistent with 30250(a), the Commission recognizes that this lot straddles the community boundary, and that a strict interpretation of the 30250(a) average parcel size ~~would not be appropriate~~ is unnecessary since the focus of the rural land division analysis is those lands located outside of existing developed areas. In addition, and as further described in Section C, Special Condition 1 requires a deed restriction to limit the portion of the site zoned for agricultural production this site to agricultural uses allowable within the C-APZ-60 zoning district, which will serve to help protect the rural character and maintain the stable urban-rural boundary that Sections 30241 and 30250(a) is meant to address. As discussed in Section C, this restriction also serves to ensure that non-agricultural development located outside the urban rural boundary will not impair the agricultural viability of the rural area as required by Section 30241. As mentioned above, this proposed lot would include an existing single-family residence and two existing sheds located on land locally zoned Agriculture, Residential Planned (C-ARP) and located inside the urban rural boundary, ~~but any additional development potential would be extinguished by the deed restriction on this lot.~~ The deed restriction will not apply to this area, identified on Exhibit 10, which is zoned Coastal, Agricultural, Residential Planned (C-ARP-2). As conditioned, the Commission finds that proposed west lot 3 is consistent with Section 30250(a) of the Coastal Act.

6. Amend the following paragraph on page 17, as follows:

Proposed central lot 2 (22.96 acres) would partially be located inside and outside of the Tomales Community boundary, and would therefore be split-zoned C-VCR: B-4 (approx. 7 acres) and C-ARP-20 (approx. 16 acres) (**Exhibit 10**). The Applicant intends to continue grazing this land and to construct and operate a creamery in the southeast corner of this proposed lot. Proposed central lot 2 would be much smaller than the 71-acre average and slightly smaller than the 27-acre median surrounding parcel size. The Applicant maintains that Tomales-Petaluma Road currently confines this lot to its proposed size, separating it from the property within proposed central lot 3, and therefore that the size of proposed central lot 2 will not inhibit continued agricultural uses on this site. Further, the Commission recognizes that this lot currently straddles the urban-rural boundary, and that a strict interpretation of the 30250(a) average parcel size would not be ~~appropriate~~ unnecessary since the focus of the rural land division criteria is those lands located outside of existing developed areas. In addition, as described in Section C, Special Condition 1 requires a deed restriction to limit ~~this~~ the agriculturally used, non-commercially zoned portions of this site that are located outside of the urban rural boundary, ~~site~~ to agricultural uses, including agricultural processing facilities allowable under the C-ARP zoning district, which will serve to help protect the rural character and maintain the stable urban/rural boundary that Sections

30241 and 30250(a) are meant to protect. As also discussed in Section C, this restriction also serves to ensure that non-agricultural development located outside the urban rural boundary will not impair the agricultural viability of the rural areas as required by Section 30241. This restriction will not apply to those portions of existing central lot 3, identified on Exhibit 10, which are zoned Coastal, Village, Commercial-Residential (C-VCR:B-4) and are located inside the urban rural boundary. As conditioned, the Commission finds that proposed central lot 2 is consistent with Section 30250(a).

7. Amend the last paragraph on page 23, as follows:

The Applicant has not submitted evidence assuring the Commission that proposed west lot 3 will not result in future development that could impair agricultural viability, either through increased assessment costs or degraded air and water quality. Because of this, there are also no concrete assurances that a stable boundary separating urban and rural areas will be maintained and conflicts between agriculture and urban uses will be minimized. Proposed west lot 3 (21.04 acres) would straddle the Tomales Community boundary, but is intended to remain in agricultural use and will acquire an existing single family residence and two small sheds from existing west lot 2. Following the expansion of existing west lot 4 to its proposed size, and the further reduction of roughly 3 acres for proposed west lots 1 and 2, existing lot 3 will be reduced from 36.65 acres to 21.04 acres. Future residential development on proposed west lots 1 and 2 will further constrain this agricultural lot. To ensure that proposed west lot 3 remains in agricultural use, thereby maintaining the stable boundary separating the urban and rural area and avoid conflicts between agricultural and urban land uses, the Commission requires, pursuant to Special Condition 1, that the Applicant record a deed restriction that will limit uses on the land to agricultural uses consistent within the C-APZ-60 zoning district. This restriction will not apply to those portions of existing west lots 2 and 3, identified on Exhibit 10, which are zoned Coastal, Agricultural, Residential Planned (C-ARP-2) and are located inside the urban rural boundary. Furthermore, pursuant to Special Condition 3, the Commission imposes a future development restriction on the site that requires ~~the Applicant~~ current and future landowners to obtain a coastal development permit for any future development on the site. Therefore, as conditioned, the Commission finds that proposed west lot 3 is consistent with Section 30241(a) and (e).

8. Amend the following paragraph beginning at the bottom of page 24, as follows:

The Applicant intends to keep the proposed central lot 2 in agricultural production. Proposed central lot 2 contains lands zoned Coastal, Village, Commercial-Residential (C-VCR: B-4) (within the community boundary) and rural lands zoned Coastal, Agricultural Production Zone (C-ARP-20) (outside the community boundary). Proposed central lot 2 will straddle the Tomales Community boundary. The majority of this lot is currently used for Highland and Short-horn cattle grazing. It is intended to remain primarily as open space for grazing, with the southeast corner (zoned C-ARP-20) used as the future site of a creamery facility, that will provide tastings and other visitor-serving uses once in operation. ~~However,~~ proposed central lot 2 is split-zoned with roughly one-third of the property zoned C-VCR:B-4 and the remaining two-thirds zoned C-ARP-20. While not currently proposed, the

~~Applicants have stated their desire to locate the future creamery in the C-ARP-20 zone. Facilities for processing for retail sale of agricultural products are allowed in this zone and the Applicant intends to allow tastings and other visitor serving uses at the site once the creamery is in operation. A dairy/creamery facility would be allowable within the C-ARP-20 zoning district as a conditional use for facilities for processing or retail sale of agricultural products. Such a use would not be allowable within the portion of proposed central lot 2 zoned C-VCR:B-4. Although this lot straddles the urban/rural boundary and does allow for commercial uses, 30241(a) requires that stable urban/rural boundaries be maintained, and conflicts between agricultural and urban (i.e. commercial) uses be minimized. To ensure that agricultural uses remain the primary focus of proposed central lot 2, the Commission, pursuant to Special Condition 1, requires a deed restriction on the agriculturally used, non-commercially zoned portion of the lot outside the urban rural boundary to ensure that no future land division or conversion of agricultural lands to non-agricultural uses occurs on the lot these rural lands. This restriction would allow agricultural facilities for processing for retail sale of agricultural products, consistent with C-ARP zone. This restriction will not apply to those portions of existing central lot 3, identified on Exhibit 10, which are zoned Coastal, Village, Commercial-Residential (C-VCR:B-4) and are located inside the urban rural boundary. As conditioned, the Commission finds that proposed central lot 2 is consistent with 30241(a).~~

9. Insert the following after the last full paragraph on page 23 as follows:

The Applicant has stated that the proposed project is one small portion of a larger 505 acre master plan, which results in a total overall reduction of 12 lots (from 28 to 16) and is largely supported by the Community of Tomales. However, the Commission can only review the project before it; namely, the merger, re-division and agricultural land division of 100.1 acres as described above. Accordingly, the Commission analyzes the proposed project as it relates to the protection of agricultural lands and the maintenance of a stable urban rural boundary, consistent with Coastal Act Sections 30250 and 30241. As discussed above, the proposed project will result in lots that are below the average surrounding parcel size, a standard set forth pursuant to Section 30250. Allowance of parcel sizes smaller than (and therefore inconsistent with) the average surrounding parcel size results in the need to stabilize the urban rural boundary in order to protect the viability of surrounding agricultural land from future 'leap frog' development. Accordingly, the agricultural deed restriction required by Special Condition 1 compensates for the allowable smaller parcel sizes by constraining future development of the site to ensure the perpetuation of viable agricultural uses on the subject properties.

As discussed above, the Applicant's proposed project will result in the creation of smaller lots (except proposed west lot 4 which is expanding) including two residential lots on and adjacent to existing agricultural land associated with existing west lot 3. Following this approval with conditions, the two residential lots (proposed west lots 1 and 2), proposed central lot 1 and proposed central lot 3 will be entirely outside the Commission's permit jurisdiction. These lots will likely result in the conversion of agricultural lands for non-agricultural purposes (except proposed central lot 1 which is not agricultural land). The

remaining lots also have the potential to result in future conversion of agricultural land if not adequately protected. Reducing lot sizes and providing residential lots that straddle and exceed the urban rural boundary can subsequently result in unintended impacts to agricultural land value.

For instance, the impacts of high value residential development on the viability of agriculture and the ability to keep agricultural lands in production is specifically addressed in a 2003 study prepared for the Marin County Community Development Agency (Strong Associates Study).² This study “analyzes the economic issues facing agriculture in Marin County with the primary focus on the impact of estate development on agricultural lands.” The study reviews an earlier study of Marin’s agricultural economy from 1973, analyzes current data regarding Marin agricultural production, costs, land values, etc., and evaluates five case studies identified by the Marin Planning Department where new homes are either proposed or have been recently constructed on agricultural parcels to determine to what extent the County’s efforts to preserve agricultural lands over the past 30 years have been successful and whether prior strategies for farmland protection remain effective.

The key findings and recommendations of the Strong Associates Study include:

“The major problem in 1973 was that agricultural lands were subject to speculation for subdivision into suburban housing. Today, the major issue is high value estate development. The concern, however, is similar—that land costs can be driven up beyond agriculture’s ability to pay, thus discouraging maintaining agricultural use.”

“What was not anticipated 30 years ago was that some landowners or buyers would use large agriculturally-zoned parcels essentially for estate development. High-value residential development keeps the large acreage intact, but it undermines the economics and the “will” to maintain agricultural use.”

“Today, the speculation is not so much for subdivision into suburban housing but is for high value estate development. The concerns are the same, however:

- Land costs can be driven up beyond agriculture’s ability to pay for the taxes, insurance and maintenance costs associated with the land;
- New estate owners may not be interested in making long-term investments in agricultural improvements, or even accommodating agricultural use; and
- There can be land-use conflicts between non-agricultural residents and commercial agricultural operations.”

“Keeping land values (and thus costs) in balance with agricultural income is critical to maintaining long-term agricultural viability. Fortunately, this problem is being addressed at an early stage. Just as the County was able, through zoning and other policies and support efforts, to reduce land speculation for subdivision of agricultural lands, it is timely to develop approaches that will again protect and stabilize

² Marin County Agricultural Economic Analysis, Final Report. Strong Associates. November 2003.

agricultural use from "gentrification" into non-productive estates.

Agricultural production requires related improvements and support facilities such as irrigation systems and water supply facilities, fences for both pasture management and pest control, equipment storage barns, etc. The development and maintenance of such facilities is a critical factor in maintaining the viability of agricultural lands and ensuring that agricultural lands remain in production. Such improvements can be very costly. Because of the high cost of developing and maintaining farm infrastructure, such improvements may only be feasible as long-term investments that are amortized over the life of the facility. Residential estate development where the property value is based principally on the residential use rather than agricultural use may discourage long-term investment in farm infrastructure and support facilities. Property owners who do not rely on or are not actively engaged in commercial agriculture as their primary means of income do not have the same economic incentive as a farmer to make costly long-term investments necessary to support agricultural use of their property, and lessee farm operators are often reluctant to make such investments in land they do not own.³ These impacts are only further exacerbated by the introduction of commercial uses, in addition to residential and agricultural land uses.

At this time, the Applicant has not applied for residential, commercial or agriculturally related development of structures or facilities on the subject property. The Applicant represented the following intentions with respect to the future uses of the proposed lots: proposed west lots 1 and 2 will be the site of future residential development; proposed west lot 3 "is intended to become a specialty farm, producing a variety of products such as heirloom fruits and vegetables, poultry flocks, and heritage livestock [and] facilities, as permitted by existing zoning, may be constructed to support the agricultural use of the parcel;" proposed central lot 1 will be given to the Arch Diocese of San Francisco; proposed central lot 2 will contain "the commercial creamery, a milking barn, and a cheese making facility;" and proposed central lot 3 "could be used to produce specialty crops." While touring the site this past January, the Applicant told staff that they had an interest in converting the existing residence on existing west lot 2 to a bed and breakfast once the residence is absorbed by proposed west lot 3.

As shown in the Strong Associates study, the speculative value of agricultural land for residential development is driven in large part by the demand for new high-value residential development. Commercial uses within agricultural areas can be analogous to residential development in agricultural areas, only serving to conflict with the already competing residential and agricultural uses, particularly in such a small community as Tomales. Commercial uses, such as visitor-serving facilities and accommodations, can increase land value much like residential value, creating a disincentive to keep land in agricultural production. Increased land values can cause farmers to abandon ongoing agricultural production in favor of quasi-agricultural visitor serving commercial uses, resulting in an expansion of the urban rural area. As discussed above, the proposed project will result in the reduction of lot sizes for lots already well below the agricultural zoning requirements and the

³ Marin County Agricultural Economic Analysis, Final Report, Strong Associates, November 2003. Pers. Comm. Larry Jacobs, San Mateo County Farm Commission Chair, May 6, 2005.

Section 30250 average surrounding parcel size. The proposed land division will facilitate several competing uses on these small lots, potentially resulting in added congestion and cumulative impacts to the small community.

10. Insert the following paragraph after the carryover paragraph at the top of page 24 as follows:

The Applicant intends to explore the possibility of converting an existing residence (located within existing west lot 2) to a bed and breakfast visitor serving facility on proposed west lot 3. As discussed above, proposed west lot 3 contains both C-APZ-60 and C-ARP-2 zoning districts. Under both C-APZ-60 and C-ARP-2 zoning, a bed and breakfast with no more than 3 rooms is a permitted use, while a bed and breakfast with between 4 and 5 rooms is a conditional use. However, only the C-ARP-2 zone is within the Tomales community boundary, situated along State Route 1. All land zoned C-APZ-60 lies outside of the community boundary. Given the fragile balance required where stabilizing the land uses and development potential along an urban rural boundary, the Commission confines the location of any future bed and breakfast, or other permitted/conditional development, to the portion of the lot locally zoned C-ARP-2 and located within the urban rural boundary to avoid further impacts to agricultural lands and to stabilize the urban rural boundary. Therefore, the Commission imposes, pursuant to Special Condition 1, an agricultural and open space deed restriction over all portions of land on existing west lots 3 and 4, that will become proposed west lot 3, that are zoned C-APZ-60 and located outside the urban rural boundary as illustrated on Exhibit 10. The restriction does not cover the small lot land zoned C-ARP-2 that is already developed with an existing single family residence.

11. Insert the following paragraph after the carryover paragraph at the top of page 25, as follows:

The potential for a potential visitor serving bed and breakfast, increased residential development (proposed west lots 1 and 2) and a commercial/agricultural creamery operation poses added congestion to a relatively small area, resulting in significant adverse cumulative/indirect impacts on the continued economic viability of agriculture on the Tomales urban rural boundary. Moreover, the Commission is not required to allow every conditional or permitted use within the County zoning districts if such uses would 1) reduce the size of lots on an urban rural boundary inconsistent with 30250 or 2) adversely impact the agricultural viability on site inconsistent with 30241. However, the urban rural boundary currently provides for future development consistent with the character and scale of the community. Specifically, the land zoned C-ARP-2 in the west component and land zoned C-VCR: B-4 in the central component, sit within the community boundary and have been provided for the purpose of future build out and infill to stabilize the urban rural boundary. Therefore, to ensure that the proposed development does not diminish the agricultural viability of the project site, maintains the maximum amount of agricultural land in agricultural production, adequately compensates for the allowance of smaller parcel sizes and stabilizes the urban rural boundary, the Commission imposes Special Condition 1, restricting the future use of proposed west lots 3 and 4 and proposed central lot 2. The Commission restricts future development of the portions of the lots zoned C-APZ-60 in the west component and zoned C-ARP-20 in the central component that are located outside the urban

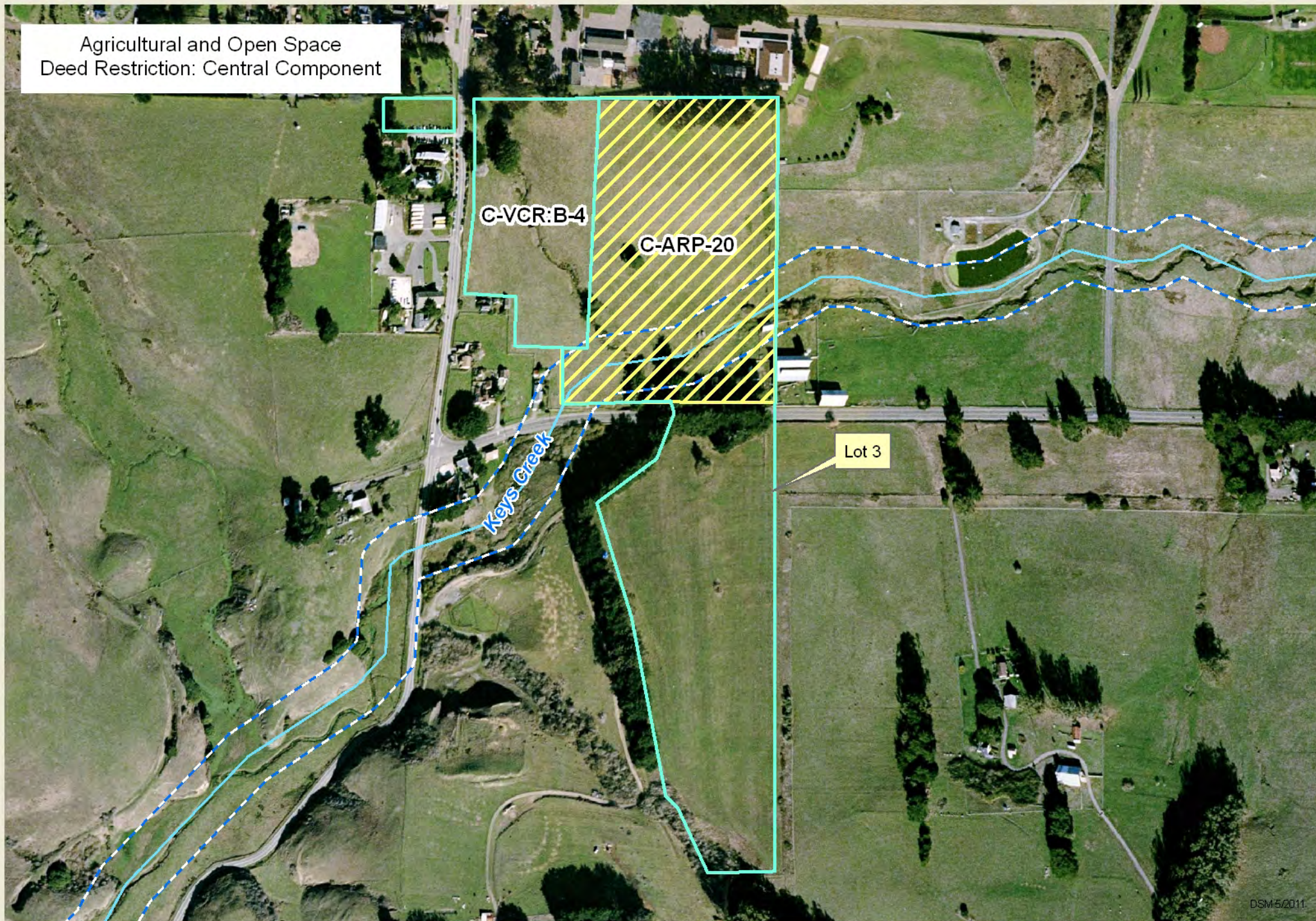
rural boundary to the enumerated Special Condition 1 uses consistent with maintaining the agricultural viability of the land. The restrictions will not apply to lands zoned C-ARP-2 (within proposed west lot 3) or lands zoned C-VCR: B-4 (within proposed central lot 2) thereby allowing for future potential infill anticipated by the Tomales Community Plan and Marin LCP zoning districts inside the urban rural boundary.

12. Amend the following paragraph on page 30, as follows:

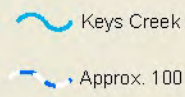
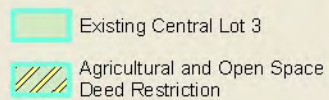
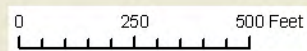
Proposed west lots 3 and 4 and proposed central lot 2 are currently used for agricultural purposes (such as grazing) and will be restricted to agricultural uses pursuant to Special Condition 1. Accordingly, future development will maintain the agricultural and rural character of existing west lots 3 and 4 and proposed central lot 2. Further, any future development of any of these lots would require a coastal development permit, which must be compatible with the Coastal Act ~~or comparable policies in the Marin County LCP.~~

13. Replace Exhibit 10 with the Attached Exhibit 10.

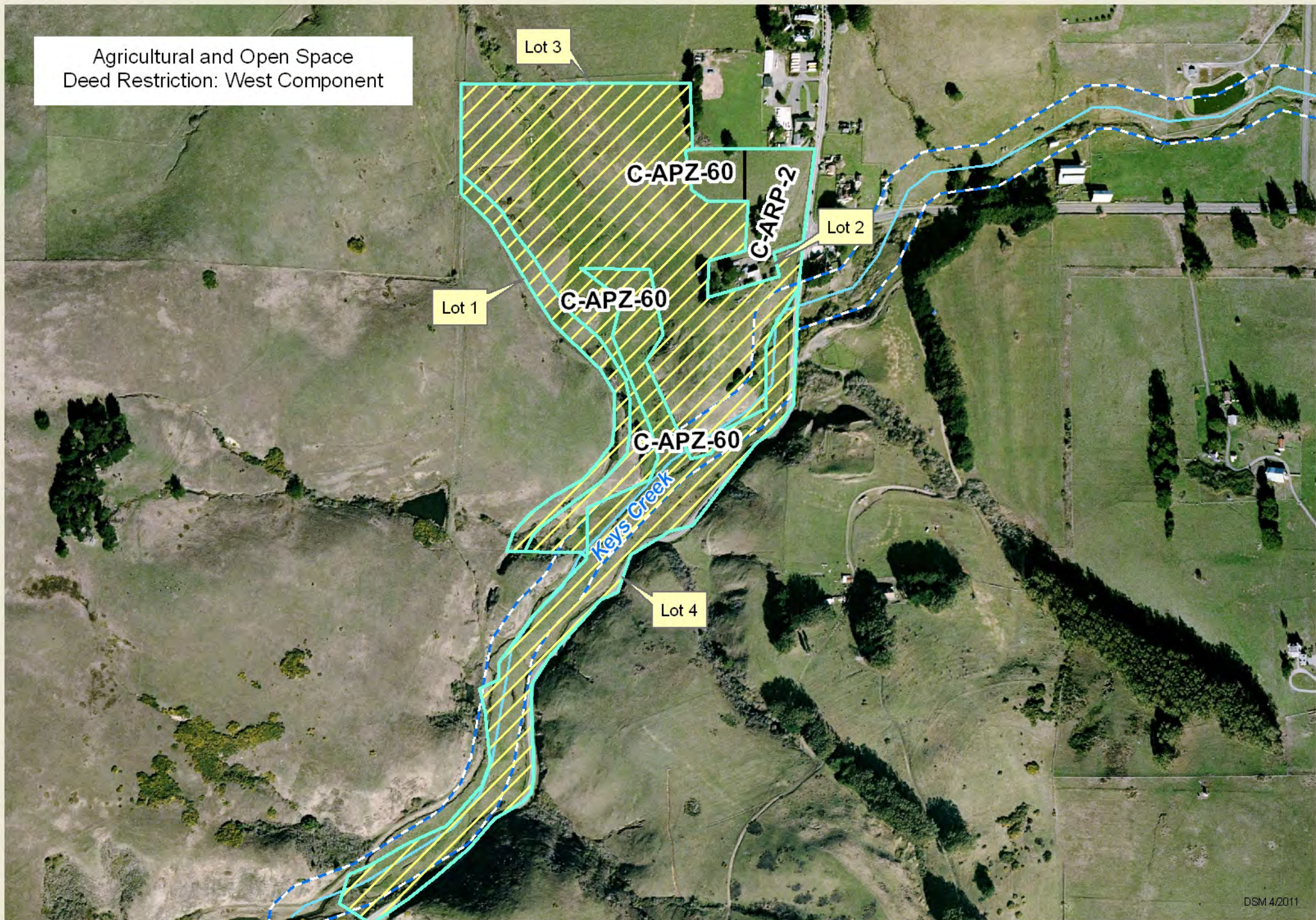
Agricultural and Open Space
Deed Restriction: Central Component



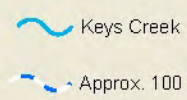
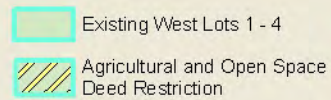
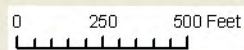
DSM 5/2011



Agricultural and Open Space
Deed Restriction: West Component



DSM 4/2011



CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT ST, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260
FAX (415) 904-5400
TDD (415) 597-5885

Th12b

Prepared May 10, 2011 (for May 12, 2011 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Ruby Pap, District Supervisor
Roxanna Farshchi, Environmental Services Intern

Subject: STAFF REPORT ADDENDUM for Item Th12b
Appeal Number A-2-SMC-11-010 (San Mateo County Parks Dept., Moss Beach, San Mateo Co.)

The purpose of this addendum to the staff report is to correct minor errors in the findings and respond to concerns raised by the Appellant regarding drainage issues. Staff continues to recommend that the Commission approve the permit application with special conditions. Additional text is shown in underline and deleted text is shown in ~~striketrough~~.

- 1) Add to page 8, paragraph 3, starting at "this trail connection will be the only means of accessing the beach and tide pools at the north and south." Although there is a parallel trail which runs along the bluff top of the Reserve, this section very narrowly and steeply can be connected back to the bridge over San Vincente Creek. Not only is this area not a feasible alternative connection to the north end of the reserve for anyone with physical difficulties, but it is also not a feasible alternative for school groups, which generally consist of 30 or more students. Additionally, as a result of the tsunami events on March 11, 2011, the extreme erosion along the bluff of the Reserve has resulted in closing the bluff top path for school groups, and has made the area completely inaccessible for anyone with physical difficulties.
- 2) Delete the following on page 14 of the staff report: ~~The County, acting as CEQA lead agency, found the project to be categorically exempt from environmental review under CEQA.~~ Add the following: San Mateo County Parks completed a mitigated negative declaration for the project.
- 3) Add to page 12, at the end of paragraph 4: As seen in Exhibit 3, page 8, the cross-section of the trail south of the bridge will be comprised of a fabric filter and subsequent clean fill in order to allow drainage to flow properly through the trail at this location.



Thlla

**Bob and Courtney Cart
40 Mesa Rd, P.O. Box 40
Bollinas, CA 94924**

May 6, 2011

**Chairperson Sara Wan
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219**

Re: Response to Coastal Commission Staff Report, April 22, 2011 regarding Dar/Dworksy Coastal Permit and Design Review with conditions. (APN193-020; 52 Mesa Road Bollinas)

Dear Chairperson Wan and Commissioners:

Our grounds for the appeal do present a substantial issue. We contend that Commission Staff incorrectly recommended no substantial issue. This letter summarizes several factual errors made by Commission Staff in their April 22 report. An accompanying letter by our attorney, Derek Weller, details the failures to apply the LCP and county code, and demonstrates that the county did not provide reasonable legal basis and facts to support its decision.

Before addressing issues in the Staff report, it is important to note that the extent of the project is not small as a percentage of the total developable land area. In fact, this project would cause the loss of a significant portion of the land available for agriculture AND there are alternate locations that meet the letter and intent of the code, if not the developer's wishes. C-ARP zoned parcels are all small by design. The very purpose and intent of C-ARP zoning is to protect the coastal resources contained within these small agricultural holdings. The primary mechanism for that protection is clustering and clustering was required 7 years ago when the subject property was developed and the second unit built attached to the primary residence. To allow it to be de-clustered in such a manner as to reduce ANY potential agricultural use without first providing solid evidence that alternatives are not suitable is terrible precedent to set.

This project would cause permanent loss of a significant remaining amount of potential agricultural area and loss of natural habitat area and other coastal resources mentioned in the appeal. By allowing the LCP clustering mandate to be ignored, because the size of the development is small, is the same as saying that the zoning of small coastal C-ARP properties need not follow LCP requirements because by definition, the projects are small which by this precedent would cause a determination of no substantial issue. This would effectively set the precedent that even projects that clearly violate the intent of the LCP like this one - that takes a clustered parcel and de-clusters - it would be allowed. This would mean there is no enforcement of the LCP for this zoning. If the County wants to treat the land as purely residential and the Coastal Commission thinks that small agricultural

holdings cause no substantial issue, then the Coastal Act is not being enforced. By the LCP by the Commission because no substantial issue can exist on small parcels could have a ripple effect across the state especially with second unit developments. The purpose of C-ARP is protected by clustering, which clearly means to concentrate development. For the Commission to say this is not the case since the project is small and would thus create no substantial issue is a travesty. De-clustering is NOT a permitted development and that is all that is happening here. This is a substantial issue and needs to be addressed with a de novo hearing.

The following is a brief review of some of the errors in the Coastal Commission Staff Report, April 22, 2011:

Page 1, Findings: The project does not include relocation of a generator shed. It included the mandatory relocation of a 314sqft storage shed illegally placed on the property line easement. In addition to this shed, and separate from the County decision on the subject project, the County also required a generator shed to be properly permitted since it was built without permit.

Page 2: Findings: The project plan includes construction of a 6' solid wood fence of 160' in length set back 6' from the property line and a 9-tree fruit orchard. This fence was added onto the original site plan as the amended and approved Site Plan A1.0. The fence has already been constructed and was 300' long and not set back from the property line as proposed and exceed 6' in height in places and is far less in others.

Page 3 Visual Resources:

- 1) Clustering is not limited to a single location, but the intent is clearly to allow multiple locations only if in so doing the maximum amount of potential or existing agricultural use is preserved. In this case, the second cluster as far from the main residence as possible in the only undisturbed open level area on the site would clearly decrease potential agricultural use. Further this destruction is unnecessary and suitable alternatives that meet every letter of the LCP exist clustered near the main house **WITHOUT REMOVING A SINGLE TREE**. This is an easy project to fix without loss of coastal resources.

Note that the staff report does not directly address the need to concentrate buildings on the site. That is the intent and purpose of the C-ARP zoning and it was not directly addressed in the staff report. The concentration of residential structures IS a required action and it is not being done here to the risk of significant coastal resources and it sets a precedent that will cause more loss.

- 2) While visual screening is encouraged, this is not a method to allow clustering of buildings to be ignored. It is a welcomed method to reduce the visual impact of development. This would set a precedent that clustering may be met strictly by screening development with existing vegetation. This is clearly not the intent.

- 3) The County did not eliminate locations by the house due to the need to cut trees. They county only claimed that the approved location was suitable and that it was not necessary to consider other locations. It was however argued at the DZA hearing that fire fuels would be a risk near the house, but it was not ever suggested that cutting trees was the problem. The Fire Chief did not eliminate the location around the house for fire fuels and provided information about the Defensible Space Ordinance that refuted that claim. No trees must be cut to develop a more suitable second unit project adjacent to the existing residence that meet the LCP. One obvious solution is to expand and convert the existing carport which would require no cutting AT ALL. There are also, multiple other suitable locations to relocate the carport. The County did not discuss the alternatives, did not provide reasonable facts or legal basis to disqualify those locations and only claimed that there was no need to look at alternatives since the selected location was suitable. The problem is that the selected location causes an unnecessary loss of potential agricultural area and does not cluster as required under the LCP.
- 4) Commission Staff did not visit the appellant's side of the property line and made no mention of looking across the lagoon at the ridgeline where it is indeed prominent. The project area is on a visually prominent ridgeline as seen from Highway 1. The Oak tree is west of the structure and would not provide any screening from Highway 1 to the east. While there are other developments, the LCP does not provide any language that allows the policy to be ignored because there are already developments in view nearby.
- 5) Certain private views are indeed protected by the LCP. Please see LCP Policy II-21 "To the maximum extent feasible, new development shall not impair or obstruct an existing view of the ocean, Bolinas Lagoon, or the national or State parklands from Highway 1 or Panoramic Highway".

The words, "**maximum extent feasible**" are very clear and this project would impair the view of the Lagoon from 60 Mesa Rd. It is also visible from Hwy 1. How can this be ignored?

Page 4, Agriculture:

- 1) The fact that the zoning is C-ARP and not C-APZ has no merit in this decision. The zoning for C-ARP is what applies to this project site. The protection of potential agriculture is not limited to the best or worst sites. It is meant to protect all viable agricultural use. The approved project includes a fruit orchard that shows the potential. The soil quality is not poor. The solar exposure is adequate and visiting staff should have noted the dense growth of grasses that proves both soil and light adequacy.
- 2) The site is defined as Prime Agricultural Land by the terms of the Coastal Act referenced in the LCP. The Storie Index is based on depth of topsoil. The applicant filed a report by a geotechnical engineer who cited an earlier report by Herzog who actually did dig test pits at the approved location. The depth of soil by that report puts topsoil depth well within the over 80% threshold to prove prime agricultural land. The Herzog report was cited, but evidently not reviewed. A review is necessary and we can also provide a copy of that report if requested.

- 3) There is irrigation in place along the full length of the driveway and up to the proposed building location and has been for many years. The main irrigation line runs along the south side of the driveway and feeders run along the north side of driveway. The black lines are readily apparent to anyone looking for them.

Page 5: Natural Resource Protection (Habitat Protection):

- 1) The Staff report clearly identifies that the LCP protects upland grassy feeding areas, but it skips making any assertion that this is not an upland grassy feeding area, and it most certainly is. Instead, it accepts the County's incorrect logic that since a protected monarch butterfly area is nearby, but not at this site, then this site has nothing to protect. That is dangerous and poor logic. Different sites have different species to protect. The fact that one species is not found does not mean all species are void. Further, the Staff Report does not respond to the assertion that this upland grassy feeding area is defined as a ESHA in the LCP. Please see our original appeal to the Commission for details.
- 2) The mention of "Bolinás Quail State Refuge" is new. The quail refuge mentioned by the appellant is the Quail Refuge on the entire big mesa set by the California Department of Fish and Game. This refuge continues all the way down to Bolinas Olema Road where the sign is still displayed. The project does displace the quail habitat.

Page 6: Water Supply:

- 1) The county did not say that adequacy was met, they said that no new permit was required. In 21 years since the 1990 well report, the well has greatly reduced its output. The current adequacy was not evaluated as per LCP requirements.

Page 6: Geologic Stability:

- 2) The western section of the site that meets the most geologically stable portion was not adequately considered. At the DZA hearing, Jeremy Tejerian stated that the relocation of the utilities was not a reason to eliminate that site, rather it was that the selected site was the preference of the developer and was per se reasonable. This is not permitted by the LCP. The site selected is not the most geologically stable and there is no valid and permissible reason to allow it to be constructed there.
- 3) There is no evidence in the administrative record that shows that expanding and converting the carport would require tree cutting.

We hope you will consider the information here as well as that in Derek Weller's May 6 letter as you consider the substantial issue for this case. The LCP requirements for clustering are being ignored and this small agricultural holding faces a significant loss of potential agricultural use and other coastal resources. There is no legitimate reason to allow this to happen, as alternatives that protect the coastal resources and meet LCP requirements are readily available. Allowing the project to continue without a de novo hearing set a precedent across the state that would lead to further loss of coastal resources. Please reconsider staff's recommendation.

Thank you,

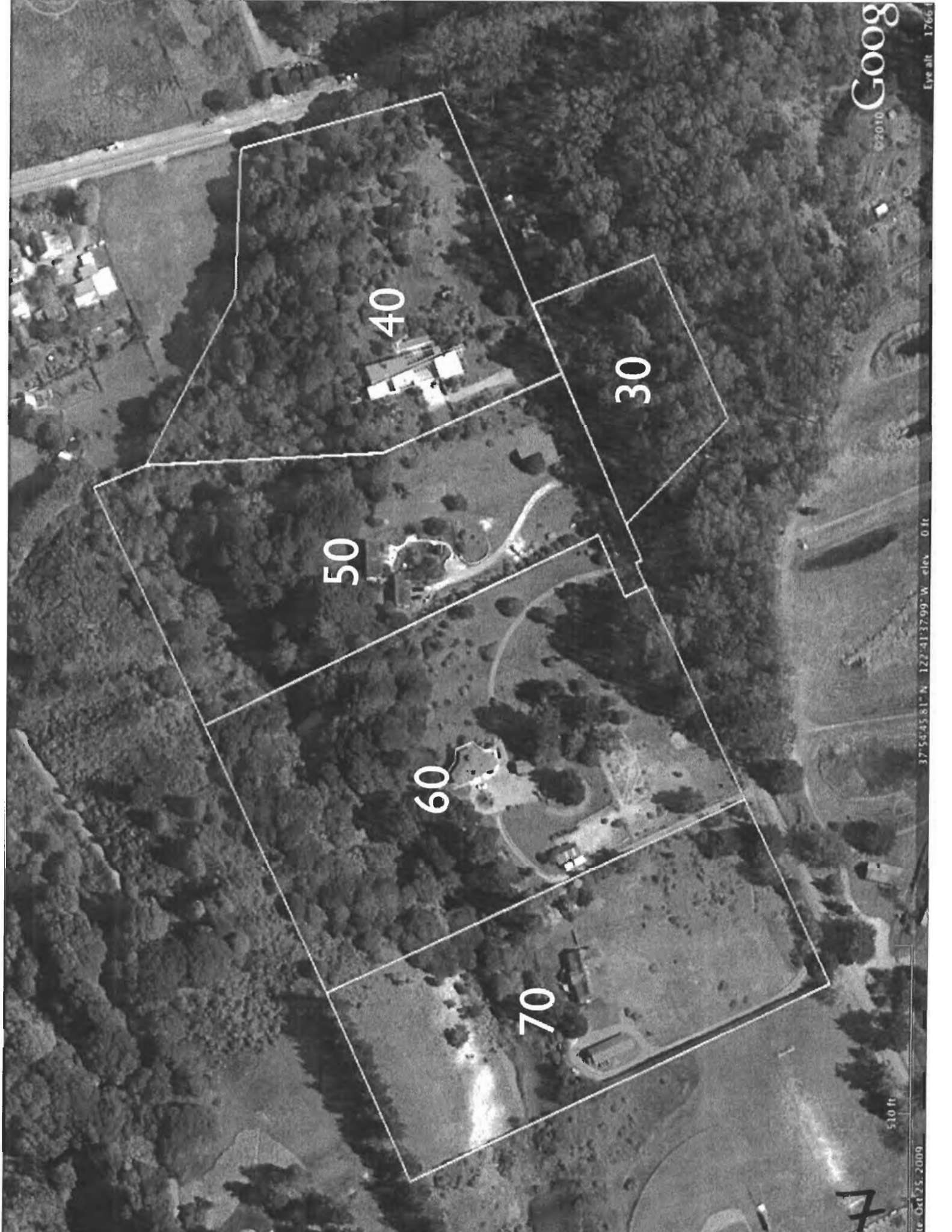
Signature on file

Bob & Courtney Cart

BOS Appeal Hearing Presentation

March 1, 2011

**Dworsky Design Review, Coastal
Permit & Second Unit Permit**



Paradise Valley
Produce ~15 acres

Gospel Flats
Farm ~10 acres

Star Route
Farm

Blackberry
Farm (4 acres)

Veg, Veg, Fruit
Poultry

Horses

Goats

Poultry ~1 acre

Tacherra Ranch
Cattle, Poultry

Goats & Bees
~1 acre

Gospel Flats
~1 acre

8

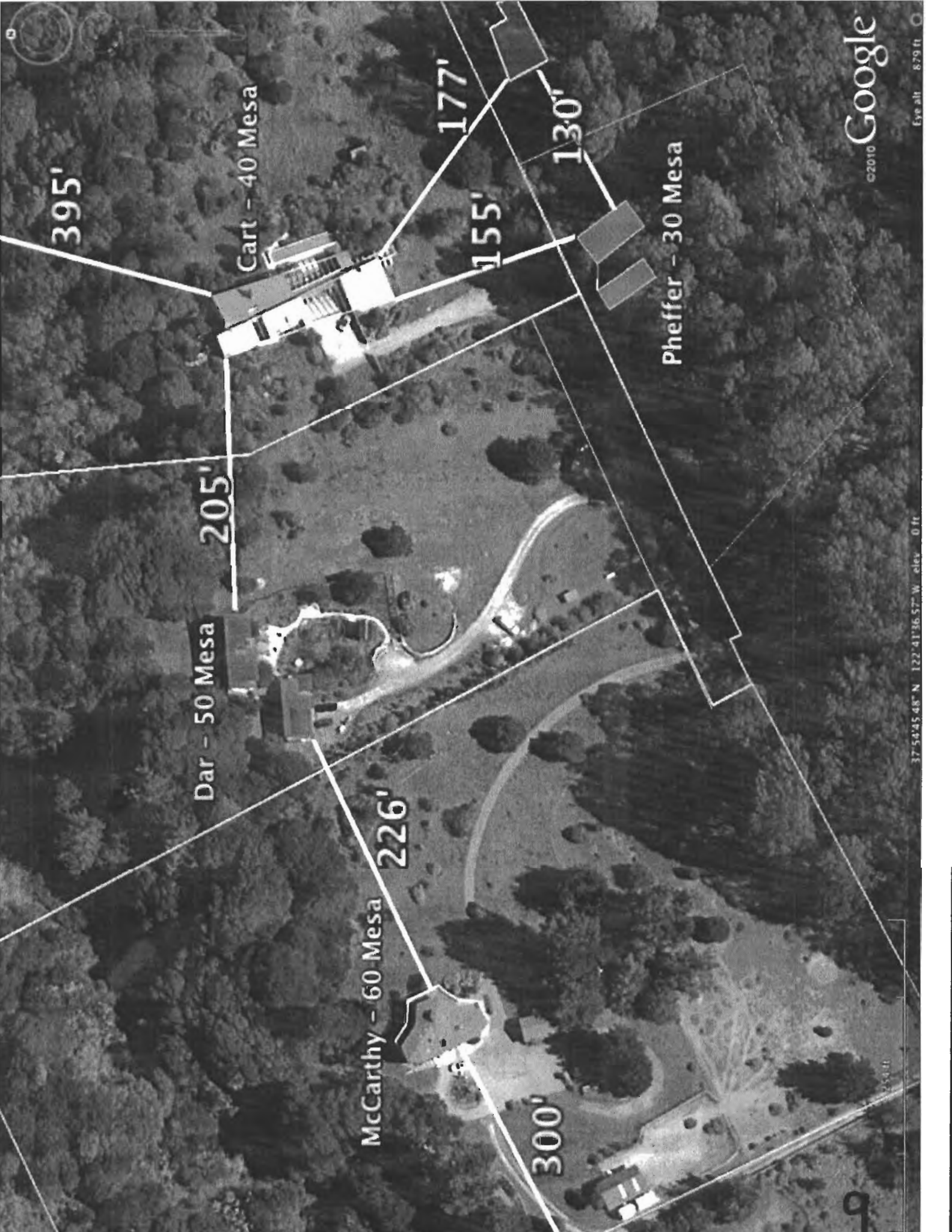
© 2010 Goo

1696 ft

Query Date: Oct 25, 2009

37°54'54.91" N 122°41'45.26" W elev. 0 ft

Eye alt. 5



395'

Cart - 40 Mesa

177'

155'

130'

Pheffer - 30 Mesa

Dar - 50 Mesa

205'

McCarthy - 60 Mesa

226'

300'

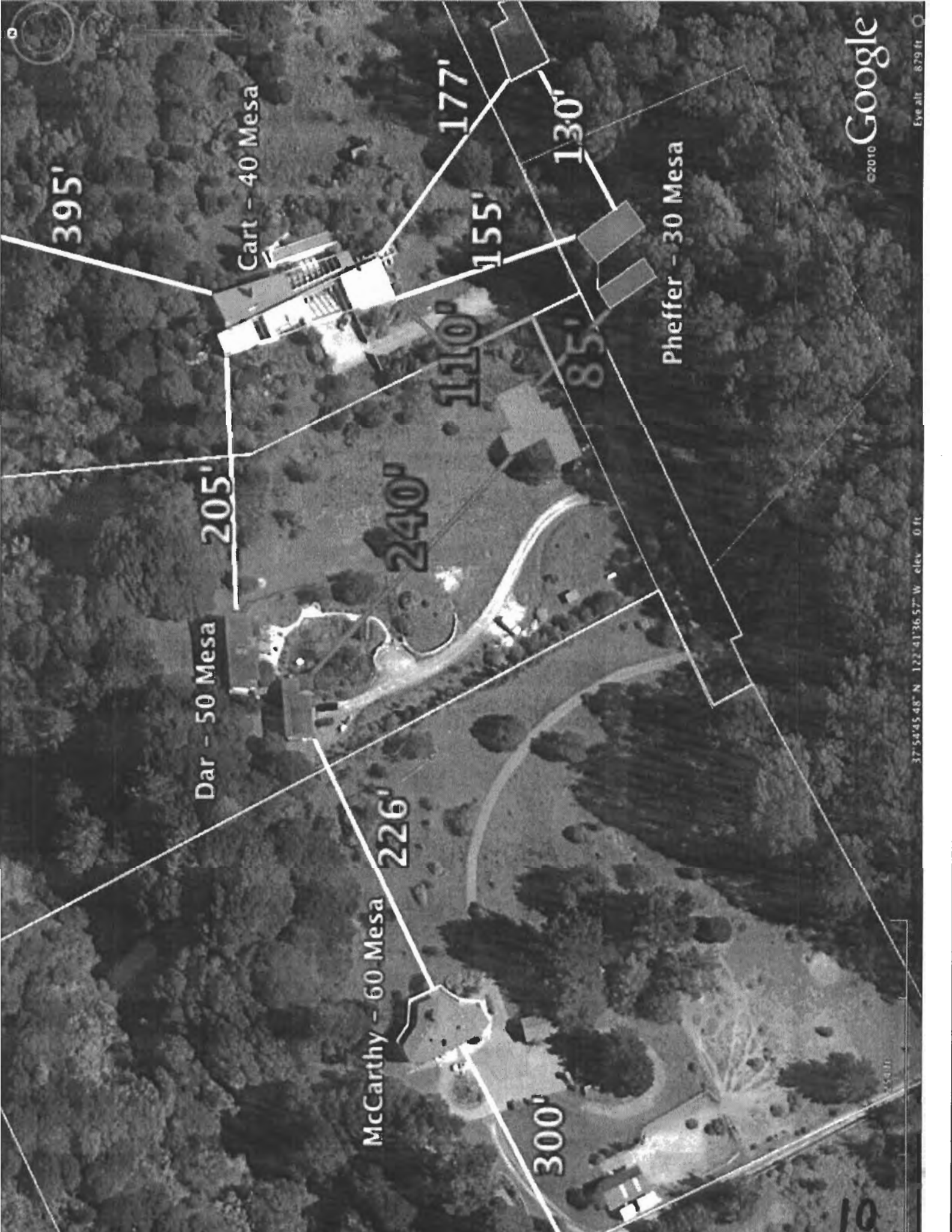
Google

37°54'45.48" N 122°41'36.57" W elev. 0 ft

Eye alt. 879 ft

©2010

9



395'

Cart - 40 Mesa

177'

130'

155'

Pheffer - 30 Mesa

205'

110'

240'

85'

Dar - 50 Mesa

226'

McCarthy - 60 Mesa

300'

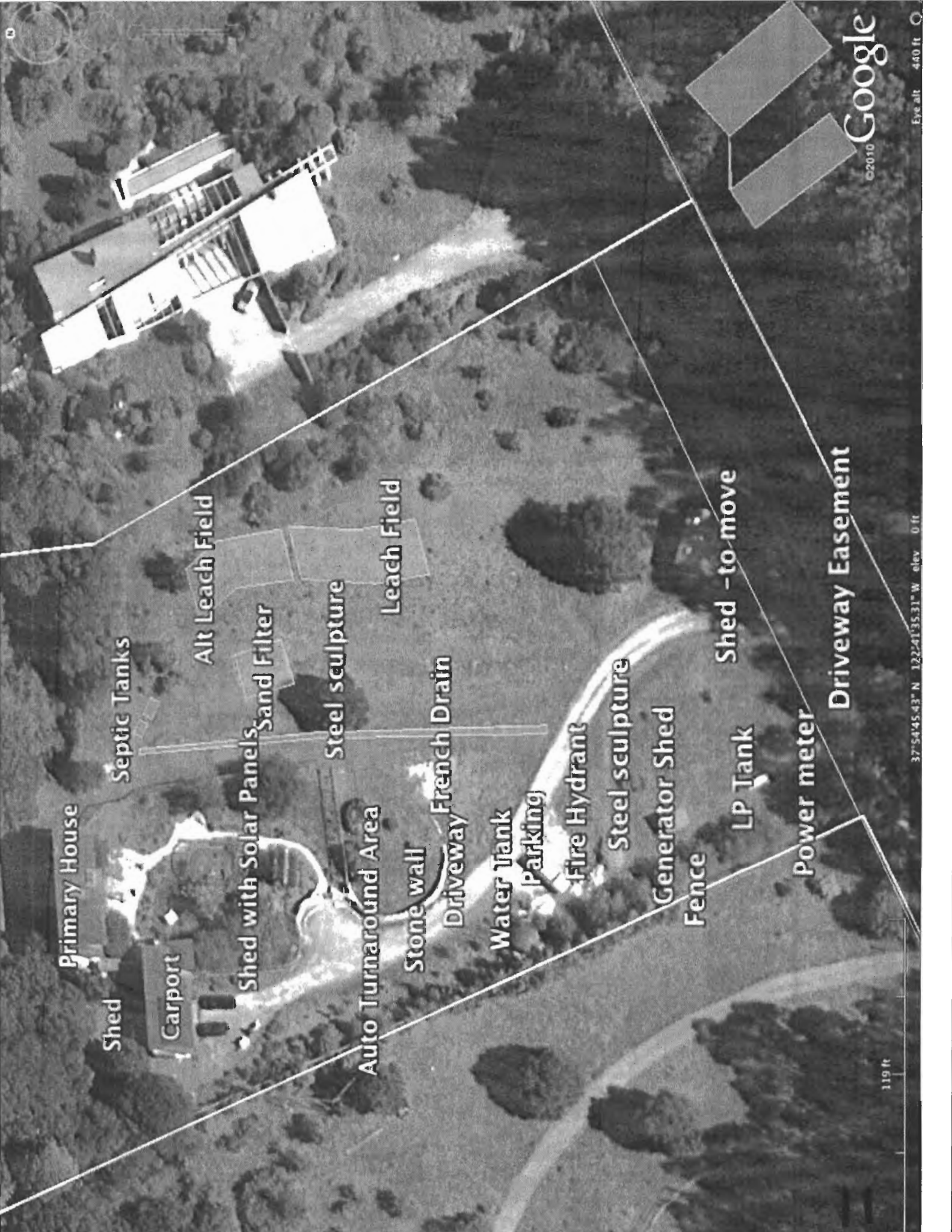
Google

©2010

37°54'45.48" N 122°41'36.57" W elev. 0 ft

Eye alt. 879 ft

10



Primary House

Shed

Carport

Shed with Solar Panels

Septic Tanks

Airt Leach Field

Sand Filter

Steel sculpture

Auto Turnaround Area

Stone wall

Driveway

French Drain

Water Tank

Parking

Fire Hydrant

Steel sculpture

Generator Shed

Fence

LP Tank

Power meter

Shed - to move

Leach Field

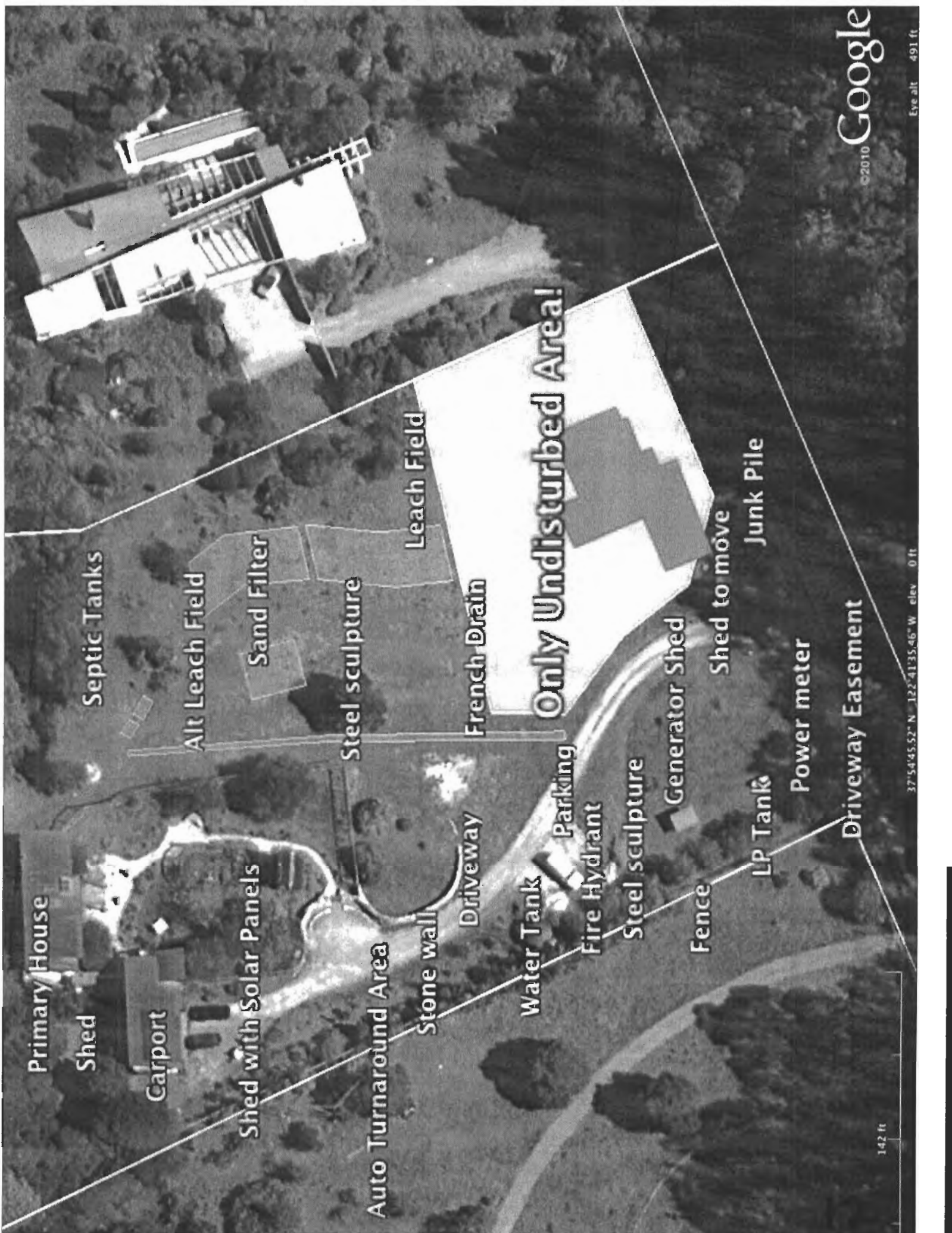
Driveway Easement

119 ft

©2010 Google

37°54'45.43" N 122°41'35.31" W elev 0 ft

Eye alt 440 ft



Primary House

Shed

Carport

Shed with Solar Panels

Auto Turnaround Area

Stone wall

Driveway

Water Tank

Fire Hydrant

Steel sculpture

Fence

LP Tank

Power meter

Driveway Easement

Septic Tanks

Alt Leach Field

Sand Filter

Steel sculpture

Leach Field

French Drain

Only Undisturbed Area!

Generator Shed

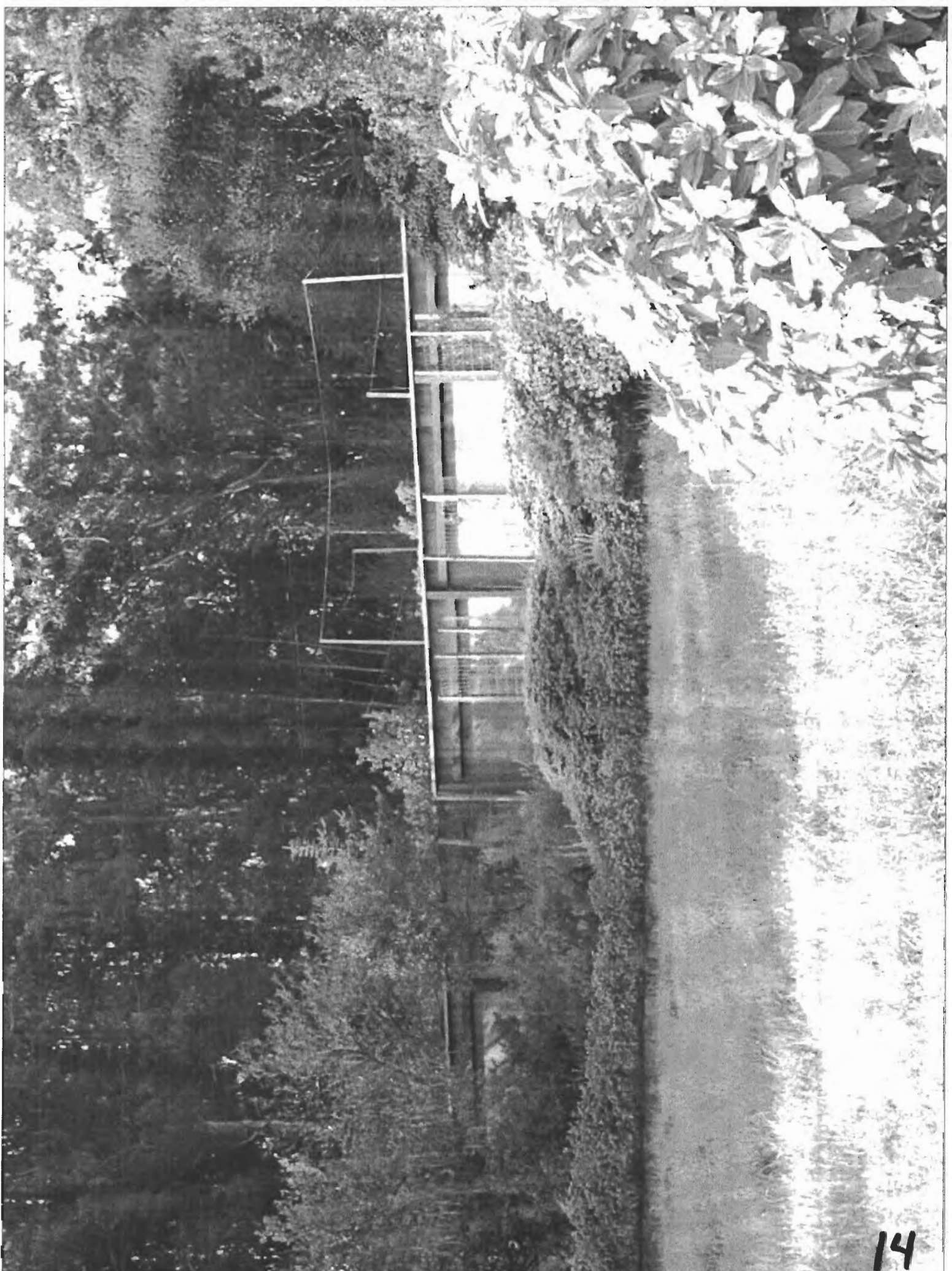
Shed to move

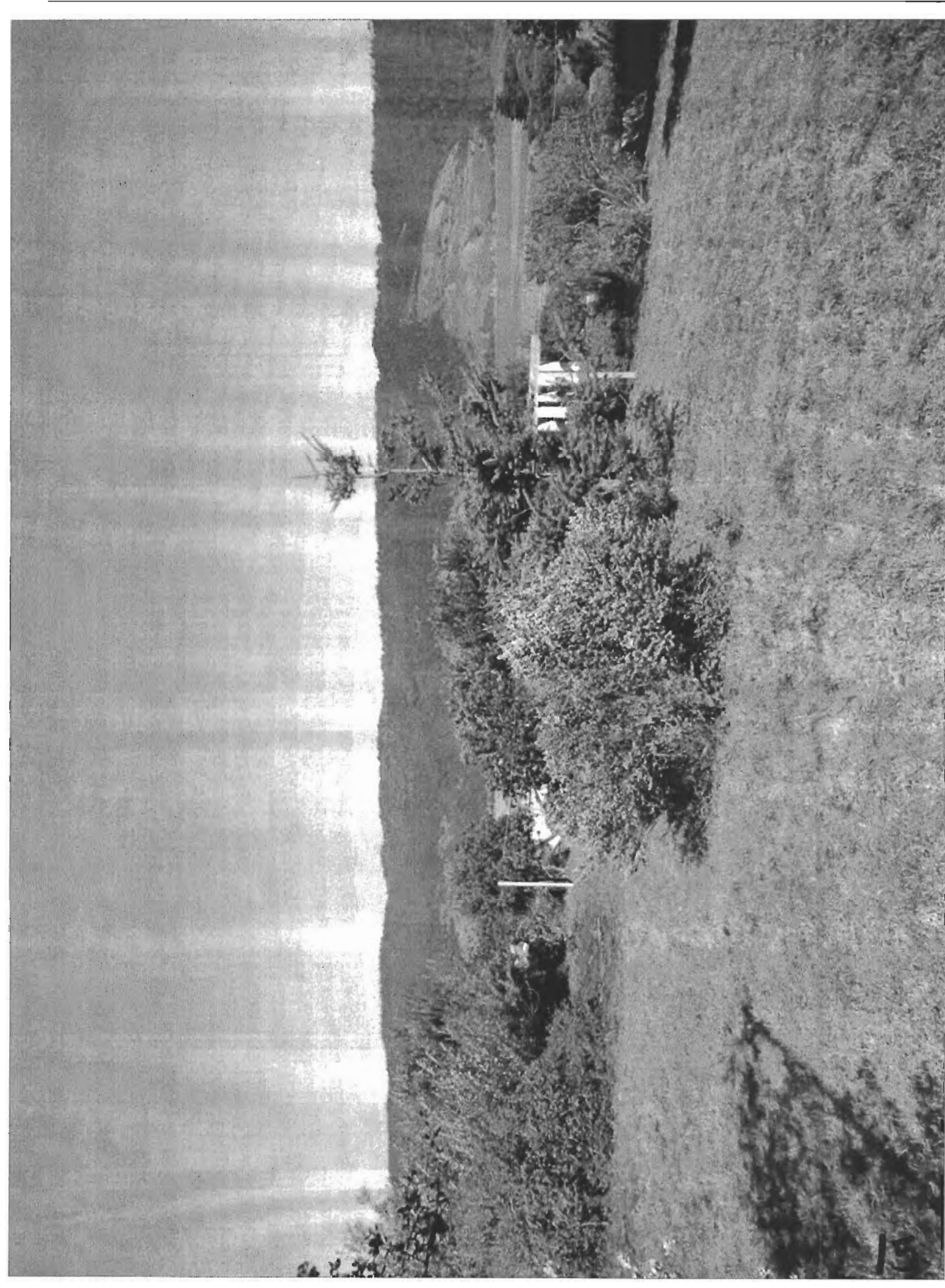
Junk Pile

142 ft



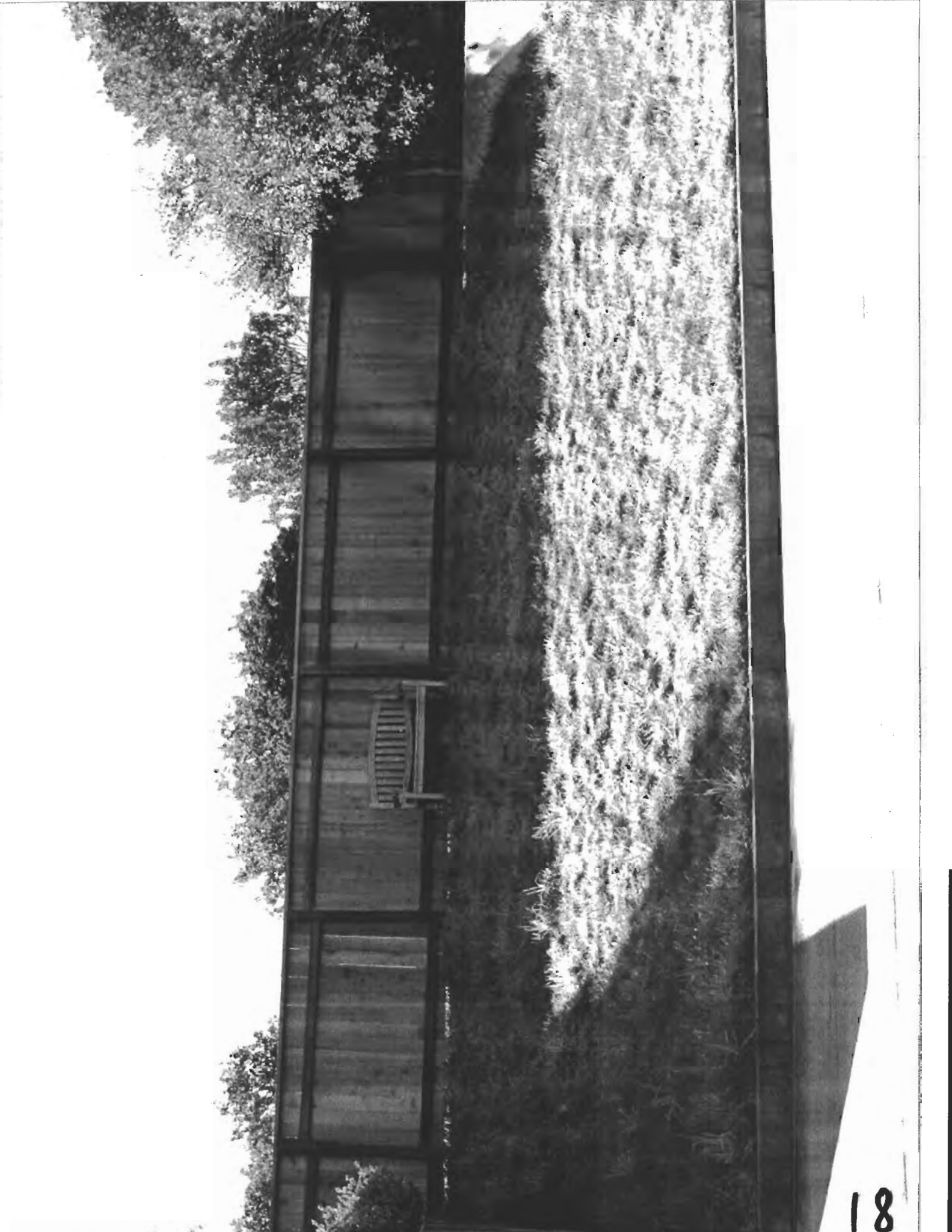
180 ft

















100'

60'

Fence As Proposed

Building Site

37°54'45.71" N 122°41'34.51" W elev. 0 ft

109 ft

21



240'

Fence As Built

60'

Building Site

109 ft

22

GO

©2010

37°54'45.71" N 122°41'34.51" W elev. 0 ft

Eve



109 ft

23

Building Site

Fence As Proposed

Fence As Built

240'

100'

60'

Proposed Site NOT most geological stable

Source: Marin County <http://mmgis.marinmap.org/>

● — Alluvial



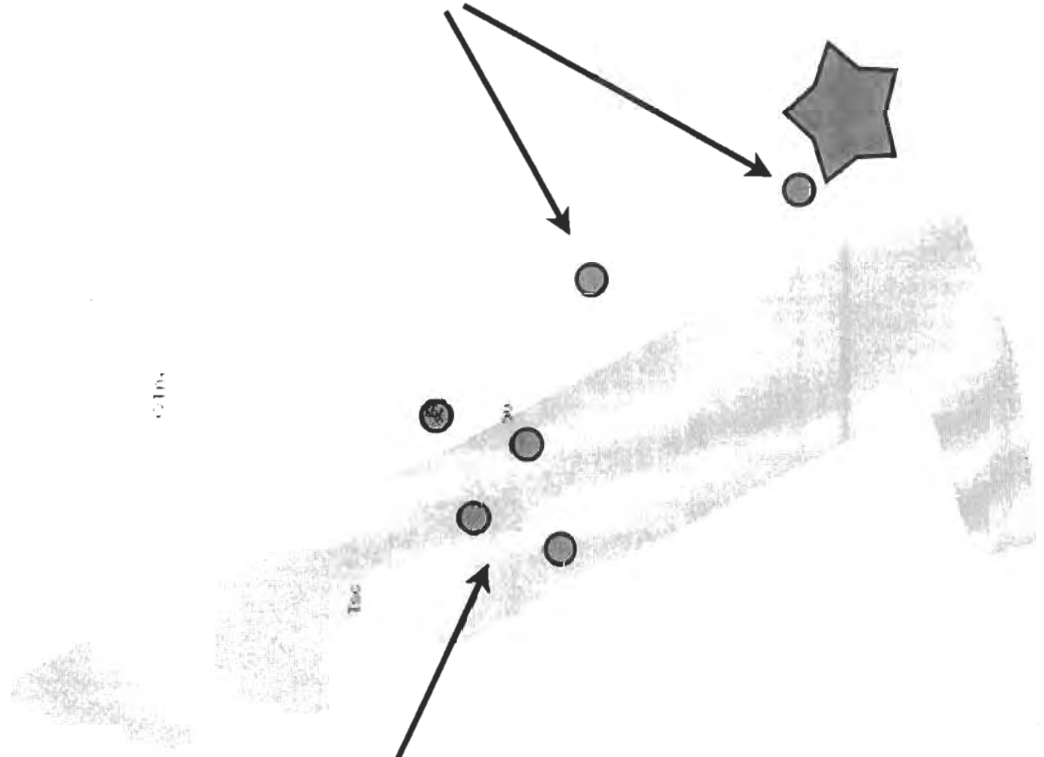
Merced Formation
Less stable!

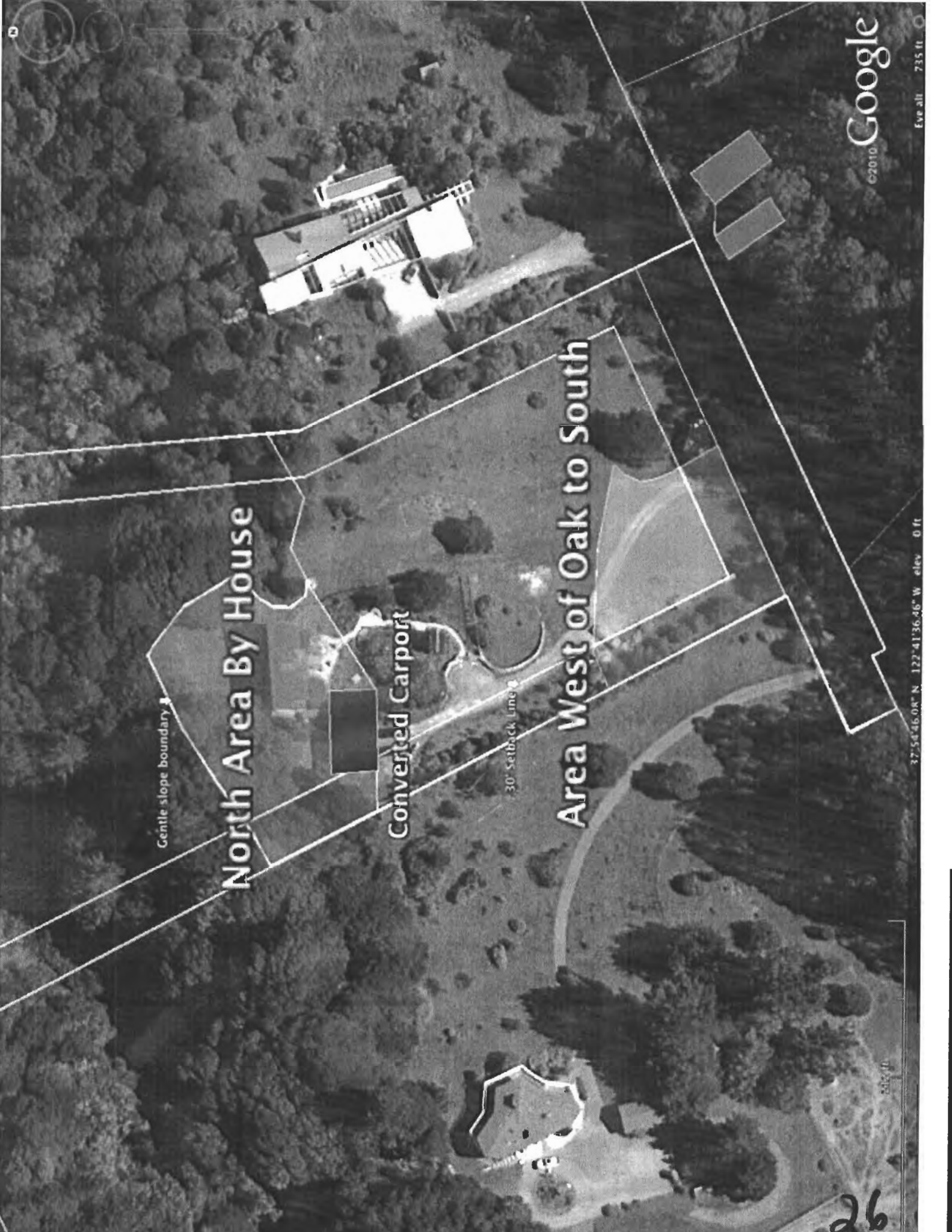
Santa Cruz Mudstone —
Most Stable!

Not Most Geologically Stable

Test pits in
2003 were
240' from site

Test from 1990
found
"potentially
active faults"





Gentle slope boundary

North Area By House

Converted Carport

30' Setback Line

Area West of Oak to South

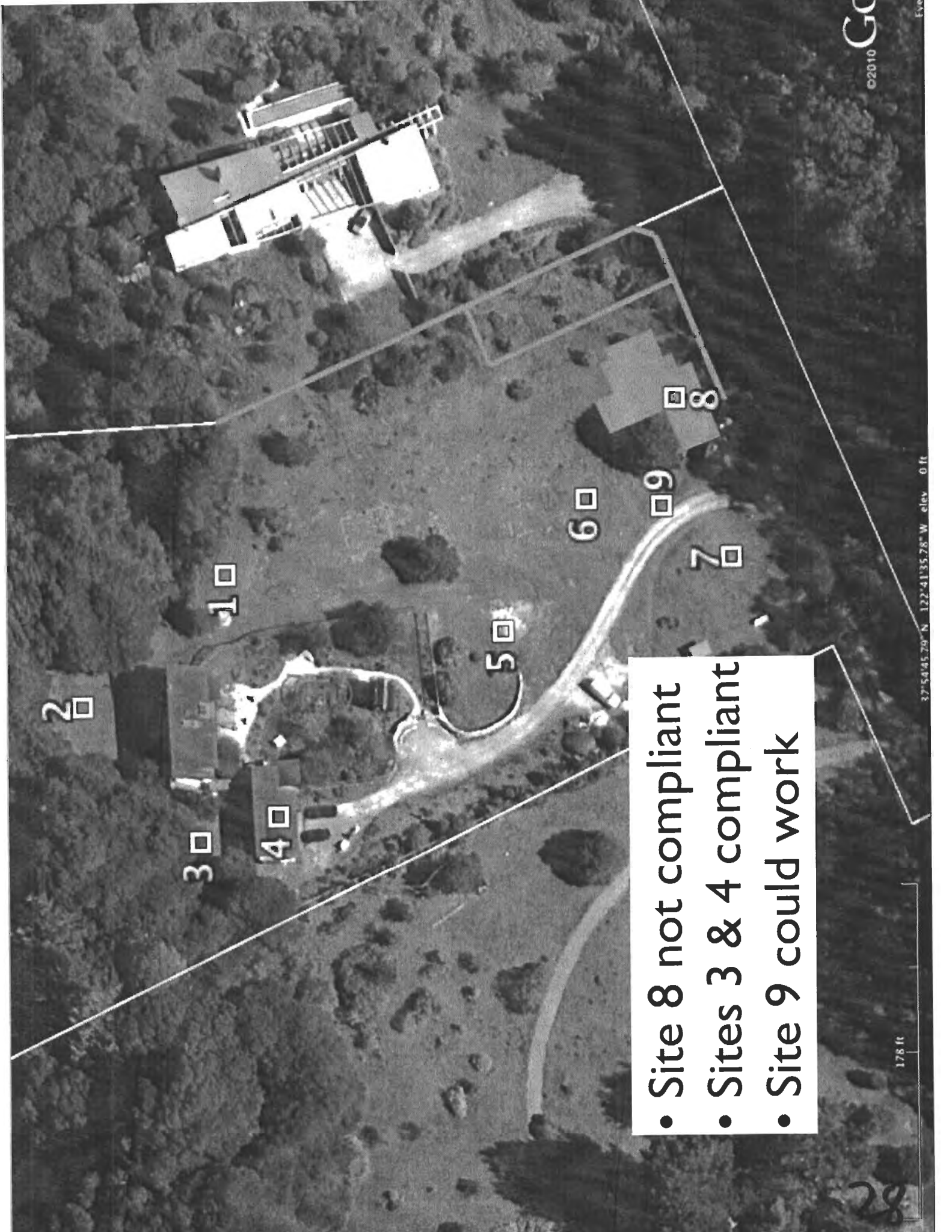
26

500 ft

37° 54' 46.08" N 122° 41' 36.46" W elev 0 ft

Detailed Site/Code Analysis:

Compliance to Code of Select Alternative Locations										
Code	Description	Locations								
		1	2	3	4	5	6	7	8	9
22.57.02 11	Purpose. concentration of residential and accessory use	Y	Y	Y	Y	N	N	N	N	N
22.57.02 11	Purpose. maintain the maximum amount of land available for agricultural use	Y	Y	Y	Y	N	N	N	N	N
22.57.02 11	Purpose. maintain visual, natural resource and wildlife habitat values of property and surrounding areas.	Y	Y	Y	Y	N	N	N	N	N
22.57.02 41 1.a	Clustering. most accessible	N	N	Y	Y	N	N	N	N	N
22.57.02 41 1.a	Clustering. least visually prominent	Y	Y	Y	Y	N	N	N	N	N
22.57.02 41 1.a	Clustering. most geologically stable	N		Y	Y		N	Y	N	Y
22.57.02 41 1.a	Clustering. screened by existing vegetation	Y	Y	Y	Y	N	N	Y	Y	Y
22.57.02 41 1.a	Clustering. minimize disruption of Ag uses.	Y	Y	Y	Y	N	N	N	N	N
22.57.02 41 1.b.	Ridgelines. least visible from nearby highways	Y	Y	Y	Y	N	N	Y	N	Y
22.57.02 41 1.b.	Ridgelines. least visible from developed areas	Y	Y	Y	Y	N	N	N	N	N
22.57.02 41 1.d.	Roads, utilities maximize undivided Ag land	Y	Y	Y	Y	N	N	N	N	Y
22.57.02 41 1.g.C.	Access. Minimum driveway length	N	Y	Y	Y	Y	N	Y	N	Y
22.57.02 41 1.i.	Promote Ag. and Open Space Uses	Y	Y	Y	Y	N	N	N	N	N
22.82.04 01 A.	consistent with the countywide plan and community plan and local coastal program	Y	Y	Y	Y	N	N	N	N	N
22.82.04 01 B.	not unsightly or creating disharmony with its locale and surroundings	Y	Y	Y	Y	N	N	Y	N	Y
22.82.04 01 C.	It will not interfere with the development, use, enjoyment of properties in vicinity	Y	Y	Y	Y	N	N	Y	N	Y
22.82.04 01 C	It will not impair orderly and pleasing development of neighborhood as a whole	Y	Y	Y	Y	N	N	Y	N	Y
22.82.04 01 F. 1.	minimize adverse effects. The scale, mass, height, area	N	Y	Y	Y	N	N	N	N	N
22.82.04 01 F. 2.	minimize adverse effects. Drainage systems and appurtenant structures	Y	Y	Y	Y	Y	Y	Y	Y	Y
22.82.04 01 F. 4.	minimize adverse effects: Areas, paths for the general circulation of persons, animals	Y	Y	Y	Y	Y	Y	Y	Y	Y
22.82.04 01 F. 5.	minimize adverse effects: Sun exposure and light pollution	Y	Y	Y	Y	Y	Y	Y	Y	Y
22.82.04 01 F. 5.	minimize adverse effects: diminution of views	Y	Y	Y	Y	N	Y	Y	N	Y
22.82.04 01 F. 5.	minimize adverse effects: diminution of privacy	Y	Y	Y	Y	Y	Y	Y	Y	Y



- Site 8 not compliant
- Sites 3 & 4 compliant
- Site 9 could work

178 ft

32°54'45.79" N 122°41'35.78" W elev 0 ft

Alternatives Analysis for 2nd Unit Project at 52 Mesa Rd, Bolinas

2/26/2011
Bob Cart

1. Introduction

In addition to many other issues raised elsewhere, a significant problem with the Design Review, Coastal Permit and 2nd Unit Permit application for the project at 52 Mesa Rd, Bolinas is the proposed location. Certain sections of the Code require alternative site analysis, yet no such assessment of locations has been provided. This document provides a discussion of site alternatives in terms of applicable Code. It is clear from these findings that the proposed project location does not meet Code requirements.

The Code requires an analysis based when superlative words like "most" and "least" are used. For example, a key paragraph says (emphasis added),

*"Clustering. Buildings shall be clustered or sited in the **most** accessible, **least** visually prominent and **most** geologically stable portion or portions of the site".*

This code removes discretion in the interpretation, as it does not say "more" or "less" or "reasonably so". It is thus not possible to establish if the proposed site is "most" or "least" of anything without comparison to alternatives.

This issue was raised at the Planning Commission hearing, yet still no adequate alternative site analysis has been provided. The CDA staff report to the Board of Supervisors does include an attachment from Joseph Lambert, Ms. Dar's architect that offers 8 sites and provides pros and cons for each. However, Lambert's presentation does not evaluate Code compliance of each site, provides misleading information, and fails to ascertain Code compliance of any site.

In this document I review Mr. Lambert's presentation and comment on facts provided and omitted. While Ms. Dar proclaimed to the contrary, I have no interest in "designing" her project. My efforts here are necessary as no analysis has been provided nor compelled by the County despite the need to do so. This factual review will show that the proposed location is not consistent with the Code and that alternative locations are better suited alternatives exist.

2. Issues within Mr. Lambert's Presentation dated 3/1/2011

The closest thing to an alternatives assessment to date is Mr. Lambert's presentation entitled "Affordable Housing - 2nd Unit Renovation" delivered with the staff report^{1 2}. This

¹ It is interesting that Mr. Lambert presents this development as if the unit designed as planned would be "affordable". The cost of this development would place it outside the reasonable rental of low to moderate incomes as per HUD Guidelines.

² The proposed project is a relocation and expansion of a 2nd unit and not a renovation.

report makes a variety of points without adequate or consistent treatment of the code. It goes to show how the developer is attempting to balance a subset of Code requirements with her personal interests.

Mr. Lambert's report falls short of a reasonable analysis and makes several misleading assertions. Mr. Lambert incorrectly uses the term "easement" with regard to several features yet no such easements have been recorded. He implies that setbacks exist but no evidence has been provided to substantiate that claim. There are other misleading suggestions:

- A. The leach field shown is greatly exaggerated in size. The "10' Easement" shown is not true. The northern half of the actual field area is undeveloped and is an alternate field. An unused alternate field may be relocated. Also note that agricultural uses such as poultry and many row crops are safely grown over leach fields.
- B. The "septic tanks" are also enlarged with a "5' Easement" that is not factual.
- C. The fire hydrant is shown with a 50' easement that is not factual. Bolinas Fire Chief, Anita Tyrell Brown said there is no specific setback requirement from a fire hydrant. Requiring a 50' hydrant setback would disqualify most buildings in Marin County.
- D. There is no such "15' Easement" for a propane tank as stated.
- E. The utilities in the southwest corner can be relocated at nominal cost. Moving the propane tank would only cost approximately \$500 as per estimate from McPhails. The water and electric lines do not need to be moved as they are near the western fence. Jeremy Tejerian acknowledged at the DZA hearing after public comments that moving all these utilities would not be a reason to avoid what is now site #7 or #9.
- F. The "300sf Utility Shed" shown was located in violation of the code and must be relocated as per Gerry Morena of Marin County CDA Code Enforcement Division. It is not appropriate to use for clustering as it will need to be relocated itself to a site clustered with other development to comply with the code.
- G. The proposed fence has already been built without approval. Neal Osborne has stated in writing that the fence is part of this Design Review. Developer may attempt to claim this fence as a basis for clustering or to suggest it reduces visual prominence or improves privacy for the proposed location. Inappropriate!
- H. The specific sites chosen for Mr. Lambert's analysis with the exception of the proposed location have been positioned to make them appear to be less useful to clear fabricated "easements".

3. Location Discussion

Location#1: Lambert says cons for Location 1 are that it suffers dangerous soil stability, but no evidence is provided. No evidence of any easements is provided nor the need to move the "drain dissipater". The fire fuels risk is misleading as the Fire Chief has made it clear that the county Defensible Space ordinance is easy to achieve by reducing fire ladder to under 10' and thinning dense vegetation. Location#1 would be better if moved further west and south as leach field is not as shown.

Location#2: No evidence was provided for soil stability. Parking access is not ideal but better than site #1. Fire fuels risk is not an issue as per above. The Code does not protect privacy of hot tub use. This site merits further review.

Location#3: Reduced solar access may be minimized with suitable window design and the code only requires this to be considered in the design per 22.82.040I F. It does not rule out this site. That the "program" is too big raises an issue with regard to other adverse affects

per 22.82.0401 F and inconsistency with the Visual Resources and Community Character of 22.56.1301 O. Fire fuels is a nonissue as stated. The Code does not protect against filling in an otherwise open area adjacent to the house, especially if such use increases concentration such that existing or future potential agricultural use is maximized as per 22.57.0241 1.i. and 22.57.0241 1.a. and 22.82.0401 A.

Location#4: This site deserves special attention since the cons provided are not addressed by the Code and it appears that a reasonable modification of this location could meet Code objectives and provide a project consistent with the community development patterns.

Location#5: This is not a reasonable location for numerous reasons.

Location#6: This site appears to be pushed out into the field because of the artificial "easement" for the hydrant that is not true and is misleading. Moving this location westward as per #9 below would take it out of view of the westward neighbor and reduce the division of agricultural areas and loss of agricultural space.

Location#7: This site is also artificially constrained by fabricated "easements" and utility setbacks. Relocation of utilities if needed could be done at low expense as confirmed by DZA Tejerian. Moving the driveway would allow it to be shortened consistent with 22.57.0241 1. This site would be no more visible than the proposed location from the shared private access lane. Existing dense vegetation screen it from neighbors. There is no code requirement to avoid the highest site. While it is true that this area could be used for agriculture, this location would diminish the loss of agricultural land as per 22.57.0241 1.b. "...This shall be accomplished through clustering and siting development so as to minimize roadway length and maximize the amount of undivided agricultural land". Additionally, agricultural land division as per 22.56.1301 N. applies to the Spanish Bit Subdivision. Mr.

Location#8 (proposed): Using the illegally located 300sf utility shed as the basis for clustering is not appropriate. This is a potentially productive Ag use area as demonstrated by the developer and Lambert and Creque letters. This is the only open remaining level area on the site without development. Developer proposes fruit trees in the area. This could be expanded for livestock grazing and other agricultural opportunities. It is thus not appropriate for development if an alternative exists which is the case. This site does not minimize extension of utilities (site 7 is obviously closer to utilities). Good views from an accessory structure at the adverse effect of neighbors is not provided in the Code.

Location#9 is a new location to be considered. It would be set on the driveway by the oak tree between #6, #7, and #8. It would be out of view from all neighbors. It is consistent with the location suggested by Neal Osborne in preliminary merit comments. Most accessible to driveway and utilities and access. The south end of the existing driveway where curved could be relocated westward so as to make a straight line to shorten it and make consistent with code 22.57.0241 1. This location would also have a great view and privacy and be nestled by the same oak tree. This site was previously proposed so it is surprising it was not included in Mr. Lambert's analysis. Site # 9 meets code better than proposed site #8.

4. Analysis of Relevant Code Sections Applied to Each Location

To assess alternatives in light of the Code, below is table with each site and compliance with relevant code sections. I used Mr. Lambert's 8 locations and added one more.

Y	Code Compliant	N	Not Code Compliant
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Compliance to Code of Select Alternative Locations										
Code	Description	Locations								
		1	2	3	4	5	6	7	8	9
22.57.02 1I	Purpose. concentration of residential and accessory use	Y	Y	Y	Y	N	N	N	N	N
22.57.02 1I	Purpose. maintain the maximum amount of land available for agricultural use	Y	Y	Y	Y	N	N	N	N	N
22.57.02 1I	Purpose. maintain visual, natural resource and wildlife habitat values of property and surrounding areas.	Y	Y	Y	Y	N	N	N	N	N
22.57.02 4I 1.a	Clustering. most accessible	N	N	Y	Y	N	N	N	N	N
22.57.02 4I 1.a	Clustering. least visually prominent	Y	Y	Y	Y	N	N	N	N	N
22.57.02 4I 1.a	Clustering. most geologically stable	N		Y	Y		N	Y	N	Y
22.57.02 4I 1.a	Clustering. screened by existing vegetation	Y	Y	Y	Y	N	N	Y	Y	Y
22.57.02 4I 1.a	Clustering. minimize disruption of Ag uses.	Y	Y	Y	Y	N	N	N	N	N
22.57.02 4I 1.b.	Ridgelines. least visible from nearby highways	Y	Y	Y	Y	N	N	Y	N	Y
22.57.02 4I 1.b.	Ridgelines. least visible from developed areas	Y	Y	Y	Y	N	N	N	N	N
22.57.02 4I 1.d.	Roads, utilities maximize undivided Ag land	Y	Y	Y	Y	N	N	N	N	Y
22.57.02 4I 1.g.C.	Access. Minimum driveway length	N	Y	Y	Y	Y	N	Y	N	Y
22.57.02 4I 1.i.	Promote Ag. and Open Space Uses	Y	Y	Y	Y	N	N	N	N	N
22.82.04 0I A.	consistent with the countywide plan and community plan and local coastal program	Y	Y	Y	Y	N	N	N	N	N
22.82.04 0I B.	not unsightly or creating disharmony with its locale and surroundings	Y	Y	Y	Y	N	N	Y	N	Y
22.82.04 0I C.	It will not interfere with the development, use, enjoyment of properties in vicinity	Y	Y	Y	Y	N	N	Y	N	Y
22.82.04 0I C	It will not impair orderly and pleasing development of neighborhood as a whole	Y	Y	Y	Y	N	N	Y	N	Y
22.82.04 0I F. 1.	minimize adverse effects. The scale, mass, height, area	N	Y	Y	Y	N	N	N	N	N
22.82.04 0I F. 2	minimize adverse effects. Drainage systems and appurtenant structures	Y	Y	Y	Y	Y	Y	Y	N	Y
22.82.04 0I F. 4.	minimize adverse effects: Areas, paths for the general circulation of persons, animals	Y	Y	Y	Y	Y	Y	Y	N	Y
22.82.04 0I F. 5.	minimize adverse effects: Sun exposure and light pollution	Y	Y	Y	Y	Y	Y	Y	N	Y
22.82.04 0I F. 5.	minimize adverse effects: diminution of views	Y	Y	Y	Y	N	Y	Y	N	Y
22.82.04 0I F. 5.	minimize adverse effects: diminution of privacy	Y	Y	Y	Y	Y	Y	Y	N	Y

The following list summarizes the code-specific criteria selected and discusses a few points with regard to each site.

22.57.0211 Purpose. concentration of residential uses to maximize agricultural use.

This element of clustering residential structures for maximizing agricultural and open space is defined in the Coastal Act, the LCP, and the County Code. It is clear what it means and suggesting that siting next to a tree meets this requirement is inaccurate.

22.57.0241 1.a Clustering. most accessible

The most accessible location would be adjacent to the primary residence. The second most accessible location would be closest to the primary access to the public road and utilities and this occurs at site #7.

22.57.0241 1.a Clustering. least visually prominent

The proposed location #8 is visible from three neighbors and is the only site visible from Highway 1. Locations 1-4 and 6 and 7 are not in view.

22.57.0241 1.a Clustering. most geologically stable

This site also suffers from reduced geological stability. This site also has a steeper grade than to the west and deeper soil. The extensive impervious area would also increase impact from runoff and may cause an adverse effect on the eastern neighbor. County records (<http://mmgis.marinmap.org/>) shows that the eastern half of this parcel is predominately Merced Formation, an unlithified sedimentary soil structure. The western half is shown as Santa Cruz Mudstone, a lithified stone. Stone bedrock is more stable. This is especially important in an area defined by the San Andreas fault. The developer provided geological report from Salem Howes that says, "In general, the risk of surface fault rupture decreases the further you are located from the 1906 trace". As the fault trace is to the east in the lagoon, siting further west reduces risk. In that report it is clear that inadequate analysis was provided for alternative sites. "Geo-probes" were only taken at proposed site, but not elsewhere to establish relative geological stability. Salem Howes also reports that Herzog identified active faults in 1990 in the southeast area hereby increasing risk and suggesting that this is not the most geologically stable location. The selected site is thus not proven as the most geologically stable as per 22.57.0241 1.a.

22.57.0241 1.a Clustering. screened by existing vegetation

Due to existing vegetation, only site # 8 is visible from Hwy 1 and only sites #5 and #8 are visible to neighbors.

22.57.0241 1.a Clustering. minimize disruption of agricultural uses.

Only sites 1-4 minimize ag use. Site #8 is the worst, as it would divide the largest remaining open space. West of the driveway for site #7 would have less impact. Location #6, if moved westward to the driveway would have a similarly lower impact on Ag use.

22.57.0241 1.b. Ridgelines. least visible from nearby highways

Only sites #6 and #8 would be visible from Hwy 1.

22.57.0241 1.b. Ridgelines. least visible from developed areas

Sites 1-4 are the least visible from developed areas. Number #5 and #8 are the worst. Sites #6 and #7 can be made to be reasonably out of view from all developed areas.

22.57.0241 1.d. Roads and utilities to maximize undivided agricultural land

The existing driveway already divides the open space somewhat. Siting at 1-4 has no impact on ag space and 6 if moved west and 7 would have a lower impact than #8.

22.57.0241 1.g.C. Access. Minimum driveway length

Locations 2-4 would have no impact on driveway. #5 and 8 would require additions. Location #6 could be moved on top of the existing driveway and a new driveway set to the west which would result in an overall shorter driveway than exists today. #7 could be accessed from the shared lane to the south.

22.57.0241 1.i. Promote Agricultural and Open Space Uses

Only sites 1-4 protect the open space. Location 6 (if moved west) and 7 would have less impact than Location 5 or 8.

22.82.0401 A. consistent with the countywide plan and any applicable community plan and local coastal program

The proposed location violates the intent of the Bolinas Community Plan and the Marin County Local Coastal Program with regards to concentration of residential uses amongst other items.

22.82.0401 B. not unsightly or creating substantial disharmony with its locale and surroundings

The fence as built is over 6' in places and less than 4' in others. It is solid and not in keeping with other fences on Ag land in Bolinas of 5 acres or more. It is a two tone color scheme and follows irregular design. The fence is ugly and seen as a spite fence. The proposed development location would have the effect of making the lot look like it was two separate home sites in a much more dense subdivision. This is not the intent of the zoning in this area.

22.82.0401 C. It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity

The proposed site so close to the eastern neighbors front yard and driveway area will have a big impact on privacy and enjoyment. The large structure will be plainly visible where only natural open area existed. The fence built without permit has already had a big negative impact. The lights at night, the noise of close neighbors and general lack of privacy resulting from the proposed site would be adverse to the eastern and southern neighbors.

22.82.0401 C It will not impair, or interfere with, the orderly and pleasing development of the neighborhood as a whole

See prior two items for comments on this section.

22.82.0401 F. 1. minimize adverse effects. The scale, mass, height, area

While within code limits, the size of this second unit is greater than others in Bolinas. The large garage and large disturbed surface make it as large as the primary residence. The glass façade is the full 15 feet tall and has the affect of making the structure appear larger.

22.82.0401 F. 2 minimize adverse effects. Drainage systems and appurtenant structures

Location#8 as proposed is on the steeper side of the property where the lose topsoil is deeper both resulting in greater erosion. This erosion may cause runoff onto the eastern neighbor's property

22.82.0401 F. 4. minimize adverse effects: Areas, paths for the general circulation of persons, animals

The fence as built impacts the flow of animals and reduces access to the eastern neighbors' northern yard area.

22.82.0401 F. 5. minimize adverse effects: Sun exposure

The fence as built greatly reduces afternoon sun on the existing garden growing area of the eastern neighbor effectively shortening the sunlight day considerably and reducing crop yield. It also reduces the ability to grow screening plants just west of the fence. Further, the light from the glass facade at night will make an otherwise dark area illuminated polluting the night darkness.

22.82.0401 F. 5. minimize adverse effects: diminution of views, vistas

The proposed location is highly visible to the eastern neighbor and visible to the western and southern neighbor. This structure and fence would block the view to the natural open wildlife habitat space in the southwest corner.

22.82.0401 F. 5. minimize adverse effects: diminution of privacy

By siting the second unit at location #8 as proposed, it would be 85' from the southern neighbor and 110' from the eastern neighbor. People living that close would reduce privacy.

5. Summary

From this analysis, it is clear that only locations #3 and #4 meet all the code requirements. Location #2 is also promising and if access could be improved #1 could be workable. Location #9 is the best of those away from the primary residential development with #7 not far behind. Sites #5, #6 are not workable. The very worst of all by this evaluation is the proposed site #8. It fails in all measures with the exception of screening by existing vegetation.

Bob and Courtney Cart
40 Mesa Rd
Bollinas, CA 94924

Richard Pfeffer
30 Mesa Rd
Bollinas, CA 94924

Nancy McCarthy
60 Mesa Rd
Bollinas, CA 94924

December 7, 2010

Marin County Community Development Agency
Planning Commission

Re: Project ID 10-1084, APN 193-020-51

Dear Planning Commission,

This is a joint letter of the adjacent neighbors in opposition to the site selected for the Dworsky/Dar 2nd Unit as approved by Community Development Agency staff. This project has serious adverse impacts on the adjacent neighbors and the surrounding neighborhood as a whole, and does not meet many parts of Marin County Code including section 22.57.024 requiring buildings on the property to be clustered with one another and to be placed in the "least visually prominent" location. Please see the letter by Derek Weller dated October 27, 2010, outlining the various problems with this project as it is being proposed.

By approving this project, the DZA has failed to enforce the Code as written and it appears to be receiving some sort of special deference. We strongly feel that the Code and the neighborhood interests are being disregarded and quite frankly do not understand how this can happen - particularly when there is a simple solution that will satisfy the Code and the interests of the developer as well as the neighbors. As all of the affected neighbors, we strongly oppose the 2nd unit location and think there are clearly alternative and appropriate locations that have not been properly evaluated by County staff or the DZA as required by the Code and that address most, if not all, the Code violations and the neighbors' concerns. We ask that you grant the appeal and return this project to staff to finish the work needed to make this a project that serves everyone well.

The Code for our zoning area (22.57.0201: C-ARP-5 zone) requires new development to be sited in the least visually prominent location and to be clustered with existing development on the property. In our rural area, visual prominence of development is an important matter. The approved location is simply as far away as possible from the Dworsy/Dar primary house location and closely situated to two neighbors and visible to the third neighbor. As such, it clearly does not meet the intent of the clustering mandate. When you consider the 5+ acre lots in the area, to put the new house as close as possible to two of the adjacent homes is the MOST visually prominent location possible. In addition, the overall natural disturbance of the 2nd

unit is even larger than that of the main house and this is a major impact on our rural agricultural "neighborhood." While the location appears to have been selected to maximize privacy of developer and the best lagoon view, these are 2 ideals that are not the inherent right of the developer. There is no Code language that says the developer is entitled to maximum privacy from tenants or entitled to the best view, while there are specific Code requirements for clustering and siting structures in the least visually prominent location. The Code cannot be bypassed by the DZA.

The critical issues with approved site of 2nd unit:

- it is not the least visually prominent as required by the Code
- it is not clustered as required by the Code
- it is way too big for a Bolinas 2nd unit - it disturbs nearly 5,000 sf of existing natural area with its floor area, generous garage, decks, parking & landscaping
- position of house - does it even fit in the approved location? (see next paragraph)

The approved project is to be set back from the eastern property line by 51' from the line to the deck. A surveyor just last week found that the story poles were set 4 feet closer to the eastern property line than approved, yet the poles have not been repositioned. Why? Perhaps this is because the poles are nearly touching the oak tree even in their present position. DZA staff should have considered the fire risk at the approved location. For the site to meet defensible space requirements for fire protection as required by law, specimen trees need a 10' clearance from roof. The large oak would thus need to be cut back by at least 10' and perhaps more once the story poles are correctly positioned as per the approved plan. Such intense trimming may kill the tree. The DZA and staff did not complete this basic analysis. This application should be returned to staff to complete the analysis and determine a more suitable location for this project.

While not the job of the neighbors, we can show multiple locations that meet the Code as well as fire protection and still be consistent with rural character of our "neighborhood." A location adjacent to the primary house meets these goals. One way would be to convert and expand the carport into a second unit. This would not change fire risk. Also, moving the existing 2nd unit from the main house to the carport would provide the added space and privacy the developer desires while also meeting Code requirements related to visual prominence and clustering.

At the initial hearing, DZA Staff agreed with the developer that the risk of fire fuels was a concern for sites near the primary house. However, the DZA staff did not require any evidence and did not even cite the relevant defensible space fire code. After we discussed this with the fire chief and reviewed the state and county's defensible space requirements, it is clear DZA Staff gave opinion and made decisions at the hearing without reasonable and adequate facts. There is no good reason that the code cannot be followed such that the new development is sited adjacent to the main house. As long as there is 30' of clearance and at least 10' from any specimen trees from the roof, it would be safe. A conversion/expansion of carport can use much of existing footprint. The DZA staff acted inappropriately to allow the Code

related to clustering to be bypassed by using incomplete and uncorroborated facts regarding fire safety.

There is also plenty of space west of the large oak tree and south of the view shed of the western neighbor that would be far less visually prominent than the approved location and slightly better in terms of clustering. It doesn't meet the Code as well, but it provides a desired view (meadow view & broad lagoon view) and the neighbors would be less impacted. The southwest corner has sufficiently dense and mature plantings to "frame" a site on two sides rather than a just large single tree in proposed location. At the hearing, it was stated that drainage was an issue in the southwest location. This is not the case as the site has at least a 5% grade that is more than adequate. The only drainage issue is the poorly maintained driveway with ruts far below grade that fill after rain. That is not a site issue, but a maintenance issue. The DZA and staff did not consider this simple issue.

Please remember, this is not a new primary house, nor is it a new 2nd unit, it is just the moving of an existing 2nd unit from the primary house into an accessory structure. A modest carport conversion for 2nd unit purposes is consistent with Bolinas standards. It is not the norm in Bolinas or our rural neighborhood to have a property developed with a 2nd house and very large garage (424 sf) in a location at a maximum distance from the primary house. This is exactly what the Code is trying to avoid. The project is a large second residence with major displacement of natural area that is similar to the primary residence in its scale of impact.

While we have made multiple attempts to resolve our concerns with the developer, they have been unwilling to discuss alternate sites. We ask you to return this project to the CDA for further analysis of sites that meet the Code and hopefully the interests of all parties.

Sincerely,

Signature on file

Courtney & Bob Cart

Signature on file

Nancy McCarthy

Richard Pfeffer

LAW OFFICES OF
DEREK A. WELLER

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(415) 453-1375 • (415) 456-1921 (fax)

February 27, 2011

*SENT VIA EMAIL TO: skinsey@co.marin.ca.us; sadams@co.marin.ca.us;
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Board of Supervisors - County of Marin
3501 Civic Center Drive, Room 329
San Rafael, California 94903

Re: Appeal of Planning Commission Denial of Dworsky-Dar
Coastal Permit & Design Review
Project Address: 50 & 52 Mesa Road, Bolinas
Hearing Date: March 1, 2011

Dear President Adams and Board of Supervisors:

Please accept this letter on behalf of Courtney and Bob Cart, the neighbors immediately adjacent to the proposed project site. The Carts, along with the other adjacent neighbors, are strongly opposed to this project as currently proposed and request that the Board of Supervisors deny the Applicant's appeal and sustain the Planning Commission denial of the project as proposed. Accompanying this letter, please find: (i) a letter from the Carts providing the background on this matter, (ii) a copy of a joint letter from the neighbors opposing the project, and (iii) a site alternatives analysis showing that the proposed site is not code compliant.

Please know that the Carts do not oppose the project in general and understand Applicant's objective to create a more viable second unit rental. However, the Carts and other neighbors are adamantly opposed to the proposed site location and the large scale of the new second unit development and read the clear meaning of the County Code and planning policies as prohibiting this project in its presently proposed location and large scale. Early on in the approval process, CDA staff recommended relocating the second unit to the south-west quadrant of the property to better comply with the clustering requirement, but Applicant refused and pushed forward with the current proposal. Note that the Planning Commission indicated in its deliberations that it believed CDA staff was right on this point.

Nevertheless, after receiving a great deal of detailed written material and oral testimony from all the parties, the Planning Commission agreed with the Carts and their neighbors that the proposed project does not meet the Code requirements, and concluded by a 5-2 vote that the required findings could not be made and denied the project.

The purpose of this letter is to address the following items:

1. Applicant's contention that there is no clustering requirement in the C-ARP zone.
2. The adequacy of the Design Review findings in the PC Resolution and the proposed BOS Resolution.
3. The accuracy of the Coastal Permit findings in the PC Resolution and the BOS Resolution along with a proposed additional finding.
4. Applicant's illegal construction of the fence portion of the project after PC denial and without required design review approval along with a proposed additional finding.

1. **Clustering Requirement.**

The Planning Commission found that the proposed second unit location (at the furthest point away from the primary residence) was not adequately clustered with the existing primary residence as required by the C-ARP Design Standards set forth in Interim Code 22.57.024I.1.a. That section states in part that “[b]uildings shall be clustered or sited in the most accessible, least visually prominent and most geologically stable portions or portions of the site.”

Applicant now claims that the “so called clustering requirement” does not actually require clustering or concentration of residential structures on C-ARP zoned parcels. This same argument was made to the Planning Commission and rejected. The notion that there is no clustering requirement in C-ARP zones directly conflicts with specific Code provisions, planning policies and historical County practice and code interpretation.

Applicant points to the language “clustered or sited” and concludes that use of the words “or sited” along with the words “portion or portions” means that residential structures are not required to be clustered, but instead may be sited on any “portions or portions” of the property whether clustered or not. The problem with this interpretation is that it renders the word “clustered” meaningless and surplusage, which is objectionable on the same grounds raised by Applicant. Accepting the Applicant’s interpretation would be no different than just striking the word “clustered” from Interim Code 22.57.024I.1.a. The correct interpretation seems to be that there is no real distinction between the use of the words “clustered” or “sited” and that in any event, both words must be interpreted consistently with the stated purposes of the C-ARP zoning and applicable planning documents, which specifically require “the concentration of residential and accessory uses.”

The stated purpose of the C-ARP zone is “to provide flexibility in lot sizes and building locations and thereby promote the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use and to maintain the visual, natural resource and wildlife habitat values of the surrounding area.” (Interim Code 22.57.021I) (emphasis added) “Concentration of residential and accessory uses” is clearly identified as the stated means for meeting the objectives of the C-ARP zones to maximize the amount of available agricultural land and preserve visual, natural resource and wildlife habitat values. The words “or sited” must be interpreted consistently with that stated purpose.

Interim Code 22.57.024I also requires that the Design Standards be imposed in a manner that implements the goals and policies of the Local Coastal Program, the Marin Countywide Plan and the Bolinas Community Plan. A close review of those planning documents and the LCP in particular reveals clear policies and goals applicable to agricultural zones stating: (1) that agricultural lands and natural areas and habitats are to be preserved; (2) that the conversion of agricultural lands and natural areas to residential use is to be prevented; and (3) that the primary mechanism for achieving these goals is to control residential development by clustering and concentrating structures to minimize loss of such agricultural lands and natural areas and habitats. Again, any interpretation or application of the clustering requirement must be consistent with these planning policies.

The Agriculture Policies contained in the LCP applicable to small agricultural holdings with “rural-residential” land uses in the C-ARP zone (as is the case here) specifically provide for the concentration of residential development to maximize the protection of agricultural lands and wildlife habitat areas. (See LCP Policy II-30, p. 35.) The LCP further provides that “[n]ew land divisions shall be designed to provide the maximum feasible clustering of new units.” The Applicant’s parcel is part of the four-lot Spanish Bit subdivision completed in 1989, which was a new residential subdivision subject to the LCP Policy II-30 and the implementing clustering requirements in the Interim Code. Likewise, the original development of Applicant’s property with the primary residence and attached second unit and approved by the County in 2004

clustered the second unit with the primary residence. The County presumably found Applicant's original residential development to be in compliance with the clustering requirement and the other C-ARP design standards. The Interim Code and the LCP do not allow the Applicant now, just 7 years later, to detach, significantly enlarge and de-cluster the second unit to the furthest away from the main residence.

Finally, any potential ambiguity in Interim Code 22.57.024I resulting from the words "or sited" seems to have already been resolved by the Board of Supervisors. The comparable clustering provision in the new Title 22 requirements adopted by the Board of Supervisors and in effect for agricultural zones outside the coastal zone has dropped the words "or sited" from the prior version and retained only "cluster." (See County Code 22.08.040) Likewise, the new Title 22, Article V (Coastal Zones – Permit Requirements and Development Standards) adopted by the Board of Supervisors, but not in effect in the coastal zone until certified by the Coastal Commission, has also dropped the words "or sited" and retained only "cluster." These revisions make clear that the agricultural zoned district design standards are intended to require clustering and concentration of residential and accessory uses.

2. Design Review Findings.

The Applicant's attorney claims that the Planning Commission Resolution PC11-001 and the proposed BOS Resolution contain findings that are not supported by substantial evidence. The required design review findings include findings of consistency with the C-ARP design standards under Interim Code 22.57.024I and consistency with the general design review standards under Interim Code 22.82.040I. As discussed below, the Planning Commission properly concluded that the required findings could not be made and their determination is supported by substantial evidence in the record.

A. Failure to Cluster.

The Planning Commission found that the proposed second unit is not adequately clustered with the primary residence on the property as required under Code 22.57.024I. (See Resolution PC11-001, Sections XI and XII.A.) Applicant claims that this finding is unsupported because it reads a nonexistent clustering requirement into Interim Code 22.57.024I. As discussed in Section 1, Applicant's claim that there is no real clustering requirement is incorrect. Rather, the Code and planning documents specifically require clustering and concentration of residential and accessory structures on Applicant's property. The record reflects that the existing second unit is being detached and relocated ("de-clustered") to a location that is furthest away from the primary residence and is the least clustered of all potential sites on the property. The Planning Commission's finding on this point is clearly supported by the evidence.

B. Permanent Loss of Agricultural Lands.

The Planning Commission also found that the project would diminish the amount of land available for potential agricultural uses on the property. (See Resolution PC11-001, Sections XI and XII.D.) Interim Code 22.57.024I requires that "[i]n areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses." There is no question that the proposed development site is "usable agricultural land." The report prepared by Jeffrey Creque, Ph.D. confirms this fact on page 2, second paragraph, where he concludes that although there may not be ideal soil conditions, the potential uses of the site do still include tree fruits, soft fruits, vegetable crops and small scale livestock. (See Staff Report, Attachment #5.) It is also shown on the face of the proposed plans that a large area of this "usable agricultural land" would be permanently converted to residential use as a result of the proposed project.

In considering this issue, the Planning Commission correctly recognized that the Code and planning policies require preventing conversion of agricultural land to residential development and that clustering and concentration of structures is the primary means for minimizing loss of potential agricultural lands. The Planning Commission found that the project fails to cluster with the existing primary residence, was excessively large for an accessory second unit, and permanently displaced a large area of potential agricultural lands. The evidence in the record clearly supports the Planning Commission's findings.

C. Least Visually Prominent Location.

The Planning Commission found that the proposed second unit is not located in the "least visually prominent" portion of the property as required under Interim Code 22.57.024I. (See Resolution PC11-001, Sections XI and XII.B.) The simple reasoning here is that when Applicant obtained County approval for the construction of the original residence in 2004, a determination was made under Interim Code 22.57.024I that the least visually prominent area where residential uses would be concentrated is the area where the main residence is now.

The Carts also provided the Planning Commission with numerous written materials and oral testimony showing that the proposed location is in fact the most visually prominent location on the property in terms of views from the adjacent neighbors, views from the adjacent driveway, and views from Highway 1. On one side it is placed immediately adjacent to the shared property line right next to the only flat outdoor usable area on the Carts' property, and on the other side is immediately adjacent to the Carts driveway. It is also adjacent to and visible from the Pfeffer's home. The second unit will be visible to them any time they enter or leave their home or they use their outdoor areas. The record also shows that the second unit is visible from Highway 1. Moreover, the written materials and slide presentation provided by the Carts show that there are alternative sites on the property in the south-west quadrant and closer to the primary residence that are less visually prominent.

The Planning Commission received all this information and more, and analyzed the project site and concluded that the proposed site was not in the least visually prominent location, pointing out in deliberations that a site in the south-west area or closer to the primary residence would better satisfy the requirements of Section 22.57.024I. All this information is included in the Staff Report and in the record before the Board of Supervisors, and is more than satisfactory to support this finding.

In addition, throughout the approval process, Applicant has disputed this point but has not provided any contrary evidence and has refused all along to engage in any comparison of alternative sites in terms of Code compliance. Applicant has claimed that the proposed site is selected to protect Nancy McCarthy's view corridor, but Ms. McCarthy is opposed to this project and alternative sites have been shown that also protect her views along with views from other neighbors and the public from Highway 1. Applicant also claims that certain other locations are not satisfactory in terms of visual prominence, but Applicant has not provided any explanation or evidence supporting those contentions. In sum, the evidence in the record supports the Planning Commission's finding on the issue of visual prominence and no meaningful contrary evidence has been provided to support a contrary finding.

D. Excessive Bulk and Inconsistency with Surrounding Area.

Interim Code 22.82.04I sets forth the general findings required for Design Review approval. The findings require, among other things, a determination that the proposed project "is consistent with the countywide plan and any applicable community plan and Local Coastal Program," "will not impair, or interfere with . . . the orderly development of the neighborhood as a whole," and "will minimize or eliminate adverse physical or visual effects . . . [including]

those produced by design and location characteristics of . . . the scale, mass, height, area and materials of buildings and structures . . . [and] other developments and improvements which may result in a diminution or elimination of . . . views, vistas and privacy." (emphasis added) The Planning Commission made a number of findings related to the location and design of the project that support its conclusion that the required design review findings could not be made.

First, the Planning Commission found that the project does not meet the design standards in Interim Code 22.57.024I (discussed above) and that it is in direct conflict with the planning goals and policies contained in the Bolinas Community Plan, Local Coastal Program and Countywide Plan. (See Resolution PC11-001, Sections XI and XII.C.) The planning goals and policies contained in these plans clearly require concentration of residential and accessory structures, maximum preservation of potential agricultural lands (particularly prevention of loss of agricultural lands due to residential development) and preservation of the natural and wildlife habitat areas. Interim Code 22.57.021I further identifies one of the main purposes of the C-ARP zoning is to "maintain the visual, natural resource and wildlife habitat values of the property and surrounding areas." In addition to the failure to cluster and the permanent loss of agricultural lands discussed above, the record also shows that the proposed project will permanently displace a large area of the only remaining undisturbed portion of Applicant's property that is currently predominantly in its natural state and used by a variety of wildlife. This and other evidence in the record clearly support the finding that the project is not consistent with the Marin Countywide Plan, the Bolinas Community Plan and Local Coastal Program, Unit I.

The Planning Commission also found that the proposed project design and location would result in a structure with excessive bulk for a detached accessory structure, would appear as a separate development, and would not be compatible with other residential buildings in the vicinity. (See Resolution PC11-001, Sections XI and XII.C.) These findings were made in support of the Planning Commission's conclusion that the project was not adequately clustered and would disturb a large area of potential agricultural lands and natural habitat areas, contrary to the requirements of Interim Code 22.57.024I.

These findings also supported the Planning Commission's conclusion that the proposed second unit development taken as a whole is too large in terms of bulk, scale and the overall area of development, and that it could not make the required findings referenced above. The record reflects that the proposed new second unit development maximizes the legally allowable living space, includes an additional large garage with storage and laundry areas, has a number of sizable decks and patios, and includes a fenced in and landscaped area, all of which encompasses a total area of development of approximately 5,000 square feet. The Planning Commission also raised concerns about the legal validity of excluding the storage and laundry areas from the calculation of living space to maximize the size of the project while staying within the legally maximum allowable living space.

These findings also supported the Planning Commission's conclusion that the location and design of the project was not compatible with the character and development pattern of the neighborhood. The Planning Commission acknowledged that the Spanish Bit subdivision was developed as a four-lot subdivision that maximized the development capacity of the property, and that the appearance and development pattern of the area is one of a four-lot subdivisions with residential structures clustered in particular areas on each property. In looking at the proposed project, the Planning Commission concluded that the new second unit development was inconsistent with the development pattern and character of the surrounding area because, unlike other properties with clustered residential structures, the proposed project was not clustered and instead looked like a separate subdivision (albeit not a legal subdivision). The Planning Commission also concluded based on evidence presented that the proposed second unit was not compatible with other residential buildings in the area based on the fact that all other existing second units in the area are much smaller in terms of the overall size and developed area and are located either attached to or immediately adjacent to the primary residence. This and other

evidence in the record supports the Planning Commission's conclusion that the required design review findings could not be made.

4. Coastal Permit Findings.

In denying the project, the Planning Commission denied Applicant the grant of the requested Coastal Permit on the grounds that the project was not consistent with the Local Coastal Program (See Resolution PC11-001, Section XII.C.) Despite this denial, however, Section X of the PC Resolution nonetheless included affirmative findings in support of granting the Coastal Permit. These findings should not have been included in the PC Resolution and should be replaced with findings supporting the denial of the Coastal Permit.

Section 22.56.025I requires a finding that the proposed project is consistent with the requirements and objectives of the Local Coastal Program. This required finding, however, is not included in the Coastal Permit findings listed in Section X of the PC Resolution or in the proposed BOS Resolution. As discussed above, the proposed project fails to satisfy the LCP goals and policies requiring concentration of residential uses, maximum preservation of potential agricultural lands and preservation of natural resource and wildlife habitats. As such, the Carts suggest that the Board adopt a finding to be added to Section X of the Resolution as follows:

SUGGESTED ADDITIONAL FINDING:

The proposed project is not consistent with the goals and policies of the Local Coastal Program as required under Interim Code Section 22.56.025I because the new second unit is not adequately clustered with the primary residence, does not adequately preserve potential agricultural lands and natural and habitat areas on the subject property. The Board does not affirm or make any of the Coastal Permit determinations or findings described in Section X of this Resolution.

The remainder of the required Coastal Permit findings are set out in Interim Code 22.56.095I and require an affirmative determination on a variety of development requirements. These findings are all listed in Section X of the proposed Resolution and are all incorrectly made in the affirmative. The Planning Commission did not address any of these issues under the Coastal Permit findings and instead denied the project for its inconsistency with the LCP. All the affirmative findings currently in the Resolution should be excluded from the proposed BOS Resolution, which is accomplished by the above suggested finding.

In addition, a number of the affirmative findings cannot be made. Interim Code 22.56.130.A requires a finding that "water service to the proposed project is of an adequate quantity and quality to serve the proposed use." There has been no evaluation or determination that the private water well, shared by Applicant, the Carts and DiPaolos, will support the new additional use. Environmental Health Services has concluded that a new or amended permit is not required because the number of units has not increased but has not looked at current actual available water supply. Certainly the much larger second unit with new surrounding landscape areas will require much more water than the existing small second unit. Interim Code 22.56.130.I also requires that new development "be sited to avoid wildlife habitat areas." This project is sited in a known area frequented by wildlife habitat. Finally, Interim Code 22.56.130.I requires protection of views from Highway 1 and that the scale and design of new development "be compatible with the character of the surrounding natural or built environment." This project is visible from Highway 1, and as discussed above, is inconsistent with the surrounding built environment as well as the natural environment.

5. Illegal Fence & Design Review Determination.

Applicant's proposed project plans include a six foot high solid wood fence proposed to be located to start at the north of the shared driveway easement and continue north for 100' adjacent to the shared property line between Applicant's and the Carts' properties and set back off the property line a distance of six feet. It also includes a 60' portion of fencing along the driveway easement. (See PC Staff Report, Attachments #5 & #6). The purpose of the fence as described by Applicant was to provide a view screen between the proposed new second unit and the Carts' home and driveway. At the DZA hearing on this project, Attorney for the Applicant made the claim that the fence could be moved to the property line, but the project plans were never changed. There was also discussion of requiring the fence to be of an open design, but this was not resolved. Approval for the proposed fence was rejected by the Planning Commission. The fence now remains part of the project proposal for purposes of this appeal as has been confirmed by Staff Planner Neal Osborne.

Despite the fact the proposed project and fence have been denied design review approval, immediately following the Planning Commission decision, the Applicant nonetheless proceeded to construct a six-foot high solid wood fence without obtaining the legally required design review approvals. See Interim Code 22.82.020I, requiring design review approval for all new physical improvements, including fences. Moreover, Applicant was well aware that the fence had been rejected as part of the project and was informed of the legal requirement for prior design review approval before commencing construction. Applicant, however, chose to ignore the legal requirements and proceed anyway.

The fence actually constructed by Applicant varies from the proposed design. Its height is over six feet in some places and less than four feet in others. It has been moved to the property line and is not set back from the Carts' property line as shown in the plans. It also stretches a length of 240 feet on the shared property line, whereas the proposed fence was only 100 long. The solid fence actually constructed is not the fence design proposed, has failed to achieve approval and is illegal.

More importantly, the as-built fence does not satisfy the required design review standards under Interim Code 22.82.040I. That section requires findings that the proposed fence is "not unsightly or creating substantial disharmony with its local and surroundings," "will not impair, or interfere with, the development, use or enjoyment of other property in the vicinity, or with the orderly and pleasing development of the neighborhood as a whole" and "will minimize or eliminate adverse physical or visual effects . . . [on] the movement or general circulation of . . . animals . . . or improvements which may result in a diminution or elimination of . . . views [and] vistas."

None of the parcels in the Spanish Bit subdivision have solid wood fencing dividing them. The Carts have also surveyed the Bolinas area and have found no other 5-acre or larger agricultural lots with solid wood fencing. Rather, they all have no fencing or open fencing. A select few smaller agricultural parcels (1-2 acres) do have solid wood fencing, but those parcels also have predominantly open fencing. The purpose for the open fencing is to maintain the open agricultural character of the agriculturally zoned parcels and to allow for the free flow of wildlife. The six-foot solid wood fence (and at places higher) that was illegally built by Applicant is inconsistent with the character of the agricultural parcels within the Spanish Bit subdivision and elsewhere in the surrounding agricultural zoned parcels. It also cuts off the free flow and inhibits the movement of wildlife that have historically used the area, and has dramatic adverse impacts on the views of the Carts who now stare into a six-foot fence where there once were views of open grasslands and nature.

On hearing this appeal, CDA staff has indicated that the fence remains a part of the project proposal and that the Applicant will request the Board of Supervisors to approve the as-

built fence. The Carts strongly urge the Board to reject such a request, address Applicant's illegal actions, and make an affirmative finding that the as-built fence does not meet design review standards. The Applicant has thumbed her nose at the legal process and should not be granted a retroactive approval for her actions.

Following is the text of the suggested finding that may be added to Section XV of the proposed BOS Resolution:

SUGGESTED ADDITIONAL FINDING:

The Board of Supervisors further finds that the solid wood fence constructed by Applicant after the Planning Commission denial of the proposed project was built without required design review approval in violation of Section 22.82.020I, and that the as-built fence is inconsistent with the design review standards under Section 22.82.040I because the solid wood fence is inconsistent with the open agricultural character of the surrounding agricultural areas, is inconsistent with the predominantly open style fencing found in the surrounding agricultural areas, inhibits the movement of wildlife habitat, and adversely impacts the character of the neighborhood and the views and vistas of the adjacent property owners.

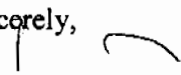
IV. Conclusion

In sum, this project is not designed to fit within the requirements of the County Code, but is instead designed and located to maximize the size of the second unit development and to maximize the distance and privacy between Applicant's own home and the new rental unit, all at the expense of the neighbors and neighborhood and in direct conflict with the Code. To obtain approval, Applicant is now trying to interpret important requirements out of the Code and is trying to push through a strained argument that the Code requirements are somehow satisfied. In the end, Applicant's parcel is zoned C-ARP and the proposed project does not meet the design standards or design review requirements required for that zone.

In reaching a decision on this matter, please consider the foregoing discussion along with the Carts' separate letter and prior submittals. I believe that you will conclude that the project as proposed does not meet the applicable Code requirements and planning policies, and should therefore be denied. The Carts and other neighbors strongly believe that there are other site locations on Applicant's property that better meet the legal requirements and do not adversely impact the neighbors or neighborhood. Those alternative sites may not maximize Applicant's own personal desires and objectives, but they do better comply with the legal requirements.

Thank you for your consideration on this matter.

Sincerely,


Signature on file

Derek A. Weller

Enclosures

cc: Courtney & Bob Cart

Thlla

LAW OFFICES OF
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May 7, 2011

Chairperson and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Re: Appellants Response to Coastal Commission Staff Report, dated April 22, 2011,
Appeal No. A-2-MAR-11-020 (Dar, Bolinas) concerning Appeal by Bob & Courtney
Cart of Marin County Board of Supervisors Resolution No. 2011-15 approving
Dar/Dworksy Coastal Permit and Design Review. (APN 193-020; 52 Mesa Road
Bolinas)

Dear Chairperson Wan and Commissioners:

This letter is submitted on behalf of the appellants, Bob & Courtney Cart, in response to the recommendations and analysis contained in the Coastal Commission Staff Report, dated April 22, 2011. Accompanying this letter for your review are PDF copies of the written materials and slide presentation submitted prior to the Board of Supervisors hearing. Please also refer to our Appeal submittal included as Exhibit No. 4 to the Staff Report. We believe that these additional materials will make clear that this appeal does raise a substantial issue for the following reasons:

- (1) By reversing the Planning Commission denial of this project and allowing the existing residential second unit to be detached from the main residence and relocated to a site 240 feet away at a point furthest from the main residence, the Board of Supervisors has failed to enforce the LCP-Certified zoning regulations requiring clustering and concentration of buildings on parcels within the Coastal-Agricultural Residential Planned District (C-ARP). The County zoning code requires clustering of buildings on the subject parcel. However, the County has approved the de-clustering of the existing second unit far away from the main house on the grounds it would be clustered next to a tree, a driveway and a shed that is to be removed. This decision cannot be supported legally or factually.
- (2) After close of the public comment period at the Board of Supervisors hearing, the County staff presented a new interpretation of the clustering requirement in support of the project approval that had not previously been put forth by the County, thereby denying appellants and the public an opportunity to address the grounds for approval. This new analysis was relied on by the Board of Supervisors in reversing the Planning Commission but was never presented previously and was omitted from the Resolution.
- (3) The County's interpretation of the clustering requirement put forth after close of public comment and relied upon by the Board of Supervisors is inconsistent with the express language and purpose of the LCP-Certified zoning provisions requiring clustering and concentration of residential structures. The County's interpretation essentially writes the clustering requirement out of the code to allow siting of structures anywhere on the parcel, in effect eliminating one of the primary land use tools designed and implemented for the purpose of protecting coastal resources. This interpretation sets a dangerous precedent that could be used to justify future losses of important coastal resources.

- (4) The LCP-Certified zoning provisions for new developments in the C-ARP district require an analysis of alternative building sites to determine which site meets the code requirements. County staff asserts that it has balanced a number of code requirements and found the project acceptable on balance - even though the clustering requirement is not met and agricultural lands and habitat areas would be lost. Despite many requests throughout the approval process, however, the County has never revealed what they were balancing or how they were reached their conclusion. The Appellants on the other hand, have provided an extensive alternatives analysis (copy include here) that shows the proposed project site to be the least Code compliant site on the property. In reversing the Planning Commission denial of this project, the Board of Supervisors has still not provided any explanation of how it reached its conclusion.
- (5) The Board of Supervisors approval of the project violates LCP Policy II-30 by allowing the existing second unit to be de-clustered away from the main residence and to permanently displace an approximately 5,000 square foot area of existing usable agricultural lands. LCP Policy II-30 requires concentration of development to maximize preservation of agricultural lands, and that new land divisions shall provide maximum feasible clustering of new units. The original construction and development of the property approved by the County just over 7 years ago complied with LCP Policy II-30 by clustering and concentrating the main residence and the second unit in their current location. That LCP compliance is now being circumvented by de-clustering the second unit to the opposite side of the property away from the main residence.
- (6) The failure to enforce the clustering requirement will result in the permanent loss of a large area of useable agricultural lands in violation of the LCP-Certified zoning regulations requiring that buildings be clustered to "maintain the maximum amount of land available for agricultural use." Alternative project sites exist on the property that will not displace agricultural lands and that have not been adequately evaluated by the County. It is not true that the potential alternative sites will require removal of trees.

The above issues are further detailed below and provide factual proof that the LCP and County Code are not being followed:

1. County Has Failed to Enforce the LCP-Certified Zoning Provisions that Require Clustering & Concentration of Buildings on the Project Parcel.

The LCP-certified Marin County Zoning Code provisions applicable in the C-ARP district state the purpose of the C-ARP zone as follows (emphasis added):

22.57.021 Purpose. This zone provides flexibility in lot sizes and building locations and thereby promotes the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use and to maintain the visual, natural resource and wildlife habitat values of the surrounding area. (Code section 22.57.021I)

The C-ARP code provisions establishing the applicable design standards then go on to provide (emphasis added):

22.57.024(1) Project Design. Buildings shall be clustered or sited in the most accessible, least visually prominent and most geologically stable portions or portions of the site. (Code section 22.57.024I)

The project here proposes to eliminate the existing residential second unit attached to the main residence (converting it to living space in the main residence) and to replace it with a much

larger second unit development at a location at the furthest point 250 feet away from the main residence. The Marin County Planning Commission denied the project by a 5-2 vote on the grounds (among others) that the second unit is not adequately clustered with the main residence as required under section 22.57.0241. The Board of Supervisors reversed that decision, however, and approved the project as proposed at a location that is not clustered with and at a point furthest from the main house, and that results in the development of approx. 5,000 square feet of otherwise undisturbed agricultural lands and natural habitat areas.

The Board of Supervisors Resolution approving the project incorrectly found the project to be consistent with the C-ARP zoning standards because it is adequately clustered next to the existing driveway, a storage shed and an oak tree. See Resolution No. 2011-15, ¶¶ XVII.A. & D. The zoning code, however, expressly requires clustering of "buildings" with other "buildings," not clustering of buildings with a driveway or oak tree. The existing shed is the only possible "building" on the property in the vicinity of the proposed project site, but the project itself proposes to relocate that shed to the south-west area of the property away from the proposed project site and away from the main residence (further de-clustering buildings on site). Moreover, that shed has been found by County code enforcement to be illegally placed within a roadway easement area and is required to be relocated. The County's decision approving the project lacks factual and legal support because the LCP-certified zoning code requirements cannot be satisfied by clustering the new second unit next to a tree, the driveway or an illegal shed planned to be relocated. The zoning code requires that the second unit be clustered with the other buildings on the project site and that requirement is not satisfied.

2. County Presented Code Interpretation after Close of Public Comment - Denying the Public the Right to Address the Grounds for Project Approval.

At the Board of Supervisors hearing on this matter and after the close of the public comment period, the Community Development Director, Thomas Lai, for the first time during the entire approval process, orally presented a new and innovative interpretation of the clustering requirement that was relied upon by the Board of Supervisors in approving the project. Although Mr. Lai's analysis was never included in any staff report or elsewhere, it was clear from the presentation that the Board of Supervisors was already aware of his analysis before the hearing commenced and that it was orchestrated to be presented after close of public comment. As a result, the appellants and the public in general were denied an opportunity to address Mr. Lai's code interpretations or to provide any comment at all. We feel that this was an abuse of process, urge the Commission to closely evaluate the County's interpretation, and believe in doing so the Commission will find the County's interpretation to be inconsistent with the LCP-Certified zoning regulations and policies.

Note also that Mr. Lai's analysis was not included in the Board of Supervisor Resolution so in not part of the Board of Supervisors decision. Rather, the Resolution simply states that the clustering requirement is satisfied because the new second unit is clustered next to a tree, driveway, a shed that will not remain, and the neighbors' homes (discussed further below).

3. The County's Interpretation Conflicts with the Language & Purpose of the LCP-Certified Zoning Code Requirements.

During his presentation after close of public comment, Mr. Lai provided the Board of Supervisors with an analysis and opinion of why he felt the project satisfied the clustering requirement and how the code could be interpreted to allow for this project. The Board then relied on his interpretations to approve the project. As explained below, the code interpretations put forth by Mr. Lai are inconsistent with the plain language and purpose of the LCP-Certified zoning provisions.

First, Mr. Lai pointed to the fact that the new second unit is clustered next to an oak tree, the driveway and existing shed, and described the proposed project site as an already developed area. As explained above, the clustering requirement is not satisfied by clustering next to trees or a driveway, or next to a shed that is to be removed. The existence of a 300 square foot shed in an otherwise undisturbed area of more than 5,000 square feet also does not render the area an already developed area.

Mr. Lai also suggested that the clustering requirement is satisfied because the new second unit is clustered with the neighbors' homes on the adjacent parcels. He noted that if you viewed the area without reference to lot lines, it would appear the new second unit is clustered with the neighbors' homes. This is because, although the new second unit is at a point furthest from the applicant's house, it is much closer to her neighbors' homes (see diagram). Nevertheless, Code section 22.57.024(1) requires clustering of "buildings" on "the site," not clustering with off-site buildings on adjacent properties. Mr. Lai's interpretation ignores the plain language of the zoning code. Allowing clustering with buildings on adjacent properties is an incorrect interpretation and application of the LCP-Certified zoning code requirements.

Finally, Mr. Lai suggested that the Code language itself can be interpreted to allow the main residence and the new second unit to be located apart from each other in different "portions" of the property. The Coastal Commission Staff Report also appears to accept this interpretation, stating that "Section 22.57.024(1) does not restrict clustering to only one portion of the site." (See Staff Report, p. 3.) As discussed below, this interpretation is at direct odds with the purpose and intent of the LCP-certified C-ARP zoning code requirements.

The interpretation put forth by Mr. Lai points to the language in Section 22.57.024(1) that says that buildings shall be "clustered or sited [on] portions or portions of the site." (emphasis added) Based on this language, he concludes that the code may be interpreted to allow structures to be placed on multiple "portions" of the property, as is proposed with this project. At first glance, this may appear to be a reasonable interpretation, but on further analysis it is clear that this is not a reasonable interpretation of the code where there are only two residential structures proposed on the property.

Zoning code interpretations are legally required to be made in a manner consistent with the intent and purpose of the zoning code. Here, the purpose of the C-ARP zone as stated in Section 22.57.021 is to "promote the concentration of residential and accessory uses to maintain the maximum amount of land available for agricultural use and to maintain the visual, natural resource and wildlife habitat values of the surrounding area." (emphasis added) "Concentration of residential and accessory uses" is clearly identified as the stated means for meeting the objectives of the C-ARP zones. As such, the words "or sited" and "portions" must be interpreted consistently with the stated purpose of concentrating residential and accessory uses.

Where there are only two proposed structures involved, as is the case here, it is not possible to cluster or concentrate residential uses at two locations on the site far away from each other. If the property included numerous structures, such as four or more buildings for example, then it would be possible to cluster in multiple locations. It appears that the proper interpretation is that the code does allow for multiple "clusters", but that it would be necessary to have more than two structures in order to have multiple clusters, which is not the case here.

Zoning code interpretations are also required to be made in a manner that gives effect to every word and clause, and interpretations are to be rejected where they render particular terms as surplusage or meaningless. The County's interpretation here points to the language "clustered or sited" and "portion or portions" and concludes that the main residence and new second unit are not required to be clustered, but instead may be sited on any "portions or portions" of the property whether clustered or not. The problem with this interpretation is that it renders the

word “clustered” meaningless and surplusage, contrary to rules of statutory interpretation. Accepting the County’s interpretation would be no different than simply striking the word “clustered” from code to allow structures to be “sited” on any “portions” of the parcel. In effect, the County’s interpretation writes the clustering requirement out of the code and eliminates one of the primary land use tools included in the zoning code that is designed and implemented for the purpose of protecting coastal resources.

Any ambiguity in the code resulting from the words “or sited” has already been addressed and resolved by the Board of Supervisors. The new Title 22, Article V (Coastal Zones – Permit Requirements and Development Standards) adopted by the Board of Supervisors, but pending Coastal Commission certification, has dropped the words “or sited” from the code and retained only “clustered.” This revision makes clear that the agricultural zoned district design standards are intended to require clustering of residential and accessory uses, and does not support an interpretation that would render the word “clustered” meaningless.

4. County Failed to Conduct Alternatives Analysis as Required by LCP-Certified Zoning Code Requirements.

The LCP-Certified zoning provisions for new development in the C-ARP district include numerous requirements that mandate an analysis of alternative building sites on the property in order to determine whether the proposed project complies with the Code requirements. These include, among others, requirements that new development be clustered in a location that is “most accessible”, “least visually prominent” and “most geologically stable,” that “maintains the maximum amount of land available for agricultural use” and that “minimizes disruption of existing or possible future agricultural uses.” (See Code sections 22.57.021 and 22.57.0241) By their terms, these Code provisions require an analysis of alternative building sites.

Included with the Appellants submittal to the Board of Supervisors (and included here) is a full list of all applicable LCP-Certified code requirements together with an analysis of code compliance for nine alternative building sites, including the proposed building site. This analysis clearly shows that the proposed building site is the least Code compliant of all the possible alternative sites on the property.

As part of the presentation to the Board of Supervisors made after close of the public comment, the County staff (for the first time) articulated a position that they had analyzed all the applicable code requirements and that it was necessary to balance a number of competing code requirements in order to determine compliance. Staff then concluded that the proposed project was in compliance – on balance – despite the fact the project clearly conflicted with a number of specific code requirements (i.e., not clustered, not least visually prominent, and destroys existing agricultural lands and natural habitat areas).

The County, however, has never provided any basis for its analysis or conclusion. The County has never explained and the Board of Supervisors Resolution does not contain any information on which code provisions they analyzed, which provisions conflicted, which alternative sites were analyzed, or what that analysis consisted of. Rather, the County staff simply says they balanced the code requirements and found the proposed project to be well balanced. How they reached that conclusion has never been revealed.

On the other hand, Appellants have provided an extensive alternatives analysis that clearly shows that the proposed building site is not the best site in terms of compliance with the LCP-Certified code requirements.

5. The Approved Project Violates LCP Policy II-30.

LCP Policy II-30 applicable to small agricultural holdings with “rural-residential” land uses in the C-ARP zone (as is the case here) requires concentration of residential development to maximize the protection of agricultural lands and habitat areas. (LCP, p. 35.) LCP Policy II-30 further requires that “[n]ew land divisions shall be designed to provide the maximum feasible clustering of new units.” (LCP, p. 35.)

Marin County Board of Supervisors approval of the project violates LCP Policy II-30 by allowing the existing second unit to be de-clustered to a location on the property that is the least clustered with the main residence and that permanently displaces an approximately 5,000 square foot area of existing usable agricultural lands. The approved project simply does not concentrate residential structures and does not maximize protection of agricultural lands and habitat areas.

In addition, the original construction and development of the property approved by the County in 2004 complied with LCP Policy II-30 by clustering and concentrating the main residence and the second unit in their current location. The current project as approved will now de-cluster that second unit to the opposite side of the parcel, thereby circumventing the property’s prior compliance with the clustering requirements contained in LCP Policy II-30.

The Coastal Commission Staff Report says that LCP Policy II-30 does not apply because the proposed project does not involve a new land division. This is not the correct interpretation, however. It is not logical that a development could be approved and completed in 2004 in compliance with the LCP policies, and then just over 7 years later a new project approved that would reverse the results of the prior LCP compliance. Rather, the logical conclusion is that LCP Policy II-30 continues to apply to require that the main residence and second unit remain clustered and concentrated.

6. Failure to Enforce the Clustering Requirement Will Result in the Permanent Loss of Agricultural Lands.

As pointed out above, one of the stated purposes of the LCP-Certified zoning code requirements in the C-ARP zone is to cluster buildings so as “to maintain the maximum amount of land available for agricultural use.” (See Code section 22.57.021; emphasis added.) Code section 22.57.024(1) further requires that “[i]n areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.” (See Code section 22.57.024(1); emphasis added.)

There is no question that the proposed site is “usable agricultural land.” The report submitted to the County by the applicant and prepared by Jeffrey Creque, Ph.D. confirms this fact on page 2, where he concludes that although there may not be ideal soil conditions, the potential uses of the site do include tree fruits, soft fruits, vegetable crops and small scale livestock. (See BOS Staff Report, Attachment #5.) As such, the County is required under the LCP-Certified zoning requirements to ensure that the proposed project “minimizes disruption” of these “possible future agricultural lands” and to “maintain the maximum amount of land available for agricultural use.” The approved project, however, will permanently develop an approximate 5,000 square foot area of “usable” agricultural lands and does not attempt to minimize disruption or maximize preservation of these agricultural lands.

In approving the project, the Board of Supervisors Resolution states that the project will “not substantially reduce the amount of land available for potential agricultural uses on the property.” (See BOS Resolution ¶ XVII and XVII.D.) However, as stated above, the project will in fact result in substantial loss of agricultural lands. Moreover, the standard is not whether the project

will "substantially" reduce the amount of agricultural lands. The standard is whether the project "maintains the maximum" and "minimizes disruption" of potential agricultural lands, and the County has not evaluated the project on this basis. The approved project does not satisfy the required standards for preservation of potential agricultural lands, particularly where it has been shown that alternative site locations exist adjacent to the primary residence that will not result in the loss of any potential agricultural lands.

The Coastal Commission Staff Report states that the proposed project site does not consist of "Prime Agricultural Land" as defined under the Coastal Act. As discussed above, this is largely irrelevant because the correct standard is whether the lands are "usable" agricultural lands. However, we believe this conclusion is not correct. The Storie Index is based on depth of topsoil. The applicant filed a report by a geotechnical engineer who cited an earlier report by Herzog who actually dug test pits at the approved location. The depth of soil per that report puts topsoil depth well within the over 80% threshold to establish the area as prime agricultural land.

The Coastal Commission Staff Report also states that the alternative site location will require removal of trees. None of the alternative locations identified in our prior submittals would require the removal of any trees. Rather, the alternative sites we suggested would result in greater protection of the existing agricultural and natural habitat areas.

Thank you for your consideration on this matter.

Sincerely,

Signature on file

Derek A. Weller

Enclosures

ARIANNE DAR
Post Office Box 476
Bolinas CA 94924

Thilla

May 4, 2011

Renée T. Ananda
Coastal Program Analyst
North Central Coast District
California Coastal Commission
45 Fremont, Ste. 2000
San Francisco CA 94105-2219

Re: 50/52 Mesa Road, Bolinas, Marin County

Dear Ms. Ananda:

Thank you for taking the time to understand my project at 50/52 Mesa Road. The purpose of this letter to express my concern for my neighbors repeated misrepresentations of my intentions and the projects particulars at several public hearings, and in particular the letter submitted with their recent appeal to the Coastal Commission. I am hoping that your staff report has cleared up any confusion caused by the Carts letter dated March 30, 2011.

Nonetheless, I would like to inform the Commissioners that several of the Carts allegations are either false or misleading, and offer brief refutation.

1. Project is not large. The Carts have alleged that the project exceeds 6,000 square feet. The proposed second unit is just under the allowable limit of 750 square feet and its garage is also less than the 500 square feet allowed by Marin County planning. The Carts have alleged that the project exceeds 6,000 square feet by deceptively adding up all land proposed to be associated with the proposal including lands that are undisturbed or proposed as new trees or a new orchard of fruit trees.

It should also be noted that any associated patio areas are designed with pervious ground cover to eliminate solid ground cover and dramatically reduce the potential for surface water run-off. The roof is also designed as a garden-roof for the same purpose.

Furthermore, the Carts have mischaracterized a 300 linear foot privacy fence as a 1,200 square foot enclosure. They also allege that the design of the fence is highly unusual despite the fact that their own fence on the adjacent southern boundary is very similar – a six foot tall solid-faced wooden fence.

2. No t an Undisturbed Area. The Carts falsely allege that the proposed site is the last undisturbed part of the five-acre parcel. A site visit will make it perfectly clear this is not true. The proposed site is dominated by two existing driveways across my property and a 313 square foot shed which was part of the original plans approved for the property in 2005. The vast majority of the five acres is in fact undisturbed.

As any project is going to disturb something, this site was selected because it specifically minimizes disruptions to the existing conditions and utilities.

3. Pr oject is Clustered. Based upon directives and advice from the Marin County Planning Department, and the experience of my architect (licensed in CA for 17 years) who has been involved with many project in the Coastal Region, the proposed site is entirely consistent with the LCP and specifically with the clustering requirements as they are written in-full and intended. The clustering requirement of the LCP were followed in the original siting of the project and developed at the various levels of review as suggested by staff.
4. Site Analysis Was Presented. The Carts have argued that an alternative site analysis is required for a project like mine. Despite the fact that an alternative site analysis in not required, my architect provided for me and presented to the Board of Supervisors an analysis of my full property designating the pros and cons of every potential site (8) available. Any claims that this was not done or that the Board of Supervisors did not consider it is blatantly false.
5. Site is Least Visually Prominent. The site analysis presented to the Board of Supervisors shows that the chosen site is, in accordance with other requirements of the code, the least visually prominent. It might not be the least visually prominent for the Carts however at each level of review, including the planning commission, it was pointed out that the Cart's privacy has been preserved. Simply put, the proposed location is behind the Carts; not in their view. It is only in their view when driving through the easement across my land.

You can only see the second unit from Highway One if you point a camera in the direction of the large visually prominent Cart residence, put the camera in maximum zoom and then digitally enhance the photo. Please see the attached photo.
6. Li mited Loss of Coastal Resources. As detailed in the assessment by range biologist Jeff Creque, my property is not the "prime agriculture" the Carts have alleged.

My land looks down upon the alluvial area which constitutes the "breadbasket of Bolinas." If my land was included in that designation years ago, it was probably because my parcel and those farms are all North of Mesa Road. But that is where the similarities end. My property is an open grassy mesa meadow surrounded by an enormous eucalyptus grove shading the southern part of my parcel and a wooded oak hillside to the North. The farms to the north of my property are at sea level where my property is over 100 feet higher in elevation. As made clear in evidence provided and testimony of the Board of Supervisors, my property has very different soils and abilities for food production.

That said, if I were able to produce significant food on my property it would not be in the area of the second unit, and any productive land has been preserved. The proposed location also preserves and protects the wooded hillside for wildlife habitat including quail and deer.

7. Not Located on Ridgeline. My property has two characteristics – a large open grass meadow and a wooded hillside. The second unit is sited in an area low on the land and on the edge grassy meadow, preserving any effect on anything the Carts perceive as a ridgeline. Alternative building sites suggested by the Carts are in fact higher in elevation and more visible from Highway One and local roads. The approved site is not visible from either.
8. Illegal Structures. As part of the approved construction of my primary residence, a 313 s.f. shed was located near the south-western easement of the property. At that time, the corner of this structure was inadvertently placed **two** feet from its approved location and into an access easement, which was only discovered upon a recent land-survey taken to determine the exact location of the storey poles. It is scheduled to be moved.

These are just a few of the many misrepresentations alleged by the Carts. To address them all would be too exhaustive to write and probably more so to read. If you have any additional questions, or require further verifiable information, I would be happy to provide what you need.

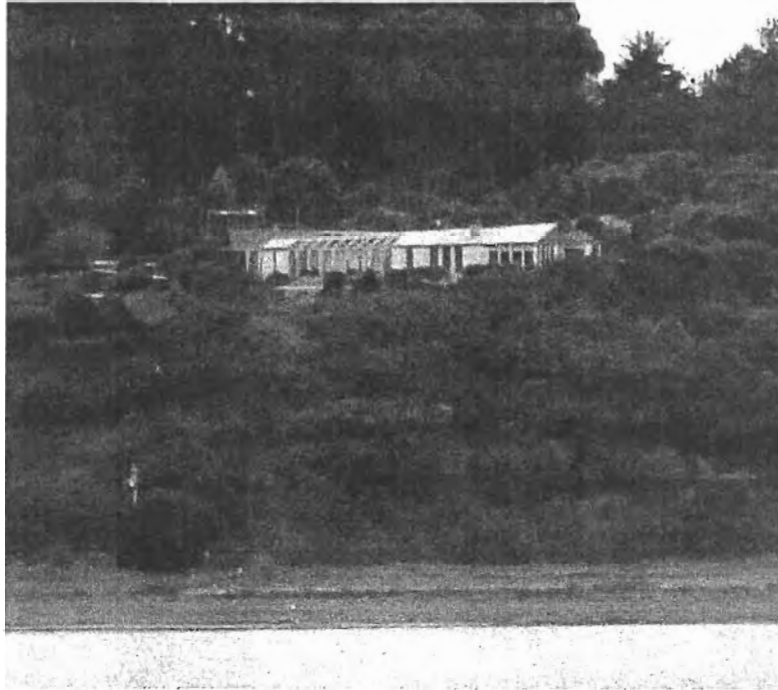
Sincerely,

Signature on file

Arianhe Dar

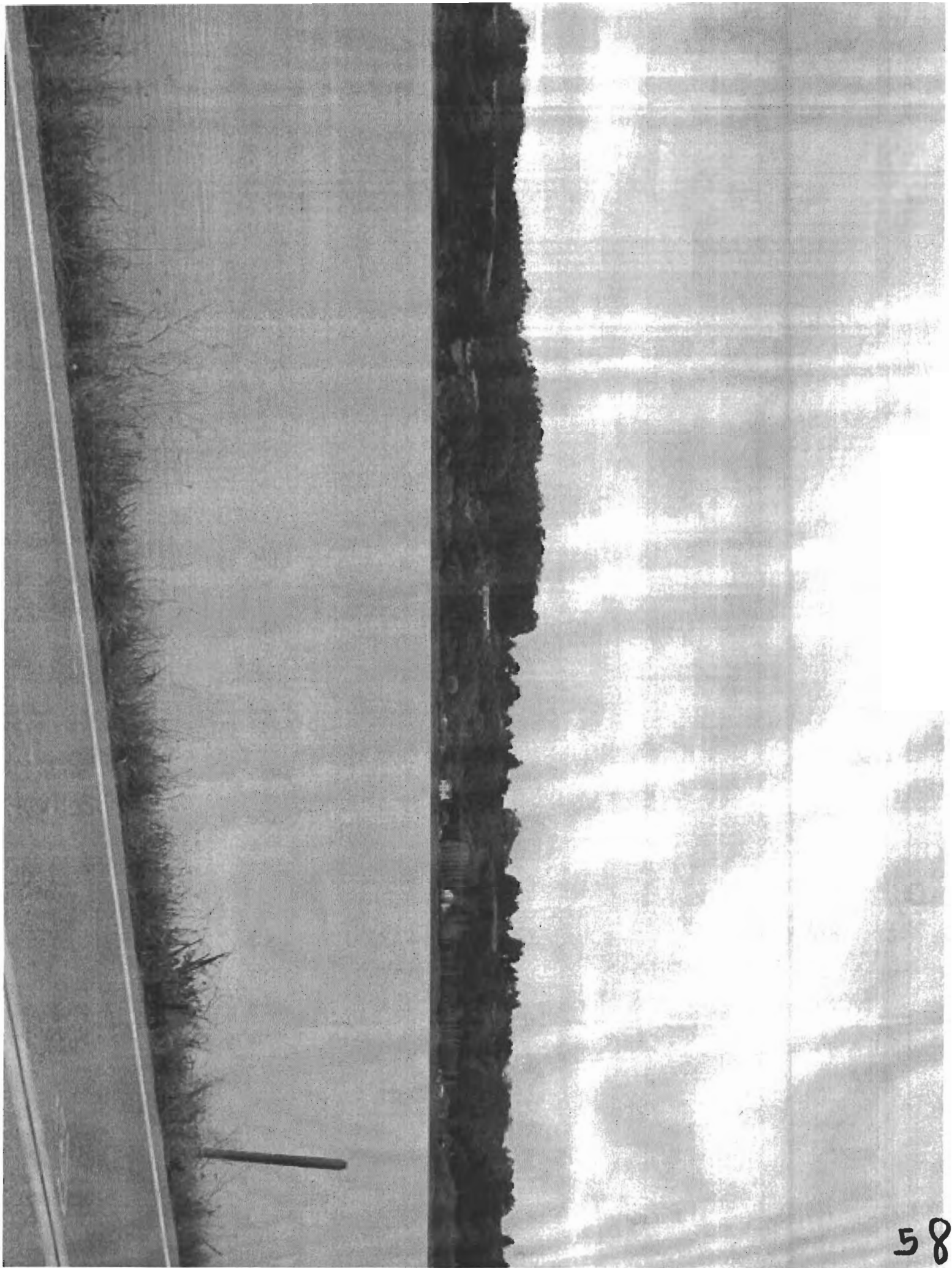
The Carts have falsely asserted that the second unit would be "plainly visible from 1.5 mi section of Hwy 1."

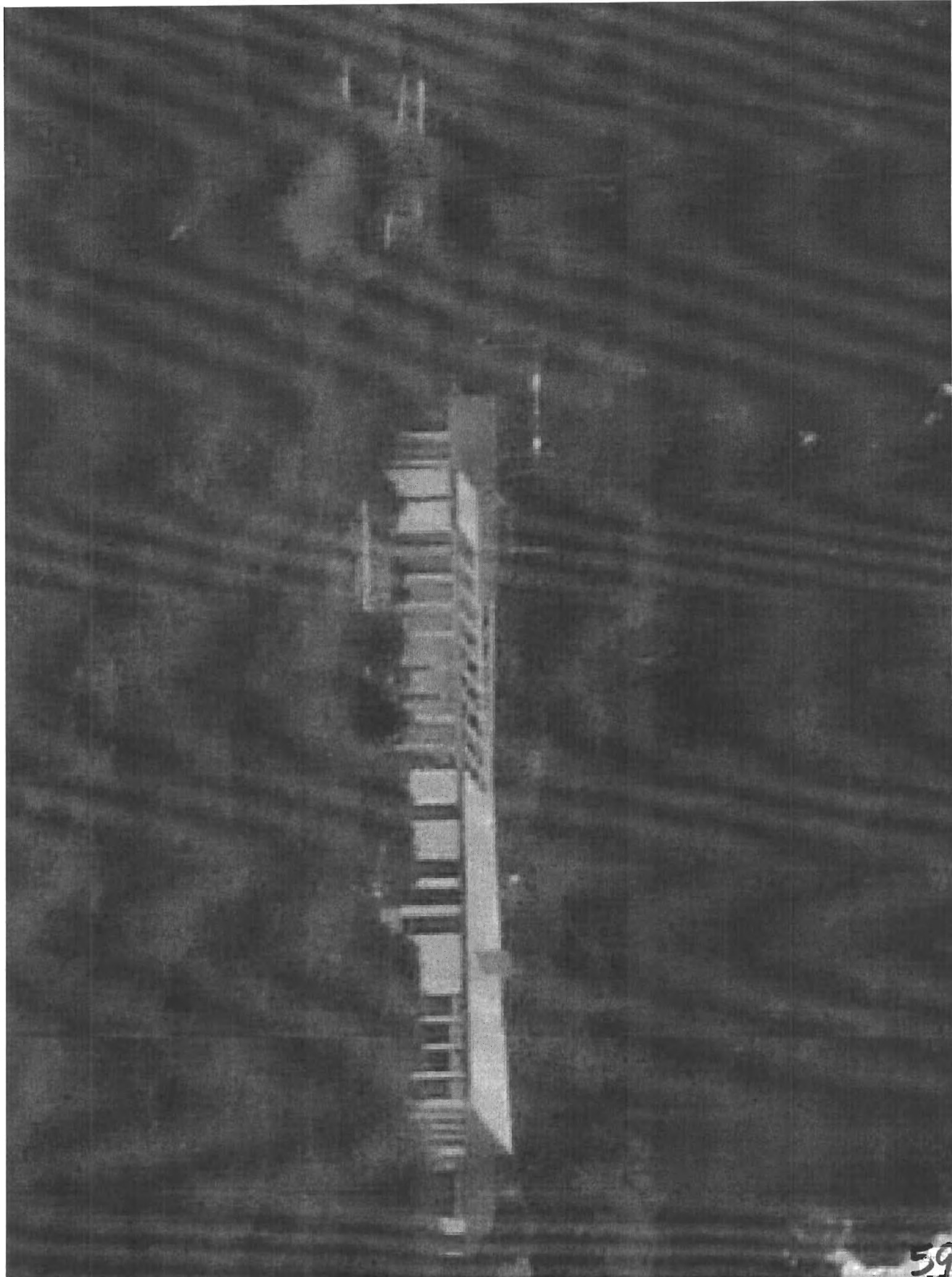
In this digitally enhanced photo, taken from across the lagoon on Highway One, you can see the storey poles to the left and rear of the Cart residence:



Here is the same photo without the digital enhancement. The Cart residence is directly in the center of the photo:









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May 10, 2011

Ms. Sara Wan, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: **Support for Application No. 2-09-013**
With Recommendation to Eliminate Special Condition 1
Tomales Farm & Dairy
Tomales, Marin County

Madam Chair and Members of the Commission:

This letter expresses Marin Agricultural Land Trust's strong support for Coastal Development Permit application 2-09-013, Tomales Farm & Dairy (TFD) that is on your May meeting agenda. MALT staff has worked closely with Commission staff to address Coastal Act issues raised during their review of the proposed lot line adjustments. While we appreciate the progress that has been made, MALT remains opposed to the proposed Special Condition 1 (as amended May 9, 2011) and respectfully requests that the Commission not adopt the special condition as part of the project approval.

Over the past 30 years MALT has worked to permanently protect Marin County farmlands from subdivision and non-agricultural development. We currently hold conservation easements on 66 farms and ranches totaling more than 42,000 acres - approximately 40% of agriculturally zoned land in Marin County (150 acres or more). MALT easements protect 31 properties and 15,578 acres wholly or partly within Marin's Coastal Zone Unit II. All of these conservation easements prohibit subdivision and nonagricultural development, prohibit any activities or uses that significantly degrade soil or water quality, and permanently preserve these properties for agricultural use.

MALT has been working with TFD for several years and has acquired two agricultural conservation easements protecting 410 acres of land on the east and west sides of Tomales, with financial assistance from the State Coastal Conservancy. The two easements retired 17 legal lots, and, in addition to the protections above, contain Creek Conservation Areas that specifically protect Keyes Creek and associated wetlands. The Creek Conservation Area provisions also call for Creek Conservation Area Management Plans, written for the property owner by a Certified Rangeland Manager, and approved by both MALT and the State Coastal Conservancy.

MALT made a significant investment in the TFD project not only to eliminate non-agricultural development and to protect the property's significant natural resources, but also because TFD provides a model for the revitalization of agriculture in the Tomales area. Sustainable agricultural operations are critical to the long term viability of agriculture in Marin County. The future development of a creamery on the property will complete the transformation of an underutilized, poorly maintained agricultural property into a vibrant agricultural operation producing healthy local food products.

Flexibility and adaptability are both critical to the long term sustainability of local agricultural operations. Both Marin County and the Commission recognized this when approving the C-APZ zoning and Local Coastal Program. Commission staff's proposed Special Condition 1 restricts the future agricultural development of the TFD site to a small subset of the C-APZ zoning. If adopted, we feel the agricultural viability of the property is greatly compromised.

Both Marin County, through the development of a Master Plan, and the Commission will have permitting authority over any development proposed on the reconfigured TFD property. Any special conditions deemed necessary to the protection of agricultural and natural resources can be secured through this more detailed process. MALT respectfully requests your approval of TFD's proposed lot line adjustments, without Special Condition 1 proposed by staff.

Thank you for your consideration of this important issue.

Sincerely,









Jeff Stump
Easement Program Director

Attachment: Map of MALT Protected Properties

Cc: Peter Douglas, Executive Director, California Coastal Commission
Brian Crawford, Director, Marin County CDA
Ted Hall, Tomales Farm & Dairy

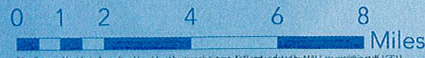
Marin County Farmland Protected by MARIN AGRICULTURAL LAND TRUST

Farmland protected by MALT conservation easement

-  Farmland protected by Marin County conservation easement
-  Agriculturally zoned land larger than 20 acres
-  National Park Service lands in agricultural use
-  Residential, urban & other uses
-  Public lands
-  Marin County roads

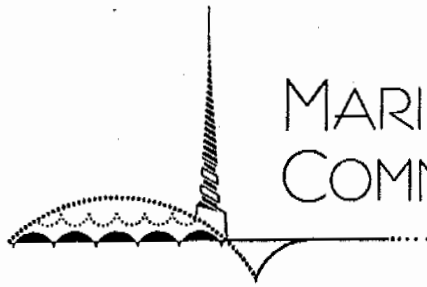


www.malt.org



Map Prepared for Marin Agricultural Land Trust by Joseph Klyden ADP and updated by MALT awardship staff 1/2011
Map made possible through the generosity of the CDR Cooperation Program

San Francisco County



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

Th 12a

May 10, 2011

Ms. Sara Wan, Chair
California Coastal Commission
c/o North Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Application No. 2-09-13
Tomales Farm and Dairy, LLC
Tomales, Marin County

Dear Ms. Wan:

I am writing in support of the proposed application by Tomales Farm and Dairy seeking approval of a Coastal Development Permit to undertake lot line adjustments that are part of the overall master planning of a larger land holding that comprises the historic Cerini ranch in Tomales. The project supports the County's policies promoting agriculture and the creation of agricultural ecosystems or "agroecosystems" by integrating natural systems and managed agricultural practices that balance environmental protection with economic viability. This project will strengthen the agricultural base in Tomales and surrounding areas to support the dairying and specialty crop industries.

The applicant has expended good faith efforts to obtain community support and pursue partnerships with the Marin Agricultural Land Trust (MALT) and the State Coastal Conservancy. Approval of the project would complete voluntary efforts by the applicant to reduce the development potential over the approximately 500-acre land holding from 28 lots to 16 lots, three of which would be further protected by permanent conservation easements with MALT.

The future development of a Creamery on Central Lot 2 and planned agricultural uses on West Lot 3 would help revitalize and transform historic dairying and row cropping into viable specialty agricultural uses. While County staff is pleased to see that the project has the general support of Coastal Commission staff, the recommended special conditions requiring the execution of agricultural and open space deed restrictions on proposed Central Lot 2 and West Lot 3 could adversely affect the overall viability of the project as these are two key lots underpinning the overall agricultural plan. For the reasons cited below, we believe that the recommendation may also be inconsistent with the County's Local Coastal Program (LCP) and implementing zoning ordinance.

- Restricting the use of Central Lot 2 to agriculture would be inconsistent with the LCP and the split Coastal, Agricultural Planned (C-ARP), and Coastal Village Commercial Residential (C-VCR) zoning to the extent it would impose the requirements of the more restrictive Coastal, Agricultural Production Zone (C-APZ) zoning where agriculture is the sole principal use of the property. Absent an amendment to the LCP and zoning, it could create confusion over future development and use of the property.

3501 Civic Center Drive, Room 308 - San Rafael, CA 94903-4157

Phone 415-499-6269 - Fax 415-499-7880 - Website: <http://www.co.marin.ca.us/comdev>

- Restricting the sole use of West Lot 3 to agriculture would similarly be inconsistent with the LCP and the split Coastal, Agricultural Planned (C-ARP) and Coastal, Agricultural Production Zone (C-APZ) zoning by making the existing residence located on the C-ARP-zoned portion of the property a legal non-conforming use. This would be inconsistent with the C-ARP zoning which allows a residence as a principally-permitted use. It would also create confusion over the allowed development and use of the property under the County's LCP and zoning.

In the interest of maintaining consistency with the County's Local Coastal Program and coastal zoning, County staff respectfully requests that the Coastal Commission reconsider the appropriateness of the proposed restrictions on Central Lot 2 and West Lot 3 as these would unfairly limit their future use and development and potentially jeopardize the viability of the overall agricultural plan that is proposed by Tomales Farm and Dairy.

Sincerely,



Brian C. Crawford, Director

Cc: Supervisor Steve Kinsey, 4th District
Ruby Pap, California Coastal Commission
Nicholas Dreher, California Coastal Commission
Ted Hall

RECEIVED

MAY 04 2011

CALIFORNIA
COASTAL COMMISSION

May 2, 2011

Mr. Nicholas Dreher
California Coastal Commission
North Central Coast District Office
45 Fremont St.
Suite 2000
San Francisco, CA 94105

Th12a

RE: Application # 2-09-013; Tomales Farm and Dairy

Dear Nick:

Thank you for the work on the revised staff report on our application.

We are requesting that the staff revise its recommendations by eliminating the proposed deed restrictions on proposed Central Lot 2 and proposed West Lot 3, which, if unchanged, will materially diminish the potential agricultural use of these and other important agricultural properties in the Tomales area.

As you know, along with the application for the "merge and re-subdivide of property," Tomales Farm and Dairy (TFD) submitted a master plan for these properties. The plan reconfigures the previously existing parcels on approximately 505 acres of property owned by TFD into financially viable farms and ranches with the additional benefit of providing the Tomales area with a base of agro-tourism businesses. The plan has been substantially unchanged since it was created in 2006 and has been presented to the public and to local and county jurisdictions on numerous occasions (e.g., Tomales Design Review Committee). The plan enjoys widespread local support.

More specifically, the plan includes:

- Two large farms – 178 acres and 238 acres – which will continue to employ sustainable, organic farming practices and will be utilized for rotational livestock grazing in the proposed grass-based dairy operation.
- A third farm – 22.96 acres, proposed Central Lot 2 – planned as a commercial creamery and part of the contiguous dairy farm, subject to feasibility and economic viability studies.
- A fourth farm -- 21.04 acres, proposed West Lot 3 – planned as a specialty crop and/or small animal livestock farm and a potential visitor-serving B & B.

And the following parcels determined to be outside the Commissions retained jurisdiction:

- A fifth farm – 15.7 acres – planned as a live/work farm and space for ranch management.
- Two single-family residential lots – 1.66 and 1.5 acres
- One 2.05 acre lot currently used by and to be donated to the local Catholic Church.

As the TFD project is important to the preservation and strengthening of agricultural activity in the area, Marin Agricultural Land Trust and the State Coastal Conservancy invested \$1 million in public funds, and \$1 million in privately raised funds to purchase permanent conservation easements across 410 acres of the agricultural land (80% of the total lands owned by TFD). In addition, TFD donated and extinguished development rights valued at more than \$3 million to enable these easement projects.

In support of maintaining and promoting agricultural activity, the TFD plan takes 28 pre-existing legal parcels and rationalizes them into 16 new legal parcels, which also extinguished substantial development rights which might otherwise impair agricultural activities if exercised.

In addition, proposed West Lot 4 is, by irrevocable agreement between MALT and TFD subject to approval of this application, covered in its entirety by a conservation easement. The approval of our application will increase the area under MALT conservation easement by 17 acres, thereby encompassing all riparian and wetlands on the West portion of the TFD property.

The Commission staff report recommends imposing several deed restrictions on proposed lot Central lot 2 and West lots 3 and 4.

1. "No development, as defined in Section 30106 of the coastal act...except for"
 - a. Certain agricultural activities include cultivation of a limited range of crops and grazing.
 - b. Construction and maintenance of agricultural support facilities
 - c. Construction and operation of facilities for processing or retail sale of agricultural products (only on Central lot 2).
 - d. Repair and maintenance of existing development (residence, fences, sheds, etc.)
2. "No structures shall be located within any wetlands, streams, riparian corridor, or sensitive habitat areas...or within 100-foot buffer from these areas"

TFD supports the protection of wetland and riparian areas. The wetlands on the proposed West lots are all subject to a permanent MALT conservation easement and are covered by a detailed management plan with annual monitoring and enforcement. TFD also agrees that no structures such as agricultural facilities should be constructed in these areas. However, as part of the management plan as developed and approved by the Resource Conservation District (RCD) and MALT, TFD herds graze in the riparian corridors during the dry season to reduce the vegetation growth, helping to minimize the retention of silt in the corridor. To properly control the herds, TFD needs to construct fencing and watering systems within these areas, but would do so only in consultation with MALT and in a fashion consistent with the wetland/riparian corridor management plan.

However, TFD does not support the "no development" restrictions also being recommended. First and foremost, it is important to note that none of the parcels contain any prime agricultural land and the only land considered of statewide importance by the NRCS is the Blucher-Cole complex soils contained in the riparian corridor along Keys Creek, already protected by the wetland/riparian corridor buffer. It is unclear why additional restrictions are warranted, legally valid, or necessary. More critically, these restrictions are arbitrary and potentially fatally impair the economic viability of the planned agricultural operations.

Proposed West Lot 3

The restrictions for West Lot 3 prevent the owner from moving or upgrading the residential structure or the farm support buildings. The circa 1930s current structures are situated based upon the previous parcel configuration. The "no development" restriction prevents TFD from repositioning the structures to more logical locations and replacing them with residential and farm buildings meeting modern standards. TFD has from the outset proposed, subject to feasibility, that this parcel be used for an agro-tourist B&B, which is consistent with the Commission's mandate, the current zoning, and all of the public discussions held on this plan.

The current Marin County zoning of C-APZ 60 is endorsed by the staff report and has as its purpose to "preserve lands within the zone for agricultural use". This zoning is totally consistent with the Commission's mandate.

TFD therefore requests that the Commission staff revise their recommendation to be consistent with the analysis in the staff report by relying on the C-APZ 60 zoning. The existing Marin County C-APZ zoning requirements are substantial and are clearly sufficient for the preservation of this parcel for agricultural production without additional restrictions.

Proposed Central Lot 2

As noted in the report, Central Lot 2 is split-zoned with one-third C-VCR:B-4 and two-thirds C-ARP-20 by Marin County. The C-VCR zoning is Coastal Village Commercial Residential which allows development which "foster opportunities for village commercial growth, including those land uses that serve coastal visitors."

As stated initially, TFD plans to develop this parcel into a creamery which would utilize the milk of the TFD herd along with milk from local Tomales farmers thereby supporting and increasing local agricultural production. The economic viability of the creamery and retail sales is likely insufficient as a standalone operation, and may require additional complementary activities in the commercial portion of the parcel to make the creamery financially viable. If any additional activity is categorically disallowed before anything is actually proposed as part of this process, then the restrictions will actually diminish, rather than promote, the development of agricultural activities within the coastal region.

The Commission can approve this application without these additional restrictions without concern that it is permitting development which is inconsistent with its mandate. As stated in the staff report, the proposed creamery and any other development of this parcel will require an entirely separate application to be approved by Marin County or the Coastal Commission before TFD can proceed with any project. Therefore, TFD requests that the Commission staff revise their recommendations, retaining the restriction on structures in the wetland and riparian buffer areas (with the above suggested modification) but eliminating the additional restrictions on development.

Proposed West Lot 4

This parcel is totally contained within the MALT easement and no development would be allowed by that easement.

* * *

We understand and appreciate the staff's intent, and the Coastal Commission's mandate, to protect the agricultural use of the property involved in our application. However, the deed restrictions, as proposed, threaten the economic viability of the entire 500+ acre agricultural project by restricting the flexibility to properly develop the two lots which function as the economic hubs of the larger project. Further, the restrictions impair the project's ability to serve other neighboring farms. Without the flexibility to place buildings in the most appropriate locations, create visitor-serving accommodations and retail spaces, and construct agricultural production facilities in the most sensible configuration, the project's viability is substantially diminished.

In the Tomales and West Marin community, this project is viewed as a cornerstone to the development of a re-invigorated specialty agriculture and food community. MALT and the Coastal Conservancy, in addition to TFD, have invested heavily in the prospects for this agriculture-based project. As these properties are adequately protected by existing zoning and by future regulatory reviews, we ask that the deed restrictions be eliminated.

Sincerely,

Signature on File

Ted W. Hall
Tomales Farm & Dairy LLC

Copies: Brian Crawford, Director, Marin Community Development Agency
Robert Berner, Executive Director, Marin Agricultural Land Trust
Sam Schuchat, Executive Officer, California Coastal Conservancy

CALIFORNIA STATE LANDS COMMISSION100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202**CURTIS L. FOSSUM**, Executive Officer

(916) 574-1800 FAX (916) 574-1810

California Relay Service from TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922**RECEIVED**

MAY 06 2011

CALIFORNIA
COASTAL COMMISSION

May 5, 2011

Contact Phone: (916) 574-1892**Contact FAX:** (916) 574-1925

Th12a

File Ref: TLS 176

Nicholas Dreher
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105-2219

Dear Mr. Dreher:

SUBJECT: Coastal Development Permit Application 2-09-013, Tomales Farm
and Dairy, LLC

Staff of the State Lands Commission (SLC) has reviewed the subject application that will be considered by the California Coastal Commission (CCC) on May 12, 2011. The applicant, Tomales Farm and Dairy, LLC, is proposing to merge and resubdivide approximately 100 acres of lands in agricultural use located at 26457, 26650 and 26285 State Route One in Tomales, Marin County.

The proposed resubdivision includes Keys Creek (proposed West Lot 4). The State patented the area within Keys Creek pursuant to Tideland Survey 176 (Marin County) in the 1880s. However, pursuant to the California Supreme Court decision in *Marks v. Whitney* (6 Cal3d. 251 (1970)), which involved a Tideland patent in Tomales Bay, the State retains a Public Trust Easement for various uses including waterborne commerce, navigation, fisheries, recreation, open space, and ecological preservation.

The Marin County Unit II LCP contains a number of protective policies describing the State's interest in Public Trust Lands. While the proposed West Lot 4 is not identical in configuration with the surveyed location of Tideland Survey 176, the true boundaries and interests in the area have not been resolved between the State and private parties. However, given the historic character of this land the State believes it is important to ensure that all parties recognize potential State easement property interests in this area and that the SLC be informed of any development proposals affecting the property.

If you have any questions, please contact Jane Smith, Public Land Management Specialist, at (916) 574-1892 or by email at smithj@slc.ca.gov.

Sincerely,

 **Signature on File**

Brian Bugsch, Chief
Land Management Division

cc: Curtis Fossum
Cy Oggins
Grace Kato
Jane Smith

Th12b

Due to a severe medical problem I am unable to attend today's session. I am very sorry about this but have no choice in the matter. So maybe someone will read this statement which I would have very much like to have presented to you for I care very deeply about the Reserve and visit it often.

My wife and I have lived within a 1/4 mile of the FMR for 35 years and usually visit it 1 or 2 times week since we moved here. We enjoy the place very much. Based on this experience, my experience with the County when Sony did the filming and my experience with the way the County's has gone about implementing its Master plan for FMR I would characterize the SM County Parks Dept. as being very poor stewards of the Reserve.

Considering the specific issue before you, the width of the Dardanelle Trail, at a meeting a few month ago I asked Dave Holland if the width of the trail had been determined using formal calculation and science based on the number of people using the trail and the way they would use it or if it had been determined more on the basis of his experience and an educated guess. His answer, which was recorded on video, was that it was the latter, based on his experience.

In follow up questions I asked if this new width of 8' was chosen to allow Park Service trucks easy access to the property. Mr. Holland denied that the path would be used by any Park vehicles at that meeting.

But it turns out that Mr. Holland was not correct about this. At the Planning Commission Meeting where this part of the FMR improvements was approved, Parks Dept. Superintendent Gary Lockman admitted that Park Service vehicles would use the trail from time to time both to collect garbage and to provide emergency access. This is in fact one of the reasons the County doesn't want a trail width being less than 8' because then vehicles couldn't drive on it.

Actually 8' is not quite correct. In some places that have to be sloped to comply with ADA, Mr. Holland stated shoulders will be needed in order to stabilize the path. These shoulders will be about 12" - 18" wide depending on location so in effect the overall width of this "trail" is going to be more like 10'-11'.

Subsequent to that meeting I visited Yosemite as we have done often in the past 40 years. I noted the path widths around Lower Yosemite Falls from the bus stop to the main entrance to the falls and to some of the lesser paths in the area. This is one of the most popular spots in the park.

I have photographed in this area extensively over the years with my old style view camera like Ansel Adams used. I am typically at a particular spot for 30-90 minutes at a time. Based on my personal experience and visitor data I researched, I can say that the 10' wide paved path btw the bus stop and the main entrance comfortably accommodates 1500-2000 people a day and that figure includes some bikes, people pushing baby strollers and people in wheelchairs. The secondary paths in the area are about 6' wide. Typically in an hour I'd see 40-50 people, a few bikes and a few people pushing strollers in the busier parts of the secondary areas. In the more remote paths in the secondary areas, the width is also 6' and the number of people varies from 20-30 people and hour to 10-20 people an hour mostly dependent on time of day.

Based on my personal experience in FMR, and the last published FMR annual visitor count that I could find, about 200,000 people/year, the number of FMR visitors are less than 1/10th the number that visits Lower Yosemite Falls. So the number of people that walk the Dardanelle Trail on a busy weekend at the busiest time is at most is 20-30 people an hour plus maybe a few bikes. The width of the Dardanelle Trail is now is about 8' wide for the first 200' from the SE Cypress Entrance and then narrows to 3'-4' wide, as it makes its way to the ocean. It is uneven dirt and is not conducive to strollers. It is not wheelchair accessible.

The initial width of 8' wide is a by-product of Sony's filming *Memoirs Of A Ghesha* at the Reserve btw Dec. 2004 and Jan. 2005. Sony drove 20' box trucks, pickup trucks and a fleet of 6-10 ATVs on this section of the trail to the point a 1/4 mile to the NW and the path width doubled to 10'. In the past 7 years the edges have filled

in resulting in its current 8' width.

A path that is 5' - 6' wide is more than enough to carry the traffic that uses the Dardanelle Trail based on my experience on this exact trail, based on my experience on the other parts of the Reserve, based on walking on the POST property by the tracking station which has 5' -6' wide paths and double the traffic of the Dardanelle Trail, and walking extensively in Yosemite and in many other National Parks and wild places in the US, Canada, Jamaica, England, France, Nepal, China and Japan.

If it the proposed trail got a hard packed service such as the GravelPave proposed and if it were properly graded, it could certainly accommodate strollers and wheelchairs. And I would strongly support such a path provided it was a light greyish color that fit in well with the surroundings.

I agree that sometimes people would have to work out passing each other. It happens once and awhile on the bluffs. But I've never seen someone on a bike collide with someone walking or even heard about it. But my wife who rides her bike to work from our home in Moss Beach to Cunha Middle School in HMB where she teaches using the Coastal trail has had to dump her bike more than once and has seen accidents between bikes and people several times. This has happened on the WIDEST part of the trail which is some places is 10' wide. It seems like people just don't pay attention and mosey down the middle of the trail.

When I asked Mr. Holland if he had any information about the frequency of collisions on the Coastal Trail in HMB or in the Reserve he said he had no info.

So it comes down to only 3 reasons Parks wants the path to be 8' wide.

1. To provide more clearance between people walking, pushing a stroller or in a wheelchair and other traffic like people on bikes or skateboards on the trail in the interest of safety. My wife's experience and the lack of data do not support this concept though it is anecdotal. On the other hand the Parks Dept. has not provided any evidence that a wider trail is any safer than a narrow one especially when the traffic on it is very light.
2. To provide a link btw Lake St. and Vermont Ave and Cypress Avenue. Currently the only way to do this is to walk on the Dardanelle Trail or go out to Hwy 1.

I personally believe that if there was a road linking Lake and Vermont to Cypress, that the County would be far less aggressive in maintaining that an 8' wide paved path was absolutely necessary. But I don't think the Reserve should suffer because of this. Let the County find funds to build such a road. That's the correct solution.

3. Provide a way for Parks to drive their vehicles on it. They steadfastly denied this at many meetings but finally in the last moments of the Planning Commission meeting they admitted this in public for the very first time.

I think you should reject the current proposal until they come up with a trail that is, well, a trail and more in keeping with the character of the FMR. Putting a road there which is what the County is requesting, is completely out of scale with FMR.

People come to the Reserve to go to the tide pools not to walk on the Dardanelle Trail. So a smaller, hard surfaced path of 5'-6' keeps the character of the Reserve intact. It will be wheelchair accessible, will be friendly to strollers and will be more than adequate to carry the expected load.

Alan Harris

Th12b

Senior Coastsiders

•Meals •Transportation •Case Work •Information & Referral •Volunteer Coordination •Recreation & Education

RECEIVED

April 4, 2011

MAY 09 2011

David Holland, Director
San Mateo County Department of Parks
455 County Center, 4th Floor
Redwood City, CA 94063

COASTAL COMMISSION
NORTH CENTRAL COAST

Board of Directors

- Suzanne Black
- Michele Borovac
- Howard Hayes
- Marian Herreid
- Susan Kealey
- James Kellenberger
- Tom Kirkpatrick
- Janet Schade
- Nancy Stern
- Ben Tyson
- Robert Zadek

Board Members Emeritus

Dr. G. Desalermos

Executive Director

Cara Schmaljohn

Dear Mr. Holland:

Half Moon Bay Senior Coastsiders is pleased to support the Department of Park's efforts to bring public access and trails to the Fitzgerald Marine Reserve. We welcome the opportunity that will offer our senior and disabled citizens access and the enjoyment of this natural wonder in our community by meeting compliance with the Americans with Disabilities Act (ADA)

Title II of the ADA requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. This includes parks and trails, and does not exempt nature reserves operated by governmental entities.

Currently, the Fitzgerald Marine Reserve is not accessible to people with disabilities (including children) with mobility challenges and/or use wheelchairs and other mobility adaptive devices (walkers, canes etc.).

It is unimaginable to us, that any member of our community would be opposed to allowing the Fitzgerald Marine Reserve and its rich biodiversity to be accessible to all residents and visitors in San Mateo County.

Sincerely,

Signature on File

Janet Schade, Senior Coastsiders Board of Directors

Cc: Honorable Carole Groom, San Mateo County Board of Supervisors
David Boesch, County Manager
Lisa Mancini, Director, Aging and Adult Services

66

Funded primarily by private donations and:

San Mateo County Area Agency On Aging

Main St. Beautification Committee
Half Moon Bay

Th126

Roxanna Farshchi

From: nina feero [ninaf@sbcglobal.net]
Sent: Friday, April 08, 2011 3:54 PM
To: Roxanna Farshchi
Subject: Fitzgerald Marine Reserve

As a volunteer naturalist at the Fitzgerald Marine Reserve, I write to support emergency passage of the Coastal Development Plan for the Reserve. The imminent loss of the bridge over San Vicente Creek will effectively shut off a wonderful hiking trail, and severely limit access to the tidepools during the winter. Docent-led field trips to the tide pools are an important part of school curricula throughout the greater Bay Area. We lead field trips for children as young as third grade through college-level marine biology classes. These trips are so important to many teachers that they schedule them a year in advance to ensure access. The low tides during the winter months occur often during daytime hours, while summer low tides are often during night and very early morning hours. So it is important to have access during the winter when the creek is high. Please help us get our bridge replaced and our trail improved.

Thank you for your consideration
Nina Feero



Developmental Disabilities Board Area 5

Protecting and advocating for the rights of persons with developmental disabilities in Alameda, Contra Costa, Marin, San Francisco and San Mateo counties

Th 126

April 21, 2011

RECEIVED

California Coastal Commission
Northern Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA. 94105-2219

APR 25 2011

CALIFORNIA
COASTAL COMMISSION

Dear Coastal Commission,

On behalf of Area Board 5, a State agency that advocates on behalf of people with disabilities, I am writing to urge the Coastal Commission to approve the Accessibility Improvement Project slated for the Fitzgerald Marine Reserve. This rocky seashore hosts a living community of marine life that is of great interest to visitors and naturalists alike. The reserve is set aside to protect this complex but fragile community for us and future generations. 5 years ago, a plan to build a multiuse trail through the east side of the park went before the Planning Commission, where it was approved. This trail would connect with the Coastal Trail.

With this new trail in place, all people, including those with disabilities, will be able to enjoy the beauty and wonders of nature. It is critical this project is approved immediately. Any continued delays in the process will cost the County \$750,000 in a grant that had been obtained for the renovation of the trail. The grant is due to expire in June if the project is not started by them.

Please don't let this happen. Please support access to Fitzgerald Reserve for all people.

Sincerely,

Signature on file

Rocio Smith
Executive Director



68

*Elizabeth S. Furber
35 W. 28th Ave., #101
San Mateo, CA 94403
April 25, 2011*

Th/26

RECEIVED

APR 26 2011

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
Northern Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Greetings:

Concerning the recommendation for a multi-use trail at the Fitzgerald Marine Reserve, please support the proposal for community access to the Reserve, including the disability community. The park is a "Reserve," and it should be reserved for all of us.

Thank you for all your efforts to make the coast available to everyone.

Elizabeth Furber

Signature on file

69

Roxanna Farshchi

Th12b

From: sabrina brennan [SABRINA@DFM.COM]
Sent: Monday, April 25, 2011 8:56 AM
To: Ruby Pap
Cc: Roxanna Farshchi; Charles Lester
Subject: FMR Trail: Staff Report for Application: A-2-SMC-11-010

Hello Ruby,

I appreciate all the work Coastal Commission staff has put into studying the proposed FMR trail project.

I have a couple questions about the staff report.

First Question

The FMR has two strands of the Coastal Trail, not one. The Dardanelle 1/4 mile strand is located on the east side of the Reserve near the spring fed ponds and the trail will be closed during construction. While construction is in progress visitors will still have trail and beach access on the Coastal Trail strand that is located on the west side of the Reserve. The staff report states the following, "this trail connection will be the only means of accessing the beach and tide pools at the north and south." This statement is not accurate. Can the staff report be corrected?

"Additionally, during times of high tide and seal pupping, this trail connection will be the only means of accessing the beach and tide pools at the north and south. School children in groups of 30 or more often participate in guided tours of the area. " -page 8 of the staff report

Second Question

Does the County have a plan for drainage mitigation for the seasonal creek that flows just west of San Vicente creek and across the trail site? This was the seasonal creek you mistook for San Vicente Creek on the day of the site visit. What will happen to the water that flows downhill from the spring fed ponds, across the proposed trail site, and into San Vicente Creek?

Thank you,
Sabrina Brennan

70



COMMISSION ON DISABILITIES

April 25, 2011

RECEIVED

TH/26

Sara Wan, Chair
California Coastal Commission
Northern Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

APR 27 2011

COASTAL COMMISSION
NORTH CENTRAL COAST

Dear Ms. Wan:

The San Mateo County Commission on Disabilities (CoD) respectfully urges the California Coastal Commission to support and approve the San Mateo County Parks' Coastal Trail Accessibility Improvement Project that would bring the public access and trails at the Fitzgerald Marine Reserve into compliance with the Americans with Disabilities Act (ADA).

Title II of the ADA requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. This includes parks and trails, and does not exempt nature reserves operated by governmental entities.

Currently, the Fitzgerald Marine Reserve is not accessible to people with disabilities (including children) who have mobility challenges and/or use wheelchairs and other mobility adaptive devices (walkers, canes etc.).

It is unimaginable to us that certain members of our community would be opposed to allowing the Fitzgerald Marine Reserve and its rich biodiversity to be accessible to all residents and visitors in San Mateo County.

If you have any questions regarding our position, please contact our CoD Staff Liaison, Craig McCulloh (573-2480 or via email cmcculloh@co.sanamateo.ca.us).

Sincerely, 

Signature on file

Susy Castoria, President
San Mateo County Commission on Disabilities

Cc: Honorable Carole Groom, San Mateo County Board of Supervisors
David Boesch, County Manager
David Holland, Assistant County Manager
Lisa Mancini, Director, Aging and Adult Services

Aging and Adult Services Division

Lisa Mancini, Director

Board of Supervisors: Rose Jacobs Gibson • Carole Groom • Don Horsley • Adrienne Tissier
225 37th Avenue • San Mateo, CA 94403 • PHONE 650.573.2580 • TDD 650.573.2220 • FAX 650.372.0729
<http://www.smco-cod.org>

71

Th12b

Fel Anthony Amistad
846 Sextant Ct * San Mateo, CA 94404
(650) 544-5221 email: felamistad@gmail.com

April 27, 2011

Roxanna Farshchi
CA Coastal Commission
45 Fremont St, Suite 2000
San Francisco, CA 94105

Dear Commissioner Roxanna Farschi:

Preserving our coast, such as the Fitzgerald Marine Reserve is a valuable and noble act. It is our treasure here in San Mateo County which owns the property and has attempted to be a good steward. When the County residents and leaders wanted to plan for the future of the Reserve, they invited the community to help in the decisions that would affect the way our park is used. Please keep this Reserve accessible especially to our challenged citizens who deserve every right to visit and use it. Please support community access to Fitzgerald Reserve, including the disability community. The park is a "Reserve," and it is reserved for all of us and not exclusively for just a few.

Background

The Parks Department spent 5 years and held 13 public meetings to develop a Master Plan, and two more years developing an EIR, which involved an additional 4 public meetings. When all the meetings were finished and reports from hydrologic, archeological, geotechnical, and biological experts were collected and paid for by taxpayers, a plan to build a multiuse trail through the east side of the park went before the Planning Commission, where it was approved. This trail would connect with the Coastal Trail.

The trail would be eight feet wide which is four feet narrower than is recommended for multiuse trails. Eight feet is probably what we need for a twin stroller being passed by a horse or a couple of cyclists or a person who uses a wheel chair. Any less than that will force people off the path into environmentally sensitive areas, trashing the edges of the trail.

There were objections to the plan, all but one of which was resolved. One person, Sabrina Brennan, still did not approve of this plan, and filed an appeal to the Coastal Commission, as was her right to do. She said if the trail was reduced to six feet wide she would drop her appeal. The hearing was the same day as the tsunami evacuation, and it was held in Santa Cruz. The Coastal Commission went ahead with the meeting, but did not approve or deny the trail, they asked for more studies, and postponed a ruling to the next meeting, which is in May in Mendocino.

72

This continued process may cost the County \$750,000. Also, a grant that had been obtained for the trail will expire if the project is not started by June. Even if the plan is approved in May, we will lose the grant if there are any further appeals or conditions, or if we simply can't find a contractor who can commence work in time. We will also have to pay for all the newly requested studies. ***Therefore "time is of the essence." We have to act before it is too late.***

We also must understand where our tax dollars are being spent. One person can make a difference to "protect" a park in her backyard from safe access by the disabled. Further, if the improvements aren't made, the temporary bridge over the creek where the trail meets the parking lot will be removed because the flooding this winter has weakened its banks. Then no one will have access to the trail. The community would be deprived of use of a public reserve area. Let us be fair and equitable.

Again, it is clear and sensible not to let this happen. Please support community access to Fitzgerald Reserve, including the disability community. It is only reasonable and prudent to do what is right for the majority of the community! Please consider that time is running out and the community is not getting what it deserves.

Sincerely,

Signature on file

Fel Anthony Amistad
County resident,
Member, Commission on Disabilities, San Mateo County



HEATH FAMILY CHIROPRACTIC, INC.

MARK T. HEATH, D.C.

339 MAIN STREET
HALF MOON BAY, CA 94019

(650) 726-5265

TH126

April 27, 2011

Attn: Roxanne Farshchi

I am writing this note in response to an article I read in the Half Moon Bay Review regarding the Fitzgerald Reserve trail. I find it difficult to believe that one woman can hold up the progress of the trail that can make access to the Reserve available to people who

"Chiropractic Care for the Entire Family"

74

otherwise could not get to the
beautiful Reserve and it's surround
ing area.

Please make this trail available
to everyone. Thank you

Cathy Heath

Let commission know: Reserve trail is for everyone

Posted: Wednesday, April 6, 2011 12:43 pm

Susy Castoria

Let commission know: Reserve trail is for everyone

I want to be sure that every reader of your newspaper is aware of the power of one.

I don't know how many people on the coast visit Fitzgerald Marine Reserve regularly, but if you do, you know what a treasure it is. You may also know that there is a battle being fought there.

The county owns the property and has attempted to be a good steward. When it wanted to plan for the future of the Reserve the county invited the community to help in the decisions that would affect the way our park is used.

The Parks Department spent five years and held 13 public meetings to develop a Master Plan, and two more years developing an Environmental Impact Report, which involved an additional four public meetings. When all the meetings were finished and reports from hydrologic, archeological, geotechnical and biological experts were collected and paid for by taxpayers, a plan to build a multiuse trail through the east side of the park went before the Planning Commission, where it was approved. This trail would connect with the Coastal Trail.

The trail would be eight feet wide, which is four feet narrower than is recommended for multiuse trails. Eight feet is probably what we need for a twin stroller being passed by a horse or a couple of cyclists or a person who uses a wheelchair. Any less than that will force people off the path into environmentally sensitive areas, trashing the edges of the trail.

There were objections to the plan, all but one of which were resolved. One person, Sabrina Brennan, still did not approve of this plan, and filed an appeal to the Coastal Commission, as was her right. She said if the trail was reduced to six feet wide she would drop her appeal. The hearing was the same day as the tsunami evacuation, and it was held in Santa Cruz. The Coastal Commission went ahead with the meeting, but did not approve or deny the trail. Instead, commissioners asked for more studies, and postponed a ruling to the next meeting, which is in May in Mendocino.

This continued process may cost the County \$750,000 -- a grant that had been obtained for the trail will expire if the project is not started by June. Even if the plan is approved in May, we will lose the grant if there are any further appeals or conditions, or if we simply can't find a contractor who can commence work in time. We will also have to pay for all the newly requested studies.

We all need to be aware of where our tax dollars are being used. One person can make a difference to "protect" a park in her backyard from safe access by the disabled. Further, if the improvements aren't made, the temporary bridge over the creek where the trail meets the parking lot will be removed because the flooding this winter has weakened its banks. Then no one will have access to the trail. That would be a shame.

Please don't let this happen. Please support community access to Fitzgerald Reserve, including the disability community. The park is a "Reserve," and it is reserved for all of us. Make your voice heard by the Coastal Commission. You, too, can make a difference. The address is:

California Coastal Commission

Northern Central Coast District Office

45 Fremont St., Suite 2000

San Francisco, CA 94105-2219

Susy Castoria is a volunteer and president of the San Mateo County Commission on Disabilities. She lives south of Half Moon Bay.

76

From: Lucy and Buz Williams <rolfegolf@earthlink.net>
Date: Thu, 28 Apr 2011 11:42:27 -0700
To: Roxanna Farshchi <rfarshchi@coastal.ca.gov>
Conversation: Accessible Trails
Subject: Accessible Trails

Th 126

Roxanna Farshchi
CA Coastal Commission
45 Fremont St, Suite 2000
San Francisco, CA 94105

Dear Roxanna,

I realize this letter was signed and sent by someone else. However, we discussed it as a group in San Mateo County Commission on Disabilities meeting. We all thought it was a well written letter and covered our concerns. I am a commissioner who is on crutches and used to walk trails without crutches. I would like to continue to be able to walk the trails.

Thank you for considering our concerns about accessibility.

Sincerely,

Lucy Hupp Williams
Commissioner, San Mateo County Commission on Disabilities and Board President, San Mateo Center for the Independence of Individuals with Disability

Dear Editor,

I want to be sure that every reader of your newspaper is aware of the power of one. I don't know how many people on the coast visit Fitzgerald Marine Reserve regularly, but if you do, you know what a treasure it is. You may also know that there is a battle being fought there.

The County owns the property and has attempted to be a good steward. When they wanted to plan for the future of the Reserve they invited the community to help in the decisions that would affect the way our park is used.

The Parks Department spent 5 years and held 13 public meetings to develop a Master Plan, and two more years developing an EIR, which involved an additional 4 public meetings. When all the meetings were finished and reports from hydrologic, archeological, geotechnical, and biological experts were collected and paid for by taxpayers, a plan to build a multiuse trail through the east side of the park went before the Planning Commission, where it was approved. This trail would connect with the Coastal Trail.

The trail would be eight feet wide which is four feet narrower than is recommended for multiuse trails. Eight feet is probably what we need for a twin stroller being passed by a horse or a couple of cyclists or a person who uses a wheelchair. Any less than that will force people off the path into environmentally sensitive areas, trashing the edges of the trail.

77

- There were objections to the plan, all but one of which were resolved. One person, Sabrina Brennan, still did not approve of this plan, and filed an appeal to the Coastal Commission, as was her right to do. She said if the trail was reduced to six feet wide she would drop her appeal. The hearing was the same day as the tsunami evacuation, and it was held in Santa Cruz. The Coastal Commission went ahead with the meeting, but did not approve or deny the trail, they asked for more studies, and postponed a ruling to the next meeting, which is in May in Mendocino.

This continued process may cost the County \$750,000--a grant that had been obtained for the trail will expire if the project is not started by June. Even if the plan is approved in May, we will lose the grant if there are any further appeals or conditions, or if we simply can't find a contractor who can commence work in time. We will also have to pay for all the newly requested studies.

We all need to be aware of where our tax dollars are being used. One person can make a difference to "protect" a park in her backyard from safe access by the disabled. Further, if the improvements aren't made the temporary bridge over the creek where the trail meets the parking lot will be removed because the flooding this winter has weakened its banks. Then no one will have access to the trail. That would be a shame.

Please don't let this happen. Please support community access to Fitzgerald Reserve, including the disability community. The park is a "Reserve," and it is reserved for all of us. Make your voice heard by the Coastal Commission. You, too, can make a difference. The address is:

California Coastal Commission
Northern Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Sincerely,
Susy Castoria

Th12b

4/28/11

Dear California Coastal Commission;
I am in support of the SMC Parks
Dept Plan for an accessible trail in
Fitzgerald Marine Reserve.

Thank you.

Signature on file

Gerda Pohn

1910 Garden Dr #204

Burlingame CA 94010

79

Th12b

April 28, 2011

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94015-2219

Attention: Roxanna Farshchi

RE: Fitzgerald Marine Reserve Accessible Multi-Use Trail

As a native of San Mateo County I deeply appreciate the beauty of our environment. I am writing to express my extreme dismay that one person can negate five years of careful planning and extensive public meetings, engineering studies, geotechnical and biological planning to develop a Master Plan and two more years developing an EIR all paid for by taxpayers like myself.

All this effort was expended to protect and preserve the Marine Reserve for now and the future and enable those with disabilities to visit and enjoy the beautiful area.

If this work does not commence by June of 2011 the grant that had been obtained for the accessible trail in the amount of \$750,000 will expire. It is unconscionable that one person because of a personal opinion could negate all this planning and effort.

I am also deeply concerned that the Coastal Commission actually went ahead with a meeting in Santa Cruz the same day of the Tsunami when all Highways leading there were blocked off and members of the public were not allowed to travel in that area.

Please support community access to Fitzgerald Marine Reserve including the disability Community. Thank you very much for your consideration.

Signature on file


Alexa J. Johanson
P.O. Box 5072
Redwood City, CA 94063

80



RECEIVED
Th/26
MAY 04 2011
CALIFORNIA
COASTAL COMMISSION

MEMORANDUM

DATE: May 3, 2011
TO: All Interested Parties
FROM: Janet Diehl 
Project Manager, Coastal Conservancy
RE: Fitzgerald Marine Reserve Coastal Trail –
Notice of Proposed Action

The Coastal Conservancy will consider awarding a grant for a project in Moss Beach at its regular meeting to be held on May 19, 2011 in Oakland. You are being notified because you own property near this site or because you've expressed interest in this project in the past. As you can see from the agenda excerpt on the back of this notice, the Conservancy will consider this local item:

- A grant of up to \$250,000 to the County of San Mateo to build a segment of the Coastal Trail, including a bridge over San Vicente Creek, at the Fitzgerald Marine Reserve in Moss Beach, San Mateo County.

You may recall receiving a similar notice two months ago, when I expected that the proposed project would be considered at the Conservancy's March meeting. The project was removed from the March meeting's agenda, however, in order to provide more time for the permitting process. It will now be considered by the Conservancy on May 19.

A map depicting this project site is enclosed. A staff report describing the proposed project will be available at the Coastal Conservancy website at www.scc.ca.gov on May 11. If you'd like more information, please call me at (510) 286-4164.

81

1330 Broadway, 13th Floor
Oakland, California 94612-2530
510-286-1015 Fax: 510-286-0470





Meeting Notice

Douglas Bosco (Public Member), Chairman
Marisa Moret (Public Member)
Ann Notthoff (Public Member)
John Laird, Secretary for Natural Resources; Bryan Cash (Designated)
Sara Wan, Coastal Commission Chair; Susan Hansch (Designated)
Ana Matosantos, Director, Department of Finance; Karen Finn (Designated)

Senate Representatives
Anthony Cannella (District 12)
Noreen Evans (District 2)
Joseph Simitian (District 11)

Assembly Representatives
Luis Alejo (District 28)
William Monning (District 27)
Das Williams (District 35)

Sam Schuchat, Executive Officer
Glenn Alex, Legal Counsel

TENTATIVE AGENDA

DATE: Thursday, May 19, 2011
TIME: 9:00 a.m.
LOCATION: State Coastal Conservancy – 11th Floor Conf. Room
1330 Broadway
Oakland, CA

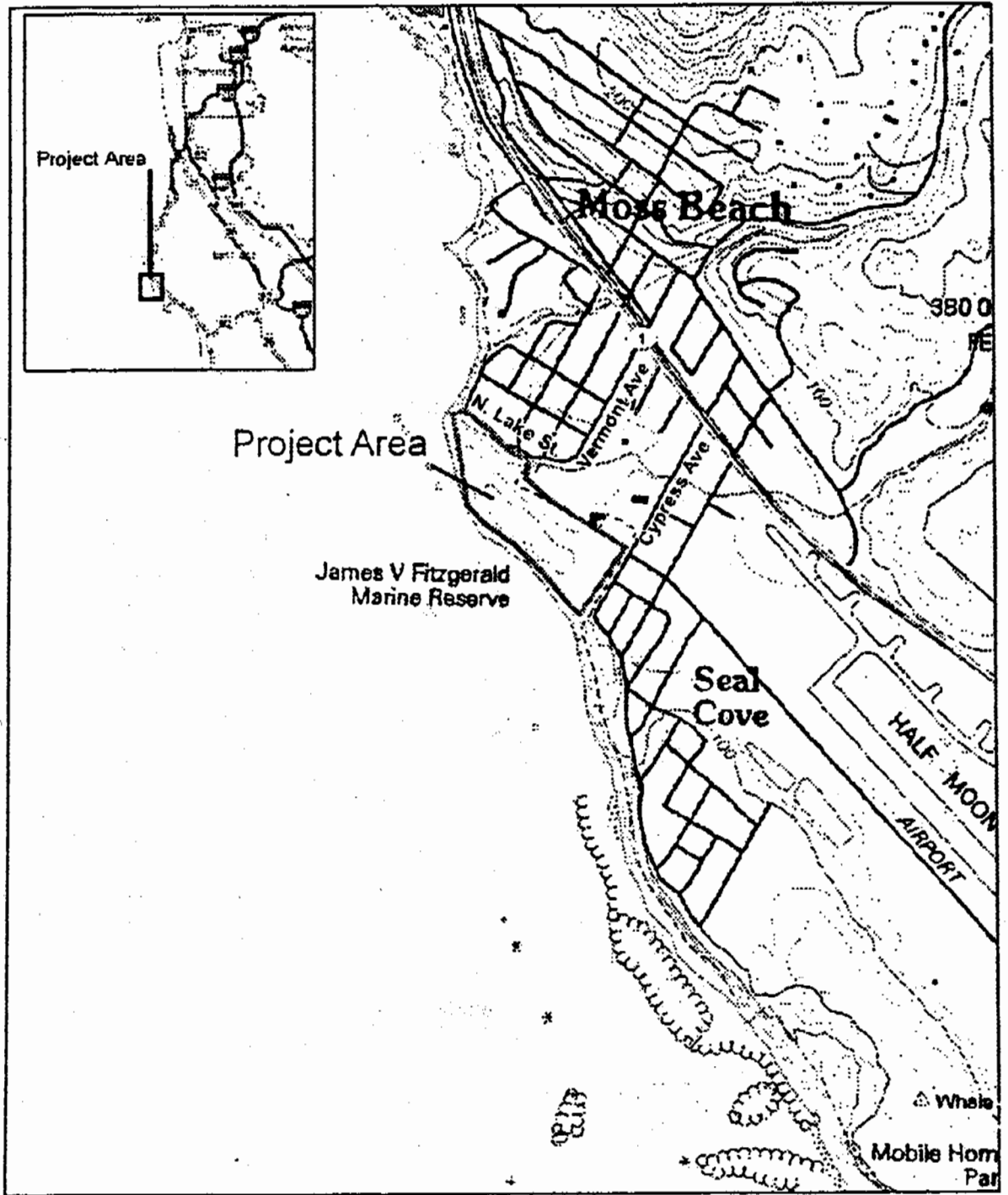
[NOTE: Item below is excerpted from a 5-page agenda. For the complete agenda, see the Coastal Conservancy website at www.scc.ca.gov after May 6. Staff reports for all proposed projects will be posted on the Conservancy's website on May 11.]

11. Consideration and possible Conservancy authorization to disburse up to \$250,000 to the County of San Mateo to build a segment of the Coastal Trail, including a bridge over San Vicente Creek, at the Fitzgerald Marine Reserve in Moss Beach, San Mateo County.


82

1330 Broadway, 13th Floor
Oakland, California 94612-2530
510-286-1015 Fax: 510-286-0470

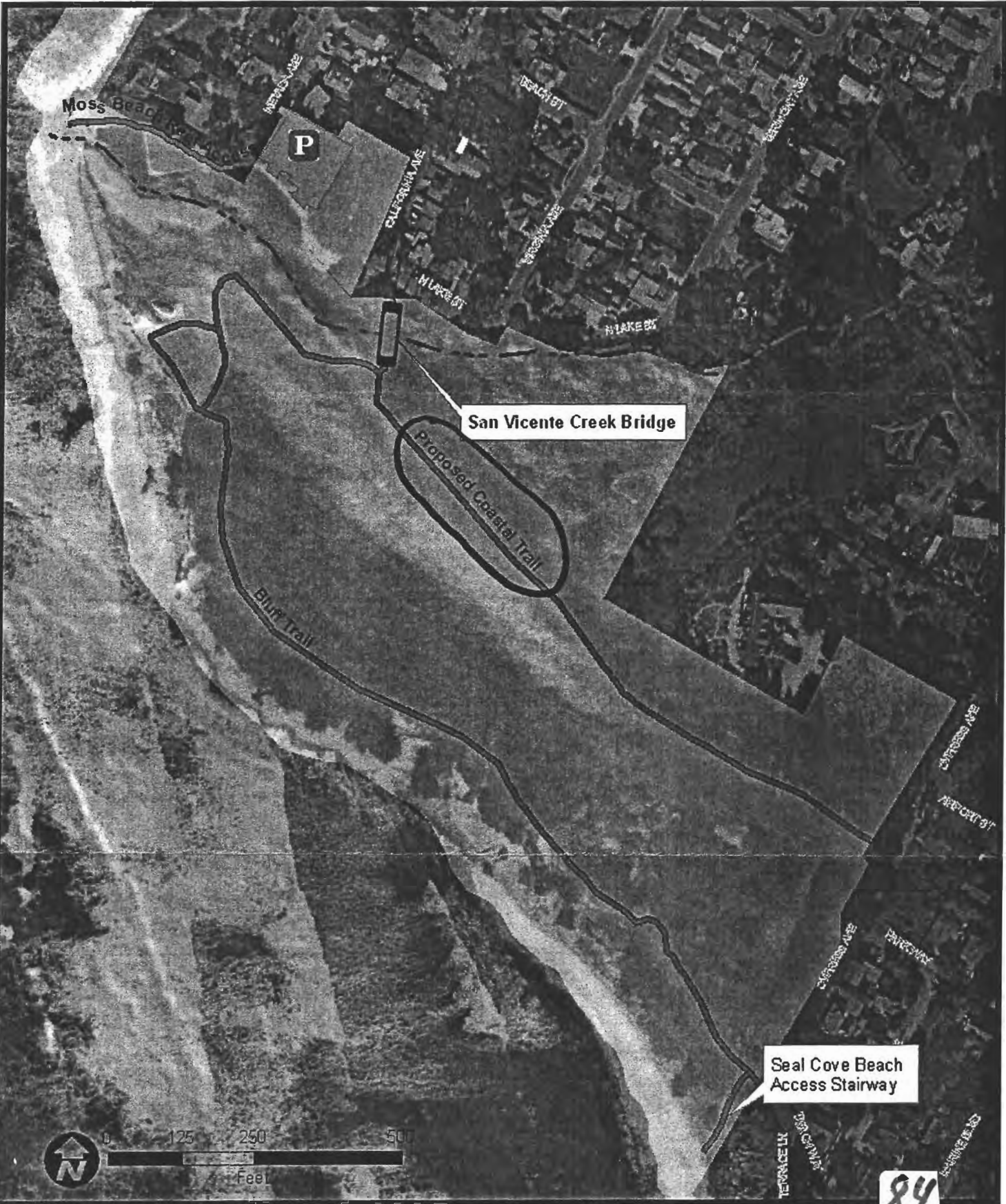




LOCATION MAP

NOT TO SCALE 

(over)



**Fitzgerald Marine Reserve
California Coastal Trail and
San Vicente Bridge Site Map**

- Legend**
- Proposed California Coastal Trail
 - San Mateo County Park Trails
 - Streams
 - San Mateo County Parks

1 inch = 212 feet



RECEIVED
MAY 03 2011
CALIFORNIA
COASTAL COMMISSION
Th12b

DOROTHY PHILBRICK
Founder

ANDREW FRISCH
Executive Director

DIANE SMITH
Associate Director

BOARD OF DIRECTORS

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Robert Franceschini
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Executive Member

Diane Howard
Executive Member

Ginny Hughes
Executive Member

Bernadette Mellott
Executive Member

Melanie Rogers
Executive Member

Debbi Jones-Thomas
Executive Member

Paula Uccelli
Executive Member

Dear Coastal Commission,

I am writing in support of the ADA accessibility at Fitzgerald Marine Reserve.

It is sad the one person can stop the forward progress that would benefit so many. I understand the County stands to loose \$ 750,000. in grant monies. This would be a sad waste of lost money.

Thank you,
Diane Smith

Th 12b

650 728 3813

FROM THE DESK OF
NEIL MERRILEES

MERMADE4@YAHOO.COM

May 5, 2011

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

Re: A-2-SMC-11-010

As a 25 year midcoast resident, I am writing to support the plan for Coastal Trail through the Fitzgerald Marine Reserve, and to state that I feel the appeal (A-2-SMC-11-010) has no merit. This trail plan is the result of over 15 years of public input, involving realignment, discussion of natural and archeological resources, and the value of public access to the Coast.

The width of the existing coastal trail coming north from Half Moon Bay is 8-10 feet wide. While not every trail on the coast is this wide or needs to be this wide, it is of great benefit to have one trail that is wide enough for bicycles, pedestrians, and wheelchairs to safely travel in opposing directions. This protects natural resources by keeping users on the path (The current dirt path is a source of muddy silt running directly into the Fitzgerald Marine Reserve). It also has the benefit of allowing visitors and residents to enjoy the coast without traveling by car.

The bridges along the Coastal Trail on the midcoast are all 8' or wider, ranging from 8-12 feet wide. I have attached a photo of this narrow 8' bridge with bicycles passing each other, to suggest what a reduction to 6' would be like. Any pathway that is narrower than 6' will encourage bicycle riders to go off path, which would defeat the whole purpose of the trail; to protect natural resources while improving public access.

This trail, when constructed as according to the proposed plan, will offer an opportunity to share this resource with visitors on foot, bicycles, wheelchairs, walkers, strollers and even tricycles. An added benefit will be the opportunity for people to enjoy the Coast, without adding more vehicle traffic. We need this trail.

Please vote to deny the appeal, and move forward with another incredible section of the California Coastal Trail.

Sincerely

Neil Merrilees

86

FROM THE DESK OF
NEIL MERRILEES



THE NARROWEST BRIDGE ON THE MIDCOAST COASTAL TRAIL, (PILARCITOS CREEK) THE 8' WIDTH PROVIDES JUST ENOUGH ROOM FOR BICYCLES TO PASS WITHOUT HITTING HANDLEBARS. BRIDGE AND TRAIL WIDTH ON THE COASTAL TRAIL THROUGH THE MIDCOAST RANGE FROM 8-12 FEET.

Th 126

470 Furtado Lane
Half Moon Bay, California 94019

May 8, 2011

California Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, California 94105

RECEIVED

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COASTAL COMMISSION
NORTH CENTRAL COAST

Dear Members of the California Coastal Commission,

I am writing this letter in support of approving the permits to allow the construction of the Dardanelle Trail in Moss Beach, California.

I am the Mother of a 27 year old son with cerebral palsy and he is totally non-ambulatory. He uses an electric wheelchair for mobility, and particularly loves being able to ride on the Coastside Trail. I was thrilled when I heard that there were plans to extend the trail to the Fitzgerald Marine Reserve. I was equally dismayed when I heard that someone had appealed the project, based on the width of the trail.

Electric wheelchairs are usually about 26 inches wide-just over 2 feet. If you have bicyclists, strollers, walkers and skateboards passing each other in opposite directions, the absolute minimum width should take into consideration the various modes of transportation used on the trail.

I look forward to the approval of this project.

Thank you for your attention to this matter.

Sincerely,

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Signature on File

Mary Lou Williams, Mother of Mark Williams

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Dear Editor,

I want to be sure that every reader of your newspaper is aware of the power of one. I don't know how many people on the coast visit Fitzgerald Marine Reserve regularly, but if you do, you know what a treasure it is. You may also know that there is a battle being fought there.

The County owns the property and has attempted to be a good steward. When they wanted to plan for the future of the Reserve they invited the community to help in the decisions that would affect the way our park is used.

The Parks Department spent 5 years and held 13 public meetings to develop a Master Plan, and two more years developing an EIR, which involved an additional 4 public meetings. When all the meetings were finished and reports from hydrologic, archeological, geotechnical, and biological experts were collected and paid for by taxpayers, a plan to build a multiuse trail through the east side of the park went before the Planning Commission, where it was approved. This trail would connect with the Coastal Trail.

The trail would be eight feet wide which is four feet narrower than is recommended for multiuse trails. Eight feet is probably what we need for a twin stroller being passed by a horse or a couple of cyclists or a person who uses a wheelchair. Any less than that will force people off the path into environmentally sensitive areas, trashing the edges of the trail.

There were objections to the plan, all but one of which were resolved. One person, Sabrina Brennan, still did not approve of this plan, and filed an appeal to the Coastal Commission, as was her right to do. She said if the trail was reduced to six feet wide she would drop her appeal. The hearing was the same day as the tsunami evacuation, and it was held in Santa Cruz. The Coastal Commission went ahead with the meeting, but did not approve or deny the trail, they asked for more studies, and postponed a ruling to the next meeting, which is in May in Mendocino.

This continued process may cost the County \$750,000--a grant that had been obtained for the trail will expire if the project is not started by June. Even if the plan is approved in May, we will lose the grant if there are any further appeals or conditions, or if we simply can't find a contractor who can commence work in time. We will also have to pay for all the newly requested studies.

We all need to be aware of where our tax dollars are being used. One person can make a difference to "protect" a park in her backyard from safe access by the disabled. Further, if the improvements aren't made the temporary bridge over the creek where the trail meets the parking lot will be removed because the flooding

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this winter has weakened its banks. Then no one will have access to the trail. That would be a shame.

Please don't let this happen. Please support community access to Fitzgerald Reserve, including the disability community. The park is a "Reserve," and it is reserved for all of us. Make your voice heard by the Coastal Commission. You, too, can make a difference. The address is:

California Coastal Commission
Northern Central Coast District Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Sincerely,
Susy Castoria