W13a

EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Jana Zimmer

1) Name or description of project: Black Hills Morro Bay A-3-MRB-06-064

2) Date and time of receipt of communication: Feb 9, 2015, 9:00 a.m.-9:15 a.m.

3) Location of communication: telecon

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Dave Neish, Sr.

5) Identity of person(s) on whose behalf communication was made: Wayne Colmer, Black Hills LLC

6) Identity of persons(s) receiving communication: Jana Zimmer

7) Identity of all person(s) present during the communication: same

Dave Neish recalled that they were going to come before CCC in December; they were prepared. Steve Kaufman wrote a letter to the Commission regarding points of disagreement. At that time staff postponed, they were to postponement. Dan Carl approached him and indicated that Kaufman had raised good points, and staff was going to rethink, change recommendation from denial to approval. Said that they would provide draft conditions in January, to come to agreed upon resolution. Staff has done a great job.

Now they agree with everything except one matter. The effect of extending raptor habitat would affect 4 homes. This is only 17 lots, he stated that losing 4 homes is a nonstarter. Dan Carl indicated that if they could relocate some lots, staff would be receptive. Staff did not intend to have them lose 4 units. This is well below the density of zoning, which would permit 48 units. They did take a crack at redesign, and were able to recover three of the four units with saving the four trees. The stipulation was that the living structures could be under the drip lines of trees. Even though there is a mobile home and existing home on the Colmer property that is directly beneath, and the red shouldered hawk has nested in one of the trees once in ten years. They tried to reach compromise.

As of Friday afternoon, the stipulation then had changed, Jonna Engel indicated that the living structures could not be under the drip line, and that they couldnt have a patio, deck, barbeque, other than the wall that separates property from mobile home park. That is a deal killer. How do you tell a person that buys a new home that you can't have a patio or deck? Still trying for a compromise with staff. But asking for the Commission to do is delete the first sentence of special condition 1A2 that includes the raptor area dripline of trees.

He noted that he had asked Chair Kinsey, regarding time allocation for presentation, because of the history, and opposition, that they were requesting 20 minutes for presentation.

Date: Feb. 9, 2015 /s/ Jana Zimmer

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EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Carole Groom

1) Name or description of project:
   Application No. A-3-MRB-06-064 (Black Hill Villas, Morro Bay)
2) Date and time of receipt of communication: Feb. 3, 2015 at 2:30pm
3) Location of communication: Telephone
   (If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
4) Identity of person(s) initiating communication:
   Dave Neish
5) Identity of person(s) on whose behalf communication was made:
   Black Hill Villas LP
6) Identity of persons(s) receiving communication:
   Carole Groom
7) Identity of all person(s) present during the communication:
   Dave Neish

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I received a briefing from representative of the Black Hill Villas project. The representative provided a history of the item, including the Coastal Commission's approval of the project on a 10-2 vote in 2008. A subsequent lawsuit led the project to be remanded to the Coastal Commission with two key issues that needed to be addressed: making the boundaries more specific and consulting with the Department of Fish & Wildlife. The representative indicated that the applicant has complied completely.

As of December 2014, Coastal Commission staff was recommending denial of the project. The representative stated his appreciation of the staff's reversal and current recommendation of approval, but with several remaining caveats. He stated that he believed the staff biologist overreached in designating 3 trees as ESHA trees, which would eliminate 4 of the proposed 17 single-family homes that are part of the project proposal. According to the representative, this near 25% reduction in the project would make it financially not feasible. He stated his hope that the project be approved and that at least 1 of the 4 lost units could be included in the project.

Feb 5 2015
Date

carole Groom
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

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February 6, 2015

Wh13.a

VIA ELECTRONIC MAIL

Steve Kinsey, Chair
and Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 91405

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Re: **A-3-MRB-06-064 (Wayne Colmer)**
Black Hill Villas Project, City of Morro Bay

Agenda Item: February 11, 2015, #13.a

Dear Chair Kinsey and Commissioners:

This firm, together with David Neish, Sr., and David Neish, Jr., represents the Applicant, Black Hill Villas, L.P. and its representative, Wayne Colmer. The Applicant proposes to subdivide 3.17 acres in Morro Bay approximately 1 ½ miles from the coast, construct 17 homes (essentially workforce housing, including two affordable units) on the upland part of the property, and implement a Riparian Enhancement Plan on the 1.82-acre open space lot on the lower, northern portion of the property (approximately 40% of the site).

Working with Staff, we have narrowed our differences to a single issue: Whether the Raptor Habitat Preservation Area (RHPA) the Applicant proposes should be extended to non-native, non-ESHA trees, which would result in eliminating four homes, or 25% of the development, as proposed.[1]

For the reasons discussed below, we ask the Commission to delete the first sentence of Special Condition 1(a)2, which would expand RHPA to include the driplines of trees E2, E3, E4, E5.

[1] We understand that additional changes to the Staff Report, discussed with and agreed to by the Applicant, will be reflected in an Addendum.

INTRODUCTION

This matter has been pending before the Commission for 8 years. It returns to the Commission on remand from a 2010 Superior Court decision on the Commission's 2008 conditional approval of the Project. The Court upheld the Commission's decision approving a 40' setback from the Black Hill Natural Area and the Commission's conclusion that the scenic and visual qualities of the significant public viewshed will be protected consistent with the LCP.

The Court, however, granted a writ of mandate, ruling that the Commission's findings "did not require the Developers to identify all ESHAs and to locate their precise boundaries prior to Project approval" and "the Commission failed to consult with the Department of Fish and Game as required by the LCP provisions regarding ESHA downward adjustments." (Staff Report, Exh. 12, pp. 10, 17.)

Since then, the Applicant has identified all ESHAs on the property and located their precise boundaries. It also has consulted with the California Department of Fish and Wildlife (CDFW) concerning ESHA downward adjustments, and the Department has advised that the setbacks from proposed development are adequate and will not impact coastal resources.

In short, the Applicant and Commission have complied with the Court's ruling.

But, the Applicant has gone further, furnishing numerous additional reports, information, and other agency approvals. (See Staff Report, Appendix A, pp. 48-49.)

The Applicant has revised the site plan to (1) move the entry road to provide a minimum 50'setback along the on-site stream/riparian corridor and a 100' from the nearest area of saltgrass vegetation; (2) relocate 3 homes to provide a 100' setback from the nearest wetland area; and (3) reduce the width of the entry road to 20', the minimum width required by the California Fire Code.

The Applicant has further refined the Project to (1) incorporate water quality and stormwater runoff protect features (which presently do not exist), in connection with improvement of the entry road, (2) include a detailed "Riparian Enhancement Plan" for the lowland open space area, (3) add a split-rail fence to demarcate and protect the open space/riparian area, and (4) add a D/G pedestrian walkway along to the entry road and property frontage.

Finally, the Applicant has agreed to conditions requiring (1) a bench along the pathway and signage to indicate the path's public accessibility and the riparian enhancement, (2) 92 trees planted on-site, including 2 trees in the rear yards of residences closest to the mobilepark park to further screen the residences, and (3) development restrictions regarding house color, lighting, and noise.

THE WINDROW ISSUE

There are six mature Monterey cypress trees and three eucalyptus trees in the tree row within a 30 to 70 foot wide hillside area between the paved access to the Blue Heron Terrace Mobile Home Park and the entry road to the Applicant's property. These will all be protected in a designated "Raptor Habitat Preservation Area ("RHPA"), outlined on Exhibit 1.

In 2008, the Commission found that this tree grove and four more clusters of trees in the central portion of the property (E2, E3, E4, and E5) are not ESHA. In 2015, nothing has changed -- Staff again concludes that this area is not ESHA. (Staff Report, p.31 ["[I]t does not rise to the level of ESHA" and "[i]t therefore does not constitute ESHA."].)[2] However, despite that conclusion, the Staff Report treats the trees as ESHA anyway and, while the Applicant has designated the RHPA specifically to protect Trees C1, C2, C3, C4, C5, C6, C7, and E1, the first sentence of Special Condition 1(a)2 would expand the RHPA "to incorporate the area extending to the driplines of trees identified as E2, E3, E4, E5, C1, C2, and C3."[3] (Exhibit 2.)

The Coastal Act identifies wetlands and ESHAs as coastal habitats requiring special protection. There is no policy in the Act, however, requiring protection of non-wetland or non-ESHA, as here. In effect, Staff's rationale is "the four trees (E2, E3, E4, and E5) are not ESHA but we'd like them to be."

---

[2] The trees are non-natives, and importantly, the red-shouldered hawk, which surveys documented actively nested in only one of the trees in 2004 and 2012 (Tree E2), is a common bird species which has a status of Least Concern on the International Union for Conservation of Nature and Natural Resources (IUCN) red list. It is neither federally nor state listed. The red-shouldered hawk, moreover, has habituated to human presence, as evidence here by the presence of the mobilehome park access road and guest parking area, two mobilehomes, a trash enclosure, and one of the existing residential structures on the Applicant's property – all of which are located under and adjacent to the canopy of these trees.

[3] This language is not necessary to protect the trees identified as C1, C2, and C3. They are included in the designated Raptor Habitat Preservation Area, and will be protected.

The consequence is that this 17-lot subdivision, now pending before the Commission for 8 years, would lose 4 lots, or 25% of the Project, as proposed.

The Staff Report relies on a sentence in Policy 9.06 of the City's LCP. That sentence – stripped of its context and intent – states: "Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible." Staff says the four trees are a "natural feature." Policy 9.06, however, is not applicable here, either in law or in fact. Policy 9.06 is not an ESHA or habitat policy at all, but rather a hazard policy aimed at addressing earthmoving, and the trees here – E2 through E5 – are not "natural" at all, but rather are acknowledge non-native, non-ESHA trees, only of one which (E2) has documented evidence of a raptor nest (in 2004 and 2012), utilized by an acknowledged common raptor species, the red-shouldered hawk.

Importantly, the Staff Report takes the language of Policy 9.06 out of context. (See pages 24 and 31 and fn. 27.) This policy mirrors a policy in the City's General Plan. The General Plan includes a "Safety Element" which "contains provisions for protection against hazards, such as earthquake, landslide, radiation, fire and flooding." The Safety Element notes, among other things, that the City is abutted on three sides by steep hillsides, and that "[d]evelopment on these hillsides will alter the natural slope and topography often leading to landslides and erosion. (General Plan, p. V-6.) It addresses "Landslide Mitigation":

> "Development should not be permitted in areas where landslides cannot be controlled. The Local Coastal Plan prohibits new development on slopes over 20 percent and restricts the amount of cut and fill allowed. Geology and soils reports are required on all properties which exhibit a potential for landslide risk. Development should be designed to fit the natural terrain and natural features and native vegetation, such as trees should be preserved." (*Id.*, p. V-25.)

General Plan Policy S-6 provides: "Development should be prohibited where landslide risk is likely. Development within hillside areas should be designed so that landslide hazards are reduced or eliminated."

To implement this, General Plan Program S-6-3 provides (including the language at issue in LCP Policy 9.06):

> "All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. To accomplish this, structures shall be built to existing natural grade whenever possible. ***Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible.*** Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in project open space." (Italics and emphasis added.)

The City's certified LCP, in turn, is divided into several chapters. One chapter, Chapter XII, addresses "Environmentally Sensitive Habitat Areas" (Policies 11.01 through 11.23.) Policy 9.06, however, is contained in the Chapter dealing with "Hazards" (Policies 9.01 through 9.18.) This Chapter recognizes that "the Coastal Act is explicit in directing those communities exposed to natural and man-made hazards to minimize the risk to life and property in areas that are subject to such hazards." Policy 9.06 is one of the 18 hazard policies, and its context is more revealing than the snippet provided in the Staff Report:

> "All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. To accomplish this, structures shall be built to existing natural grade whenever possible. ***Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible.*** Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in project open space." (Italics and emphasis added.)

In short, Policy 9.06 has no application here. It is a hazard-related policy, not one that was intended to protect non-ESHA, non-native trees, one of which a common raptor species used sporadically.

Moreover, it is undisputed that the trees at issue – again E2 through E5 – are non-native trees -- introduced eucalyptus trees. They are, by no definition, "natural." It bears emphasis that the Legislature in the Coastal Act distinguished between natural and unnatural, or man-made features. (E.g., Pub. Res. Code, § 30103(b) [regarding boundary adjustments, which permit the Commission to conform a boundary "to readily identifiable *natural or manmade features.*"].) The Commission, similarly, in its regulations has distinguished between natural and man-made features. (Tit. 14 Cal Code Regs., § 13255.2, permitting a request for boundary adjustment "to

avoid bisecting any lot or parcel, or to conform the boundary to readily identifiable *natural or manmade features*."].)

And the Commission itself, even in Morro Bay, has recognized the obvious difference between a "natural feature" and a man-made one. In 2013, the Commission approved a second-story office storage area above an existing restaurant along the Morro Bay Embarcadero. The Commission noted "significant *natural features (e.g., Morro Bay, the Bay, sandspit)*, and also "neighborhoods and other *man-made features* with unique character, including the harbor and the Embarcadero district." (3-12-044 (Harbor Hut Addition), p. 11; italics added.)

Still further, Staff's reading of the excerpt from the LCP Hazard Policy makes no sense: "Natural features, *including non-native, introduced trees*, landforms, and native vegetation, such as trees, etc." (Italics added.) In other words, Staff would consider all trees, native or non-native, ESHA or non-ESHA, to be "natural features," and that not only has nothing to do with the intent and placement of the sentence in the General Plan Safety Element and LCP Hazards Policies, but simply would torture its language. It is an untenable reading of Policy 9.06.

Finally, there is no substantial evidence in the record that trees E2 through E5 amount to "natural features." As noted, the Commission previously and now Staff here (and the Applicant's biologist) all agree: These trees do not constitute ESHA. A single raptor species, the red-shouldered hawk, has utilized the tree grove and it is a common raptor species in California and the western United States and has a status of Least Concern on the International Union for Conservation of Nature and Natural Resources (IUCN) red list. As to the trees at issue, only one, E2, has documented nesting by the red-shouldered hawk in 2004 and 2012. There is no documented use of the other three trees, E3, E4, and E5, which are younger, smaller, and do not have the branch structure to support a nest. The trees are non-natives and considered invasive species on the California coast. (Staff Report, Exh. 14, Letter from Tenera Environmental, dated December 3, 2014, p. 2.) Lastly, for over half a century one of the existing aged residential structures on the property has been located directly under the canopy of these trees (including tree E2), as has one of the mobilehomes in the adjoining mobilehome park.

For all these reasons, the Applicant respectfully requests deletion of the first sentence of Special Condition 1(a)2. There is no support in the Coastal Act or the LCP to justify preserving the four trees at the expense of four of the homes proposed. The Applicant will preserve the designated Raptor Habitat Protection Area proposed,

and it bears emphasis that the Applicant will be planting 92 new trees on this 3.17-acre property.

One further point bears mention on this issue. The Staff Report states that a small redesign of the Project could lead potentially to fewer homes being lost. To force a radical redesign requires a policy basis which, as shown, is absent here. The Applicant should not be required to redesign the subdivision or to lose units to preserve non-native, non-ESHA trees. That said, a redesign under the conditions as written would result in the loss of 3 homes. However, a redesign which permits removal of trees (two non-native clumps of trees which lack the maturity, height, shape and branch structure suitable for raptor nesting) on lot 5, preserves trees E2, E3, and E4, but excludes from the dripline that portion of the tall trees located outside the footprint of the primary residences proposed (but not ancillary structures, such as a deck, fence, and associated landscaping), would result in the loss of one home.

CONCLUSION

For these reasons, the Applicant requests that the Commission approve the application, but delete the first sentence of Special Condition 1(a)2, which would expand RHPA to include the driplines of trees E2, E3, E4, E5.

Very truly yours,

Steven H. Kaufmann

Ccs: Dr. Charles Lester, Executive Director
Chris Pederson, Acting Chief Counsel
Dan Carl, Deputy Director
Susan Craig, District Manager
Daniel Robinson, Coastal Program Analyst
Jamee Jordan Patterson, Esq., Supervising Deputy Attorney General
David B. Neish, Sr., DB Neish and Associates
David J. Neish, Jr. DB Neish and Associates
Wayne Colmer, Colmer Construction

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EXHIBIT 1

DEVELOPMENT, ESHA, OTHER HABITATS, BHNA BUFFER

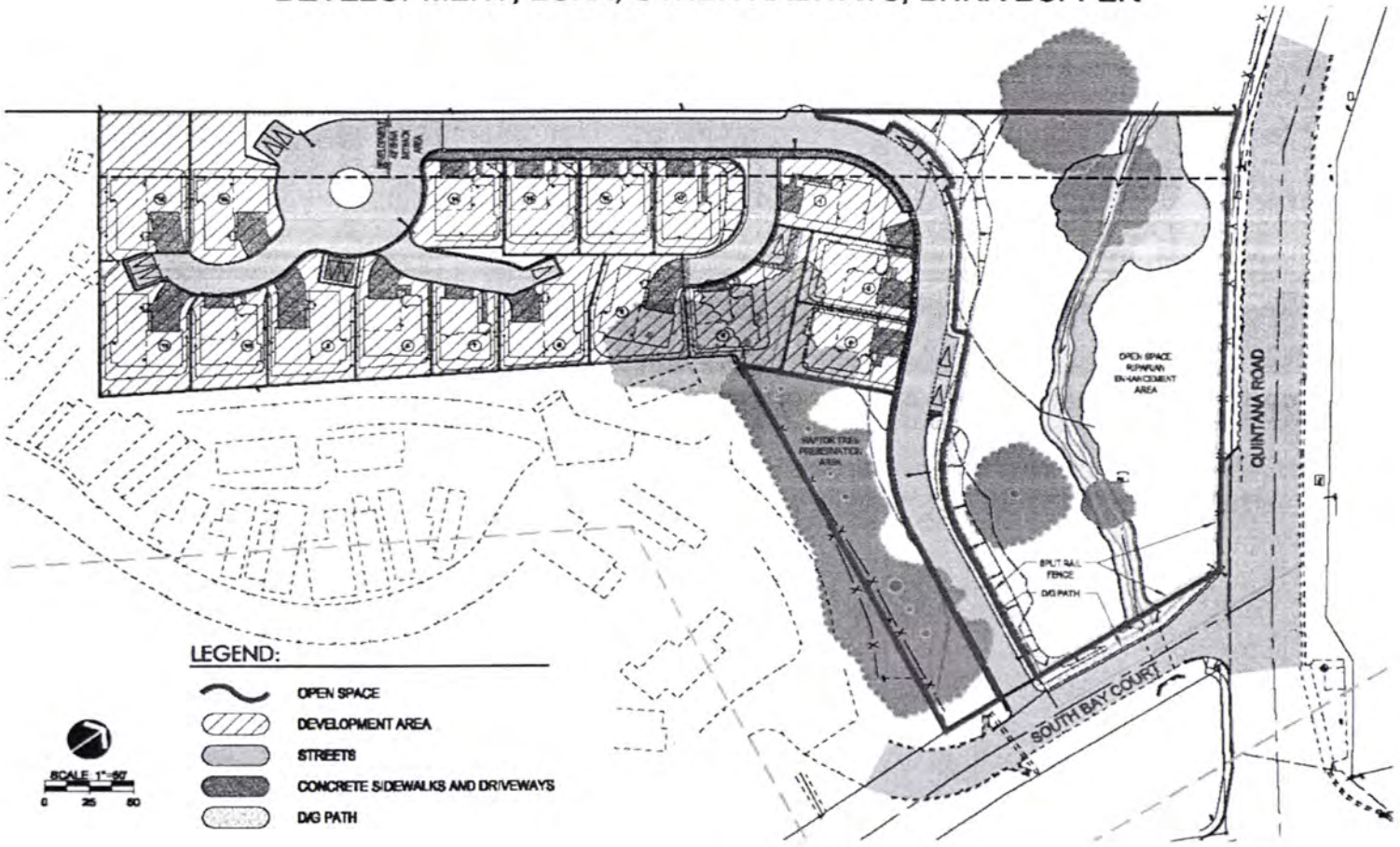
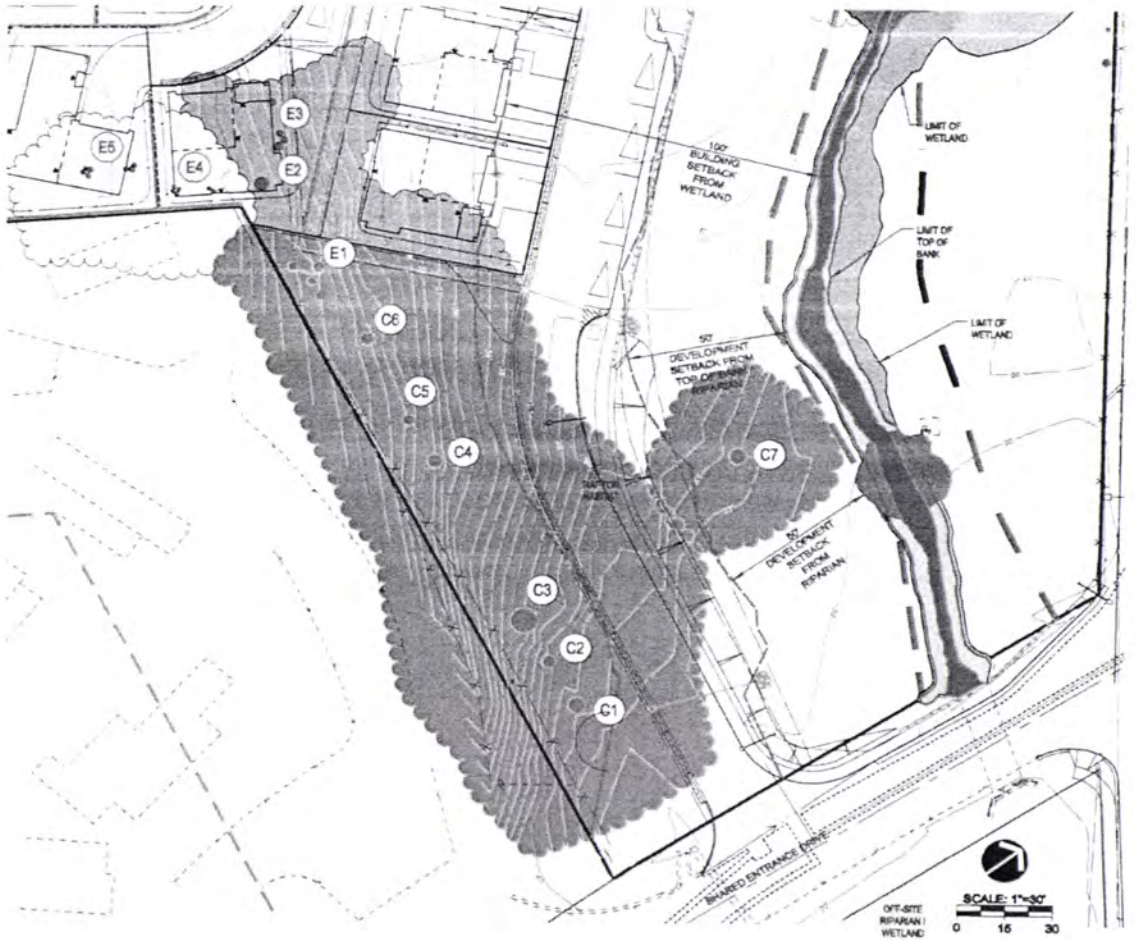


EXHIBIT 2

LEGEND:

- LIMIT OF TOP-OF BANK
- LIMIT OF WETLAND
- BUILDING / DEVELOPMENT SETBACK
- IN-CHANNEL / NON-WETLAND
- ARROYO WILLOW RIPARIAN
- SALT MARSH BACCHARIS
- SALTGRASS
- (No.) RAPTOR HABITAT TO REMAIN
- RAPTOR HABITAT TO BE REMOVED
- WETLAND
- (No.) TREE AND CANOPY TO BE REMOVED

TREE	NESTING	PERCHING / ROOSTING
C1		RSHA-III
C2		RSHA-I
C3		RSHA-I
C4	OLD NEST 2004	RSHA-IIIIII
C5		RSHA-I
C6		
C7		RSHA-III
D1		
E1		RSHA-IIIIII
E2	ACTIVE NEST (1) 2004, 2012	RSHA-IIIIII
E3		RSHA-II
E4		
E5		



W13a

Robinson, Daniel@Coastal

From: debbie highfill <debbiehighfill@yahoo.com>
Sent: Monday, February 09, 2015 10:24 AM
To: Robinson, Daniel@Coastal
Subject: My comments on the hearing re: the development of 16 hms in Pismo

Dear Mr. Robinson,

I think residents were surprised when the CCC staff recommendation went from denial to support with special conditions, subsequent to a 40-page letter from the developer's attorney.

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We are pleased that the riparian area will be zoned Environmentally Sensitive Habitat (ESH) in alignment with City and State Fish and Wildlife regulations.
We are pleased that consideration is being given to blocking noise and light from bleeding away from the development into the State Park.
We are pleased that the whole Raptor Habitat Preservation Area (RHPA) is conditioned for protection, thanks to a minor redesign that still allows the developer a dense 16 houses, when many believe it should be less.
We are disappointed that Mr. Colmer wants **to reduce the raptor habitat by 1/3 of its area, reducing the number of trees by 1/2.** The section he wants to eliminate is the most active raptor area.
We are disappointed that Mr. Colmer has not been penalized for already having cut 16 mature trees without a permit, removals which have significantly thinned the habitat area prematurely.

We would be comfortable with the elimination of the pedestrian trail. The mobile home park has no trail and residents walk with no trouble on the road.
If you will not vote for denial, we ask that you stand by your staff's recommendations and approve the permit as they have specially conditioned it.
Sincerely,
Debbie Highfill

W13a

Robinson, Daniel@Coastal

From: betty winholtz <winholtz@sbcglobal.net>
Sent: Monday, February 09, 2015 2:11 AM
To: Robinson, Daniel@Coastal
Subject: Re: colmer black hill villas for February

Follow Up Flag: Follow up
Flag Status: Flagged

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Mr. Robinson:
I reread Exhibit 8 and found the reference to cypress trees containing nests. Thank you for the correction. With the removal of volunteer trees and saplings and the illegal cutting of 16, one of which was a pine with a great horned owl nest, it is imperative now more than ever the the RHPA plan include replanting now, so trees of stature are available when then are needed.
Sincerely,
Betty Winholtz

On Wednesday, February 4, 2015 5:35 PM, "Robinson, Daniel@Coastal" <Daniel.Robinson@coastal.ca.gov> wrote:

Hi Betty, thanks for your email.

See our staff report at: http://www.coastal.ca.gov/mtgcurr.html

I will follow up with our ecologist on the "noxious weeds" condition issue to see if she has more on this, but our intent is to preserve all of the raptor stand (cypress AND eucs as shown in the attachment) and to allow native trees, such as cypress or Monterey pine, to be replanted if the eucs die or fall of natural causes over time, etc. If you'll notice an old raptor nest was active in a cypress tree in 2004 so not sure I get what you mean by "it is not the cypress the hawks use for nesting and fledging." Perhaps not currently, but cypress do seem to allow for this purpose. And we are recommending that the eucs remain so as to provide this habitat. In general, you do want to slowly phase out non-natives like eucs so that raptors will begin to use native trees to nest, fledge, etc.

On the restriction about construction during the nesting season, the applicant's streambed alteration agreement (which has been proposed as part of the project) requires no construction during nesting season unless certain requirements are met (including through distance requirements for surveys and no construction if active nests are present), and our condition reinforces this. See the SAA in the staff report's exhibit 9. Section 12.08.070 is not part of the City's LCP, so without that, the intent is to not disturb birds who are present during nesting season, as the CDFW's SAA states as well.

In terms of tree removal, we are only recommending allowance of the western property trees to be removed which are damaged and diseased, etc. (so far less than your 46 number) and the applicant has proposed to replant at least 92 trees in both the OSREA and the development area (including trees in front and back yards for screening purposes). These replacement trees include mitigation for the unpermitted removal of 16 trees, although the Applicant still does not believe he is responsible for this since the City at one time said a permit was not required. We disagree. In addition, the City's major vegetation removal ordinance is not part of the LCP, and thus a 2:1 mitigation ratio is not part of the LCP; however the applicant is replacing more trees than this mitigation number would require, if it were to be used.

Hope this helps and let me know if you have an more questions,
Daniel

From: betty winholtz [mailto:winholtz@sbcglobal.net]
Sent: Wednesday, February 04, 2015 1:25 AM
To: Robinson, Daniel@Coastal
Subject: Re: colmer black hill villas for February

Mr. Robinson:
You have created an impossible preservation plan for the formerly noted tree ESHA, currently labeled Raptor Habitat Preservation Area (RHPA). As you note, both cypress and eucalyptus are the mainstay of the raptor habitat. Yet you insist that all "noxious weeds", i.e. eucalyptus, shall be removed. If not immediately, then over time. What "native" tree has the stature to replace the eucalyptus to maintain, let alone enhance, the habitat? It is not the cypress the hawks use for nesting and fledging. Are you considering pine?

You have not restricted construction during nesting season. How are the raptors to be retained if you allow construction during breeding and nesting season?

Allowing the removal of 46 trees to build 17 units and replacing 2 trees per unit is a loss of 12 trees. Are other replacement trees being planted only in the stream bed because there are none noted for the RHPA? Will you allow the cutting of these trees during nesting season? Acknowledging the critical nature of nesting season, the City of Morro Bay has an ordinance 12.08.070 which restricts trimming or cutting of public trees during nesting season, and in its Private Tree Guidelines, it is strongly suggested that no tree cutting or trimming should occur during nesting season. Posted at the entrances to the City are signs declaring to all that they are entering a Bird Sanctuary and Tree City, USA. How are you encouraging the developer to abide by community standards if work is not restricted during nesting season?

Finally, where is the specific tree ratio replacement plan and timetable for those trees previously cut illegally? It is referred to so nebulously in the staff report, as a footnote no less.

Sincerely,
Betty Winholtz

On Wednesday, January 28, 2015 10:27 AM, "Robinson, Daniel@Coastal" <Daniel.Robinson@coastal.ca.gov> wrote:

Hi Betty – thanks for this.

While we have not determined this to be ESHA (I am attaching our ecologist's latest memo on this), we are recommending at this point retention of all areas of the raptor habitat as shown on this draft exhibit above (in orange).
Our staff report will be out this week and we will make sure that your correspondence is part of the staff report. You might want to bring the photos in color to the hearing since they may not be as visible in black and white. Will you be attending the hearing on the 11th?

Cheers,
Daniel

From: betty winholtz [mailto:winholtz@sbcglobal.net]
Sent: Wednesday, January 28, 2015 1:16 AM
To: Robinson, Daniel@Coastal
Subject: colmer black hill villas for February

Daniel,
Attached are some photos taken about 10 days ago. It documents the pair of red shoulder hawks that live in the area you are declaring as non-ESH. From the photos you can see that Davey Tree Service was doing some trimming for PG&E on the west edge of the property. The pair circled until the truck left. Then they landed each in a different tree watching.

The unauthorized, unpermitted, and therefore illegal culling of the trees which compose the tree ESH was an issue raised in the initial staff report. The report stated the issue needed to be addressed. It was not. I had hoped it would be addressed in the 2014 staff report, but it was not. I don't know if you intend to include it in this most recent staff report.

Please do not eliminate the ESH designation. To do so rewards the attempt to physically void the ESH area without review and permit. It is still viable habitat and could rebound further if left alone.

Please include this correspondence in your staff report. A hard copy is being sent separately.

Sincerely,
Betty Winholtz

Picture 1: Davey Tree Service
Picture 2: Hawk center of frame on shaded branch
Picture 3: Second hawk right of center on sunny branch
Picture 4: Tree ESH looking southwest
Picture 5: Tree ESH looking east along dirt driveway
Picture 6: Tree ESH looking west along dirt driveway
Picture 7: Pulled back view
Picture 8: Looking south from Quintana Rd across blue line creek toward tree ESH with MB Estuary in the background
Picture 9: Close up looking across blue line creek toward tree ESH

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Robinson, Daniel@Coastal

From: betty winholtz <winholtz@sbcglobal.net>
Sent: Sunday, February 08, 2015 8:58 AM
To: Barbara-Jo Osborne; Robinson, Daniel@Coastal
Subject: Re: where will you be next wednesday

Follow Up Flag: Follow up
Flag Status: Flagged

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Barbara Jo,
Thank you for . I've assumletting me know. I've assumed it's too late to send correspondence, but I think staff does keep a record of emails to send to the Commission before the item is heard. If you have a minute, it wouldn't hurt to send an email to Daniel Robinson(daniel.robinson@coastal.ca.gov) to forward to the the director for the Commission expressing support for (1) staff's recommendation to not harm the Raptor Habitat Preservation Area by eliminating 1/3 of the grove, (2) start planting replacement trees now, so they have time to mature before they are needed and (3) no construction should be allowed during nesting season because there are active raptor pairs within 500 feet.
Thank you,
Betty

On Sunday, February 8, 2015 12:43 AM, Barbara-Jo Osborne <bj@bjoart.com> wrote:

Hi Betty:
Thanks for this. I will be at work during tax season - so can't make it. Otherwise, I would be there. Thanks for keeping me posted!
BJ

On Feb 7, 2015, at 4:41 AM, betty winholtz <winholtz@sbcglobal.net> wrote:

To All Tree Huggers and Folk Who Support Good Development,

Next Wednesday, February 11, at the Cliffs Resort Hotel in Pismo Beach, the CA Coastal Commission (CCC) will be deciding whether to grant a development permit for 17 houses at the corner of Quintana and South Bay Blvd in Morro Bay. This project has been commonly known as Colmer's Black Hill Villas.

Your attendance is needed because:
1. Colmer wants to reduce the Raptor Habitat Preservation Area by 1/3 to accommodate 17 houses. CCC Staff has demonstrated how a partial redesign can accommodate 16 houses plus all of the Preservation Area.
2. Colmer has lobbied the Commissioners; we won't know what he told them until it is announced as ex parte communication at the hearing.
3. There may be other items he will ask for or reject. He has done this in the past and gotten his way. If we are present, we can support staff recommendations which hold the line on this project.
3. The presence of local people shows the Commissioners there is another side to the project than

the developer's. (We have a smattering of hand-held signs to show our unity).
4. You don't have to speak unless you want to. (I have included some points at the end of this email.)

Will you give two hours of your day next Wednesday, February 11, to sit in the meeting at the Cliffs Hotel in Pismo Beach? Times are not assigned. It is likely to be no earlier than **10:30am.** Email or call me for carpooling.

Thank you for loving our unique environment,
Betty

Robinson, Daniel@Coastal

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From: betty winholtz <winholtz@sbcglobal.net>
Sent: Monday, February 09, 2015 1:18 AM
To: dianabythesea; Robinson, Daniel@Coastal
Subject: Re: where will you be wednesday

Diana,
If you cannot attend and say these words during public comment (bodies in the audience are important when the commission is practically in your hometown), would you send your thoughts to the CCC commissioners via the staff email address? daniel.robinson@coastal.ca.gov
Soonest is best since the meeting is in 60 hours. If you would be interested in carpooling, let me know. I'm leaving around 10am and should be back in 3 hours.
Betty

On Saturday, February 7, 2015 8:53 AM, dianabythesea <dianabythesea@earthlink.net> wrote:

I hate to see ANY houses built there.
That little corner is busy already.
I'm sure a lot of trees will be scheduled to be cut also which really bothers me.
I don't know where 16 or 17 houses could be built unless it's the corner where Mary used to live.
I'm against any building thete...it's beautiful the way it is...
Diana

Sent on the new Sprint Network from my Samsung Galaxy S®4.

-------- Original message --------
From: betty winholtz
Date:02/07/2015 4:47 AM (GMT-08:00)
To:
Subject: where will you be wednesday

To All Tree Huggers and Folk Who Support Good Development,

Next Wednesday, February 11, at the Cliffs Resort Hotel in Pismo Beach, the CA Coastal Commission (CCC) will be deciding whether to grant a development permit for 17 houses at the corner of Quintana and South Bay Blvd in Morro Bay. This project has been commonly known as Colmer's Black Hill Villas.

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ex parte communication at the hearing.
3. There may be other items he will ask for or reject. He has done this in the past and gotten his way. If we are present, we can support staff recommendations which hold the line on this project.
3. The presence of local people shows the Commissioners there is another side to the project than the developer's. (We have a smattering of hand-held signs to show our unity).
4. You don't have to speak unless you want to. (Ask me for talking points or read the staff report online http://documents.coastal.ca.gov/reports/2015/2/w13a-2-2015.pdf)

Will you give two hours of your day next Wednesday, February 11, to sit in the meeting at the Cliffs Hotel in Pismo Beach? Times are not assigned. It is likely to be no earlier than **10:30am.** Email or call me for carpooling.

Thank you for loving our unique environment,
Betty

W13a

Robinson, Daniel@Coastal

RECEIVED
FEB 10 2015
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COASTAL COMMISSION
CENTRAL COAST AREA

From: Robinson, Daniel@Coastal
Sent: Tuesday, February 10, 2015 11:21 AM
To: 'betty winholtz'
Subject: RE: colmer black hill villsa

Hi Betty – in terms of the state parks, I believe you are misstating things. No cutting will be approved as part of this project for work done on SP side of the property. The 40-foot fire buffer (we are calling it the State Park Buffer Area) is on Colmer's side of the line. The trees to be removed in this buffer for the project do not provide significant nesting and perching opportunities for raptors and are themselves damaged and in poor health from years of manipulation and topping due to power lines in the area. And of course significant replanting is part of the project for this and the unpermitted removal of trees in the past. I am inquiring with supervisors here about replanting with 15 gallon or more trees to help with screening right away, and will ensure that sizable trees are planted as soon as possible for screening purposes, as part of the landscape screening plan.

On the "invasive weed" part, there are no eucalyptus within the OSREA. Noxious weed is in Special Condition 4d and 1d. Within the RHPA, a Plan is required that will guide preservation and restoration of this area. The eucalyptus will be allowed to remain and must be replanted with native trees suitable for raptor habitat in the event the trees in the RHAP senesce or require removal for health or safety reasons. See Special Condition 5.
Eucalyptus is not a "noxious weed" per the California Food and Agriculture Department or the US Federal Food and Agriculture Department. However, certain types of eucalyptus are a "limited" ranked invasive species per the California Invasive Plant Council on their invasive plant inventory.

Thanks,
Daniel

From: betty winholtz [mailto:winholtz@sbcglobal.net]
Sent: Monday, February 09, 2015 11:31 PM
To: Robinson, Daniel@Coastal
Subject: colmer black hill villsa

Mr. Robinson:
I have a question regarding what State Parks role is in terms of vegetation removal: Did I read correctly that State Parks will be cutting vegetation within 40 feet of the fence line on their side of the fence? Was the cumulative effect of this additional removal on raptor habitat taken into consideration?
Also, have you heard back from the CCC biologist about the "invasive weed" comment and how it may impact the eucalyptus as part of the RHPA?
Betty Winholtz

W13a

405 Acacia
Morro Bay, CA 93442
February 1, 2015

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COASTAL COMMISSION
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Daniel Robinson
CA Coastal Commission
725 Front Street, #300
Santa Cruz, CA 95060

RE: A-3-MRB-06-064, W13a-2-2015

Daniel:

Here are the photos taken about 10 days ago (emailed 1/28). It documents the pair of red shoulder hawks that live in the area you are declaring non-ESH. From the photos you can see Davey Tree Service was doing some trimming for PG&E on the west edge of the property. The pair circled until the truck left. Then they landed each in a different tree watching.

The unauthorized, unpermitted, and therefore illegal culling of the trees which compose the tree ESH was an issue raised in the initial staff report. The report stated the issue needed to be addressed. It was not. I had hoped it would be addressed in the 2014 staff report, but it was not. It is merely Footnote 3 in the recent report.

Do not eliminate the ESH designation. To do so rewards the attempt to physically void the ESH area without review and permit. It is still viable habitat and could rebound further if left.

Please include this correspondence in your staff report. A hard copy is being sent separately.

Sincerely,

Betty Winholtz

Picture 1: Davey Tree Service

Picture 2: Hawk center of frame on shaded branch

Picture 3: Second hawk right of center on sunny branch
Picture 4: Tree ESH looking southwest

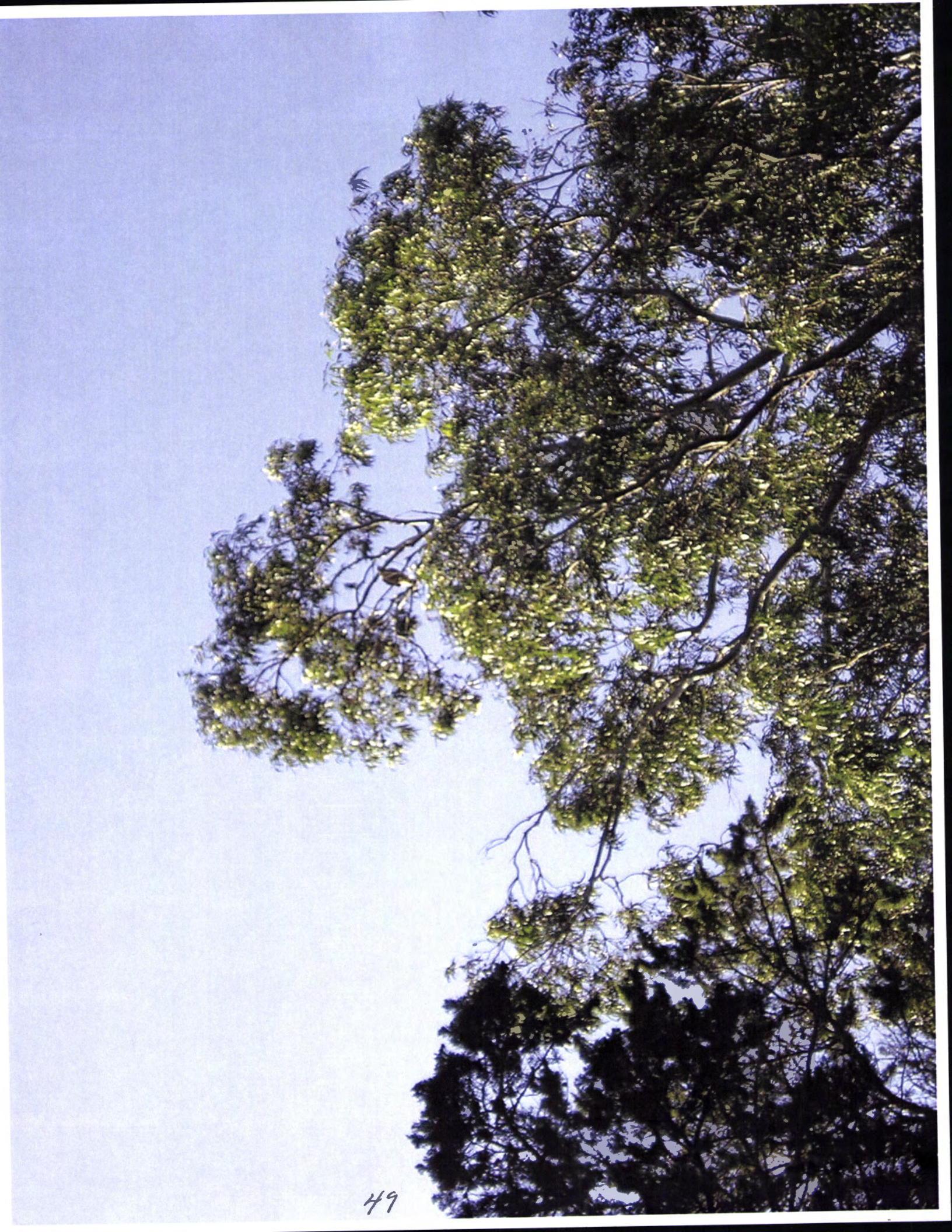
Picture 5: Tree ESH looking east along dirt driveway
Picture 6: Tree ESH looking west along dirt driveway

Picture 7: Pulled back view

Picture 8: Looking south from Quintana Rd across blue line creek toward tree ESH with MB Estuary in the background

Picture 9: Close up looking across blue line creek toward tree s

Picture 1 "Davey Tree Service"



Picture 2: Hawk ~~on~~ center of frame on shaded branch

Picture 3: "Second Hawk right of center on sunny branch"

Picture 4: "Tree ESH looking southwest."

Picture 5: Tree ESH looking east along dirt driveway

53

e to "Tree ESH looking west along dirt driveway

54

e 7: "Pulled back view"

Picture 8: Looking south from Quintana Road across blue line creek toward tree ESH with MB Estuary in background

Picture 9: "Close up looking across blue linecreek toward trees"

re: A-3-MRB [illegible] Black Hill Villas, LP W13a

Ms. Lynda Newsom
475 S. Bay Blvd., Spc. 63
Morro Bay, CA 93442

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Feb. 3, 2015

Ladies &/or Gentlemen of the CCC:

I am a resident of Blue Heron Terrace Mobile Home Park, Spc. 63. I purchased this unit in 2007.

I love the quiet privacy of this park and its natural setting bordering on State Park land. Trees serve as a wind-break and absorb rainstorms that drain off Black Hill. They are homes to raptors such as hawks, falcons and owls.

It's surprising that these family dwellings are planned in these areas. As a hiker, much of this land nearest Quintana is familiar to me. It is old riverbed and an in/out for the sea in times past. It is full of clamshells visible on the surface.

I fear that this construction may threaten my property values due to noise and traffic. It doesn't seem appropriate to build these dwellings behind and above us. There are other places near ours much better suited.

Please deny this subdivision.

Sincerely,

Lynda M. Newsom

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W13a

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Dixie R. Patterson
475 So. Bay Blvd. Spc. 33
Morro Bay, California 93442

Application Number: A-3-MRB-06-064
Non-support of this application

January 29, 2015

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

Agenda Item Number: W-13-a
Applicant: Black Hill Villas, L.P.

Dear Commissioners:

This development, as presented in the hearing notice, will compromise the integrity of Blue Heron Terrace Mobile Home Park residents (in Morro Bay) visually, added noise, increased traffic on a non maintained public right of way. And let's not forget the Environmentally Sensitive Habitat Area on this property. The red shouldered hawk, great horned owl and other wildlife that call this spot home will be evicted.

I would like to respectfully suggest that Mr. Colmer fix up the two existing houses on the property and build one or two single family dwellings consistent with the fishing/tourist town of Morro Bay. I further suggest that if Mr. Colmer find more suitable land that doesn't threaten an ESHA to build his condo complex.

If the commissioners approve Mr. Colmer's proposed project, I would like to know who would enforce that the project is built as approved by the Calif. Coastal Commission and that not more than the approved amount of trees are removed.

Thank you for your consideration.

Sincerely,

Dixie R. Patterson