

## **CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: [WWW.COASTAL.CA.GOV](http://WWW.COASTAL.CA.GOV)



# F17a

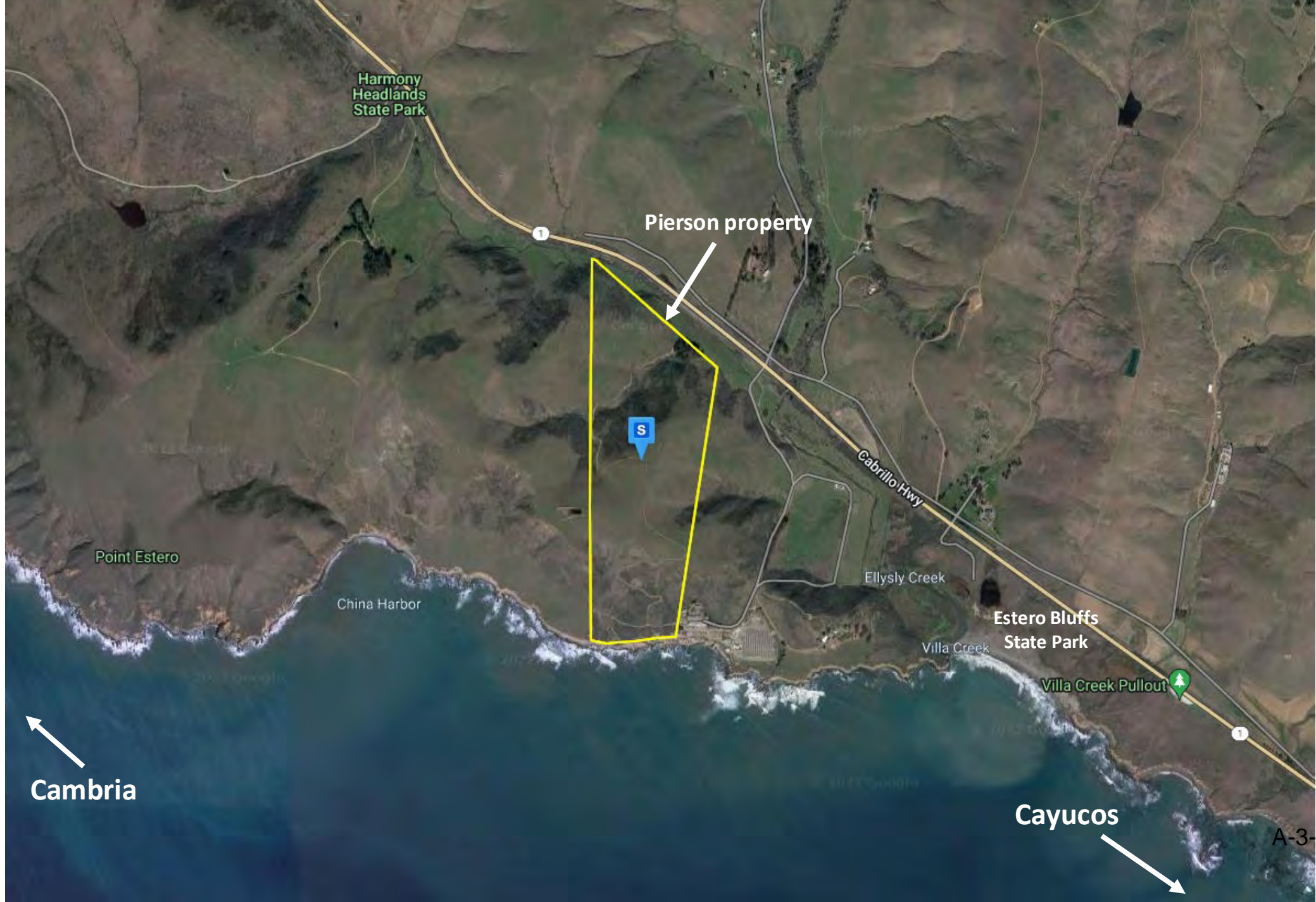
### **A-3-SLO-22-0055 (PIERSON SFD'S) NOVEMBER 18, 2022 HEARING EXHIBITS**

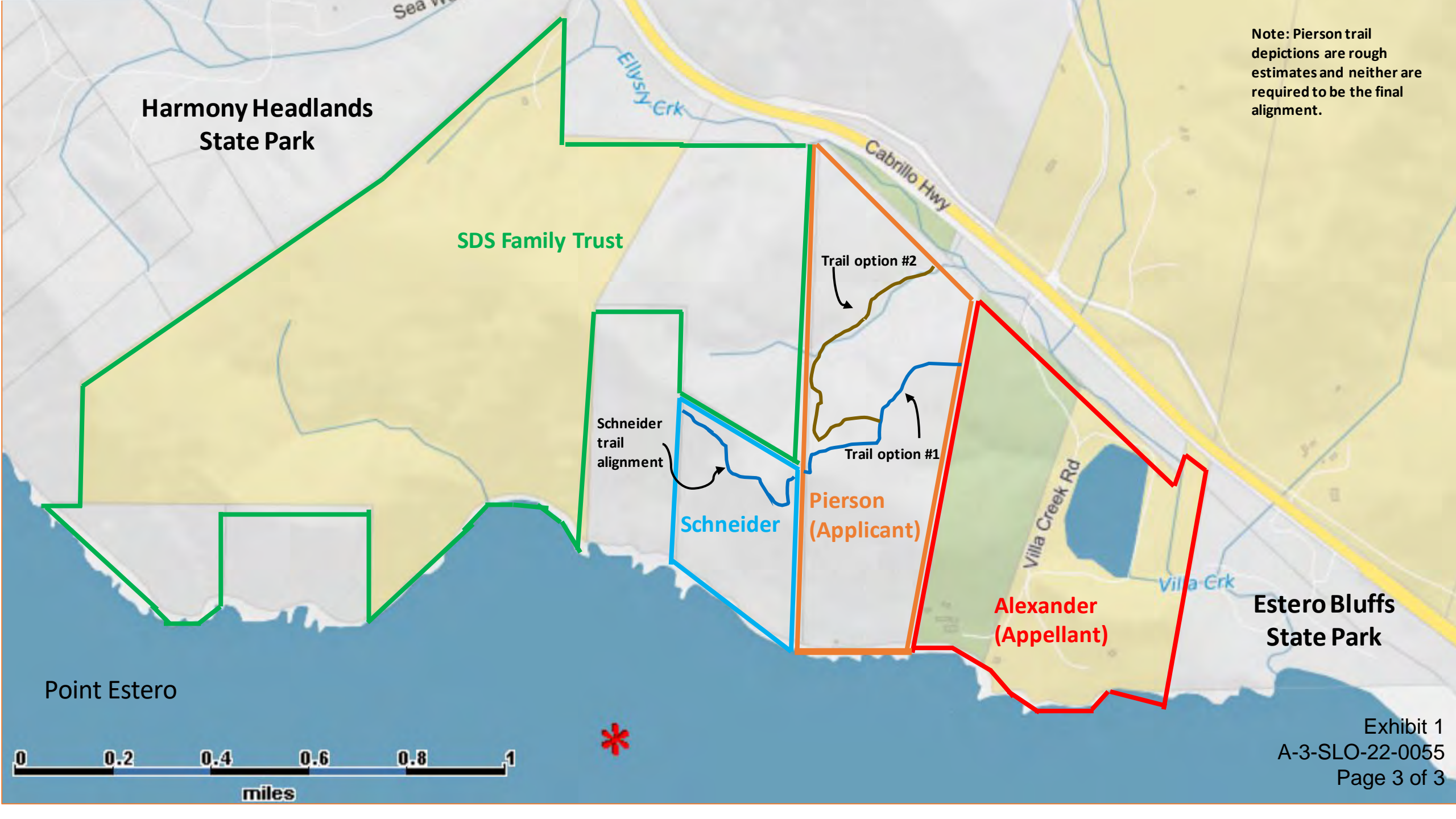
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- Exhibit 3: County Findings and Conditions**
- Exhibit 4: Coastal Trail Alignments Map**
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Harmony Headlands  
State Park

SDS Family Trust

Schneider  
trail  
alignment

Schneider

Pierson  
(Applicant)

Alexander  
(Appellant)

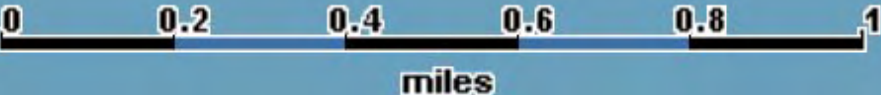
Estero Bluffs  
State Park

Note: Pierson trail  
depictions are rough  
estimates and neither are  
required to be the final  
alignment.

Trail option #2

Trail option #1

Point Estero

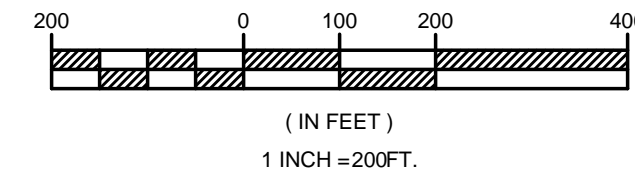




**ABOVE  
GRADE  
ENGINEERING**

245 Higuera Street  
San Luis Obispo, CA 93401  
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[abovegradeengineering.com](http://abovegradeengineering.com)

A California Corporation  
Scott Stokes PE # 58256



- 1 EXISTING PROPERTY LINE TO REMAIN
- 2 BUILDING ENVELOPE
- 3 EXISTING 10' WIDE ROAD
- 4 PROPOSED 12' AC PAVED DRIVEWAY
- 5 PROPOSED 20' AC PAVED TWO-WAY ROADWAY
- 6 PROPOSED ALLEN BLOCK WALL (6' HEIGHT MAX)
- 7 CONNECT TO EXISTING WATER WELL.
- 8 PROPOSED WATER LINE.
- 9 PROPOSED UNDERGROUND WATER STORAGE TANK.
- 10 PROVIDE 10' WIDE DRIVEWAY TURNOUT
- 11 PROVIDE HAMMERHEAD TURNAROUND
- 12 EXISTING LOT LINE TO BE ADJUSTED
- 13 PROPOSED LOT LINE ADJUSTMENT
- 14 PROPOSED 10' WIDE 'COASTAL TRAIL' EASEMENT
- 15 ALTERNATIVE ALIGNMENT FOR 10' WIDE 'COASTAL TRAIL' EASEMENT
- 16 100-YEAR FLOOD ZONE LINE

1. PROJECT CONSISTS OF A LINE ADJUSTMENT, REALIGNMENT OF AN EXISTING ROAD/DRIVEWAY TWO HOME SITES.

2. LEGAL DESCRIPTION: PORTION OF SECTION 26, 27 & 34 IN TOWNSHIP 28 SOUTH, RANGE 9 EAST, MOUNT Diablo BASIN MERIDIAN, AND A PORTION OF THE COUNTY OF SAN Geronimo, IN THE COUNTY SAN LUIS OBISPO, STATE OF CALIFORNIA. (REFER TO TITLE REPORT FOR METES AND BOUNDS DESCRIPTION)

3. APN: 046-091-038  
046-091-025  
046-091-037

4. LAND USE: AGRICULTURAL

5. ZONING: AG

6. WATER PROVIDED FROM WATER WELL. THE WATER SERVICE LINE FROM THE WELL TO THE STORAGE TANK AND DOWN TO THE HOME SITES, SHALL BE THE PROPERTY OF THE LANDLORDS.

7. SEWAGE DISPOSAL TO BE ADVANCED TREATMENT ON-SITE SEPTIC DISPOSAL APPROVED BY STATE WATER BOARD.

8. PHOTOGRAMMETRIC TOPOGRAPHIC INFORMATION OBTAINED FROM MAPPING PREPARED BY GOLDEN STATE AERIAL SURVEYS, INC. (FIGHT DATED 9-12-00)

9. TITLE REPORT PREPARED BY FIRST AMERICAN TITLE COMPANY.

10. A RESTRICTIVE COVENANTS WILL BE PREPARED FOR ACCESS & WATER LINE MAINTENANCE PURPOSES SINCE BOTH LOTS WILL BE OWNED BY PIERSON FAMILY TRUST.

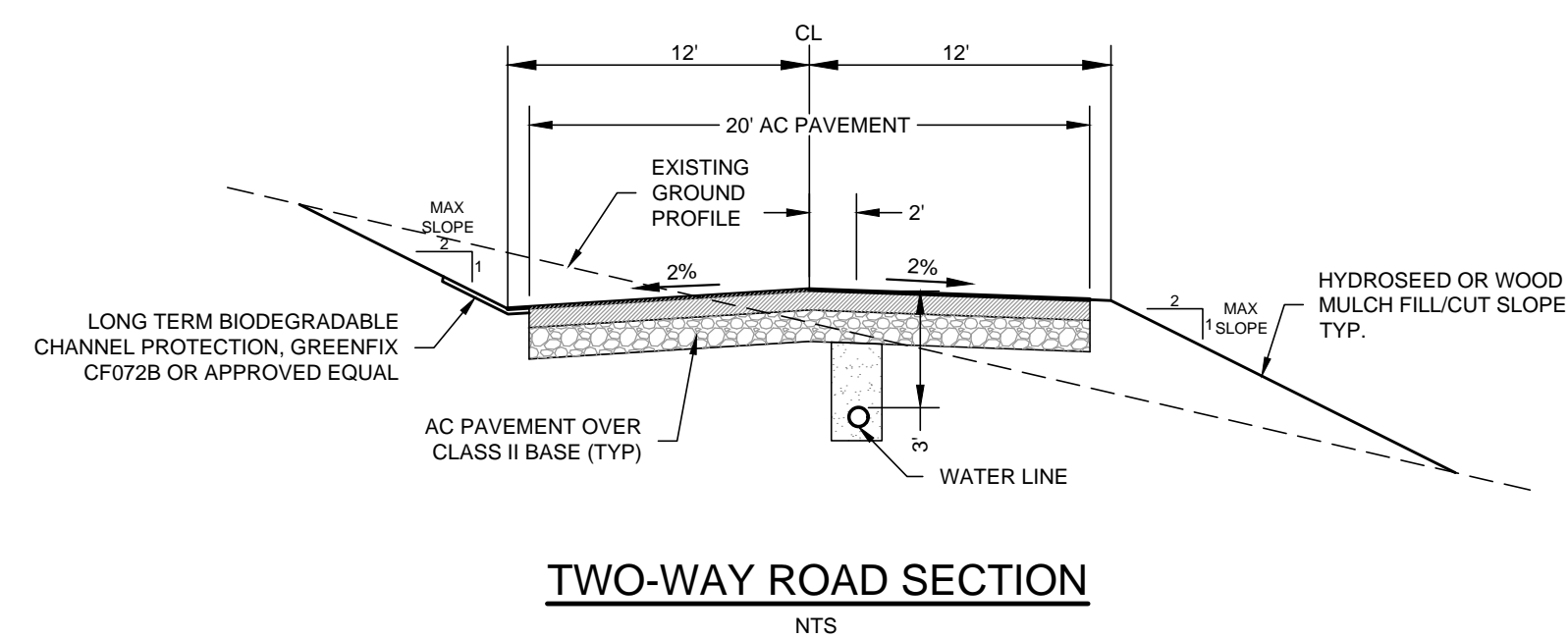
1.	APN 046-151-008	112.41 AC GROSS/NET
2.	APN 046-091-025,037	9.23 AC GROSS/NET
3.	TOTAL	121.64 AC GROSS/NET

- PROPOSED PARCEL STATISTICS:**
- |              |                   |                 |
|--------------|-------------------|-----------------|
| 1. PARCEL 1: | 20.01 AC (GROSS)  | 20.01 AC (NET)  |
| 2. PARCEL 2: | 101.63 AC (GROSS) | 100.60 AC (NET) |
| 3. TOTAL     | 121.64 AC (GROSS) | 120.61 AC (NET) |

OWNER'S	PIERSON FAMILY TRUST C/O PAMELA PIERSON P.O. BOX 9 CRESTON, CA 93432
PROJECT REPRESENTATIVE:	CATHY NOVAK P.O. BOX 296 MORRO BAY, CA 93443 805-772-9589
CIVIL ENGINEER:	ABOVE GRADE ENGINEERING, INC. 245 HIGERA STREET SAN LUIS OBISPO, CA 93401 805-540-5115
GEOLOGIST:	CLEATH & ASSOCIATES 1390 OCEANAIRE DRIVE SAN LUIS OBISPO, CA 93401 805-543-1413
GEOTECHNICAL ENGINEER:	GSI, INC 141 SUBURBAN ROAD, SUITE D1 SAN LUIS OBISPO, CA 93401 805-543-5493



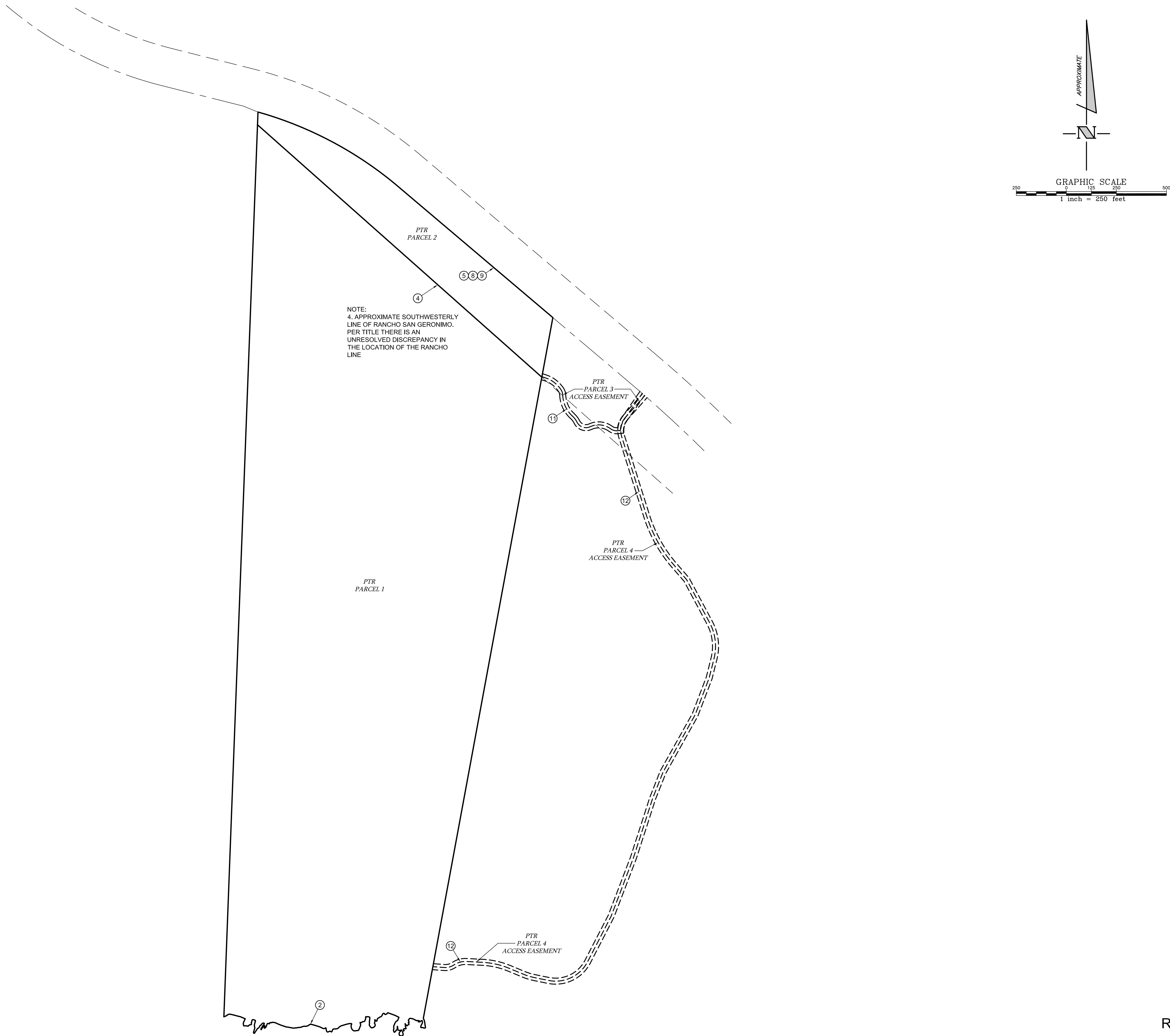
C-1.1	LOT LINE ADJUSTMENT & MINOR USE PERMIT
C-1.2	RECORD BOUNDARY & EASEMENTS
C-2.1	PRELIMINARY GRADING & DRAINAGE PLAN
C-2.2	PRELIMINARY GRADING & DRAINAGE PLAN
C-2.3	PRELIMINARY GRADING & DRAINAGE PLAN



<b>CHINA POINT</b>		<b>LOT LINE ADJUSTMENT &amp; MINOR USE PERMIT</b>
HIGHWAY 1 @ VILLA CREEK RD., CAYUCOS, CA		
NO.	REVISION	DATE
DESIGNED:	SJS	
DRAWN:	DWB/DL	
JOB NUMBER:	13156	
SHEET:		
<b>C-1.1</b>		
DATE: FEB. 7, 2020		



N:\2013\13156-FraserChinaCove\Engineering\Caddres\Sheetfiles - Civil\VT13156-EASEMENTS.dwg, C-1.2, Feb 09, 2020 1:41pm, A3E04



SURVEYOR'S NOTES:

1. PRELIMINARY TITLE REPORT WAS PROVIDED BY FIRST AMERICAN TITLE COMPANY, DATED JANUARY 14, 2020. PLOTTABLE EASEMENTS ARE SHOWN, TITLE REPORT EXCEPTION.
2. NO BOUNDARY SURVEY WAS REQUESTED, NO BOUNDARY SURVEY WAS PERFORMED, PROPERTY INFORMATION SHOWN IS BASED ON RECORD DATA ONLY.
3. [NOT PLOTTABLE] TAXES AND ASSESSMENTS NOT EXAMINED. A.P.N. 046-151-008; 046-091-025 & 046-091-037
4. [NOT PLOTTABLE] ANY CHANGE HERETOFORE OR HEREAFTER, OCCURRING IN THE LOCATION OF THE BOUNDARY LINE OF THE LANDS HEREIN DESCRIBED, DUE TO THE CHANGE IN THE COURSE OF PACIFIC OCEAN AND OR THE LOCATION OF THE BANKS OF SAID BODY OF WATER AND ANY DEFECT IN OR FAILURE OF TITLE RESULTING THEREFROM.
5. [NOT PLOTTABLE] A PUBLIC EASEMENT FOR NAVIGATION AND THE INCIDENTS OF NAVIGATION SUCH AS BOATING, FISHING, SWIMMING, HUNTING AND OTHER RECREATIONAL USES IN AND UNDER THE PACIFIC OCEAN AND INCLUDING A PUBLIC RIGHT OF ACCESS TO THE WATER.
6. [RANCHO LINE LOCATION IN QUESTION] ANY ADVERSE INTEREST OR CLAIM OR RIGHT OF TITLE BASED UPON THE ASSERTION THAT THE SOUTHWESTERLY BOUNDARY OF THE RANCHO SAN GERONIMO, AS SHOWN ON THE OFFICIAL PLAT OF SAID RANCHO APPROVED BY THE SURVEYOR GENERAL FEBRUARY 11, 1868, AND AS SHOWN ON THE MAP OF THE SUBDIVISION OF THE RANCHO SAN GERONIMO MADE BY HARRIS AND FORRESTER, RECORDED JULY 3, 1880 IN BOOK 8, PAGE 93 OF MAPS, IS NOT IDENTICAL WITH THE SOUTHWESTERLY BOUNDARY OF SAID RANCHO AS SHOWN ON THE OFFICIAL PLAT OF TOWNSHIP 28 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, APPROVED BY THE SURVEYOR GENERAL.
7. [PLOTTED] AN EASEMENT FOR PUBLIC UTILITIES, INGRESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 27, 1910 AS BOOK 87, PAGE 285 OF DEEDS.  
  
IN FAVOR OF: PACIFIC TELEPHONE AND TELEGRAPH COMPANY  
AFFECTS: PORTION OF PARCEL 2
8. [DOES NOT EFFECT PROPERTY] AN EASEMENT FOR PUBLIC UTILITIES, INGRESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 27, 1910 AS BOOK 87, PAGE 290 OF DEEDS.  
  
IN FAVOR OF: PACIFIC TELEPHONE AND TELEGRAPH COMPANY  
AFFECTS: PORTION OF PARCEL 1
9. [DOES NOT EFFECT PROPERTY] AN EASEMENT FOR PUBLIC HIGHWAY AND INCIDENTAL PURPOSES, RECORDED SEPTEMBER 13, 1955 AS BOOK 817, PAGE 340 OF OFFICIAL RECORDS.  
  
IN FAVOR OF: COUNTY OF SAN LUIS OBISPO  
AFFECTS: PORTION OF PARCELS 1 AND 2
10. [PLOTTED] ABUTTER'S RIGHTS OF INGRESS AND EGRESS TO OR FROM HIGHWAY 1 HAVE BEEN RELINQUISHED IN THE DOCUMENT RECORDED JULY 14, 1960 AS BOOK 1074, PAGE 577 OF OFFICIAL RECORDS.
11. [PLOTTED] A WAIVER OF ANY CLAIMS FOR DAMAGES BY REASON OF THE LOCATION, CONSTRUCTION, LANDSCAPING OR MAINTENANCE OF A CONTIGUOUS FREEWAY, HIGHWAY, ROADWAY OR TRANSIT FACILITY, AS CONTAINED IN THE DOCUMENT RECORDED JULY 14, 1960 AS BOOK 1074, PAGE 577 OF OFFICIAL RECORDS.
12. [EASEMENT MY BE EXTINGUISHED - SEE NOTE FROM TITLE BELOW] EASEMENT AND INCIDENTS THERETO, AS CREATED IN THAT CERTAIN DEED OF TRUST PURPOSE: WATER PIPELINE, DRILLING, MAINTAINING WATER WELLS  
  
AFFECTS: PORTION OF PARCEL 1 AND 2  
EXECUTED BY: SHAREHOLDERS PROPERTIES, INC  
RECORDED: DECEMBER 27, 1965 AS BOOK 1379, PAGE 647 OF OFFICE RECORDS  
  
UPON RECONVEYANCE OF SAID DEED OF TRUST, THIS EASEMENT WILL BE EXTINGUISHED OF RECORD. INQUIRY OF THE VESTEE SHOULD BE HAD AS TO ITS DESIRE TO PERMANENTLY CREATE THIS SERVITUDE.
13. [PLOTTED] THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "EASEMENT" RECORDED JANUARY 3, 2001 AS INSTRUMENT NO. 2001-000422; AND RE-RECORDED MARCH 29, 2001 AS INSTRUMENT NO. 2001-019983 AND ON MAY 31, 2001 AS INSTRUMENT NO. 2001-038778 OF OFFICIAL RECORDS.
14. [PLOTTED] THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "EASEMENT" RECORDED NOVEMBER 4, 2003 AS INSTRUMENT NO. 2003-128306 OF OFFICIAL RECORDS.
15. [NOT PLOTTABLE] WITH RESPECT TO THE TRUST REFERRED TO IN THE VESTING:  
A. A CERTIFICATION PURSUANT TO SECTION 18100.5 OF THE CALIFORNIA PROBATE CODE IN A FORM SATISFACTORY TO THE COMPANY.  
B. COPIES OF THOSE EXCERPTS FROM THE ORIGINAL TRUST DOCUMENTS AND AMENDMENTS THERETO WHICH DESIGNATE THE TRUSTEE AND CONFER UPON THE TRUSTEE THE POWER TO ACT IN THE PENDING TRANSACTION  
C. OTHER REQUIREMENTS WHICH THE COMPANY MAY IMPOSE FOLLOWING ITS REVIEW OF THE MATERIAL REQUIRED HEREIN AND OTHER INFORMATION WHICH THE COMPANY MAY REQUIRE.
16. [NOT PLOTTABLE] WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT SHOWN BY THE PUBLIC RECORDS.

**ABOVE  
GRADE  
ENGINEERING**  
245 Higuera Street, San Luis Obispo, CA 93401  
phone: (805) 540-5115  
A California Corporation • Seal Status PE # 58256

SHEET NUMBER:

**C-1.2**

RECORD BOUNDARY AND EASEMENTS

OF A PORTION OF SECTION 26, 27 AND 4 IN  
TOWNSHIP 28 SOUTH, RANGE 9 EAST, MOUNT  
DIABLO BASE AND MERIDIAN AND A PORTION OF  
RANCHO SAN GERONIMO, IN THE COUNTY OF  
SAN LUIS OBISPO, STATE OF CALIFORNIA



February 9, 2020  
BY: JNW

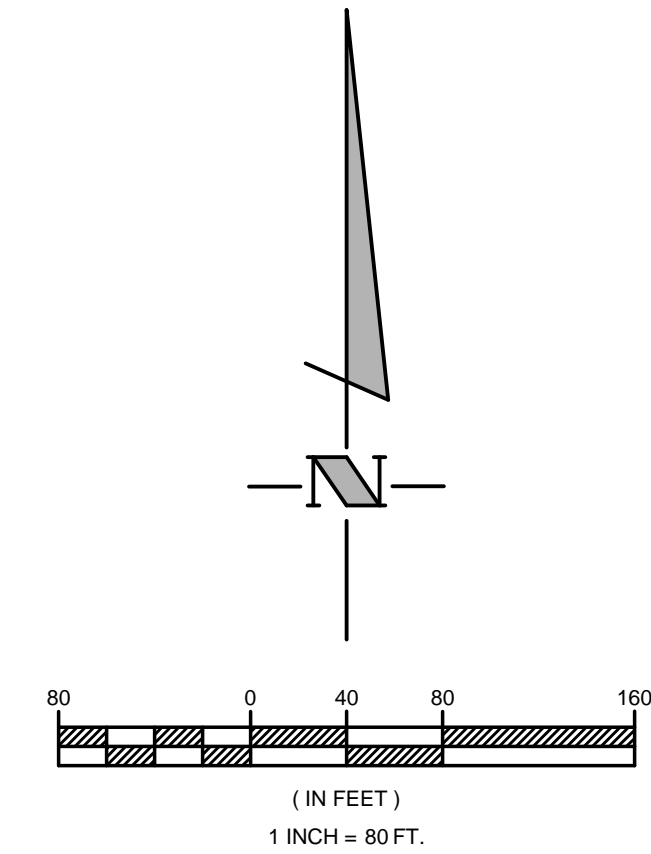
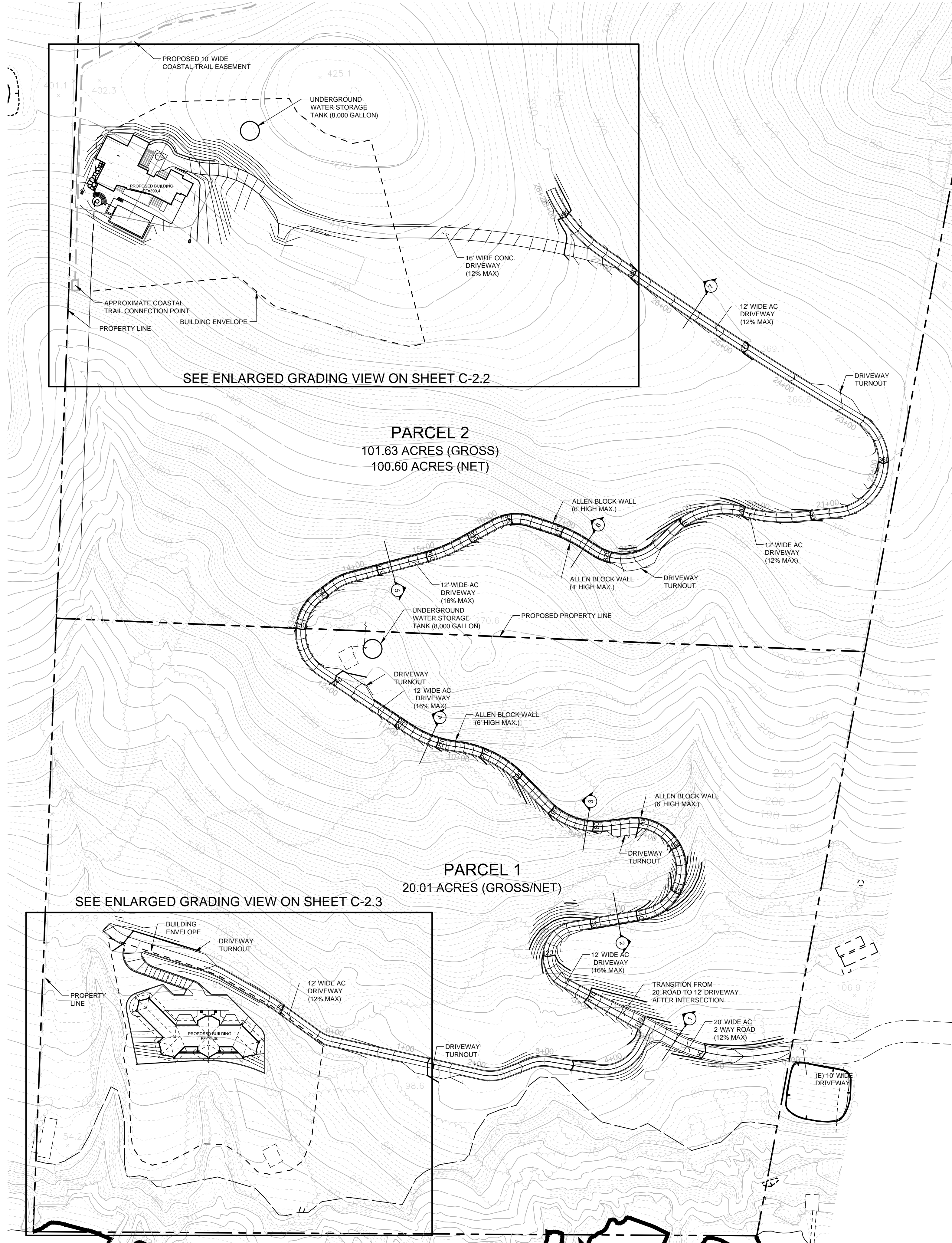
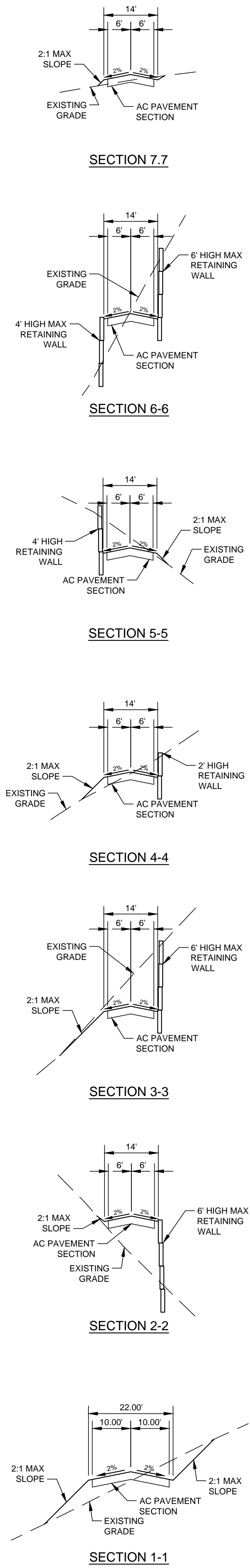
SCALE 1" = 250'  
JOB No. 13156

**Exhibit 2**

**A-3-SLO-22-0055**

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PLOT BY: AGEU4 PLOT DATE: Feb 09, 2020 - 12:35pm Drawing name: N:\2013\13156-PleasantChinaCove\Engineering\Condos\Sheetfiles - Civil\13156-C2-PGD.dwg



APPROXIMATE EARTHWORK INFORMATION:

CUT	8,500 CY
FILL	4,800 CY
NET	3,700 CY EXPORT
MAX DEPTH OF CUT	8 FT
MAX DEPTH OF FILL	5 FT
AREA OF DISTURBANCE	3.16 AC

NOTE: THE EARTHWORK QUANTITIES SHOWN ARE FOR BONDING AND ESTIMATING PURPOSES ONLY AND ARE CALCULATED FROM APPROXIMATE SUBGRADE TO EXISTING SURFACE. THE QUANTITIES DO NOT TAKE CERTAIN FACTORS INTO ACCOUNT, INCLUDING, BUT NOT LIMITED TO SUBGRADE, AREA OF OVEREXCAVATION AND RECOMPACTION, SHRINKAGE AND EXPANSION OF THE SOIL. THE CONTRACTOR IS RESPONSIBLE FOR CALCULATING EARTHWORK QUANTITIES FOR BIDDING AND CONSTRUCTION PURPOSES.

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A California Corporation  
Scott Stearns PE # 58236

CHINA POINT  
HIGHWAY 1 @ VILLA CREEK RD., CAYUCOS, CA

PRELIMINARY GRADING &  
DRAINAGE PLAN

DATE									
NO.	REVISION								

DESIGNED: SJS  
DRAWN: DWB/DL  
JOB NUMBER: 13156

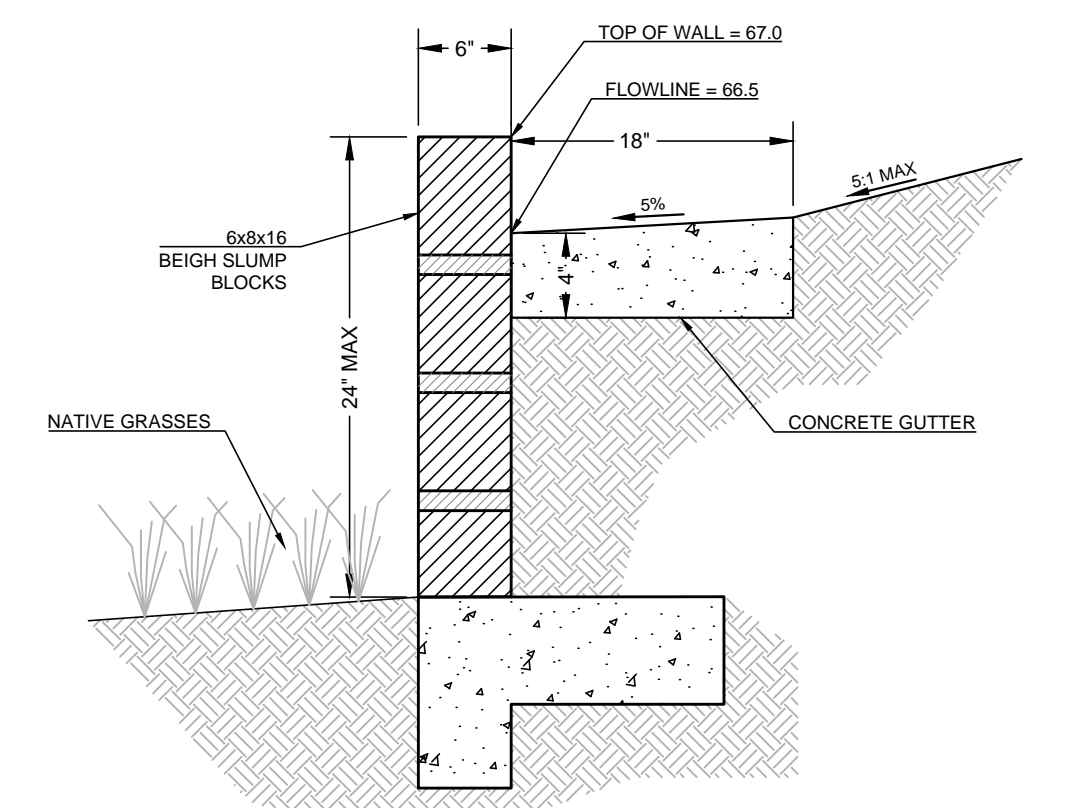
SHEET:  
**C-2.1**

DATE: FEB. 7, 2020

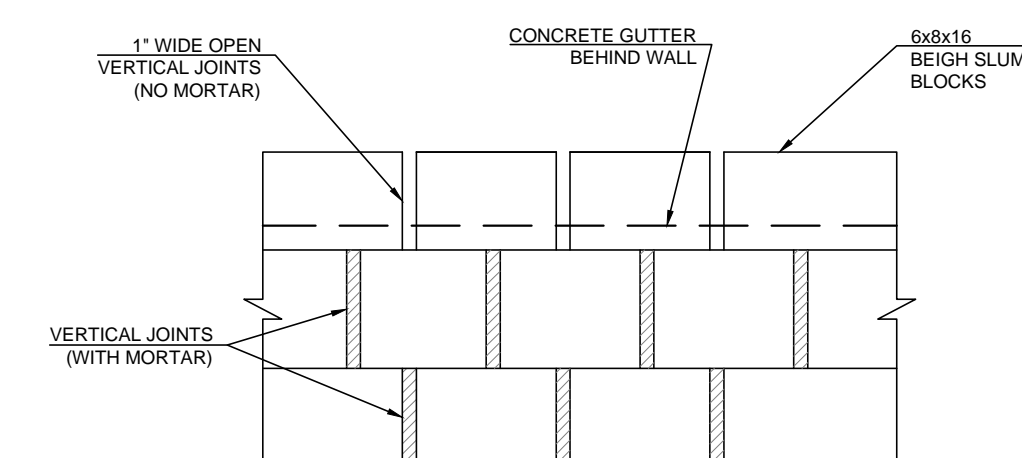








### CROSS-SECTION



FRONT ELEVATION

# CHINA POINT

HIGHWAY 1 @ VILLA CREEK RD., CAYUCOS, CA

---

## PRELIMINARY GRADING & DRAINAGE PLAN

[illegible]

DESIGNED: SJS  
DRAWN: DWB/DL  
JOB NUMBER: 13156

SHEET:  
**C-2.3**  
DATE: FEB. 7, 2020



**EXHIBIT A - REVISED FINDINGS**  
**D000230P & DRC2017-00083/Pierson Family Trust**  
**Minor Use Permit/Coastal Development Permit & Variance**

**Environmental Determination**

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on January 7, 2021 for this project. Mitigation measures are proposed to address aesthetics, air quality, biological resources, cultural resources, and geologic and soils are included as conditions of approval.

**Minor Use Permit/ Coastal Development Permit**

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the new residences do not generate activities that present potential threats to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the single-family residences are allowed uses in Agriculture parcels and will not conflict with the surrounding lands and agricultural uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on a local private road (Alexander Road) constructed to a level able to handle any additional traffic associated with the project



### Variance

- G. The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which it is situated because the residence is a permitted use in the Agriculture parcel. In order to reduce new site disturbance on a constrained site, the project is utilizing the existing access road as the main driveway on Proposed Parcel 1 and Parcel 2, which includes a small area exceeding 30% in slopes. Alternative access will incur more site disturbance and additional impacts to geologic stability of the site.
- H. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, and because of the absence of these circumstances, the strict application of this Title would deprive the property of privileges enjoyed by other property in the vicinity and in the same land use category. These circumstances consist of multiple environmental constraints on Proposed Parcel 1 and Parcel 2 which require limited new site disturbance.
- I. The variance does not authorize a use that is not otherwise authorized in the land use category because a single-family residence is an allowed use as a primary dwelling on Agriculture parcels.
- J. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, and is not injurious to nearby property or improvements, because multiple Engineering Geologic Investigation reports have been prepared to evaluate site characteristic and plan for appropriate residential design, engineering and development of the site. The recommendations from the Engineering Geology Investigation Report are included as conditions of approval for the proposed project and will be incorporated into the construction plans and implemented throughout the building inspection process.
- K. The variance is consistent with the San Luis Obispo County General Plan and Local Coastal Program.

### Sensitive Resource Area

- L. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the project includes adequate setbacks from the riparian vegetation, direct lighting into the riparian area, and conditions to restore the riparian habitat and implement grading, erosion, sedimentation standard measures that will protect the sensitive habitat. The design and location of the proposed dwellings have been selected to not result in adverse visual impacts, with height and exterior lighting limitation and



usage of earthy toned, non-reflective materials and colors.

- M. Natural features and topography have been considered in the design and siting of all proposed physical improvements because the residences (and building envelopes) are located in the least environmentally damaging portion of the project site and visually screened from public viewshed along Highway 1.
- N. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because the proposed site improvements are limited to utilizing existing road as access driveway and development is limited to designated building envelopes that will reduce overall site disturbance. No trees are identified to be removed.
- O. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because the project is conditioned to submit an erosion, sedimentation control and drainage plan utilizing Best Management Practices to Public Works for approval at the time of building permit applications and implementation during construction.

#### Streams and Riparian Vegetation

- P. The proposed project is a development of single-family residences that is an allowable use and will be located at least 100' from the coastal creek. The proposed building envelopes are located in areas outside of the riparian habitat.
- Q. Adverse environmental effects have been mitigated to the maximum extent feasible. Implementation of the conditions and mitigation measures will ensure no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.

#### Archaeology Findings

- R. Disturbance of archeological resources cannot be feasibly avoided through a site design and construction. The project will be conditioned to provide a mitigation and monitoring plan at the time of building permit. Implementation of the mitigation and monitoring plan during all ground disturbing activities shall be required prior to permit issuance.

#### Coastal Access

- S. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because vertical access is not required because existing cattle grazing operations may be adversely affected. The proposed two single family residences (one on each adjusted lot) is considered an allowed use

on agricultural parcels and the project has been conditioned to provide a lateral access through a public trail easement for the California Coastal Trail.



**EXHIBIT B –REVISED CONDITIONS OF APPROVAL**  
**D000230P & DRC2017-00083/Pierson Family Trust**  
**Minor Use Permit/Coastal Development Permit & Variance**  
*(UPDATED Sept 13, 2022 with additional clarification underlined)*

**Approved Development**

1. This approval authorizes:
  - a. Minor Use Permit/Coastal Development Permit (D000230P) to allow construction of two single family residences of 3,578 (Parcel 1) and 5,685 (Parcel 2) square feet including associated site improvements on each resulting (adjusted) parcel within designated building envelopes, as submitted in the application materials;
  - b. Variance (DRC2017-00083) to allow grading on slopes over 30% for the driveway access to the building site on resulting (adjusted) Parcel 1 and Parcel 2; and
  - c. Maximum height is **15 feet** from average natural grade.

**Conditions required to be completed at the time of application for construction permits**

***Site Development***

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations and landscape plan.

***Fire Safety***

3. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the Cal Fire/County Fire Department for this proposed project and dated **July 15, 2018**.

***Services***

4. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the project, on the site, in accordance with San Luis Obispo County Code sections 19.07.040 and 19.07.041.
5. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site in accordance with San Luis Obispo County Code sections 19.07.022 or 19.07.023.

### ***Geology and Soils Mitigation***

6. **GEO-1 At the time of construction permit application**, the project shall explore an alternative wastewater disposal system subject to the review and approval of the Regional Water Quality Control Board and/or County Department of Planning & Building.

### ***Grading, Drainage, Sedimentation and Erosion Control***

7. **At the time of application for construction permits**, the applicant shall submit a drainage plan for review and approval by the County Public Works Department. The plan shall contain, at a minimum:
- a. Limits of the 100 year flood inundation and any other flood hazard combining designation information.
  - b. Complete drainage calculations for county Public Works review and approval.
  - c. *Retention / Detention* of drainage in an on-site basin designed in accordance with county standards and approved by the county Public Works.
  - d. All runoff from impervious surfaces such as roofs, driveways, walks, patios, decks, shall be collected and detained on-site, or passed on through an effective erosion control device or drainage system approved by the County Engineer.
  - e. Permanent erosion control devices shall be installed prior to or concurrently with on-site grading activities.
  - f. Grading, filling or site disturbance of existing soil and vegetation shall be limited to the minimum areas necessary.
  - g. Stockpiles and other disturbed soils shall be protected from rain and erosion by plastic sheets or other covering.

### ***Access and Improvements***

8. **At the time of application for construction permits**, the applicant shall submit plans to Caltrans to secure an Encroachment Permit to construct or reconstruct the intersection of State Route 1 at Alexander Place (site access driveway) in accordance with Caltrans Encroachment Permit Standards, or provide evidence improvements are not required.

### **Conditions to be completed prior to issuance of a construction permit**

#### ***Condition Compliance/Environmental Monitoring***

9. **At the time of application for construction permit**, the applicant shall submit an environmental compliance package to the Planning Department that details each /mitigation measure/condition of approval and a monitoring program. This package shall verify how each condition of approval has been met or will be met, with supporting documentation, and how conditions of approval shall be monitored, as applicable. The package and monitoring plan shall be approved by the Planning Department prior to issuance of any building permits. The monitoring plan shall be consistent with the updated Biological Resource Assessment (KMA, June 2022) and include:



- a. Role and responsibilities of the monitor (including supervisory and/or field roles if different)
- b. Qualifications and experience of monitoring staff (including demonstration of special species experience, training, or permits as appropriate)
- c. Monitoring frequency if different for different phases or work (e.g. full time during vegetation clearing, spot checking after establishment/fencing of work areas and initial disturbance) as appropriate
- d. Method for monitoring for different species (e.g. field transect for botanical species, binocular survey for pinnipeds)
- e. Verification of Best Management Practices (BMPs) including appropriate installation of wildlife exclusion fencing
- f. Preconstruction survey methodology and protocol consistent with Condition 38
- g. Procedures in the event of discovery of special status species including establishment of buffer areas and/or notification (e.g. County, Resource Agencies) procedures

### ***Aesthetics Mitigation***

- 10. **AES-1 Color & Material Selection - Prior to issuance of grading and/or construction permits**, the applicant shall submit residence plans and elevations to the County of San Luis Obispo Department of Planning and Building for review and approval showing the following:
  - a. Exterior walls and roofing of the residence, water tank and structures on site shall be limited to dark muted earth- tones. Exterior colors shall be no brighter than 6 in chroma and value on the Munsell Color Scale on file in the County of San Luis Obispo Department of Planning and Building.
- 11. **AES-2 Water Tanks - Prior to issuance of a construction permit and or grading permit**, the applicant shall submit site plans to the County of San Luis Obispo Department of Planning and Building for review and approval showing the following:
  - a. Water tanks shall be placed underground.
- 12. **AES-3 Retaining Walls - Prior to Issuance of a grading permit and/or construction permit**, the applicant shall submit driveway plans, elevations, and color boards to the County of San Luis Obispo Department of Planning and Building for review and approval showing the following:
  - a. Between driveway Stations 6+50 to 12+00, and 20+00 to the residence on Proposed Parcel 2, the surface of the driveway shall be either colored concrete, colored asphalt, or colored open cell pavers such as "Grasscrete." The color of the material comprising the roadway surface shall be a muted earth tone that matches the color of the surrounding soil.

- b. General driveway retaining wall color shall be dark muted brown-grey, and shall be no brighter than 6 in chroma and value on the Munsell Color Scale on file in the County of San Luis Obispo Department of Planning and Building.
- c. Driveway retaining walls shall have a coarse textured surface, such as Allan Block or similar materials.

**13. AES-8 Nighttime Lighting - Prior to issuance of construction permits,** the applicant shall submit a light pollution prevention plan (LPPP) to the County Planning Department for approval that incorporates the following measures to reduce impacts related to night lighting:

- a. Exterior lighting shall not focus on exterior walls of the structure;
- b. All exterior lighting shall be directed downwards and shielded from off-site views.
- c. Any exterior path lighting shall be located and designed to be motion activated, and be directed downward and to the interior of the site to avoid the light source from being visible off-site. Exterior path lighting shall be "warm-white" or filtered.
- d. Any exterior lighting used for security purposes shall be motion activated, and be directed downward and to the interior of the site to avoid the light source from being visible off-site, and shall be of the lowest-lumen necessary to address security issues.

**14. AES-9 Glare Reduction - Prior to issuance of construction permits,** the applicant shall submit window plan and specification to the County Planning Department for approval showing no reflective coatings shall be used on exterior south and southwest facing windows.

***Biological Resources Mitigation***

**15. BIO-1 Construction Activity Schedule.** Construction activities:

- a. shall not take place during the pinniped pupping season, March 1 through May 31<sup>st</sup> of each year. All construction activities shall be set back from the cliff to avoid visual impacts to seals using the haul out area identified on the adjacent parcel to the northwest. The setback area and distance shall be determined by a qualified marine mammal biologist prior to construction activities and included in the Environmental Compliance Package (Condition 9).
- b. shall be restricted to avoid initial site disturbance during the winter months when California red-legged frogs and southwestern pond turtles use upland habitats
- c. Initial ground disturbance shall begin after May 31st consistent with the pinnipeds and otter avoidance requirements, and be completed by October 31st or the start of the rain season.

**16. BIO-2 Wildlife Avoidance/Exclusion.** Pedestrian traffic above the seal haul out area shall be limited to the area outside the setback. No dogs are allowed in the area near the haul out and pupping areas. Pedestrians shall stay well back of the cliff and out of sight of the shoreline during low tide when the seals do haul out.



a. Prior to any vegetation removal, grading, or construction phase for the residences, water tanks or driveways:

- i. Fencing shall be installed so that dogs and pedestrians do not have access to the shoreline where the haul out areas are
- ii. A wildlife exclusion fence shall be erected around the work areas to prevent entry of California red-legged frogs, southwestern pond turtles and other wildlife, after the preconstruction surveys and once the site has been cleared of all vegetation. Fencing shall be installed consistent with the recommendations in the updated Biological Resource Assessment (KMA, June 2022) and verified and inspected as part of the monitoring plan (Condition 9)

17. **BIO-3 Coastal Scrub Grassland.** Development on Proposed Parcel 1 will impact over an acre of coastal scrub. To mitigate the impacts to native grassland-coastal scrub, disturbed areas on the marine terrace that are currently dominated by various weeds shall be restored in native grassland to off-set the loss of coastal scrub - grassland associated with development of residences within the identified building envelopes. Identification of impacted coastal scrub and proposed restoration planting at the minimum of 1 to 1 ratio shall be submitted with the Restoration & Revegetation Plan (BIO-6) **at the time of construction permit application.**

18. **BIO-4 Fencing.** **Prior to final inspection,** coastal scrub and wetland/riparian areas that occupy entire site shall be fenced so that cattle no longer have access to these sensitive areas.

19. **BIO-5 Limitation on Construction Area.** Construction and development shall be restricted to the proposed building sites, water tank sites, roads and driveways as shown on the approved plans. The remainder of the site shall remain in permanent open space through an open space easement agreement with the County.

20. **BIO-6 Restoration & Revegetation Plan.** **At time of construction permit application,** a restoration and revegetation plan for California coastal scrub-native grassland and San Luis County Morning Glory shall be prepared for review and approval by the County and implemented on the disturbed areas of the marine terrace. The areas of disturbance along the access road shall be revegetated with a mixture of native grasses and forbs indigenous to the site including the San Luis Obispo County Morning Glory. **Prior to grading of the area,** the impacts to the San Luis Obispo County morning glories within the building area shall be evaluated and if necessary, shall be salvaged and used to revegetate the areas along the road and other disturbed areas on the site. The coastal scrub-native grassland component of the Restoration and Revegetation Plan shall be consistent with the recommendations in the updated Biological Resource Assessment (KMA, June 2022), and at a minimum, include the following:

- a. The overall goals and measurable objectives:

- b. An adaptive grazing management plan (see guidance in NRCS 2017);
- c. Identification of appropriate grassland areas in which grazing will be used as a management tool, and fencing to exclude cattle from sensitive habitats;
- d. Identification of areas within the open space easement for habitat enhancement.
- e. Success criteria based on the goals and objectives for native species cover and establishment of special-status plant species;
- f. Monitoring involving prescribed data collection methods to evaluate whether success criteria are being met for community-level objectives, special-status plant species establishment, restoration sites and grazing strategy (e.g., annual population surveys, estimation of cover by shrubs in the road realignment areas, measurement of standing biomass after grazing or other monitoring indicators); and.
- g. Reporting on the year's monitoring methods and results, assessment of whether annual objectives are met, and remedial actions taken, to be conducted for a period of five years or until final goals are met.

While no rare plants (except CRPR 4 species) were identified within the Impact area, if any are identified during preconstruction surveys and cannot be avoided:

A rare plant mitigation component of the Restoration and Revegetation Plan shall include the following:

- a. The overall goals and measurable objectives to ensure no net loss of special-status plant species;
- b. Identification of specific mitigation areas on the property with appropriate environmental conditions for the target species to become established;
- c. A planting plan that includes seasonally timed seed collection, identification of seed and/or nursery sources for container plantings, and seeding/planting into specified mitigation sites;
- d. Specific habitat management methods to be used during the establishment period following planting (e.g., seasonally timed weed abatement program and supplemental irrigation during the establishment period, if needed);
- e. Success criteria based on the goals and objectives to ensure no net loss of the affected species on the project site;
- f. Annual monitoring for at least five years to ensure that success criteria are being met (e.g., annual population census surveys and identification of monitoring reference sites, if needed);
- g. Reporting requirements to ensure consistent data collection and reporting methods used by monitoring personnel; and.
- h. Adaptive management including remedial measures to address circumstances that may affect the program's ability to meet identified success criteria.



21. **BIO-7 Open Space Easement. Prior to issuance of a grading permit,** the applicant shall execute and record an open space easement for all areas outside the building envelopes and driveways, in a form approved by County Counsel and the Executive Director of California Coastal Commission in conformance with applicable Coastal Act regulations. The open space easement shall include a formal legal description and graphic depiction of subject properties including Ellysly Creek habitat area and the designation of a building envelope on each parcel. Development shall be prohibited in the open space area except for:
- a. Restoration, protection, and enhancement of native riparian habitat and grassland habitat consistent with the terms of the final Native Grassland and San Luis County Morning Glory restoration and revegetation plan and
  - b. Associated improvements for the California Coastal Trail.
  - c. Improvements needed to develop the proposed residential developments within the building envelopes limited to wastewater system and leach field, water storage, driveway and/or access road improvements, utilities and other similar infrastructure improvements. No accessory structures and other similar structural improvements are allowed.
  - d. Restoration and maintenance of the Coast Guard and Kelp Farmer House. All restoration and maintenance activities shall comply with Secretary of Interior Standards for historic structures. Any improvements shall keep the structures consistent with their historic look and shall not otherwise convert the structures to habitable space. Any such improvements shall be subject to any applicable coastal development permit(s).

**Cultural Resources Mitigation**

22. **CR-1 Limit Ground Disturbance on Parcel 1** - New ground disturbance associated with improvement of the existing access roadway shall be limited to the minimum required by Cal Fire driveway safety standards. Ground disturbance associated with construction of the dwelling and septic leach field shall be limited to the area outside of the boundaries associated with site CA-SLO-2089. If the proposed leach field cannot be relocated or an engineered system cannot be feasibly installed, a Phase III archaeological data recovery shall be undertaken for this area as described in mitigation measure CR-6.

23. **CR-2 Monitoring Plan - Prior to issuance of grading and/or construction permit(s),** the Applicant shall submit a Monitoring Plan, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved Plan. The Monitoring Plan shall include at a minimum:

- a. List of personnel involved in the monitoring activities;

- b. Inclusion of involvement of the Native American community, as appropriate;
- c. Description of how the monitoring shall occur;
- d. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
- e. Description of what resources are expected to be encountered;
- f. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
- g. Description of procedures for halting work on the site and notification procedures; and
- h. Description of monitoring reporting procedures.

**24. CR-3 Crew Education** - The monitoring plan shall also include provisions for a Worker Environmental Awareness Program. The Worker Environmental Awareness Program shall address cultural and biological resources and compliance with all conditions of approval. The Program shall:

- a. establish protocol for treating unanticipated cultural resource discoveries.
- b. include a description of the types of resources that may be found in the project area,
- c. include information on the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites. In addition, the Applicant shall provide all field supervisors with maps showing those areas sensitive for potential buried resources.
- d. include a description of special-status species potentially occurring on the project site and their natural history
- e. the status of the species and their protection under environmental laws and regulations; and, the penalties for take
- f. Delineation of the allowable work area, staging areas, access points and limits to vehicle access
- g. Locations of setback areas from streams, wetlands and other sensitive biological resources (i.e., active burrows and nests) that shall be avoided during construction
- h. Maintenance requirements for the wildlife exclusion fencing;
- i. Storage of all pipes, metal tubing, or similar materials stored or stacked on the project site for one or more overnight periods shall be either securely capped before storage or thoroughly inspected for wildlife before the materials are moved, buried, capped, or otherwise used;
- j. Inspection of materials stored onsite, such as lumber, plywood, and rolls of silt fence, for wildlife that may have sheltered under or within the materials
- k. Use of netting to exclude birds from nesting in construction materials;
- l. Wildlife protection measures for excavations and trenches; Contact information for the County-approved biologist and instructions should any wildlife species be detected in the work site. Dust suppression methods during construction activities when necessary to meet air quality standards and protect biological resources; Stormwater BPMs; and Methods for



containment of food-related trash items (e.g., wrappers, cans, bottles, food scraps), small construction debris (e.g., nails, bits of metal and plastic), and other human-generated debris (e.g., cigarette butts) in animal-proof containers and removal from the site on a weekly basis

25. **Prior to construction/ground-disturbing activities**, the Applicant shall ensure that any construction-related subsurface excavation in sensitive areas are tested by a County-approved archaeologist. Should buried resources be identified, further testing or avoidance shall be required; if avoidance is not possible, mitigation through data recovery shall be required (as defined in *Mitigation Measure CR-6 - Cultural Resources - Phase III data recovery program*).

***Fees***

26. **Prior to issuance of a construction permit**, the applicant shall pay all applicable fees, including but not limited to school fees, inclusionary housing fees, public facilities fees and road fees.

***Grading, Drainage, Sedimentation and Erosion Control***

27. **Prior to issuance of construction permits**, if grading is to occur between October 15 and April 15, a sedimentation and erosion control plan shall be submitted pursuant to Coastal Zone Land Use Ordinance Section 23.05.036.

28. **AES-4 Natural Looking Erosion Control Seeding - Prior to issuance of a grading permit and/or a construction permit**, the applicant shall submit comprehensive erosion control plans to the County of San Luis Obispo Department of Planning and Building for review and approval showing the following:

- a. Erosion control seeding shall be applied to all disturbed areas along the driveway. The erosion control/seeding plan should be prepared by a qualified erosion control and revegetation expert. The erosion control strategy should include a seed mix consisting species that will visually resemble the vegetation found on the adjacent hillsides. The erosion control plan shall be prepared consistent with the recommendations in the Biological Resource Assessment (KMA, June 2022).

***Other Agency Review***

29. **Prior to issuance of construction permits**, all work which encroaches into the State Route 1 right-of-way shall require an encroachment permit issued by Caltrans. No County permits shall be issued without evidence of an encroachment permit application and review by the regulatory agency, or evidence that a permit is not required.

30. **Prior to issuance of construction permits**, the applicant shall provide evidence satisfactory to the Department of Planning and Building that Regional Water Quality

Control Board permit(s) have either been secured or that the regulatory agency has determined that their permit is not required on-site wastewater treatment system.

***Seawall Prohibition***

31. **Prior to issuance of any grading or construction permits**, the property owner shall record a deed restriction against the property ensuring no new shoreline protection structure shall be proposed or constructed on site to protect the development, and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 and the San Luis Obispo certified LCP.

***Liability***

32. **Prior to issuance of any grading or construction permits**, the property owner shall execute and record a deed restriction which acknowledges and assumes the risks of wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

***Notice of Requirements***

33. **Prior to issuance of any grading or construction permits**, the applicant shall record a Notice of Requirements, in a form approved by County Counsel notifying all future landowners, heirs, and successors of the restrictions and requirements set forth in this land use approval.

**Conditions to be completed during project construction**

***Building Height***

34. The maximum height of the project is 15 feet from average natural grade .

- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
- b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
- c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

### **Cultural Resources Mitigations**

35. **CR-4 Construction Monitoring - During ground disturbing construction activities**, the applicant shall retain a County qualified archaeologist, and working with Native American monitor to monitor these earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.
36. **CR-5 Minimize Impacts - If cultural resources are identified on site**, further testing or avoidance shall be required. In consultation with the Environmental Coordinator, archeologist, Native American monitor, project redesign may be required to avoid significant impacts or reduce to a less than significant level.
- a. Project redesigns could include, but not limited to, moving foundation elements, designing spanning foundations, reducing proposed excavation volumes, and altering proposed utility lines and connection alignments.
  - b. Foundation design may need to be altered to minimize site disturbance. "Side-by-side" comparisons of disturbance and calculations of volume of cultural materials affected will be submitted to show the revised foundation design will result in the least disturbance. **The approved redesign(s) shall be verified by the County prior to construction work.**
  - c. Where project must encroach within the identified cultural resource(s), incorporation of fill shall be considered. Only sufficient fill shall be placed over the site so as to allow native soils to remain undisturbed (e.g. 18 inches for residential footings, 6-8 inches for driveway construction). Clean, sterile fill, consisting of a layer of other conspicuous material (e.g. fill of a noticeable different color and texture than native soil) shall be placed over the native soil prior to placement of any other clean fill material. Native soils shall not be disturbed or compacted within the cultural resource areas. A qualified archaeologist shall be retained to oversee this work and prepare a summary report to be submitted to the County **prior to final inspection or occupancy (whichever occurs first).**
  - d. If avoidance is not possible, mitigation through data recovery shall be required (as defined in *Mitigation Measure CR- 6 Phase III Data Recovery Program*) prior to **construction permit issuance.**
  - e. Alternate mitigations may also include a combination of soil capping and Phase III Data Recovery, where feasible.
  - f. If human remains are found, an agreement of Non-Disturbance of Native American burial sites may be required **prior to final inspection** to prevent future disturbance to the site(s) identified.



**37. CR-6 Phase III Data Recovery Program.** If, during site disturbance monitoring, cultural resources are discovered on site and avoidance is not possible, the applicant shall submit to the Environmental Coordinator (and possibly subject to peer review) for review and approval, a detailed research design for a Phase III (data recovery) archaeological investigation. The Phase III program shall be prepared by a qualified archaeologist approved by the Environmental Coordinator. The Phase III program shall include at least the following:

- a. Standard archaeological data recovery practices;
- b. Recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. Sample size typically is 2% of the volume of disturbed area. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size.
- c. Identification of location of sample sites/test units;
- d. Detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- e. Disposition of collected materials;
- f. Proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- g. List of personnel involved in sampling and analysis.

Once approved, these measures shall be shown on all applicable construction drawings and implemented **during construction**.

### ***Biological Resources***

**38. Preconstruction Survey** - Prior to any ground disturbance, a County qualified biologist shall conduct surveys for special status plant and animal species including and not limited to, the species identified in the Biological Survey (Holland, 2001) and updated Biological Resource Assessment (KMA, June 2022). Survey shall include all areas subject to ground-disturbing activities, including and not limited to, staging, grading, site improvements for access roads, utility lines, drainage basins etc. The surveys shall be conducted during the appropriate period(s) per the recommendations of the Biological Resource Assessment (KMA, June 2022) and according to protocols established by the USFWS, CDFW, and California Native Plant Society (CNPS). The survey shall address (but not limited to):

- a. All listed plant species found shall be marked and avoided. Any impacted plant population shall be included in Restoration and Revegetation Plan.
- b. Burrowing Owl
- c. American Badger
- d. Monterey Dusky-footed Woodrat
- e. Nesting Birds
- f. Pinnipeds/Otters

All listed special animal species identified on site, shall be treated to protocol level avoidance, relocation and/or other measures identified in the monitoring plan and as required by the Resource Agencies.

**Conditions to be completed prior to occupancy or final building inspection /establishment of the use**

- 39. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before ***final building inspection***. If bonded for, landscaping shall be installed within 60 days after final building inspection. If installed or bonded for, the landscaping shall thereafter be maintained in a viable condition in perpetuity. If landscaping is for screening, such landscape must be maintained to provide the required or better screening in perpetuity.
- 40. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from Cal Fire of all required fire/life safety measures.
- 41. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

***Grading, Drainage, Sedimentation and Erosion Control***

- 42. All areas disturbed by grading activities shall be revegetated with temporary or permanent erosion control devices. Devices must be installed in conjunction with any grading and must effectively control siltation

***Access***

- 43. **Prior to occupancy or final inspection**, the intersection of State Route 1 at Alexander Place (site access driveway) shall be reconstructed, if required, in accordance with the State's Encroachment Permit and to the satisfaction of the Caltrans.

### ***Coastal Trail Easement***

44. **Prior to occupancy of the residence on either Parcel 1 or Parcel 2, whichever occurs first**, the applicant shall execute and record an easement for the California Coastal Trail, in a form approved by County Counsel and the Executive Director of California Coastal Commission. The timing for execution and recordation of the easement for California Coastal Trail can be modified by the Planning & Building Director and Executive Director of California Coastal Commission or designee by an instrument in writing executed by both parties. The final trail shall follow the most appropriate alignment to connect California Coastal Trail users to Estero Bluff State Park property. Trail options can include and not limited to, connection through the Alexander property, shown as Trail Option 1 and 2 (green or pink alignment) or a connection to the Highway 1 ROW, shown as Trail Option 3 (blue alignment) in the event that the easement over Alexander property is not granted. These alignments are potential options depicted on the applicant proposed CA Coastal Trail Plan, attached herein with an extinguishment proviso when the final trail alignment is selected and executed. The final trail alignment, which may differ from any of the depicted alignments, shall be approved by the Executive Director of the California Coastal Commission.

45. **CR-7 Completion Report** - Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection (whichever occurs first), the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. If the analysis included in the Phase III program is not complete by the time of final inspection, the applicant shall provide to the Environmental Coordinator, proof of financial obligation to complete the required analysis and curation of findings.

### **On-going conditions of approval (valid for the life of the project)**

#### ***Coastal Well Permit***

46. **Within 30-days of permit approval**, in accordance with Title 8, Section 8.40.065 (for Coastal Zones), and to the satisfaction of the Department of Public Works, the applicant shall establish ongoing water well monitoring and reporting requirements for incorporation into the resource management system. The applicant will be required to sign a Consent Authorization prior to approval of the well permit. All analytical results obtained pursuant to the County requirements shall be reported directly to the County of San Luis Obispo Public Works and Health Departments by the 10<sup>th</sup> day of the month following the month in which the analyses were completed.



47. **On-going condition of approval (valid for the life of the project):** In accordance with Title 8, Section 8.40.065 (for Coastal Zones), water well monitoring requirements as established by the Department of Public Works will be met prior to issuance of the Environmental Health Department's water well permit

***Access***

48. **On-going condition of approval (valid for the life of the project),** any gate constructed on a driveway to the site shall be a minimum of 75-feet from the traveled way of any Collector or Arterial Road.

***Time Frame***

49. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
50. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.

***Miscellaneous***

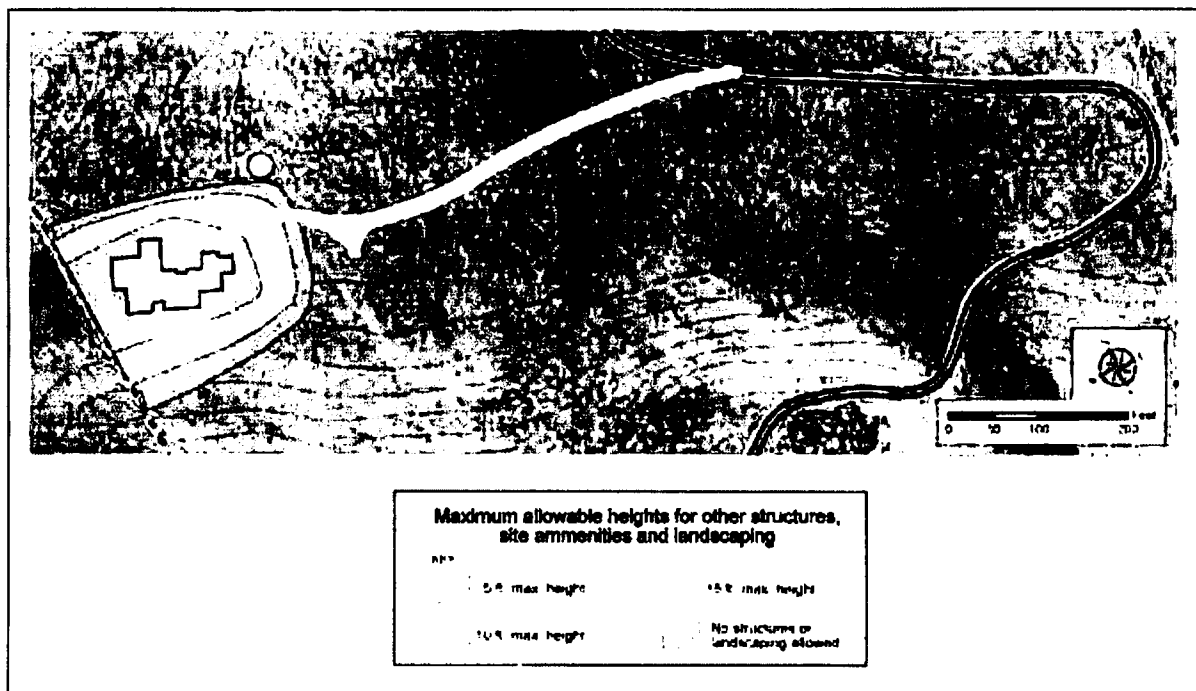
51. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is

interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any recission, revocation and/or set aside of this land use permit.

### **Visual Mitigation**

52. **AES-5 Height Restriction** - No other structures or site amenities shall be built or placed on the project site which exceed the allowable heights shown on *Figure 21 Max. Allowable Heights - Visual Impact Assessment, SWCA 2017 - below*. Site amenities or other structures include but are not limited to sheds, outbuildings, patio structures, carports, tanks, walls, etc.

**Figure 21. Maximum allowable heights for other structures, site amenities and landscaping.**

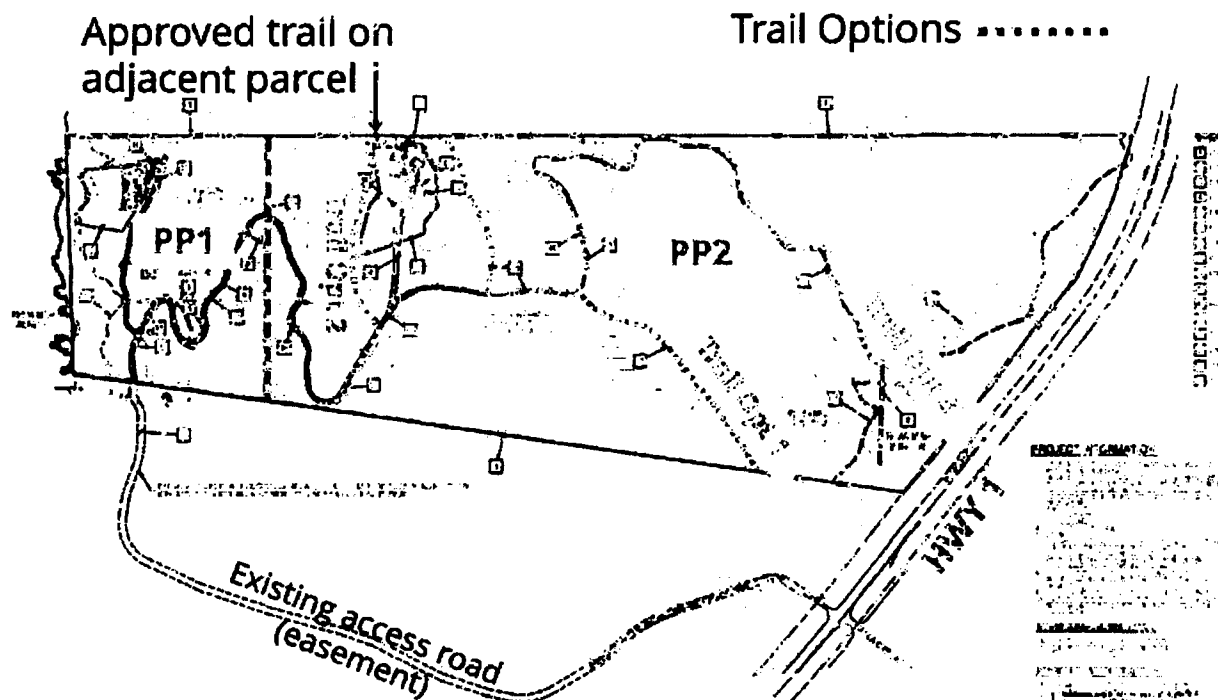


53. **AES-6 Landscape Restriction** - No trees or shrubs shall be planted on the project site which have the potential at maturity to exceed the allowable heights shown on *Figure 21 Max. Allowable Heights - Visual Impact Assessment, SWCA 2017 - below*. No palm

trees or Italian cypress shall be planted anywhere on the project sites, including along driveways. No lawn or turf shall be planted anywhere on the project where it would be visible from Highway 1 or Estero Bluffs State Park.

54. **AES-7 Fencing** - No solid fencing shall be installed where it can be seen from Highway 1. Fencing shall have an open character and be agricultural or rural in appearance. Fencing colors shall be generally earth-tone, and white or light-colored materials or paint shall not be used.
55. **Historic Structures** - The historic structures on the Proposed Parcel 1 shall not be used for residential occupancy.

## Coastal Trail Plan



COUNTY OF SAN LUIS OBISPO

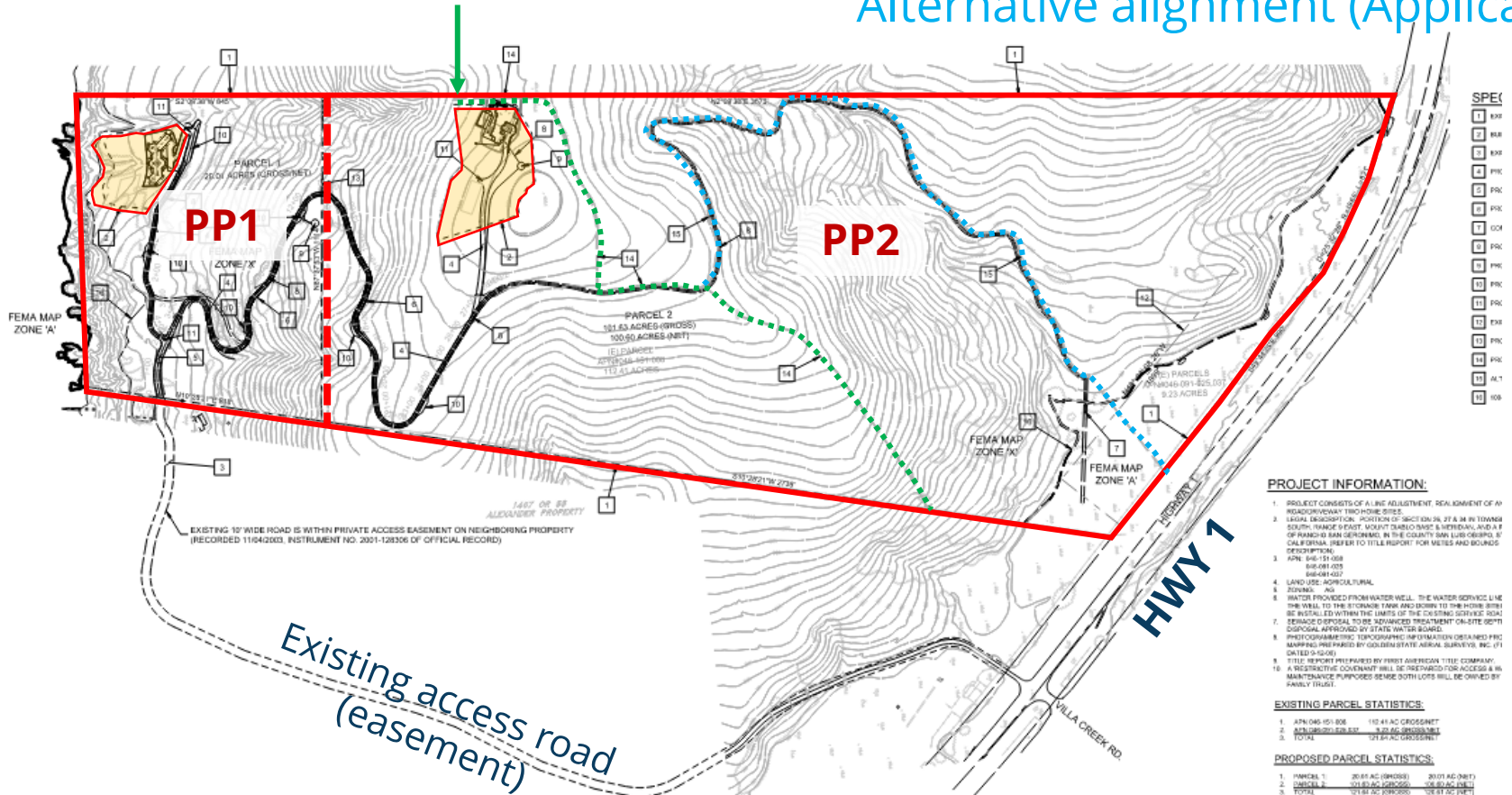
[www.slocounty.ca.gov](http://www.slocounty.ca.gov)



# CA Coastal Trail

Approved trail on adjacent parcel

Recommended alignment (CCC)  
Alternative alignment (Applicant)



**PROJECT INFORMATION:**

- PROJECT CONSISTS OF A LINE ADJUSTMENT, REALIGNMENT OF AN INTERSECTION TWO HOME SITES.
- LEGAL DESCRIPTION: PORTION OF SECTION 36, 27 & 38 IN TOWNSHIP SOUTH, RANGE 9 EAST, MOUNT Diablo SAN LUIS OBISPO, AND A F OF PARCELS SAN LUIS OBISPO, IN THE COUNTY SAN LUIS OBISPO, CALIFORNIA (REFER TO TITLE REPORT FOR METES AND BOUNDS DESCRIPTION).
- APN: 045-151-008  
045-081-005  
045-081-007
- LAND USE: AGRICULTURAL
- ZONING: AG
- WATER PROVIDED FROM WATER WELL. THE WATER SERVICE LINE FROM WELL TO THE FURNACE TANK AND DOWN TO THE HOUSE SHALL BE INSTALLED WITHIN THE LIMITS OF THE EXISTING SERVICE. SOIL FERTILIZER DEPOSIT TO BE ADVANCED IMPACTMENT ON SITE DEPT. DISQUAL APPROVED BY STATE WATER BOARD.
- PROFESSIONAL TOPOGRAPHIC INFORMATION OBTAINED FROM MAPPING PROVIDED BY GOLDEN STATE AERIAL SURVEYS, INC. (71 DATED 9-10-06)
- TITLE REPORT PREPARED BY FIRST AMERICAN TITLE COMPANY.
- A RESTRICTIVE COVENANT WILL BE PREPARED FOR ACCESS & MAINTENANCE PURPOSES SINCE BOTH LOTS WILL BE OWNED BY FAMILY TRUST.

**EXISTING PARCEL STATISTICS:**

1. APN 045-151-008	107.41 AC GROSS NET
2. APN 045-081-005	9.23 AC GROSS NET
3. TOTAL	116.64 AC GROSS NET

**PROPOSED PARCEL STATISTICS:**

1. PARCEL 1:	20.01 AC (GROSS)	20.01 AC (NET)
2. PARCEL 2:	101.83 AC (GROSS)	100.80 AC (NET)
3. TOTAL	121.84 AC (GROSS)	120.81 AC (NET)



**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT ST., SUITE 300  
SANTA CRUZ, CA 95060-4508  
(831) 427-4863  
CENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM**

Appeal of Local Government Coastal Development Permit

**Filing Information (STAFF ONLY)**

District Office: Central Coast

Appeal Number: A-3-SLO-22-0055

Date Filed: 10/11/2022

Appellant Name(s): Thomas Bonnette, Trustee of John A. Alexander  
Trust

**RECEIVED****OCT 11 2022**

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**APPELLANTS**

**IMPORTANT.** Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

**Note regarding emailed appeals.** Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the Central Coast district office, the email address is [CentralCoast@coastal.ca.gov](mailto:CentralCoast@coastal.ca.gov). An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

## Appeal of local CDP decision

### Page 2

#### 1. Appellant information<sup>1</sup>

Name: The John A. Alexander Trust

Mailing address: 12040 E. Florence Ave., Santa Fe Springs, CA 90670

Phone number: (562) 944-6215

Email address: tbonnette@johnalexanderassoc.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☐ Testified at hearing    ☐ Other

Describe: Through my Legal Representative submitted formal written comments at  
Planning Commission hearing, filed an Appeal of the Planning Commission's decision,  
submitted formal written comments, participated in discussions with Planning Staff  
regarding concerns raised regarding expanded use of the Trust Property for access.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: Appealed to County Board of Supervisors regarding Planning Commission's failures  
to follow established Local Coastal Plan policies and failure to adequately update  
old IS/MND and lack of Biological and Archaeological studies of the area to be disturbed to  
expand access road as required by Cal Fire on Appellant's property.

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.



## Appeal of local CDP decision

### Page 3

#### 2. Local CDP decision being appealed<sup>2</sup>

Local government name: County of San Luis Obispo  
Local government approval body: Board of Supervisor's  
Local government CDP application number: LLA/CDP S000161L/D000230P/DRC2017-0008  
Local government CDP decision: ☒ CDP approval ☐ CDP denial<sup>3</sup>  
Date of local government CDP decision: September 13 , 2022

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Pierson Family's request for: 1) Lot Line Adjustment/Coastal  
Development Permit to adjust lot lines between two  
parcels; 2) Minor Use Permit/Coastal Development Permit  
to allow construction of two single family residences on Coastal Bluff Top and prime soils;  
and 3) Variance to allow grading on slopes over 30% for the  
driveway access to the building site.  
County File Nos. LLA/CDP S000161L / D000230P /  
DRC2017-0008  
Location: southwest side of SR 1, approximately 600 feet west of Villa Creek Road,  
four miles northwest of the community of Cayucos.  
APNS: 046-151-008, 046-091-008, 046-091-037

<sup>2</sup> Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

<sup>3</sup> Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

## Appeal of local CDP decision

### Page 4

#### 3. Applicant information

Applicant name(s):

Pam Pierson

Applicant Address:

P.O. Box 9, Creston, CA 93432

#### 4. Grounds for this appeal<sup>4</sup>

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Inconsistent with LCP Ag Policy 1 and 4

Inconsistent with LCP ESHA Policies 1,2, and 29

Inconsistent with CZLUO Section 23.07.170

Inconsistent with Estero Bay Planning Area Standards

See attached letters to San Luis Obispo County Board of Supervisors and Planning Commission

<sup>4</sup> Attach additional sheets as necessary to fully describe the grounds for appeal.

## Appeal of local CDP decision

### Page 5

#### 5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

#### 6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Thomas Bonnette

  
Signature

Date of Signature 10/6/22

#### 7. Representative authorization<sup>5</sup>

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☒ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.



**CALIFORNIA COASTAL COMMISSION**

455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Thomas Bonnette, Trustee of the John A Alexander Trust

CDP Application or Appeal Number LLA/CDP S000161L / D000230P / DRC2017-0008

**Lead Representative**

Name Joseph W. Diehl, Jr.

Title Counsel for the John A. Alexander Trust

Street Address 1043 Pacific Street

City San Luis Obispo

State, Zip California 93401

Email Address jwd@dr-slo.com

Daytime Phone (805) 541-1000

Your Signature

A handwritten signature in black ink, appearing to read "Joe Diehl", written over a horizontal line.

Date of Signature

10/6/22

Additional Representatives (as necessary)


Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
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Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

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Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Your Signature



Date of Signature

10/6/22

## **Inconsistency with LCP Agricultural Policies 1 and 4:**

Agriculture LCP Agriculture Policy 1 requires that lands suitable for agriculture be maintained in or available for agricultural production unless continued or renewed agricultural use is not feasible, or the permitted conversion will not adversely affect surrounding agricultural uses. LCP

Agriculture Policy 4 and LCP Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.050 require that single-family residences and accessory agricultural buildings necessary for agricultural use, where possible, be located on non-prime agricultural soils.

The Board of Supervisor's approved project is located on LCP-designated agricultural land and the land has some history of being used for cattle grazing. Further, the property is in Agricultural Preserve (Cayucos Agricultural Preserve). The building site for proposed Parcel 1 would disturb over 1.5 acres (approximately 65,000 square feet) of agricultural soils on the blufftop marine terrace portion of the property nearest the Pacific Ocean. The proposed residential building site would be located on soil which is considered Class III (non-prime) without irrigation and Class II (prime) when irrigated.

Although the Planning Department has suggested there are constraints to establishing irrigated crops at this location in the future, the soils are nevertheless potentially prime according to the County, and at a minimum they are suitable for agriculture and required to be protected under Coastal Policies. Continued or renewed agriculture is feasible at this location, including use for continued grazing.

The Board of Supervisor's approved project allows for the conversion of an excessive amount of the site's agricultural land to non-agricultural (residential) uses, thereby diminishing the agricultural productivity of the site and setting a precedent for non-agricultural development that may adversely affect the long-term viability of agriculture in the region. This is further exacerbated by the Lot Line Adjustment which basically creates two large estate Coastal parcels in lieu of one existing large agricultural parcel that is better suited in both size and configuration to continued agricultural use.

Alternative project locations and mitigation measures appear available that could avoid or reduce impacts to agriculture, including merging of the two existing parcels to create a single developable parcel and the establishment of a significantly smaller development envelope located off prime soils.

Based upon the above, the project appears to conflict with applicable LCP policies regarding the protection of agricultural lands.

### **Inconsistent with LUO Section 23.08.167 Prime Soils.**

LUO Section 23.08.167 prohibits primary family housing from being located on prime soils unless certain criteria are met. The staff report to the Board of Supervisor's defended the Planning Departments position of allowing conversion of prime soils to a residential use, contrary to CZLUO Section 23.08.167 requirements, as the County has '*enough*' prime soils elsewhere in the County and the property owner has exhausted all other alternatives. It has not been demonstrated that a smaller building envelope, that avoids prime soils, has been considered. The building envelope on Parcel 1 can reasonably be adjusted and reduced in size to avoid impacts to prime soils. If the Board moves to approve the project, a condition should be added to adjust and reduce the size of the building envelope on Parcel 1 to avoid prime soils.

### **Inconsistency with LCP ESHA Policies 1,2, and 29, CZLUO Section 23.07.170 and Estero Bay Planning Area Standards:**

San Luis Obispo County LCP ESHA Policies 1, 2, and 29, and CZLUO Section 23.07.170(e) prohibit new development within or adjacent to locations of environmentally sensitive habitats from significantly disrupting the resource, and within an existing habitat resource the LCP only allows those uses dependent on such resources. The Updated Biological Resource Assessment (BRA Merk 2022) is incomplete in that it failed to survey the entire length of the proposed access road, including the area in and around the existing Highway 1 encroachment. The staff report to the Board of Supervisors acknowledges physical improvements will be required to the existing access road to comply with County Fire access requirements and Minor Use Permit Condition 8 requires an Encroachment Permit from CalTrans to construct or reconstruct the intersection of Alexander Place and Highway 1. The staff report suggested the refinement and clarification of the mitigation measures and the addition of Condition of Approval 38 will be adequate to mitigate any potential impacts. We disagree with this conclusion. Without knowing what sensitive and special status biological resources occur along the entire length of the road, the baseline is incomplete, and the project impacts to sensitive and special status species are not accurately quantified in the Mitigated Negative Declaration. The BRA should be updated to include habitat mapping and seasonally timed survey of the entire length of the proposed access road. Once the baseline survey is complete and the impacts quantified, the Mitigated Negative Declaration should be updated and recirculated.

In this case, the extent of ESHA onsite is not known based on the incomplete biological and botanical inventory or reconnaissance survey. The BRA fails to accurately or completely define, map, or assess potential impacts to ESHA.

It appears development in building site 1 would impact/convert special status plants species, including coastal scrub, Cambria Morning Glory and native grasses (i.e. ESHA) and potentially Blochman's dudleya, perennial goldfields, San Luis Obispo owl's-clover, and southwestern spiny



rush, to a use not dependent on the resource. San Luis Obispo County LCP ESHA Policies 1, 2, and 29, and CZLUO Section 23.07.170(e) prohibit new development within or adjacent to locations of environmentally sensitive habitats from significantly disrupting the resource, and within an existing habitat resource, the LCP only allows those uses dependent on such resources.

**Other Items of Concern:**

**Impact to Special- Status Animal Species:** The BRA concluded individuals of special-status animal species including California red-legged frog and southwestern pond turtle could potentially occur in the study area and may be directly impacted by construction activities.

**Inconsistent with 23.07.174: Stream Setbacks:** The building site on parcel 1 is within 40 feet of a coastal stream. While the stream is small it is a defined drainage feature with a bed and bank. A 100 foot setback should be provided from all streams no matter the size or character of the feature

Although the Board of Supervisor's approval does include a number of mitigation measures in response to potential EHSA resource impacts, such mitigation is inconsistent with the LCP's main policy directive to avoid impacts whenever feasible.

JOSEPH W. DIEHL, JR.  
RODERICK A. RODEWALD  
DOUGLAS C. CRAPO  
SEAN N. NAGEL  
JAY L. RAFTERY, JR.



ATTORNEYS AT LAW  
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September 9, 2022

Board of Supervisors  
County of San Luis Obispo  
1055 Monterey Street, Suite D430  
San Luis Obispo, CA 93408

*Via Hand Delivery*

**Re: Appeal APPL 2021-00010  
Lot Line Adjustment/Coastal Development Permit  
Variance/County File No. S000161L, D000230P, DRC2017-0008**

Dear Members of the Board:

Our office represents the John A. Alexander Trust ("Trust") which owns property adjoining the Pierson Family's ("Applicant") property and over which the Applicant has a limited private access easement for vehicular ingress and egress. This letter is submitted in response to the Staff Report and Recommendations made by the Planning and Building Department in lieu of a personal appearance or presentation at the Board's scheduled meeting.

As part of the appeal, our client raised a number of issues as set forth in our letter of February 24, 2021, a copy of which is attached for your ready reference. Planning Department Staff failed to address the following issues:

1. The proposed coastal trail does not contain any outlet or inlet access for the public. It in essence terminates on the Trust's property without any legal right of pedestrian access on to the Trust property. Staff should have provided for the coastal trail to terminate on the public right-of-way along State Route 1 on the Applicant's property and could have reserved for future use, a right of access in the present location until such time as the Trust or its successor allows or is required to allow coastal access to connect to the proposed access on the Applicant's property.
2. The Applicant's property was presented as having no single-family residences. Historically though, members of the Applicant's family have used the Coast Guard Building (one of two structures on the property) for occasional residential purposes. The Staff Report

should disclose current and future uses of the Coast Guard structure and the other existing historical structure and outline how the project will comply with the requirements of CZLUO Section 23.09.030 – Nonconforming Buildings, Structures or Site Development.

3. The site plans show the existing road on the Trust property as 10 feet wide. The 2020 SRA Fire Safe Regulations and Title 16 of San Luis Obispo Code require the road providing access to the two parcels to be 20 feet wide with 2 feet shoulders on either side. The project plans should be updated to reflect any improvements required to the existing access road to comply with Cal Fire requirements and confirm these improvements can be located entirely within the existing access easement. The plans should also be updated to reflect the improvements required at the State Route 1 / Alexander Place encroachment per Condition of Approval #8 included on Attachment 2 of the Staff Report. All grading and site disturbance required to support the improvements should be evaluated in an updated Biological and Cultural Resource Assessment. This comment should not be construed as the Trust's consent to such improvements on its land. The requests for development expansion create a burden on the Trust's property not contemplated by a neighborly grant of an access right with limitations on improvement and use.

4. The Updated Biological Resource Assessment (BRA Merk 2022) is incomplete in that it failed to survey the entire length of the proposed access road, including the area in and around the existing Highway 1 encroachment. The staff report acknowledges physical improvements will be required to the existing access road to comply with County Fire access requirements and Minor Use Permit Condition 8 requires an Encroachment Permit from CalTrans to construct or reconstruct the intersection of Alexander Place and Highway 1. The staff report suggests the refinement and clarification of the mitigation measures and the addition of Condition of approval 38 will be adequate to mitigate any potential impacts. We disagree with this conclusion. Without knowing what sensitive and special status biological resources occur along the entire length of the road, the baseline is incomplete, and the project impacts to sensitive and special status species are not accurately quantified in the Mitigated Negative Declaration. The BRA should be updated to include habitat mapping and seasonally timed survey of the entire length of the proposed access road. Once the baseline survey is complete and the impacts quantified, the Mitigated Negative Declaration should be updated and recirculated.

5. LUO Section 23.08.167 prohibits primary family housing from being located on prime soils unless certain criteria are met. The staff report defends the Planning Departments position of allowing conversion of prime soils to a residential use, contrary to CZLUO Section 23.08.167 requirements, as the County has 'enough' prime soils elsewhere in the County and the property owner has exhausted all other alternatives. It has not been demonstrated that a smaller building envelope has been considered. This could lessen or eliminate the impact on prime soils. The building envelope on Parcel 1 can and should reasonably be adjusted and reduced in size to avoid impacts to prime soils. If the Board moves to approve the project, a condition should be added to adjust and reduce the size of the building envelope on Parcel 1 to avoid prime soils.

Thank you for your consideration of these issues. We believe the appropriate action is to sustain the Appeal and require the Applicant to address the issues as raised by the Trust in its Appeal.

Very truly yours,

DIEHL & RODEWALD

  
Joseph W. Diehl, Jr.

JWD:kms  
Enclosures

cc: Trevor Keith, Director (via email [tkeith@co.slo.ca.us](mailto:tkeith@co.slo.ca.us))  
San Luis Obispo County Planning & Building Dept.  
Ramona Hedges (via email [rhedges@co.slo.ca.us](mailto:rhedges@co.slo.ca.us))  
San Luis Obispo County Planning Commission



JOSEPH W. DIEHL, JR.  
RODERICK A. RODEWALD  
DOUGLAS C. CRAPO  
SEAN N. NAGEL

**DIEHL & RODEWALD**  
A PROFESSIONAL CORPORATION

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[JWD@DR-SLO.COM](mailto:JWD@DR-SLO.COM)

February 24, 2021

Mr. Trevor Keith, Director  
County of San Luis Obispo Dept.  
Of Planning & Building  
976 Osos St., #200  
San Luis Obispo, CA 93401

Hand Delivered

Ramona Hedges, Clerk  
[rhedges@co.slo.ca.us](mailto:rhedges@co.slo.ca.us)  
San Luis Obispo County Planning Commission

Via email

Re: Pierson Family ("Applicant") Lot Line Adjustment/Coastal Development Permit/  
Variance/County File No. S000161L, D000230P, DRC2017-0008/  
APN No(s): 046-091-025, -037

Dear Mr. Keith:

Our office represents the John A. Alexander Trust ("Trust") which owns property adjoining the Applicant's property and over which the Applicants have a limited private access easement for vehicular ingress and egress. The Trust objects to the conclusions and the viability of the project for the following reasons:

1. A neighborly access easement was given by John Alexander in 2003 to David Pierson and was strictly limited to use by persons "residing" on the Pierson property. No right-of-way was intended for any other persons nor, was the right-of-way intended to serve "more than 2 single family residences." There is no right of pedestrian access except "when an emergency or other necessity requires it." The Trust has the sole right to determine when maintenance is required on the right-of-way and at this time the Trust has no need or intention to improve or otherwise expand the right-of-way. Accordingly, there is a limitation on the scope of legal access to the property on which this project is dependent.
2. The Applicant's property was presented as having no single-family residences. Historically though, members of the Applicant's family used the coast guard building (one of two structures on the property) for occasional residential purposes. The staff report should disclose the current and future uses on the Coast Guard structure and the other existing historical structure and outline how the project will comply with the requirements of CZLUO Section 23.09.030 - Nonconforming Buildings, Structures or Site Development.
3. The proposed location of the Coastal Trail does not contain any outlet or inlet access for the public. In essence it terminates on the Trust's property and imposes a burden on the Trust's property which is outside the scope of the rights of the Applicant. The Coastal Trail should provide for access to the State Highway solely over the Applicant's property.
4. The site plans show the existing road on the Trust property as 10 feet wide. The 2020 SRA Fire Safe Regulations and Title 16 of San Luis Obispo Code require the road providing access to the two parcels to be 20 feet wide with 2 feet shoulders on either side. The project plans should be updated to reflect any improvements required to the existing access road to comply with Cal Fire

requirements and confirm these improvements can be located entirely within the existing access easement. The plans should also be updated to reflect the improvements required at the State Route 1 / Alexander Place encroachment per Condition of Approval #8 included on Attachment 2 of the Staff Report. All grading and site disturbance required to support the improvements should be evaluated in an updated Biological and Cultural Resource Assessment.

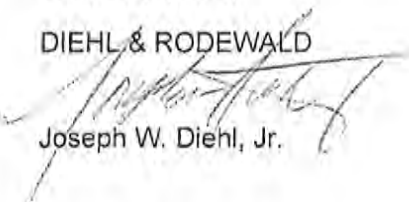
5. The property is in the **Coastal Terrace SRA and Critical Viewshed West of Cayucos**. The purpose of this SRA and Critical Viewshed is to protect views of this scenic coastal area as seen from Highway 1, public beaches, and the ocean, **and to protect sensitive plants**. The Biologic Report relied upon in the Mitigated Negative Declaration and the Staff Report is 20 years old. It is not appropriate or consistent CZLUO Section 23.07.170 to rely on out-of-date biological resources studies to make current decisions. For example, the Report does not even address ESHA with respect to some plant communities that have been designated as ESHA since 2001. An updated Biological Resource Assessment report is required and should accurately map the boundaries of any sensitive plants and communities and indicate the potential for "Unmapped ESHA". It should also map the extent of streams and riparian vegetation and confirm all project components comply with the 100-foot setback required by CZLUO 23.07.174. The survey area should include the existing road that crosses the Trust property and assess the potential for impacts for any required road widening as well as the potential for "Take" on any listed species based on the projects increase in vehicular traffic on the road.

6. The Staff Report fails to address consistency with the Estero Area Plan Standards for lands that are defined by the Agriculture and Open Space Element as Row Crop Terrain and Soils. The Standard is intended to limit uses to those that are most directly related to agricultural production on lands that support, or are able to support, the most intensive farming operations. The home site for Parcel 1 is located on lands that are identified as Row Crop Terrain and Soils. While single family dwellings are allowed to be located on the Row and Crop Terrain Soils, it must be demonstrated that the residence is directly related to agricultural production and is consistent with the protection of agricultural. This has not been demonstrated and there is sufficient land on the parcel to support the single-family residence without impacting the Row Crop Terrain and Soils. Relocation of the home site on Parcel 1 should be required.

Thank you for consideration of these points. Please note our client's interest in this property and add our firm to the notice list for any actions/decisions of the Board or Planning Department.

Very truly yours,

DIEHL & RODEWALD

  
Joseph W. Diehl, Jr.

JWD:ldc

Cc: Client (via email)

Ms. Schani Siong (via email [ssiong@co.slo.ca.us](mailto:ssiong@co.slo.ca.us))

Daniela Chavez (via email [dchavez@co.slo.ca.us](mailto:dchavez@co.slo.ca.us))

## **Inconsistency with LCP Agricultural Policies 1 and 4:**

Agriculture LCP Agriculture Policy 1 requires that lands suitable for agriculture be maintained in or available for agricultural production unless continued or renewed agricultural use is not feasible, or the permitted conversion will not adversely affect surrounding agricultural uses. LCP

Agriculture Policy 4 and LCP Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.050 require that single-family residences and accessory agricultural buildings necessary for agricultural use, where possible, be located on non-prime agricultural soils.

The Board of Supervisor's approved project is located on LCP-designated agricultural land and the land has some history of being used for cattle grazing. Further, the property is in Agricultural Preserve (Cayucos Agricultural Preserve). The building site for proposed Parcel 1 would disturb over 1.5 acres (approximately 65,000 square feet) of agricultural soils on the blufftop marine terrace portion of the property nearest the Pacific Ocean. The proposed residential building site would be located on soil which is considered Class III (non-prime) without irrigation and Class II (prime) when irrigated.

Although the Planning Department has suggested there are constraints to establishing irrigated crops at this location in the future, the soils are nevertheless potentially prime according to the County, and at a minimum they are suitable for agriculture and required to be protected under Coastal Policies. Continued or renewed agriculture is feasible at this location, including use for continued grazing.

The Board of Supervisor's approved project allows for the conversion of an excessive amount of the site's agricultural land to non-agricultural (residential) uses, thereby diminishing the agricultural productivity of the site and setting a precedent for non-agricultural development that may adversely affect the long-term viability of agriculture in the region. This is further exacerbated by the Lot Line Adjustment which basically creates two large estate Coastal parcels in lieu of one existing large agricultural parcel that is better suited in both size and configuration to continued agricultural use.

Alternative project locations and mitigation measures appear available that could avoid or reduce impacts to agriculture, including merging of the two existing parcels to create a single developable parcel and the establishment of a significantly smaller development envelope located off prime soils.

Based upon the above, the project appears to conflict with applicable LCP policies regarding the protection of agricultural lands.

### **Inconsistent with LUO Section 23.08.167 Prime Soils.**

LUO Section 23.08.167 prohibits primary family housing from being located on prime soils unless certain criteria are met. The staff report to the Board of Supervisor's defended the Planning Departments position of allowing conversion of prime soils to a residential use, contrary to CZLUO Section 23.08.167 requirements, as the County has '*enough*' prime soils elsewhere in the County and the property owner has exhausted all other alternatives. It has not been demonstrated that a smaller building envelope, that avoids prime soils, has been considered. The building envelope on Parcel 1 can reasonably be adjusted and reduced in size to avoid impacts to prime soils. If the Board moves to approve the project, a condition should be added to adjust and reduce the size of the building envelope on Parcel 1 to avoid prime soils.

### **Inconsistency with LCP ESHA Policies 1,2, and 29, CZLUO Section 23.07.170 and Estero Bay Planning Area Standards:**

San Luis Obispo County LCP ESHA Policies 1, 2, and 29, and CZLUO Section 23.07.170(e) prohibit new development within or adjacent to locations of environmentally sensitive habitats from significantly disrupting the resource, and within an existing habitat resource the LCP only allows those uses dependent on such resources. The Updated Biological Resource Assessment (BRA Merk 2022) is incomplete in that it failed to survey the entire length of the proposed access road, including the area in and around the existing Highway 1 encroachment. The staff report to the Board of Supervisors acknowledges physical improvements will be required to the existing access road to comply with County Fire access requirements and Minor Use Permit Condition 8 requires an Encroachment Permit from CalTrans to construct or reconstruct the intersection of Alexander Place and Highway 1. The staff report suggested the refinement and clarification of the mitigation measures and the addition of Condition of Approval 38 will be adequate to mitigate any potential impacts. We disagree with this conclusion. Without knowing what sensitive and special status biological resources occur along the entire length of the road, the baseline is incomplete, and the project impacts to sensitive and special status species are not accurately quantified in the Mitigated Negative Declaration. The BRA should be updated to include habitat mapping and seasonally timed survey of the entire length of the proposed access road. Once the baseline survey is complete and the impacts quantified, the Mitigated Negative Declaration should be updated and recirculated.

In this case, the extent of ESHA onsite is not known based on the incomplete biological and botanical inventory or reconnaissance survey. The BRA fails to accurately or completely define, map, or assess potential impacts to ESHA.

It appears development in building site 1 would impact/convert special status plants species, including coastal scrub, Cambria Morning Glory and native grasses (i.e. ESHA) and potentially Blochman's dudleya, perennial goldfields, San Luis Obispo owl's-clover, and southwestern spiny



rush, to a use not dependent on the resource. San Luis Obispo County LCP ESHA Policies 1, 2, and 29, and CZLUO Section 23.07.170(e) prohibit new development within or adjacent to locations of environmentally sensitive habitats from significantly disrupting the resource, and within an existing habitat resource, the LCP only allows those uses dependent on such resources.

**Other Items of Concern:**

**Impact to Special- Status Animal Species:** The BRA concluded individuals of special-status animal species including California red-legged frog and southwestern pond turtle could potentially occur in the study area and may be directly impacted by construction activities.

**Inconsistent with 23.07.174: Stream Setbacks:** The building site on parcel 1 is within 40 feet of a coastal stream. While the stream is small it is a defined drainage feature with a bed and bank. A 100 foot setback should be provided from all streams no matter the size or character of the feature

Although the Board of Supervisor's approval does include a number of mitigation measures in response to potential EHSA resource impacts, such mitigation is inconsistent with the LCP's main policy directive to avoid impacts whenever feasible.