

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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**W17a**

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Previous Commission Actions & Dates

Substantial Issue Determination: 03/19/04
 Project Approved with Conditions: 05/12/05

Revised Findings

Revised Findings Staff Report Prepared: 8/25/05
 Revised Findings Hearing Date: 9/14/05
 Staff: SC

REVISED FINDINGS FOR COASTAL DEVELOPMENT PERMIT APPLICATION

Application number A-2-SMC-04-002, Polacek Residence

Applicant Michael and Ana Polacek

Local Government San Mateo County

Local Decision Approved with Conditions

Substantial Issue The Commission found that the appeal of the local government action on this development raised a substantial issue on March 19, 2004.

Project location Bean Hollow Road, in the unincorporated Pescadero area of San Mateo County; APN 86-191-120.

Project description Construction of a single family dwelling in the Planned Agricultural District consisting of: 4,974 square feet of heated living space, 861 square foot garage and storage area, 350 square foot garden shed, 600 square foot indoor/outdoor greenhouse (attached to the house) for a total of 6,785 square feet. Additional proposed development includes a pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel.

Appellants Commissioners Mike Reilly and John Woolley

File documents See Appendix A

Commission Action Approval with Conditions

Date of Action May 12, 2005

Commissioners on Prevailing Side: Iseman, Haddad, Wright, Peters, Potter, Reilly, Secord, Shallenberger

Staff Recommendation .. Adopt Revised Findings

Staff Note: Summary: On May 12, 2005 the Commission approved the project pursuant to the staff recommendation but deleted Special Condition #1B, which limited the habitable internal floor area of



California Coastal Commission
September 2005 Meeting in Eureka

Staff: S. Craig Approved by:

the house to 2,500 square feet. The Commission's action also modified Special Condition #1A by removing a requirement to relocate the residence to the "potential building area" shown on Exhibit #10 of the *de novo* staff report. Revisions to the Conditions and Findings to reflect these Commission actions are on pages 4 and 6 (Special Conditions #1A, #1B, and #2C), as well as to findings on pages 35 to 53. Additions are shown with underline and deletions are shown with ~~strikethrough~~.

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I. Project Procedural History

San Mateo County has a certified LCP, and the proposed project was reviewed in a local coastal permit process before the County took action on it on January 14, 2004. Commissioners Mike Reilly and John Woolley then appealed the County's approval to the Commission. On March 19, 2004, the Commission found that the appeal of the development approved by San Mateo County raised substantial issues regarding the conformance of the approved development with the agriculture, new development, and visual resources policies of the San Mateo LCP. In order to approve a coastal development permit through a *de novo* review of the project, the Commission required a site-specific biological resources assessment and wetland delineation conducted in accordance with the LCP definition of wetlands, an analysis of the feasibility of continued or renewed agricultural use of the soils at the site, further documentation of the visual impacts of the project, a more detailed survey of the soils at the site, and information regarding the financial nature of the applicants' property interest.

II. Staff Recommendation on Revised Findings

The staff recommends that the Commission, after public hearing, adopt the revised findings in support of the Commission's action on May 12, 2005 concerning Coastal Development Permit A-2-SMC-04-002, as follows:

Motion. I move that the Commission adopt the revised findings in support of the Commission's action on May 12, 2005 approving with conditions the development proposed under appeal number A-2-SMC-04-002.

Staff Recommendation of Adoption. Staff recommends a **YES** vote. Passage of this motion will result in adoption of the revised findings as set forth in this report. The motion requires a majority vote of the members from the prevailing side who are present at the July 14, 2005 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Iseman, Haddad, Wright, Peters, Potter, Reilly, Secord, and Shallenberger. If the motion fails, the revised findings are postponed to a later meeting.

Resolution. The Commission hereby adopts the findings set forth below for approval with conditions of a coastal development permit for the proposed development on the grounds that the findings support the Commission's decision made on May 12, 2005 and accurately reflect the reasons for it.



III. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Revised Plans.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicants shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be consistent with the following requirements:

- A. **Residential Development Envelope.** All residential development (i.e., the residence, all impermeable pathways, turnarounds, courtyards, garages, swimming pools, retaining walls, etc.), except the approved driveway, shall be confined within an area of no greater than 10,000 square feet. The residential development envelope shall be sited ~~as close as possible to Bean Hollow Road and the "Inactive Ditch Easement" and within 50 feet of the "Farmed Wetland"~~ as within the area generally depicted on Exhibits #10, and #11.
- ~~B. **House Size.** The habitable internal floor area (excluding non-habitable space such as garages and unenclosed decks or patios) of the approved single family residence shall not exceed 2,500 square feet.~~
- C. **Other Grading/Utilities and Septic Line Area.** Following utility and septic system



installation, all disturbed areas shall be contoured to mimic the natural topography of the site.

- D. Building Materials.** Non-reflective, earth tone materials shall be used on all surfaces (siding, roofing, windows, chimney, gutters, etc.) to prevent the detection of glare or light reflection from public viewing areas and to ensure that the development blends well into the surrounding rural environment.
- E. Landscaping Plan.** The landscape plan shall show the location, type, and sizes of all landscaping elements within the 10,000 square foot residential building envelope (there shall be no ornamentally landscaped areas outside of the residential building envelope) and shall show how views from Cabrillo Highway will be softened by the introduction of trees and shrubs. No species included in the *California Exotic Pest Plant List* shall be used for landscaping purposes. The landscaping plan shall also reflect measures included in the applicants' agricultural land management plan that provide appropriate windbreaks and protection from agricultural operations on the site. All plantings will be maintained in good growing conditions throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. The landscaping plan shall also provide for the removal of all pampas grass (*Cortaderia jubata*) on the parcel.
- F.** The Permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

2. Agricultural Use.

- A.** No development, as defined in section 30106 of the Coastal Act shall occur outside of the approved development envelope pursuant to the final approved plans in accordance with Special Condition #1 and as generally depicted in Exhibit #10, except for:
1. Agricultural production activities defined as "activities that are directly related to the cultivation of agricultural commodities for sale. Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material.
 2. Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds, except that no structures shall be located within any wetlands, streams, riparian corridor, sensitive habitat areas or their buffers as generally depicted on Exhibit #11.
 3. Underground utilities.
 4. Public access improvements.
 5. Farm labor housing, if approved by the Coastal Commission as an amendment to this coastal



development permit.

- B.** All areas of the Property, except for the 10,000 square foot development envelope specified in Special Condition #1, shall at all times be maintained in active agricultural use. Agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for commercial purposes. The Permittees may satisfy this requirement either by engaging in good faith in agriculture at a commercial scale and/or by leasing the area of the Property outside of the approved 10,000-square-foot development envelope, in whole or in part, to a farm operator for commercial agricultural use. The terms of any lease agreement for purposes of this condition shall be based on the current market rate for comparable agricultural land in the region and shall reflect a good faith effort on the part of the Permittees to maintain continued agricultural use of the property. The Permittees shall be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.
- C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall dedicate an agricultural conservation easement to a public agency or private association approved by the Executive Director (hereinafter referred to as the "Grantee"). The agricultural conservation easement shall be for the purposes of implementing the requirements of Paragraphs A and B above. Such easement shall be located over the entire parcel except for the area contained within the approved development envelope pursuant to Special Condition #1 and as generally shown in Exhibit #10. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria stated above. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.
- D.** In the event that an acceptable Grantee cannot be identified, the applicant may in the alternative execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural conservation easement consistent with the purposes and requirements described above. The recorded document shall include legal descriptions of both the applicants' entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.
- E.** The landowners shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowners' compliance with the terms of this condition. Such information may include a written report describing current uses and changes in uses (including residential uses). The written report and any other required information shall be provided as needed upon the request of the Executive Director and/or Grantee, in a form as shall be reasonably required



by same. If the landowner enters into a lease agreement with a farm operator for any portion of the property, a copy of the lease agreement may also be required as further documentation of compliance with this condition.

F. If circumstances arise in the future beyond the control of the landowner or operator that render continued agricultural production on the property infeasible, the easement may be converted to an open space easement upon Commission certification of an amendment to the LCP changing the land use designation of the parcel to Open Space in accordance with all applicable policies of the certified LUP and the Coastal Act, and the requirements of Paragraph B above may be extinguished upon Commission approval of an amendment to this coastal development permit.

3. Right-to-Farm. By acceptance of this permit, the Permittees acknowledge and agree: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittees and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from or in any way related to the property that is the subject of this permit.

4. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

5. Pre-Construction Frog & Snake Survey/Construction Plan. No more than 30 days prior to grading or construction activities on the site, a pre-construction survey shall be completed by a qualified biologist to determine if the California red-legged frog or the San Francisco garter snake occur in or adjacent to the proposed construction/grading area. In addition, the following avoidance measures shall



be implemented:

- Before construction/grading begins, a qualified biologist shall inform the grading/heavy equipment operators of the potential presence of the California red-legged frog or San Francisco garter snake, their protected status, work boundaries, and measures to be implemented to avoid the incidental take of frogs and/or snakes;
- Heavy equipment operators shall be informed of the location of wetland habitats on the parcel and instructed to avoid entry into any wetland habitat areas on the parcel;
- Temporary sediment settling basins and structures such as sediment fencing, straw bales, or other appropriate erosion control measures shall be used to delineate project areas boundaries and prevent sediment-laden runoff from entering the drainage channels/wetland areas.
- A qualified biologist shall monitor grading activities occurring within 500 feet of the aquatic and wetland habitats;
- During construction, ensure that all holes are covered at night to prevent California red-legged frog or San Francisco garter snake from taking cover in holes on the construction site;
- Food and food-related trash items associated with construction works shall be enclosed in sealed containers and regularly removed from the project site to deter potential predators of California red-legged frog or San Francisco garter snake;
- Pets shall not be permitted on the construction site;
- All staging areas and all fueling and maintenance of vehicles and other equipment shall take place at least 100 feet from any wetland areas on the parcel;

If California red-legged frog or San Francisco garter snake are observed during the pre-construction survey or during construction/grading activities, the applicants shall consult with U.S. Fish & Wildlife Service to establish any additional avoidance measures designed to avoid take of these species.

6. Implementation of Best Management Practices During Construction. Appropriate best management practices shall be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook. These measures shall include: 1) limiting the extent of land disturbance to the minimum amount necessary to construct the project; 2) designating areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; 3) providing for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in any runoff from construction, staging, and storage/stockpile areas; 4) incorporating good construction housekeeping measures, including the use of dry cleanup measures whenever possible; 5) collecting and filtering cleanup water when dry cleanup methods are not



feasible; 6) cleaning and refueling construction equipment at designated offsite maintenance areas, and; 7) the immediate clean-up of any leaks or spills. The construction areas shall be delineated with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

7. Post-Construction Stormwater Pollution Prevention Plan.

A. Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, a Post-Construction Stormwater Pollution Prevention Plan showing final drainage and runoff control measures. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of storm water leaving the developed site after completion of construction. The Post-Construction Polluted Runoff Prevention Plan shall include, at a minimum, the BMPs specified below:

1. A pop-up drainage emitter system, or similar device shall be installed to conduct roof runoff from roof gutter systems and downspouts away from structural foundations and to disperse runoff in lawn or landscaped areas. Emitters shall be sized according to downspout and watershed (roof area) size. Pipe riser height shall be designed to create head sufficient enough to lift pop-up. Outfall and sheetflow shall be designed to disperse runoff onto vegetated areas or suitable landscaped.
2. Where possible, runoff from the driveway should be directed to natural drainage systems that allow for filtration.
3. Native or noninvasive drought-tolerant adapted vegetation shall be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
4. The final site plan shall show the finished grades and the locations of the drainage improvements, including downspouts and, where necessary, splashguards.

B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Conditions Imposed By Local Government. All previous conditions of approval imposed on the project by San Mateo County pursuant to an authority other than the California Coastal Act remain in effect (San Mateo County File Number PLN 2002-00199; see Exhibit 13).



IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The project approved by the County consists of construction of a new two-story single family dwelling consisting of 4,974 square feet of heated living area, an 861 square foot garage and storage area, a 350 square foot garden shed, a 600 square foot greenhouse (attached to the house), for a total development of 6,785 square feet. The project also includes a swimming pool, new septic system, landscaping, 1,400 cubic yards of grading, and conversion of an existing agricultural well to a domestic well on a 17.98-acre undeveloped parcel that is zoned PAD (Planned Agricultural District) (see Exhibit 2 for project plans). The approved development also includes a domestic orchard garden and patios. The parcel is located on Bean Hollow Road in the unincorporated area of San Mateo County.

The project approved by the County is located inland of Highway 1, on a 17.98-acre parcel on the west side of Bean Hollow Road (APN 086-191-120) in the unincorporated Pescadero Area of San Mateo County (see Exhibit 1 for location maps). The property is located approximately 0.5 mile from the coast, inland of Bean Hollow State Beach. The project site is located adjacent to the Cabrillo Highway State Scenic corridor. The County's September 10, 2003 staff report for this project states that the proposed residence will be visible from Highway 1, which is a State Scenic Road, and will be partially visible from Bean Hollow Road. The property is bordered by Bean Hollow Road on the east, agricultural land on the north and west, and agricultural and residential development to the south. The County planning staff conducted a site visit and concluded that all adjacent parcels appeared to be within agricultural production (December 8, 2003 report to Agricultural Advisory Committee).

The subject property is a gradually sloped terrace with slopes ranging between 5% and 7%. Elevation at the site ranges from approximately 165 feet above sea level in the western portion of the property to approximately 230 feet above sea level in the eastern portion of the property. The approved development would be located on the central portion of the eastern side of the property, at elevations of approximately 190 to 210 feet above sea level (see Exhibit 2, pg. 1).

According to a report by Thomas Reid Associates (April 2003), the property has been farmed in the past for straw flowers, leeks, and Brussels sprouts, and has been fallow since 2000. The Agricultural Land Management Plan (Exhibit 3) prepared by the applicants states that the property has been farmed in row and grain crops since 1900 or earlier and that historical crops have included artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers and ornamental eucalyptus.

The 17.98-acre parcel is comprised entirely of prime agricultural land and has a long history of agricultural use as part of the larger approximately 220-acre Campanotti farm (pers. comm. Jack Olsen, San Mateo County Farm Bureau). The parcel was in active cultivation up until the time that the



applicants purchased the property in early 2001.

On November 2, 2000, the County granted the applicants (Mike and Ana Polacek) a conditional Certificate of Compliance and Coastal Development Permit for the legalization of the subject parcel. According to the County's staff report for these permits (PLN 2000-00346), the parcel was a portion of a 22.96-acre parcel described in a deed that was one of 41 lots of the Peninsula Farms Subdivision recorded on January 8, 1923 at the County Recorder's Office. This report also states that, in 1959, a 5.02-acre portion of the original parcel was conveyed by recorded deed to another person, and was legalized in 1959 when the County issued a building permit to construct a house upon it. This report concludes that since the conveyance of the subject 17.98-acre parcel occurred without filing an approved subdivision map and after the County's Subdivision Ordinance was adopted in August 1946, the parcel was never legally subdivided. As such, the County determined that a conditional certificate of compliance was required under the Subdivision Map Act, County LUP Policies 1.28 and 1.29, and the County's Subdivision Ordinance to legally subdivide the parcel. In accordance with both the Subdivision Map Act and the County's LCP, a conditional certificate of compliance may only be granted to legalize the subdivision of undeveloped land where the resulting parcel(s) would fully conform with all applicable requirements of the LCP in effect at the time the certificate of compliance is approved.

The conditions of approval for the coastal development permit for the legalization of the subject parcel and the Certificate of Compliance approved by the County in 2000 explicitly informed the applicants (Mike and Ana Polacek) of the following:

Any development on this parcel in the future would be subject to compliance with the regulations of the County General Plan, Zoning Regulations and the County Local Coastal Program. Local Coastal Program policies include, but are not limited to, the protection of prime agricultural soil, the protection of existing and potential agriculture, the protection of ridgelines, such that structures do not break the ridgeline, and the protection of sensitive habitat.

Although the above-cited condition provides clear notice that any development on the parcel would need to comply with the LCP agricultural protection policies, it is not clear that the County's action in approving the certificate of compliance met the LCP requirements for the subdivision of prime agricultural lands, including for example, LUP Policy 5.7, which states:

5.7 Division of Prime Agricultural Land Designated as Agriculture

- a. Prohibit the division of parcels consisting entirely of prime agricultural land.*
- b. Prohibit the division of prime agricultural land within a parcel, unless it can be demonstrated that existing or potential agricultural productivity would not be reduced.*
- c. Prohibit the creation of new parcels whose only building site would be on prime agricultural land.*

The property consists entirely of prime agricultural land, is designated in the County's LUP as



Agriculture, and is zoned Planned Agricultural District (PAD). As shown above, subdivision of such lands is prohibited under the LCP. However, since the County's action approving the certificate of compliance was not appealed to the Commission or otherwise challenged, this action is final and the 17.98-acre parcel is now a legally subdivided lot.

A single-family residence is not a principally permitted use anywhere within the PAD zone, but may be allowed only with the issuance of a Planned Agricultural Permit. A Planned Agricultural Permit may only be approved for a conditional use such as a single-family residence if the resulting development is consistent with the purpose of the PAD zoning district and meets all of the substantive criteria specified in the zoning code necessary to keep the maximum amount of agricultural land in agricultural production and minimize conflicts between agricultural and non-agricultural land uses. These criteria, which are contained throughout zoning code sections 6350-6363, require: (1) minimizing encroachment on land suitable for agricultural use, (2) clustering development on the parcel, (3) ensuring an adequate water supply for agricultural use, (4) ensuring that the productivity of adjacent agricultural lands is not diminished as a result of the development, (5) ensuring that agricultural viability is not impaired through increased assessment costs, (6) developing all areas unsuitable for agriculture before converting agricultural lands, and (7) limiting conversion of agricultural land to areas where continued or renewed agricultural use is no longer feasible.

Therefore, at the time of the County's approval of the Certificate of Compliance and coastal development permit, the applicants had been notified of the requirements that any development on the parcel would need to comply with the LCP Policies, including those protecting prime agricultural lands.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The PAD zoning of the lands within the coastal zone allows one density credit or one residential unit on the property. However, a single-family residence is not allowable as a principally permitted structure within the PAD, but may be allowed only with the issuance of a Planned Agricultural Permit. The County determined that the project was in compliance with the substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations). The substantive criteria address protection of agricultural uses on land in the PAD. These criteria include minimizing encroachment on land suitable for agricultural use, clustering development on the parcel, ensuring an adequate water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The County's staff reports for the proposed residential project describe the property as being vacant and only developed with an agricultural well. However, the site plan approved by the County shows a barn in the northwest corner of the property as being mostly located on the subject parcel. Based on a review of aerial photographs (Exhibit 4), there is a cluster of approximately four structures (including at least one barn) located in the vicinity of the northwest corner of the property. These photographs show the area to the north, east and west of the site as being almost entirely in agricultural production. Additionally, these photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property. Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are the



predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

B. Prime Agricultural Land Definition

Prime agricultural soil is a resource of tremendous importance to coastal agriculture in San Mateo County. While there is a lot of agricultural land on the coastside, prime agricultural soils, as a percentage of total agriculture, is relatively small. Therefore, the importance of maintaining the maximum amount of prime agricultural land for important coastal crops is a priority on the San Mateo County coast. The prime soils in the rural areas of the coast should have, and presently do have, the highest land use priority and protection, consistent with Coastal Act Section 30241. LCP Policy 5.1 provides the following definition of prime agricultural lands (Zoning Regulations Section 6351 provides the same definition). This definition is equivalent to the definition of prime agricultural land in the California Land Conservation Act of 1965 (commonly referred to as the Williamson Act):

5.1. Definition of Prime Agricultural Lands:

a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years.

The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

This definition includes five criteria, only one of which needs to be met to qualify a parcel as prime agricultural land. As discussed further below, although the subject parcel does not qualify as prime agricultural land based on subsections (b) and (c) of the above definition, the subject parcel qualifies as prime agricultural land based on subsections (a), (d) and (e) of LUP Policy 5.1.

With regards to the subsections of LUP Policy 5.1 which do not qualify this subject parcel as Prime Agricultural Land, LUP Policy 5.1(b) states that all land that qualifies for rating 80-100 in the Storie Index Rating is prime agricultural land (this index numerically expresses the relative degree of suitability of a soil for general intensive agricultural use). The subject parcel does not meet the criteria of LCP



Policy 5.1(b) because the Storie Index for the soils on the property is 41 and 61.¹ Additionally, LCP Policy 5.1(c) states that land may be considered prime agricultural land if it supports at least one head of livestock per acre. This parcel has not historically been used as grazing land; therefore, it is difficult to determine how many head of cattle or other livestock the land could support. However, it is San Mateo County Farm Bureau Executive Manager Jack Olsen's opinion that this parcel would only support approximately three head of livestock (specifically cattle) per year (approximately 0.17 head per acre). If the parcel was replanted with a good nutritional plant base for grazing, the parcel might support one head of livestock per acre, but this is highly speculative. Thus, the subject parcel does not meet the criteria of LCP Policy 5.1(c).

The subject parcel does qualify as Prime Agricultural land under subsections (a), (d) and (e) of LCP Policy 5.1. First, LCP Policy 5.1(d) applies to land planted with fruit or nut trees or other perennial plants (pers. comm. Robert Blanford, Williamson Act Program, California Department of Conservation). The applicants' Agricultural Land Management Plan (Exhibit 3) states that historical crops on the property have included artichokes. According to Jack Olsen, Executive Manager of the San Mateo County Farm Bureau, artichokes would meet the criteria of LCP Policy 5.1(d) because they are perennial plants that have a non-bearing period of less than five years. The second part of this criterion requires that the economic return from such use equal not less than \$200 per acre, adjusted for inflation (using 1965 as the base year). The Consumer's Price Index is used to calculate how prices have changed over the years. Using this index, \$200 in 1965 is equivalent to \$1240 in 2005.² According to the 2003 San Mateo County Agricultural Crop Report (which is the most recent Crop Report), artichokes that year produced an average yield of \$4,993 per acre. Thus, if artichokes were grown on this parcel (as they have been in the past), the expected yield would produce an economic return more than adequate to meet the minimal yield stated in LCP Policy 5.1(d). Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(d).

LCP Policy 5.1(e) states that land may be defined as prime agricultural land if it has produced an unprocessed agricultural plant product valued at not less than \$200 per acre within three of the five previous years. The property was in active Brussels sprouts production through the year 2000, prior to the purchase of the property by the applicants. Although there is no available data on the specific agricultural return from Brussels sprouts grown on this parcel during the years 1998 through 2000, the San Mateo County Agricultural Crop Reports for the years 1998 through 2000 show that Brussels sprouts produced an average yield of \$4,264 per acre during those years.³ The second part of the criterion of LCP Policy 5.1(e) requires that the economic return from such use equal not less than \$200 per acre, adjusted for inflation (using 1965 as the base year). Using the Consumer's Price Index as above, \$200 in 1965 is equivalent to \$1,093 in 2000. Thus, the expected yield from active Brussels sprouts production on the parcel in the three years prior to purchase of the parcel by the applicants would

¹ Wagner, R.J., and R. E. Nelson. 1961. Soil Survey of the San Mateo Area, California. USDA Soil Conservation Service/University of California Agricultural Experiment Station. 111 pp., plus maps.

² Calculation made using the Federal Reserve Bank of Minneapolis's web site: (<http://minneapolisfed.org/Research/data/us/calc/index.cfm>)

³ Brussels sprouts produced an average yield per acre of \$3,024 in 1998, \$4,199 per acre in 1999, and \$5,569 per acre in 2000, for an average yield of \$4,264 per acre for these three years.



have produced an economic return more than adequate to meet the minimal yield stated in LCP Policy 5.1(e). Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(e).

Lastly, LCP Policy 5.1(a) defines prime agricultural land as "all land which qualifies for rating Class I or Class II in the U.S. Department of Agriculture Soils Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts." In this case, the soils at the site are designated as Class III soils by the U.S. Department of Agriculture and are mapped as primarily Elkhorn sandy loam (thick surface, sloping, eroded) with smaller areas of Watsonville sandy loam (sloping, eroded) along the drainage areas on the western side of the property (Exhibit 5). The description of Elkhorn sandy loam soils states: "Most of the soil is used for growing Brussels sprouts; some areas are used for flax and grain grown in rotation. When used intensively for truck crops, fair to high yields may be expected." The description of Watsonville sandy loam (sloping, eroded) states: "The soil has a wide variety of uses, including dry farming to flax, grain, and grain hay, and some use for Brussels sprouts and other truck crops."

The soils at the subject property qualify as prime agricultural lands under LCP Policy 5.1(a) because they are Class III soils that have been used to grow Brussels sprouts. Additionally, in a September 10, 2003 report to the Planning Commission, County Planning Staff concluded, "Almost the entire project parcel is covered with prime soil." The Agricultural Land Management Plan prepared by the applicants states that the most productive soils are located in the western and northeast portions of the property (Exhibit 3, pg.1).

The applicants retained a soil specialist to perform a site-specific soils survey analysis in May 2004. On-site investigations were performed to further define soils mapped in the 1961 National Soil Conservation Service (NRCS) Soils Survey for San Mateo County. Based on mapping the soils, the applicants' specialist concluded that the soils within the footprint of the proposed single-family residence are not suitable for Brussels sprouts because of the eroded nature of the soil and the shallow depth to the underlying clay layer. Soils unsuitable for the production of Brussels sprouts are not considered prime soils as defined in the 1961 NRCS Soils Survey for San Mateo County. However, according to a report by Thomas Reid Associates (April 2003), the property has been farmed in the past for straw flowers, leeks, and Brussels sprouts. The Agricultural Land Management Plan (Exhibit 3) prepared by the applicants states that the property has been farmed in row and grain crops since 1900 or earlier and that historical crops have included artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers and ornamental eucalyptus. Additionally, an aerial photograph taken in June 2000 shows that the majority of the parcel was plowed in preparation for planting, including the area of the parcel where the proposed house would be located (Exhibit 4, pg. 2). Also, according to the County's November 2, 2000 staff report regarding the Conditional Certificate of Compliance (Type B) to legalize the 17.98-acre parcel, the parcel was cultivated with Brussels sprouts at that time. Additionally, Jack Olsen, Executive Director of the San Mateo County Farm Bureau, is familiar with this parcel and states that the entire parcel consists of prime soil suitable for cultivation of Brussels sprouts. Therefore, although the soils within the proposed footprint of the proposed house may be more eroded than other soils on the site, these and other soils on the parcel were in agricultural use through the year 2000 and are designated as



prime soils in the NRCS Soils Survey for San Mateo County. Thus, the soils on the property qualify as prime soils as defined in LCP Policy 5.1(a).

In conclusion, the soils on the parcel meet the definition of prime agricultural land as described in LCP Policy 5.1, subsections (a), (d) and (e).

C. Coastal Issues

1. Agricultural Resources/Locating New Development

Note: Please see Exhibit 6 for Coastal Act Sections 30113, 30241, 30241.5, 30242, and 30108; Exhibit 7 for the certified San Mateo County Land Use Plan Agricultural policies and Locating and Planning New Development Policies; Exhibit 8 for the certified PAD (Planned Agricultural District) zoning regulations.

1.8 Land Uses and Development Densities in Rural Areas

a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

5.1 Definition of Prime Agricultural Lands

Define prime agricultural lands as: a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the



cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

5.8 Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated: (1) That no alternative site exists for the use, (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses, (3) The productivity of any adjacent agricultural land will not be diminished, and (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

5.22 Protection of Agricultural Water Supplies

Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that: a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (2) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (a) on that parcel, or (b) on the larger property that was subdivided to create the new parcel, providing that a single well source may not serve more than four (4) new parcels. b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished. c. All new non-agricultural parcels are severed from land bordering a stream and their deeds prohibit the transfer of riparian rights.

Zoning Code Section 6350. Purpose of the Planned Agricultural District

The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of



prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques: (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas, (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, (c) developing available lands not suitable for agriculture before converting agricultural lands, (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

Zoning Code Section 6353. Uses Permitted Subject to the Issuance of a Planned Agricultural Permit

The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance. Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore. A. On Prime Agriculture Lands 1. Single-family residences...

Zoning Code Section 6355. Substantive Criteria For Issuance of a Planned Agricultural Permit

It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria: 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized. 2. All development permitted on a site shall be clustered. 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

D. Criteria for the Conversion of Prime Agricultural Lands

1. Prime Agricultural Land within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless it can be demonstrated that: a. No alternative site exists on the parcel for the use, b. Clearly defined buffer areas are provided between agricultural and non-agricultural uses, c. The productivity of any adjacent agricultural land will not be diminished, d. Public service and facility expansions and permitted uses will not impair



agricultural viability, including by increased assessment costs or degraded air and water quality.

Overview

The protection of agricultural land is a primary goal of the San Mateo County Local Coastal Program (LCP). Of the approximate 88,000 acres in the San Mateo County coastal zone, 70% (approximately 61,000 acres) is zoned *Planned Agricultural District* (PAD). This land is either in active agricultural use or has the potential for such use. The total gross value of San Mateo County agriculture for 2003 was \$180,621,000 (this gross value does not reflect the cost of production). The total gross value, however, does not reflect the real impact agricultural production has on the local economy. For every dollar of agricultural production, a multiplier of 3.5 may be applied. Using this factor, the estimated economic impact of agriculture on San Mateo County for 2003 was \$632,173,500.⁴ Typical agricultural crops grown in San Mateo County include vegetable crops such as Brussels sprouts and artichokes, field crops such as beans and hay, fruit and nut crops, mushrooms, and floral and nursery crops. There are also significant grazing lands in the County. San Mateo County agriculture, however, is threatened by a decreasing amount of land available for agriculture, including a shortage of rental land, high land rental rates, and ranchette and urban development that leads to the loss of farms and farmland.⁵

The San Mateo County LCP has strong policies designed to protect the significant agricultural economy of the coastal zone, and the productive capability of PAD zoned lands. This includes policies that generally prohibit the subdivision of prime agricultural land and that severely limit the circumstances under which agricultural lands may be converted to non-agricultural uses. The core LCP agricultural protection Policy 1.8(a), in relevant part, states:

Allow new development . . . in rural areas only if it is demonstrated that it will not . . . diminish the ability to keep all prime agricultural land and other land suitable for agriculture . . . in agricultural production.

In addition to the designation of a considerable acreage of rural lands in the Planned Agricultural District, the LCP protects agricultural lands by establishing clear urban/rural boundaries and by limiting the types, locations, and intensities of new development on agricultural lands to those that will not adversely affect agriculture. The LCP Agricultural protection policies are further implemented by the PAD zoning regulations, the purpose of which is to “preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land in agricultural production, and . . . [to] minimize conflicts between agricultural and non-agricultural land uses.” Together, the LCP’s agricultural component and the PAD implementation regulations provide a comprehensive program that gives agricultural land uses and development a clear and overriding priority on the rural San Mateo County coastside.

As discussed above, the applicants are proposing to construct an approximately 6,785 square foot single-

⁴ *San Mateo County 2003 Agricultural Report*. San Mateo County Department of Agriculture/Weights & Measures.

⁵ *San Mateo County Agricultural Industry Profile & Strategic Farmland Maps, Final Report*. American Farmland Trust, 2004.



family residence and related development on rural PAD land that has historically been in agricultural production. Although the applicants have proposed an agricultural management plan (Exhibit 3), which would continue agriculture on the parcel in a limited form, the project raises fundamental questions about the conversion of rural land from agriculture to residential use. It is important, therefore, to fully understand the letter and intent of the San Mateo County LCP with respect to this issue, particularly concerning the potential conversion of prime agricultural lands, such as is proposed in this case. In particular, it is useful to see how the LUP's agricultural component and PAD zoning regulations derive from the Coastal Act agricultural protection policies.

The Coastal Act Policy Framework

The Coastal Act protects coastal agriculture first and foremost by requiring that "new development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it . . ." (Section 30250(a)). This requirement to concentrate urban development in existing urban areas establishes the fundamental framework for assuring that new urban development, including urban services, are not located in rural coastal areas where the protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to existing developed areas, the Coastal Act requires the establishment of stable urban-rural boundaries to assure that urban sprawl from existing urban areas does not overtake rural agricultural areas. The Coastal Act also requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land be limited to instances where agriculture is no longer feasible or where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where conversion of agricultural lands would complete a logical neighborhood and contribute to the establishment of a stable limit to urban development or would concentrate development in urban areas. Specifically, Coastal Act Section 30241 states:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following: (a) By establishing stable boundaries separating urban and rural areas, including, where necessary clearly defined buffer areas to minimize conflicts between agricultural and urban land uses. (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development. (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250. (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands. (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality. (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.



The clear intent of section 30241 is to maintain prime agricultural land in agricultural production and assure that agricultural land is not converted to non-agricultural land uses except in limited circumstances on the periphery of designated urban areas. Thus, the presumption inherent in Coastal Act Section 30241 is that conversion of agricultural lands is prohibited unless there is some basic incompatibility or conflict with immediately adjacent urban land uses that makes agricultural use no longer viable, or unless conversion would complete a logical urban area and/or help to establish a stable urban-rural boundary that better protects agricultural land.⁶

The Coastal Act also contemplates that both the identification and protection of agricultural land, and its possible conversion to non-agricultural land uses, will be specifically addressed through LCP planning. In particular, the Coastal Act contemplates that in conjunction with the identification of urban-rural boundaries, agricultural lands will be designated and restricted to agricultural land uses, unless a future LCP amendment is approved that allows the conversion of the land to non-agricultural uses. Coastal Act section 30241.5 identifies a viability test for conversion of agricultural lands around the urban periphery when conversion is an issue in any LCP or LCP amendment. By its terms, section 30241.5 applies only to certain agricultural land conversions controlled by section 30241(b), i.e., "conversions of agricultural lands around the periphery of urban areas...where the viability of existing agricultural use is already severely limited by conflicts with urban uses." Because Section 30241(b) is not limited in its application to prime agricultural lands, section 30241.5 is not so limited. Rather, sections 30241 and 30241.5 apply to all agricultural lands on the urban periphery that are proposed for conversion. The analysis required by section 30241.5 to support conversion of agricultural lands must include an economic evaluation of the gross revenue and operational costs, excluding land values, of the crops in the geographic area of the proposed land conversion.

In comparison to section 30241 and its focus on conversions of agricultural lands around the urban fringe and creating a stable urban-rural boundary, Section 30242 addresses conversions of land suitable for agriculture in all locations. Coastal Act section 30242 states:

All other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30242 states rules to be applied for conversion of "all other lands suitable for agricultural use," i.e., all conversions not addressed by the general section 30241 policy against prime land conversions

⁶ Coastal Act section 30113 defines prime agricultural land as those lands defined as prime in sections (1), (2), (3), and (4) of Williamson Act section 51201(c). This includes: (1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications. (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating. (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. (4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.



("the maximum amount of prime agricultural land shall be maintained in agricultural production...") or the specific conversion standards of sections 30241 and 30241.5. Section 30242 includes no direct requirement for considering the resulting stability of the urban limit and in general provided a different standard of review than does 30241(b). Notably, section 30242 does not deal with "agricultural land," but rather with "all other lands suitable for agriculture." One of the tests for conversion of such land is that agricultural use cannot feasibly be continued or renewed. This wording indicates that the policy was intended to be broadly applied, even to land that is not currently in agricultural use.

In summary, the Coastal Act provisions on conversion of agricultural lands are as follows: Prime agricultural lands are to be maintained in production. Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if they satisfy standards stated in subsections (b) and (c) of section 30241, as well as other applicable provisions of the Coastal Act. All other lands suitable for agricultural may be converted only if conversion is consistent with section 30242 and other applicable provisions of the Act. When an LCP or LCP amendment proposes conversion of any agricultural land on the urban periphery under the viability provision of section 30241(b), the viability tests of section 30241.5 also must be satisfied.

The Agricultural Policies of the San Mateo County LCP

The San Mateo County LCP carries out the requirements of Coastal Act Sections 30241, 30242, and 30250, through strict land use and zoning policies designed to maintain the maximum amount of agricultural lands in agricultural production and to concentrate development in existing urban areas and rural service centers. To address the Coastal Act requirement to concentrate new urban development in existing developed areas and establish stable urban-rural boundaries, LUP Policy 1.16 defines the urban-rural boundary as a stable planning line, and requires the LCP maps to designate this line. LUP Policies 1.3 through 1.8 provide definitions for the urban and rural areas and specify the land uses and allowable development densities in urban and rural areas. As referenced earlier, LUP Policy 1.8(a) is a core policy for agriculture that implements Coastal Act Sections 30241 and 30242 by requiring that new development in rural areas be allowed *only* if it is demonstrated that it will not have significant impacts on coastal resources, nor diminish the ability to keep all prime agricultural lands and other lands suitable for agriculture in agricultural production.

In addition to the general urban-rural planning framework of the LCP, the policies of the LUP's Agriculture component closely map the Coastal Act. First, LUP policies 5.1-5.4 define and require the designation of prime agricultural land and other land suitable for agriculture. The LCP definition of prime land is based on the Williamson Act, consistent with Coastal Act section 30113 (see above for detail). Second, LUP policies 5.5-5.10 strictly limit the circumstances under which agricultural land can be subdivided or converted to non-agricultural land uses. The permitted and conditional land uses allowed on agricultural lands are also strictly limited (see Exhibit 7 for full policy text).

The LUP agricultural polices also are implemented by the PAD zoning regulations (Exhibit 8), which provide detailed regulations for new development proposed on PAD lands. Consistent with the Coastal Act, LUP Policy 1.8(a), and the LUP Agricultural component, the purposes of the PAD regulations are:



1) to preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses.

LUP Policies 5.5(a) and 5.6(a) and corresponding Zoning Code Section 6352 specify the limited range of principal permitted uses that are allowable on prime agricultural lands and other lands suitable for agriculture. For example, LUP Policy 5.5(a) states:

5.5(a). Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

Significantly, all of these principally permitted uses are either agricultural production or are directly related to agricultural production or existing residential development on an agricultural parcel. New residential development, whether agriculturally related or not, is not a principally permitted use on either prime agricultural lands or other lands suitable for agriculture.

LUP Policies 5.5(b) and 5.6(b) and Zoning Code Section 6353 specify the conditionally permitted uses allowable on agricultural lands. Most of these conditionally permitted uses are uses that are ancillary to or supportive of agricultural production and are therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production. However, some of the conditionally permitted uses specified in the LUP and zoning code are not ancillary to or supportive of agricultural production, including oil and gas exploration and production, commercial woodlots and temporary storage of logs, and "single-family residences." Similarly, on other lands suitable for agriculture, these uses plus multi-family affordable housing, public recreation/shoreline access trails, schools, fire stations, commercial recreation, aquaculture facilities, wineries, and timber harvesting are all conditionally permitted.

The LCP allowance for certain uses on agricultural lands that are not ancillary to or supportive of agricultural production derives from other overriding Coastal Act requirements that also apply to agricultural lands. First, the provision allowing oil and gas exploration and development is derived from Coastal Act Section 30260, which expressly overrides the coastal resource protection policies of the Coastal Act in specified circumstances to allow oil and gas development and other coastal-dependent



industrial development in the coastal zone, even when inconsistent with other Coastal Act policies.⁷

Similarly, coastal access, recreation, and aquaculture are all priority uses under the Coastal Act, and the Coastal Act requires protection of timberlands. By allowing coastal access and recreation trails, commercial recreation, aquaculture, commercial woodlots, and temporary storage of logs on agricultural lands as conditionally permitted uses, the LCP strikes a balance between these Coastal Act priorities and the protection of agricultural lands. Consistent with Coastal Act sections 30222, 30241 and 30242, the LCP gives precedence to agricultural land protection over these other Coastal Act priority uses on agricultural lands by specifying that these conditionally permitted uses may only be authorized on agricultural lands provided they meet the LCP requirements for conversion of agricultural land to non-agricultural land uses (see below).

With respect to residential development, the LCP clearly provides for improvements to and maintenance of existing residences on PAD lands by designating such uses principally-permitted. New residential development, though, is a conditionally permitted use in the PAD zone, in recognition of the fact that residential development has the potential to undermine the protection of agricultural land by taking land out of agricultural production, as well as the fact that residential development is neither a Coastal Act priority nor is there a provision in the Coastal Act that overrides the Coastal Act resource protection policies in favor of residential development.

The LCP's allowance for new residential development as a conditionally permitted use rather than a principally permitted use is further clarified by looking to the Commission's intent in the certification of the San Mateo County LCP. The Coastal Commission's findings for the certification of the County's LCP specifically address this issue, stating:

The County has limited conditional use conversions of prime lands either to uses that are essential to farming (e.g., the farmer's personal residence, farm labor housing) or to public recreational use.

As expressed in this finding, the intent of the LCP is only to permit residential development on prime agricultural lands when the development is somehow integral to or essential to supporting farming on the land in question. Housing to support the farmer or farm labor housing would fall into this category. Allowing farmer or farm labor housing is supportive of continued agricultural use of prime agricultural land in that it allows the farmer to reduce costs and have direct access to the land being farmed. Thus, the LCP provides that a farmer's personal residence and farm labor housing may be permitted on agricultural lands where there is no alternative site and when all other requirements of the PAD zoning district can be met. Restricting conversion of agricultural land to residential use for farmers or farm

⁷ Section 30260 states that where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.



laborers provides consistency with Coastal Act Section 30241 and LCP Policy 1.8(a) because it maintains the maximum amount of prime agricultural land in agricultural production. This interpretation is supported not only by the findings for the certification of the LCP agricultural policies, but it allows the LCP to be read as internally consistent because the development of farmer and farm labor housing is consistent with the LCP requirement to retain the maximum amount of agricultural lands in agricultural production.

Additional reasons for the conditional use designation for residential structures are rooted in the inherent incompatibility of residential and agricultural land uses. Typical incompatibility issues raised where urban and agricultural lands meet include noise, dust, and odors from agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such incompatibilities can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may pose a threat to the non-agricultural uses.

The interpretation of the LCP with respect to allowable uses on PAD lands is a critical first step in an evaluation of the applicants' project. As discussed above, the certified LCP provides numerous policies for the protection of agricultural land in the rural areas of San Mateo County. In particular, conversion of agricultural lands to non-agricultural conditional uses is prohibited unless consistency with a number of criteria can be met. In order to approve non-agricultural development on agricultural land, the proposed conditional use must not diminish the ability to keep all prime agricultural land and other land suitable for agriculture in production, must provide clearly defined buffers between the non-agricultural use and agricultural uses, must not diminish the productivity of adjacent agricultural land, and must not impair agricultural viability, including by increased assessment costs. If any one of these findings cannot be made, then the proposed conditional use is prohibited.

The proposed residence is a conditional use under LUP Policy 5.5(b). Zoning Regulations Section 6353 requires the issuance of a Planned Agricultural Permit for conditional uses on PAD-zoned land, and Zoning Regulations Section 6355 provides substantive criteria that the applicants must meet prior to issuance of a Planned Agricultural Permit. These criteria support the purpose of the Planned Agricultural District, which is to preserve and foster existing and potential agricultural operations in order to keep the maximum amount of prime agricultural land in production and to minimize conflicts between agricultural and non-agricultural uses. Additionally, LUP Policy 1.8(a) requires that new development be allowed in rural areas only if it will not diminish the ability to keep *all* prime agricultural land in production. Consistent with this requirement, LUP Policy 5.8(a) establishes four criteria that must be met before prime agricultural land can be built upon ("converted") for a conditionally permitted use, as follows:

- (1) *That no alternative site exists for the use;*
- (2) *Clearly defined buffer areas are provided between agricultural and non-agricultural uses;*
- (3) *The productivity of any adjacent*



agricultural land will not be diminished, and; (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

Taken together, the LCP's agricultural policies and zoning regulations require minimizing encroachment of development on agricultural land, as well clustering development on an agricultural site. Additional requirements include ensuring that the productivity of adjacent agricultural land will not be diminished, that the permitted use will not impair agricultural viability via increased land assessment costs, and that the maximum amount of agricultural land be kept in production. In this case, the proposed 6,785 square foot residential structures and associated pool, patio, and landscaping occupy approximately 2 acres of prime agricultural land on the parcel (see Exhibit 2, pg. 1). The proposed large-scale residential development does not constitute a farmhouse (the applicants are not farmers) and thus is not incidental to agricultural uses on the property. Furthermore, the proposed development does not minimize encroachment of agricultural land on the parcel, inconsistent Zoning Regulations Section 6355. Additionally, the project is inconsistent with LUP Policy 1.8(a) and Zoning Regulations Section 6350 in that, due to its size and sprawling nature, the proposed project diminishes the ability to keep the maximum amount of prime agricultural land in production. Furthermore, LUP Policy 5.8(a) establishes four criteria that must be met before prime agricultural land can be developed with a conditional use (i.e., converted from agricultural use). Failure to meet any one of these criteria requires that the proposed conversion be prohibited. LUP Policy 5.8(a)(1) prohibits the conversion of prime agricultural land unless no alternative site exists for the use. As discussed above, the parcel consists entirely of prime agricultural land. Thus, there is no alternative site for the proposed use that does not convert prime agricultural land on the parcel. Therefore, the criterion of LUP Policy 5.8(a)(1) is met.

LUP Policy 5.8(a)(2) requires that "clearly defined buffer areas are provided between agricultural and non-agricultural uses." For an evaluation of the project's consistency with this policy, please see the "Agricultural Buffer" section of the staff report.

LUP Policy 5.8(a)(3) requires that the productivity of adjacent agricultural land will not be diminished by conditional development. LUP Policy 5.8(a)(4) requires that permitted uses shall not impair agricultural viability by increased assessment costs. As discussed ~~below~~ ^{above}, the San Mateo County Agricultural Industry Profile and the Strong Associates 2003 Marin County Agricultural Economic Analysis found that ranchette and urban development of farmland is one of the chief factors in driving up rural land costs, and that as land becomes too expensive for farmers to rent, purchase, or maintain due in part to increased holding costs, agricultural use of the land is diminished. In the case of the Polacek property, this property had an assessed pre-Proposition 13 value of \$26,835 at the beginning of 1998. Ownership of the parcel was then transferred from Lina (Campanotti) Bandini to Frank Costella/Ralph Moceo. There then was a transfer of partial interest from Ralph Moceo to Frank Costella (transfers of property between family members do not trigger reassessment of the property; partial transfers only trigger reassessment of the portion of the property transferred). The final assessed value for the property in 1998 was \$155,500. Frank Costella sold the parcel to the Polacek's on January 8, 2001 for \$750,000. This sale price was based on an appraisal report for the property in 2000, which appraised the property



based on its "highest and best use", i.e. residential use. According to Cathey LaVeck at the San Mateo County Assessor's Office, all PAD-zoned property that is for sale is appraised at the market rate for residential use unless it is placed under a Williamson Act contract or is subject to a conservation easement, which would result in the appraised value being much lower. The property's assessed value was \$765,000 in 2002. The current assessed land value of this undeveloped parcel is \$794,868. When the property is developed with a house, the improvement value will be based on the fair market value of the house. Fair market value is based on a number of factors, including size of the house, quality of the materials used to construct the house, and the types of amenities present, such as a pool. The improvement value will be added to the land value to equal the total taxable assessed value of the property. Given the size of the proposed residence and associated development, which totals 6,785 square feet, as well as the amenities associated with the proposed house, including a pool, the total assessed value of the property would be approximately \$1,800,000 to \$2,300,000. This is based on an estimated assessed value of \$1,000,000 to \$1,500,000 for the residential improvements and an approximate \$800,000 land value for the parcel. Thus, the proposed residential development will increase the assessed value of the property by two to three times its current value. As found in the Strong Associates study, such high-value residential development can impacts the viability of agricultural by contributing to increased costs/assessments of agricultural land in the region. ~~Thus the project, as proposed, is inconsistent with LUP Policies 5.8(a)(3) and (4) because it would diminish the productivity of adjacent agricultural land and would impair the agricultural viability of farmland in the County's coastal zone through increased assessment costs.~~ Thus, the development, as proposed, raises issues of consistency with LUP Policies 5.8(a)(3) and (4) regarding the productivity of adjacent agricultural land and increased assessment costs of agricultural land. These issues can be addressed, however, by the inclusion of Special Condition #1A, which limits the size of the building envelope to 10,000 square feet. Additionally, Special Condition #2 limits the assessed value of the applicants' parcel by requiring that the remainder of the property outside the building envelope and the driveway be subject to an affirmative agricultural conservation easement. Please see the "Development Envelope" and "Agricultural Conservation Easement" sections on page 36, and the "Rural House Size Limit" section on page 37 for a complete discussion regarding how these conditions provide consistency with the agricultural policies of the certified LCP.

Economic Analysis

The applicants' representative performed "An Economic Analysis of a Farming Enterprise on a 17.98-acre site near Pescadero, San Mateo County" (see Attachment 1). The Economic Analysis cites Coastal Act Section 30108, which defines "feasible," and states:

30108. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

The Economic Analysis also cites Coastal Act Sections 30241.5(1)(2), which indicate that an agricultural economic feasibility analysis should have the following elements, at a minimum, and states:



30241.5. (1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. (2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

The Economic Analysis discusses a number of physical constraints of the parcel including soil constraints, wind exposure, water availability, distance from other agricultural centers, etc. As discussed above, however, the soils on the property consist of prime agricultural soils. Also, many of the mentioned constraints are present on other agricultural properties in the area, which remain in active agricultural production. Regarding water availability, the project is conditioned to require the permittees to develop an additional water supply on the parcel (e.g., an agricultural pond) if the water available from Lake Lucerne is not adequate to sustain the agricultural viability of the property (see Special Condition #2B, and the "Water Supply" finding below). Additionally, the applicants' Agricultural Land Management Plan (Exhibit 3) notes that the parcel has been farmed in crops since 1900 or earlier and that the parcel has produced a variety of crops through the years, including artichokes, fava beans, Brussels sprouts, leeks, hay, straw flowers, and ornamental eucalyptus. Furthermore, the parcel was actively planted with Brussels sprouts through the year 2000. Thus, the parcel has actively produced agricultural products for over 100 years in spite of the constraints listed above. Since the applicants purchased the property in early 2001, however, the parcel has not been actively or continuously farmed.

The Economic Analysis notes that the applicants, while waiting for permit approval of their project, have made the parcel available to local neighborhood farmers to grow crops on the parcel, without charging a lease fee, and that even with this free opportunity, there has been minimal interest in farming on the property. No evidence, however, is provided to support this statement. Additionally, the Economic Analysis states that the property is small and fragmented into smaller non-contiguous areas by potentially protected wetlands and agricultural ditches, and that the fragmentation of this agricultural land creates inefficiencies in agricultural operations. The eucalyptus wetland on the property, however, has previously been farmed and would be available for farming in the future (agriculture is not considered "development" under the LCP and therefore is not subject to the LCP prohibition of development within wetlands). Also, the agricultural ditches on the property, which provide drainage of excess water into ponds on an adjacent parcel, have existed on the property for years, during which time the parcel was actively farmed.

Two crops, Brussels sprouts and artichokes, were considered in the Economic Analysis. These crops were chosen because they have been consistently grown in the area over the years and recent data on these crops are readily available. The Economic Analysis estimated the costs and expected returns of producing these crops on the farmable portions (approximately 14.35 acres) of the parcel. As discussed above, however, the eucalyptus wetland area is farmable. Also, as conditioned, the residential development is limited to a 10,000 square foot building envelope (see discussion below), as opposed to the approximately two-acre building envelope proposed by the applicants. Thus, the farmable portions



of the property (excluding the agricultural ditches and 10,000 square foot building envelope) equal approximately 17 acres. The Economic Analysis, however, uses a fixed per-acre cost for all farm cash expenses and direct farm operating expenses. Thus, even when the estimated costs and revenues are calculated for a 17-acre farmable parcel, the net result does not change from that calculated for a 14.35 farmable parcel. In general, with more acres farmed you would expect the farm costs and expenses to be reduced, leading to a larger economic return. In this case, however, the difference between the two farmable estimates (14.35 acres versus 17 acres) is small and the net results probably would be very similar. In any event, the Economic Analysis shows a negative return on investment for both artichokes and Brussels sprouts. The Economic Analysis concludes that the parcel size and other parcel constraints discussed above do not provide for a viable farm.

Due to changes in the market over the last several years (i.e., competition from other regions), artichokes are no longer commonly grown on the San Mateo coast. As such, artichokes are not an appropriate crop to base an analysis of agricultural viability for the subject parcel. Instead, the analysis should have considered crops that are commonly grown today on the San Mateo coast, alternative crops, such as those proposed in the applicants' Agricultural Land Management Plan (see Exhibit 8, page 3), or organically grown crops, which are often grown on smaller parcels. For example, nursery and greenhouse production represent approximately 90 percent of total sales of agricultural products in the County and would be less affected by constraints raised in the applicant's analysis such as wind. Mushrooms produced on only 17 acres in the County in 2002, an area similar in size to the applicants' property, had a production value of \$23 million.⁸ Yet, the applicants' analysis does not evaluate the feasibility of using the property for any of these higher valued and/or more common agricultural products in San Mateo County. Additionally, other than stating that there is no interest in farming this parcel, the Economic Analysis does not evaluate the economics of this parcel if it were farmed as part of a larger operation, which was how the property was farmed prior to purchase of the property by the applicants. For the above reasons, the submitted Economic Analysis is of limited value in determining the economic viability of continued or renewed agricultural use of the project site.

Non-agricultural Residential Development on Agricultural Lands

As discussed above, a core policy concern of the Coastal Act is the protection of coastal agriculture through the limitation of non-agricultural land uses on agricultural lands. The original Coastal Plan that formed the basis for the Coastal Act identified this concern, including the issue of land speculation and valuation that could effectively undermine the goal of maintaining agricultural lands. Akin to the Williamson Act concern for not valuing agricultural land at non-agricultural prices, the Coastal Act evinces a concern for the protection of an area's agricultural economy, and an assurance that increased assessments due to public services or non-agricultural development do not impair agriculture (section 30241; also section 30241.5).

The Commission has recently addressed the concern for the trend towards development of large rural residential projects in agricultural areas in the Periodic Review of the San Luis Obispo County LCP. In

⁸ San Mateo County Agricultural Industry Profile & Strategic Farmland Maps—Final Report, July 30, 2004, American Farmland Trust.



particular, the Commission adopted recommendations that the SLO County LCP be amended to establish stronger standards for non-agricultural residential development on agricultural lands, including performance standards for the size of development envelopes and other constraints that would better maintain lands in agricultural production (see Recommendation 5.8 of Commission's Adopted Periodic Review of SLO County LCP).

In contrast to residential development that is incidental to and/or in support of agricultural production, such as farmer and farm labor housing, the development of non-farming related single-family homes on agricultural lands is contrary to the goal of keeping agricultural lands in agricultural production. Given increasingly high housing costs, agricultural use cannot compete with the use of land for residential development even on a large un-subdivided farm parcel or ranch on the San Mateo County coast. The recent trend to develop large expensive homes on such properties exacerbates this problem by increasing the speculative value of these large parcels in the scenic rural coastsides as sites for such homes. The development resulting from these pressures is widely recognized as contributing to the loss of agricultural production on agricultural land in conflict with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production.

The loss of available lands for farming to residential development is now being recognized as a national trend and many states, including California, have recently taken actions in attempt to curb this "rural sprawl." The American Farmland Trust views rural residential sprawl as a major threat to farm production stating:

The majority of the Central Valley's population lives in urban areas totaling more than 1,236 square miles. Yet that number does not tell the full story. What are not counted are the rural-residential parcels. These residences, also known as "ranchettes," dot the rural landscape and affect everything from routine farming practices... a ranchette removes more farmland from agriculture than any higher density suburban dwelling.⁹

And:

The subdivision of land into ranchettes fuels speculation that drives up the cost of land and eventually makes it unaffordable for commercial agricultural production. The proliferation of rural residences throughout agricultural areas also poses a very real risk, right-to-farm laws notwithstanding, that agricultural insurance premiums will rise and that farming practices may be further regulated to protect public health and safety. Thus, agricultural policy should also address the need to significantly reduce scattered, rural development.

Greater certainty about land use expectations is critical to both farmers and developers. Places to farm and places to build should be clearly delineated, mutually exclusive and consistently enforced... [This] will also insulate agricultural production from speculation and other pressures exerted by urban proximity, and encourage reinvestment in California agriculture to

⁹ Ranchettes: the Subtle Sprawl. A Study of Rural Residential Development in California's Central Valley, AFT 2000.



*meet the demands of a changing global marketplace.*¹⁰

In its literature concerning agricultural conservation easements, as further discussed below, California FarmLink states:

Agricultural conservation easements may also limit the size of any single-family house to be build on the property with the intent to ensure that the house will be used by a true farmer instead of a "gentleman" farmer. An owner predominantly depending on agricultural income will presumably not be able to afford a significantly larger than average size house (i.e. 4,000 sq. ft.). If such an estate home were built, a farmer looking to purchase the land in the future would be priced out of the market.

The New Jersey Farmland Affordability/Availability Working Group observed:

The viability of New Jersey's agricultural industry depends on ensuring that farmland is affordable and available to new and established farmers. If farmers don't have access to farmland they can't farm.

*Under the State Agricultural Retention and Development Act, the investment of Public Funds is intended to preserve land and strengthen the viability of agriculture. Estate situations – where the landowner does not farm the land or only minimally farms it – run counter to that purpose. To maintain public confidence in the Farmland Preservation Program and ensure preserved farmland remains available and affordable to farmers, the issue of housing on preserved farms needs to be addressed.*¹¹

Measures identified to address this issue include: (1) prohibiting all non-farm dwellings on agricultural lands, (2) limiting the size of new homes on agricultural lands, and (3) requiring agricultural conservation easements that ensure that land remains *in* agricultural use as opposed to simply remaining *available* for agricultural use. These measures have been adopted or are currently under consideration by many jurisdictions throughout the state and nation. As further discussed below, the Commission finds that certain such measures are necessary to ensure that the proposed development conforms to the agricultural protection requirements of the County's LCP.

Conditionally Permitted Residential Housing on Agricultural Lands Must Not Diminish the Productivity or Viability of Agricultural Land or the Ability to Keep Agricultural Land in Production.

As stated above, the construction of non-farming related single-family homes on agricultural lands is inconsistent with the requirements of LUP Policies 1.8(a), 5.8, 5.11 and Zoning Code Section 6350 which, among other things: (1) allow new development in rural areas only if it is demonstrated that the development will not diminish the productivity or viability of agricultural land or the ability to keep all

¹⁰ Suggestions for an Agricultural Component of Governor Arnold Schwarzenegger's Smart Growth Initiative. AFT. May 2004.

¹¹ Recommendations of the New Jersey Farmland Affordability/Availability Working Group. September 23, 2004.



agricultural lands in agricultural production, and (2) minimize conflicts between agricultural and non-agricultural land uses. Contrary to these requirements of the LCP, construction of homes that are not supportive of agricultural use on agricultural properties reinforces the market incentives to develop new homes on agricultural properties, diminishing the ability to keep agricultural lands in production and increasing conflicts between agricultural and residential land uses. In order to meet the LCP requirements to maintain the maximum amount of agricultural land in production and to minimize conflicts with other land uses, the Commission finds that measures must be implemented to discourage the continuation of the trend to treat agricultural lands as new home sites, where agricultural use becomes secondary to residential development.

One alternative to address this issue would be to adopt a policy like the Oregon Agricultural Land Use Policy. Under this policy, persons living on "high-value farmland" must be actively engaged in commercial agricultural production and must demonstrate a minimum annual gross income from farming of the property of \$80,000. As stated by the Oregon Department of Land Conservation and Development: "while \$80,000 is far below the average income of commercial farms, it is enough to sort farmers from people just looking for a home in the country."¹²

Similar to Oregon's policies and as discussed above, the LCP only permits residential development on agricultural lands where the development does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production. The Commission's findings for the certification of the LCP support the interpretation of these policies to mean that residential development on farmland is limited to farmer and farm labor housing. However, even though this interpretation of the LCP policies is supported by the Commission's findings and would provide internal consistency to the LCP agricultural protection policies, the LCP does not expressly prohibit non-farm dwellings on agricultural lands. As such, the Commission finds the LCP also allows conditionally permitted residential housing on agricultural lands only if it does not diminish the productivity or viability of agricultural land or the ability to keep agricultural land in production.

AFT 2004 San Mateo County Agricultural Industry Study

The American Farmland Trust (AFT) conducted a study in 2004 of San Mateo County agriculture under contract with the Peninsula Open Space Trust (POST), which reviewed, among other things, the economic and development pressures affecting agriculture in the County.¹³ This study shows that over the past 25 years the county's land in farms decreased 45 percent from 75,110 acres to 41,530 acres. Although the AFT Study does not differentiate between agricultural lands lost inside and outside of the coastal zone, much of the agricultural lands in San Mateo County are in the coastal zone and, according to POST, AFT's findings are representative of the trends for San Mateo coastal agricultural lands.¹⁴ These data suggest that implementation of the Coastal Act and LCP agricultural protection policies has

¹² Using Income Criteria to Protect Commercial Farmland in the State of Oregon. Oregon Dept. of Land Conservation and Development.

¹³ San Mateo County Agricultural Industry Profile & Strategic Farmland Maps – Final Report. July 30, 2004. American Farmland Trust.

¹⁴ Pers. Comm. Paul Ringgold, POST, May 9, 2005.



not necessarily been effective in keeping the maximum amount of agricultural land in production.

The AFT Study also shows that the rate of decline in farmland acreage is increasing with a 28 percent reduction in both land in farms and average farm size during the period between 1992 and 2002. AFT attributes the loss of farmland in part to increased land costs, and states:

“Not surprisingly, as land in farms declined, land values increased dramatically.”

In addition to analyzing data from the U.S. Census of Agriculture and San Mateo County Agricultural Commission Crop Reports, AFT interviewed local farmers to gain insight about how farmers perceive these issues. According to AFT, the main challenges facing San Mateo County agriculture include: “(1) increased input costs; (2) shrinking markets; (3) stiff environmental regulations; and (4) decreasing land available for agriculture.”

Other findings of the AFT study include:

“The farmer’s perception that land is too expensive to rent or purchase was born out by the data. Between 1978 and 2002, the estimated average value of land and buildings rose 290 percent to just over \$1.5 million.”

“Some farmers pointed to ranchette and urban development to explain the loss of farms and farmland.”

“The main challenges the farmers identified were environmental and economic. Farmers also pointed to the problems related to the shrinking agricultural land base—especially the fact that land is too expensive to rent. While some farmers blame public and private conservation organizations for reducing the amount of rental land, the problem is more likely driven by new development than open space protection.”

Thus, according to the AFT Study, substantial San Mateo County farmland has been lost notwithstanding the Coastal Act and LCP agricultural protection policies that require the protection of the maximum amount of agricultural land in production. The study also shows that increased land cost is one of the main factors contributing to this loss of farmland and that increased land costs are due primarily to new development. However, although the AFT Study cites farmers’ concerns regarding ranchette and urban development and contends that new development is likely the chief factor driving high land costs, it does not specifically examine how high-value residential developments, such as the proposed project, affect land costs and related viability of agriculture.

Strong Associates 2003 Marin County Agricultural Economics Analysis

The impacts of high value residential development on the viability of agriculture and the ability to keep agricultural lands in production is specifically addressed in a 2003 study prepared for the Marin County Community Development Agency (Strong Associates Study).¹⁵ This study “analyzes the economic

¹⁵ Marin County Agricultural Economic Analysis, Final Report. Strong Associates. November 2003.



issues facing agriculture in Marin County with the primary focus on the impact of estate development on agricultural lands.” The study reviews an earlier study of Marin’s agricultural economy from 1973, analyzes current data regarding Marin agricultural production, costs, land values, etc., and evaluates five case studies identified by the Marin Planning Department where new homes are either proposed or have been recently constructed on agricultural parcels to determine to what extent the County’s efforts to preserve agricultural lands over the past 30 years have been successful and whether prior strategies for farmland protection remain effective.

There is little doubt that the same basic market forces and other factors analyzed in the Strong Associates Study of high value residential development in Marin County are relevant to understanding agricultural trends in San Mateo County. The study’s author states that residential estate development impacts agricultural viability in San Mateo County in the same way as it does in Marin County and that there is no reason not to apply the study’s findings and recommendations to San Mateo County.¹⁶

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

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

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

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

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

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

¹⁶ Pers. Comm. David Strong, May 6, 2005.



approaches that will again protect and stabilize agricultural use from "gentrification" into non-productive estates.

County policy-makers should explore approaches to maintaining an "agriculturally friendly" ratio of land costs to lease income. Such approaches may include:

- 1. Define a reasonable ratio of lease income to land related costs, including placing a ceiling on the value of non-agricultural improvements. The economic analysis above could be applied on an area-specific basis to determine income and cost factors in order to limit the impact of proposed new development, or an overall ceiling could be placed on the size of farm residences. The acceptable level is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence on a ranch.*
- 2. Other measures to enhance long-term agricultural viability could include installing agricultural improvements, such as water development... The landowner could also finance annual agriculture-related costs such as weed control, access roads, and fence maintenance."*

Rural House Size Limit – THIS SECTION HAS BEEN MOVED BELOW, AFTER "AGRICULTURAL CONSERVATION EASEMENT" SECTION

Farm Infrastructure

Agricultural production requires related improvements and support facilities such as irrigation systems and water supply facilities, fences for both pasture management and pest control, equipment storage barns, etc. The development and maintenance of such facilities is a critical factor in maintaining the viability of agricultural lands and ensuring that agricultural lands remain in production. Such improvements can be very costly. For example, a new fence costs between \$3 and \$3 4 per linear foot, or \$261 to \$327 per acre in the case of the project site. Because of the high cost of developing and maintaining farm infrastructure, such improvements may only be feasible as long-term investments that are amortized over the life of the facility. Estate development where the property value is based principally on the residential use rather than agricultural use may discourage long-term investment in farm infrastructure and support facilities. Property owners who do not rely on or are not actively engaged in commercial agriculture as their primary means of income do not have the same economic incentive as a farmer to make costly long-term investments necessary to support agricultural use of their property, and lessee farm operators are often reluctant to make such investments in land they do not own.¹⁷ Therefore, to ensure that the proposed development does not diminish the agricultural viability of the project site and maintains the maximum amount of agricultural land in agricultural production, the Commission finds that the applicants and any successors in interest in the property must be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.

¹⁷ Marin County Agricultural Economic Analysis, Final Report, Strong Associates, November 2003. Pers. Comm. Larry Jacobs, San Mateo County Farm Commission Chair, May 6, 2005.



Special Condition #2B requires such. The Commission finds that Special Condition #2B is required in order for the proposed development to meet the requirements of LUP Policies 1.8(a) and 5.8 and Zoning Code Sections 6350 and 6355.

Development Envelope

Zoning Regulation Sections 6355.A.1 and 2 require encroachment of all development upon lands suitable for agriculture to be minimized and require non-agricultural development on PAD zoned lands to be clustered. To meet the requirement, the overall footprint of the proposed residence and all appurtenant non-agricultural development must be confined to a specifically defined development envelope. The establishment of this residential development envelope is necessary to ensure that the residence and related development displace the minimal amount of agricultural land necessary and are incidental to agriculture, while still allowing a reasonable residential development.

Typical conforming lots in the residentially zoned areas of the San Mateo County coast range from 5,000 square feet to 10,000 square feet. ~~A 5,000 square foot lot readily accommodates a 2,500 square foot single family residence and all appurtenant development such as landscaping, swimming pools, accessory structures, second residential units, guest units, etc. As such, limiting the residential component of the proposed development to a 5,000 square foot envelope consistent with the minimum lot size allowable in the R-1 district would allow a reasonable residential development. However, t~~The Commission finds that given the total size of the development site relative to the development envelope, a development envelope in the upper end of the range of lots in the residential zoning districts (10,000 square feet), would still achieve the LCP requirement to minimize the encroachment of development on agricultural lands. Therefore, Special Condition #1 requires the proposed residential development to be confined to a 10,000-square-foot development envelope. Pursuant to this condition, the 10,000-square-foot limit would not include the driveway. ~~To further minimize encroachment on agricultural land, the 10,000 square foot development envelope must be located as close to Bean Hollow Road as possible, while avoiding structural encroachment upon existing inactive ditch easements and maintaining a 50-foot setback from the farmed wetland shown on Exhibit 11 (see the "Wetland" section of the report for further discussion of the "farmed wetland"). Special Condition #1 further limits the 10,000 square foot development envelope to the "potential building area" on the parcel shown in Exhibit 10, consistent with the above requirements.~~

Agricultural Conservation Easement

LUP Policy 5.16 requires that as a condition of any subdivision of an agricultural parcel the applicant must grant to the County and the County must accept an easement that limits the use of the land to agricultural uses, non-residential development customarily considered accessory to agriculture, and farm labor housing. Such easements are usually referred to as agricultural conservation easements.

Although the proposed development does not include subdivision of the parcel, conditioning the project to require the application of an agricultural conservation easement on the property will ensure that the area of the property outside of the development envelope will remain in agricultural use. Special Condition #2 requires the applicant to either dedicate or record an offer to dedicate to an appropriate



public or private entity acceptable to the Executive Director an agricultural conservation easement affecting all areas of the property outside of the approved development envelope.

While agricultural conservation easements typically prohibit development of agricultural land, they do not necessarily ensure that the land will continue to be farmed. To accomplish this, an easement must include an affirmative farming requirement in addition to development prohibitions. Without a clause requiring continued agricultural use, an easement can only guarantee the protection of open space but cannot guarantee the land will remain in agricultural use. In recognition of this shortcoming, affirmative farming clauses are included in agricultural conservation easements. Marin County is currently considering such an easement as a condition for the approval of a non-farming-related single-family residence on an agricultural property near the town of Bolinas (Moritz). The organization California FarmLink, which works with land trusts in the state to secure agricultural conservation easements and to match easement holders with farmers seeking available farmland, has developed a sample easement with such language. This sample easement was based in part on easements that are in place in the state. FarmLink advocates the inclusion of an affirmative farming requirement in agricultural conservation easements, stating:

While many individuals who have signed agricultural conservation easements can rest easy with the thought that their land will be protected, they may have never considered the possibility that someone might someday buy the farm solely for the purpose of enjoying the views and the peace and quiet of a rural environment.

In order to ensure that the property remains in agricultural use consistent with the LCP requirement to maintain the maximum amount of agricultural land in agricultural production, Special Condition #2 specifies that the required agricultural conservation easement shall include an affirmative farming clause. LUP Policy 5.16 includes a provision allowing lands covered by an agricultural conservation easement to be converted to open space if changed circumstances beyond the control of the land owner or operator have rendered the property unusable for agriculture and upon certification of an LCP amendment changing the land use designation to open space. Consistent with this provision, the affirmative farming clause would only remain in effect as long as agricultural use of the property is feasible.

Rural House Size Limit

As shown in the Strong Associates study, the speculative value of agricultural land for residential development is driven in large part by the demand for new high-value residential development. The homes associated with this type of development are typically much larger than most existing farm dwellings. As shown below, most of the recently constructed homes in the PAD zone are, like the proposed development, several times larger than the typical house size in the PAD zoning district. As demonstrated by the Strong Associates Study, development of these high value homes contributes to the speculation for the use of other agricultural parcels on the San Mateo coast for similarly large homes, potentially resulting in significant adverse cumulative/indirect impacts on the continued economic viability of agriculture throughout the County.



~~As shown above, the Commission finds that the proposed development would result in significant adverse cumulative impacts on the viability of agriculture on the San Mateo County coast by contributing to the increased cost of agricultural land in the region. As such, the proposed development would diminish the ability to keep all agricultural land in agricultural production in conflict with LUP Policy 1.8(a) and Zoning Code Sections 6350 and 6355 and would impair agricultural viability through increased assessment costs inconsistent with LUP Policy 5.8(a)(4). To the extent that these impacts are a concern in this case, Special conditions #1 and #2, respectively, mitigate these impacts by restricting the development envelope to 10,000 square feet and requiring that the remainder of the property be subject to an affirmative conservation easement. The question remains, though, whether it is necessary to reduce the size of the house to further mitigate the proposed development's impact on agricultural production. The Commission further finds that reducing the size of the proposed residence would reduce the effects of the development on agricultural land cost, thus minimizing the adverse impacts of the proposed development on agricultural viability.~~

The Strong Associates Study found that the effect of estate development on agricultural land values directly corresponds with house size, with the largest, most expensive homes having the greatest impact on land cost. Smaller homes have less impact on land costs and therefore on the viability of the land for agricultural use (i.e. potentially more feasible to farm). ~~As such, the Commission finds that it is necessary to reduce the size of the proposed residence in order to avoid significant adverse cumulative impacts on agricultural viability in conflict with LUP Policies 1.8(a) and 5.8, and Zoning Code Sections 6350 and 6355. Conversely, the Commission finds that not restricting the size of the proposed residence would serve to support the current market incentives to construct larger expensive homes on farmland and lead to further loss of agricultural production in conflict with the requirements of the LCP. The Commission finds that it is timely to take such action now while the trend to develop farmlands for large estates is still relatively new and most of the agricultural parcels in the County remain either undeveloped or developed with modest sized homes typical of farm dwellings.~~

In 2002, in response to public concern about an increase in large estate developments in the rural areas of the County's coast, the San Mateo County Board of Supervisors directed County staff to develop a proposal for limiting the height and floor area of new single-family residences in the rural portion of the County's coastal zone. During their evaluation, County staff found that the size of new houses in the rural zoning districts increased from an average of 2,484 square feet in 1993 to 4,926 square feet in 1998. In several reports to the County Agricultural Advisory Board and Planning Commission in 2002, County staff described the issue as follows:

The principle intent of the PAD zoning district is preserve and foster existing and potential agricultural operations and minimize conflicts between existing agricultural and non-agricultural land uses. The PAD allows some non-agricultural uses, such as single-family residences, under strict conditions through the issuance of use permits.

The PAD does not foster or encourage the development of large, single-family residences for non-farm working families. Although, as documented, three have been proposed in the past year and several have been built since the PAD was established in 1980.



County staff also determined that:

General Plan policies and the Zoning Regulations provide strong justification to limit the size and height of single-family residences in order to minimize negative environmental effects on the preservation of agriculture and open space. They also provide strong justification to regulate the design of these residences.

The General Plan's Local Coastal Program policies in particular require that all development in the rural areas blend and harmonize with the natural environment so that it is subordinate and unobtrusive. It is debatable as to whether most of the large single-family residences that have been approved in the past ten years are as subordinate to the natural environment or as unobtrusive as possible.¹⁸

Commission staff provided comments to the County in response to the proposed rural house size limit suggesting that in order to determine a size limit that would meet the requirements of the LCP, the County should take into consideration the scale and character of existing residences in this area. The County did not complete this evaluation and never adopted a rural house size limit. Thus, although the County has expressed concern about the trend of large single-family home construction on agricultural lands and the negative effects of such development on continued agricultural use of such lands, it has not yet taken action to address this issue and a rural house size limit has not been established.

In order to determine ~~what the size limit for residential development should be to carry out the LCP agricultural protection policies~~ the average and median house sizes in the PAD zone, Commission staff reviewed all available records for existing residential development in the PAD zone for the County. These data show that the average size of existing single-family residences within the PAD zone is substantially smaller than the proposed development, but that in the past eight years several very large homes have been constructed. These data are summarized in the table below:

Table 1

Total No. Parcels in PAD/CD Zone	1,108
Total No. of Residentially Developed Parcels	165
Median House Size	2,271 sq. ft.
Average House Size	2,677 sq. ft.
Minimum House Size	390 sq. ft.
Maximum House Size	21,000 sq. ft.

These data also show:

¹⁸ County of San Mateo, Environmental Services Agency Planning and Building Division, memo from Planning staff to Planning commission, June 25, 2002, County File Number PLN 2002-00327.



- 75% of residences are 3,000 sq. ft. or less
- 88% of residences are 4,000 sq. ft. or less
- 94% of residences are 5,000 sq. ft. or less

As shown in Exhibit 9, several large single-family residences have been constructed during the last eight years in the PAD zone, including two projects that were approved by the Commission on appeal (Blank and Lee). Nevertheless, these permit records also show that only three of the 165 single-family residences in the PAD zone exceed 7,000 square feet (10,250 square feet, 15,780 square feet and 21,000 square feet). Furthermore, the County's records show that to date residential development has occurred on approximately 15 percent of the 1,108 parcels zoned PAD within the County's coastal zone and that only a small fraction of these developments involve larger estate homes. Thus, while several large homes have recently been constructed in the PAD zone that are similar in size or larger than the proposed development, these developments greatly exceed the scale of typical residences in the PAD zone and the development of such large homes is a relatively recent trend. As such, these data validate the concerns expressed by the County of increasing pressure to build large non-farm related residences on coastal farmland.

~~The Commission finds that to meet the requirements of LUP Policies 1.8(a) and 5.8 and Zoning Code Sections 6350 and 6355 of the certified LCP to: (1) preserve and foster existing and potential agricultural operations in order to keep the maximum amount of agricultural land in agricultural production, (2) minimize conflicts between agricultural and non-agricultural land uses, (3) minimize the encroachment of non-agricultural development on agricultural lands, (4) ensure that residential development does not impair agricultural viability including through increased assessment costs, and (5) ensure that residential development on farmland does not diminish the productivity of any adjacent agricultural land, (i.e. that it is incidental to and in support of continued agricultural use of the land), the proposed new residential development should not exceed the typical scale of existing residential development on agricultural lands in the County in order to address the cumulative impacts of non-agricultural residential development on agricultural operations in San Mateo County. As discussed in other sections of this report, other conditions addressing development footprint, right to farm, and the maintenance of agriculture on the parcel are also required to meet the LCP requirements. Although the Commission has allowed some large non-agricultural residences to be constructed within the rural San Mateo County coastal zone, the Commission, like other agencies throughout the state and nation, now recognizes that such development threatens continued agricultural use of agricultural lands and is in conflict with the LCP agricultural land use protection policies and zoning. The Commission also finds that since relatively few of the approximately 1,100 agriculturally zoned parcels in the San Mateo County coastal zone have been developed with large estate homes to date, that it is timely to impose limitations on such development to prevent significant adverse impacts on the viability of agriculture throughout the county's coastal zone. Accordingly, Special Condition #1 limits the proposed residence to a maximum internal floor area of 2,500 square feet.~~

Also, several studies evaluating the size of single-family residences nationally report that the average



size of single-family residences ranges from 2,100 to 2,200 square feet. In comparison, the median and average sizes of residential development (2,271 square feet and 2,677 square feet, respectively) on agricultural land in San Mateo County are generally consistent with these national data. ~~When compared with other San Mateo agricultural properties, the 6,785 sq. ft residential development proposed by the applicants is roughly two and a half to three times larger than most other residences constructed on agricultural lands.~~

~~The 2,500 square foot limit imposed under Special Condition #1 not only conforms to the typical scale of existing residential development in the PAD zone (median 2,271 square feet, average 2,677 square feet) and with the national average, it also mirrors~~ The concern for non-agricultural development on PAD lands is mirrored in a recent amendment to the California Land Conservation Act (Williamson Act). The Williamson Act was established in 1965 to preserve the state's agricultural lands in recognition of the following findings (GC §51220):

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

...

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest...

The Williamson Act provides for the protection of agricultural lands by allowing landowners to substantially reduce their property tax assessments by entering into a contract restricting the use of their property to agriculture and other uses compatible with agriculture. While the Williamson Act established an incentive program to encourage the voluntary preservation of farmland, the Coastal Act takes a regulatory approach to achieve the same goal. Although the basic approaches differ, both Acts share the overall policy objective of limiting the conversion of agricultural lands to non-agricultural development. In addition to their shared policy objectives, the relationship between the two laws is evident through the Coastal Act's reference to the definition of "prime agricultural land" contained in the Williamson Act, as well as similarities between Coastal Act Sections 30241, 30242, and 30250 with language contained in various policies of the Williamson Act.

Residential development on agricultural land that is under a Williamson Act contract is allowable only if the residence is required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel. In response to an increased concern about violations related to the use of agricultural lands under Williamson Act contracts for non-agricultural development projects, the Williamson Act was amended in 2003 to provide enhanced penalties and enforcement remedies (AB1492- Laird; See Exhibit 16). A Fact Sheet prepared by the California Department of Conservation describes the changes under this bill as follows:

Does AB 1492 repeal the Williamson Act?



No, AB 1492 provides enhanced penalties for a material breach of contract and extends the date of the lot line adjustment provisions. AB 1492 contains no new restrictions on uses allowed under the Williamson Act, existing contracts or local uniform rules or ordinances.

What is a “material breach of contract”?

Government Code §51250(b) defines a material breach on land subject to a Williamson Act contract as a commercial, industrial or residential building(s), exceeding 2,500 square feet that is not permissible under the Williamson Act, contract, local uniform rules or ordinances. AB 1492 only applies to structure(s) that have been permitted and constructed after January 1, 2004.

Does AB 1492 mean that I can now develop my Williamson Act property as long as none of the buildings exceed 2500 square feet?

No. Any development on property subject to a Williamson Act contract must be incidental to the primary use of the land for agricultural purposes and in compliance with local uniform rules or ordinances.

What does “incidental to the agricultural use of the land” really mean?

A use is incidental when it is required for or is part of the agricultural use and is valued in line with the expected return of the agriculture on the parcel. Compatible uses on Williamson Act lands are defined in GC§51201(e). Additionally, each participating local government is required to adopt rules consistent with the principles of compatibility found in GC§§ 51231, 51238 and 51238.1.

Does AB 1492 prohibit me from building a house larger than 2500 sq. ft.?

Not necessarily. Homesites are allowed on contracted land but are limited in purpose and number and must be incidental to the agricultural use of the land. In addition, any homesite on land subject to a Williamson Act contract must be in compliance with local uniform rules or ordinances.

Under AB 1492, Williamson Act contract violations involving non-agricultural development over 2,500 square feet in floor area that are not required for or part of the agricultural use, are subject to substantially higher penalties. This amendment reflects the concerns of the Department of Conservation that non-agricultural development on protected farmlands is undermining both the intent and integrity of the Williamson Act throughout the state.¹⁹ ~~The Commission finds it significant that the legislature, through amending the Williamson Act, established 2,500 square feet as the threshold for increased penalties for non-agricultural development violations on contract farmlands. The Commission also notes that~~ The New Jersey Farmland Affordability/Availability Working Group has also recommended establishing a 2,500-square-foot limit for new residential development on farmlands in order to address the issue of residential development on preserved farmland.²⁰

¹⁹ Pers. Comm. Dennis O'Bryant, California Department of Conservation, May 9, 2005.

²⁰ Recommendations of the New Jersey Farmland Affordability/Availability Working Group, September 23, 2004.



As stated in the Strong Associates Report, setting a limitation on the size of residential development on agricultural lands "is a policy decision that balances the long-term economic viability of agricultural use with the expectation of landowners to build a livable residence." ~~With respect to the proposed development, the Commission finds that such a balance would be achieved by limiting the size of the proposed single family residence to 2,500 square feet. Limiting the scale of the proposed residence to 2,500 square feet would provide the applicants with a livable residence while preserving the viability of agricultural lands in the County by reducing the impacts of the development on land cost. In addition, limiting the size of the proposed residence to a relatively modest size would likely reduce demand for agricultural lands for high value estate development. As such, Special Condition #1 limits the size of the proposed residence to 2,500 square feet. In this case, the Commission finds that the certified LCP does not provide specific guidance or requirements regarding residential size limitations in the PAD zone. Given the above findings, the Commission strongly encourages the County to complete the analysis necessary in order to develop an appropriate rural house size limit and to submit this as an amendment to the certified LCP. Additionally, the Commission finds that potential significant adverse cumulative impacts to agriculture due to the size of this proposed residence are adequately mitigated by Special Conditions #1 and #2, which respectively reduce the development envelope to 10,000 square feet and impose an affirmative agricultural conservation easement on the remainder of the parcel. The Commission further finds that these conditions provide consistency with the agricultural policies and zoning regulations of the certified LCP and that it is not necessary to reduce the size of this proposed house to further mitigate the proposed development's impact on agriculture.~~

~~As shown above, the Commission finds that the high value of the proposed development would result in significant cumulative impacts on the viability of agriculture on the San Mateo County coast by contributing to the increased cost of agricultural land in the region. As such, the proposed development would diminish the ability to keep all agricultural land in agricultural production in conflict with LUP Policy 1.8(a) and Zoning Code Section 6350 and would impair agricultural viability through increased assessment costs, inconsistent with LUP Policy 5.8. Therefore, in order to ensure that the proposed development does not diminish the continued viability of agriculture and the ability to maintain the maximum amount of agricultural lands in agricultural production, the Commission finds it necessary to limit the size of the proposed residence. The Commission further finds that the requirements of the LCP can be met while still allowing the applicant a reasonable residential use by limiting the size of the residence to 2,500 square feet. This limit corresponds with the typical scale of existing residential development in the PAD zoning district, exceeds the national average new home size, and is in line with the 2,500 square foot threshold for increased penalties for Williamson Act violations. Special Condition #1 would reduce the individual and cumulative impacts of the proposed development on the productivity and viability of agricultural land and increase the ability to keep agricultural land in production on the San Mateo County coast. Therefore, the Commission finds that as conditioned the proposed development is consistent with LUP Policies 1.8(a) and 5.8 and Zoning Code Section 6350.~~

Right To Farm

As discussed above, conflicts may occur between residential and agricultural land uses when in close proximity. Typical conflicts where urban and agricultural lands meet include noise, dust, and odors from



agricultural operations; trespass and trash accumulation on agriculture lands; road-access conflicts between agriculturally related machinery and automobiles; limitations of pesticide application, urban garden pest transfer, theft, vandalism; and human encroachment from urban lands. Such conflicts can threaten continued agricultural cultivation when its proximity to non-agricultural uses (such as residential) raises issues and/or concerns with standard agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations associated with cultivating, spraying, and harvesting), which may post a threat to the non-agricultural uses.

To ensure that such conflicts do not impair the continued viability of agricultural production, LUP Policy 5.15 and Zoning Code Section 6361.D establish a right to farm provision, stating:

When a parcel on or adjacent to agricultural land is subdivided, the following statement shall be included as a condition of approval on all parcel and final maps and in each parcel deed.

"This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations."

To ensure that the conflicts between the proposed residential development and agricultural production on the project site as adjacent properties do not impair the continued viability of agricultural uses on these lands, Special Condition #3 requires the applicant to record a deed restriction meeting the requirements of above cited LCP policies.

Agricultural Buffer

LUP Policy 5.8(a)(2) requires that "clearly defined buffer areas are provided between agricultural and non-agricultural uses." The purpose of this policy is to avoid negative impacts to agriculture due to complaints from nearby residents of adjacent parcels regarding ongoing normal agricultural operations. For example, the proximity of a single-family residence on a parcel adjacent to agricultural practices (such as chemical spraying and fertilizing) or ongoing agricultural by-products (such as dust and noise from machine operations – cultivating, spraying, harvesting, et al.) could jeopardize the continued agricultural activities should complaints arise from residents of the single-family home. An appropriate buffer is especially relevant in the area of the project site because of the high prevailing westerly winds that may bring noise, dust, and odors from the adjacent farming operations to this site. The LCP, however, does not require a specific buffer in terms of number of feet between residential and agricultural use (the Santa Cruz County LCP requires a minimum buffer of 200 feet between residential and agricultural use; this buffer may be reduced if certain findings are made). The San Mateo County Farm Bureau does not recommend any specific buffer between residential and adjacent agricultural use (pers. comm. Jack Olsen, Executive Director). ~~The revised house location, required pursuant to Special~~



~~Condition #1 and shown on Exhibit 10, would provide a buffer greater than 400 feet from agricultural use on adjacent parcels to the north and west, and a greater than 100 foot buffer from the parcel to the south. The revised house location will be located at least 70 feet from the agricultural parcel directly across Bean Hollow Road to the east. The proposed house location (as shown on Exhibit 11) provides a greater than 400-foot buffer to the adjacent parcels to the north, west, and south. The parcel located to the east is approximately 200 feet from the proposed house location.~~ This buffer should be adequate given that the prevailing winds come from the west. Thus, the revised project provides adequate buffers between the proposed residential use and adjacent agricultural use, consistent with LCP Policy 5.8(a)(2).

2. Wetlands

San Mateo County LCP Policy 7.3 provides for the protection of sensitive habitat areas, including wetlands, and states:

(a) Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas; (b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

LCP Policy 7.14 (in part) defines "wetland" as:

...an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground.

LCP Policy 7.16 describes permitted uses in wetlands, which do not include residential development:

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

LCP Policy 7.17 describes performance standards in wetlands, in relevant part:

Require that development permitted in wetlands minimize adverse impacts during and after



construction...

LCP Policy 7.18 establishes buffer zones for wetlands and states:

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

LUP Policy 7.19 describes the permitted uses allowed in wetland buffer zones:

Within buffer zones, permit the following uses only: (1) uses allowed within wetlands (Policy 7.16) and (2) public trails, scenic overlooks, and agricultural uses that produce no impact on the adjacent wetlands [emphasis added].

LUP Policy 7.51 addresses the removal of undesirable invasive plants:

Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch, and other invasive brooms. Similarly, encourage landowners to remove blue gum seedlings to prevent their spread.

A Biotic Assessment report dated April 2003, prepared for the applicants by Thomas Reid Associates, described the vegetation on the property as being dominated by approximately 14 acres of fallow agricultural fields. This report also describes an approximately four-acre eucalyptus/scrub area as a likely wetland in the northeast portion of the property (shown on page 1 of Exhibit 4). The vegetation in this eucalyptus/scrub area is described as being dominated by silver mountain eucalyptus (which had previously been harvested from this area), but the report states that this area also includes coastal scrub and seasonal marsh vegetation such as Pacific bog rush and Pacific cinquefoil. This report states, "water seeps through this area and into drainage ditches that eventually flow into ponds on an adjacent property to the west." This report states that portions of this approximately four-acre eucalyptus/scrub area could meet the definition of a LCP and/or USACOE jurisdictional wetland. However, a wetland delineation of LCP wetlands was not performed.

This report also states that the headwaters of a "very small intermittent drainage" extend onto the western portion of the property for approximately 172 feet (shown on Exhibit 11 as "swale wetland"). This drainage, which consists of one of the active drainage easements, drains westward onto an adjacent property where it flows into two ponds located on an adjacent parcel.

The biological assessment identifies dispersal habitat for the California red-legged frog (*Rana aurora draytonii*), a federally listed threatened species and the San Francisco garter snake (*Thamnophis sirtalis tetrataeni*), a state- and federally-listed endangered species as likely being present in the seasonally wet areas on the property, including the active drainage easement area on the western portion of the property



and the agricultural drainages within the eucalyptus/scrub area.

In order to approve a coastal development permit through a *de novo* review of the project, the Commission required additional analysis of the impacts of the approved development to environmentally sensitive habitat areas, including any potential impact to wetland habitat or habitat of the San Francisco garter snake or the California red-legged frog, through a more detailed, site-specific biological resources assessment and wetland delineation conducted in accordance with the LCP definition of wetlands. A Wetland Determination Report was prepared for the project on May 27, 2004. This report notes that a portion of the property, approximately five acres, was previously planted as an ornamental eucalyptus orchard. This area has been frequently inundated with irrigation runoff from nearby agricultural fields. The report notes that approximately 1.45 acres of this area qualify as jurisdictional wetlands under the California Coastal Act and LUP Policy 7.14 definition of wetlands based on the presence of wetland vegetation and hydric soils. Additionally, there are three active agricultural ditches on the property that also qualify as wetlands (see Exhibit 11). Two of these are adjacent to the eucalyptus wetland area, and one is located on the western border of the property.

LUP Policy 7.18 requires that development adjacent to wetlands be located outside a minimum 100-foot buffer zone measured from the outermost line of wetland vegetation. ~~As described in Special Condition #1 and shown in Exhibit 10, the revised residence will be relocated several hundred feet southeast of the location approved by the County. This location is at least 300 hundred feet from the eucalyptus wetland and the agricultural ditch wetlands on the property. This location, however, is near an area determined by the applicants' soil specialist to consist of farmed wetlands (shown in the general area of data points C and D on Exhibit 11). As shown in Exhibit 11, the proposed location of the house and driveway is located at least 100 feet from the eucalyptus wetland, greater than 100 feet from the agricultural ditch wetlands on the property, and greater than 100 feet from an area of farmed wetlands on the property~~ (The soil specialist determined this to be an area where a full complement of wetland characteristics might be found if not disturbed by the farming process). ~~LUP Policy 7.18 allows for the reduction of a wetland setback to 50 feet if no alternative development site is possible and when adequate to protect wetland resources. Alternative building sites on the parcel would provide greater encroachment of development onto valuable agricultural land. Since the wetland area in question is entirely within cultivated farmland that would continue to be farmed pursuant to the requirements of this permit and supports no wetland plant or animal species, the minimum 50 foot buffer allowed under the LCP is adequate to protect wetland resources. Special Condition #1 requires that the size of the residence development be limited to 2,500 square feet within a 10,000 square foot building envelope, located as close as possible to Bean Hollow Road and the "Inactive Ditch Easement" and within 50 feet of the "Farmed Wetland," as generally depicted on Exhibits #10 and #11. The remainder of the parcel that is located outside the 10,000 square foot building envelope, including the wetland areas, will be placed under an agricultural conservation easement, which only allows for the continuation of agricultural harvesting/production in the wetlands but precludes placement of agricultural structures or residential development in the wetland. Thus, the project, as conditioned, is consistent with LUP Policy 7.18.~~

Regarding the California red-legged frog and the San Francisco garter snake, the Thomas Reid 2003



report identified two ponds on an adjacent parcel west of the subject property as potential habitat for these species (the closest pond is located approximately 150 feet from the western edge of the property boundary and approximately 540 feet from the proposed building site; the second pond is located approximately 500 feet from the western edge of the property and is approximately 900 feet from the proposed building site). These ponds are on private land and no records were found indicating that the ponds have ever been surveyed for California red-legged frog or San Francisco garter snake. This report also found that seasonally wet areas on the subject parcel, including the intermittent drainage on the western boundary and the agricultural drainages and abandoned eucalyptus orchard may provide dispersal habitat for these species.

A follow-up report to the Wetland Determination Report of 2004 notes that the Commission follows guidance established by the U.S. Fish & Wildlife Service (USFWS) regarding recommended buffer zones from potential habitat of the California red-legged frog and the San Francisco garter snake. This includes both potential breeding habitat and habitat corridors used by the species to travel between ponds. Habitat corridors include areas between water features, such as the eucalyptus wetland area, the active agricultural drainages on the parcel, and the ponds on the adjacent parcel to the west. USFWS recommends a buffer between these types of water features and proposed development to protect potential red-legged frog habitat. ~~As discussed above, Special Condition #1 relocates the residence and associated development several hundred feet southeast (as shown on Exhibit 10) of the location approved by the County. Thus, as conditioned, †~~The proposed development will be located ~~more than 300~~ 100 feet from the eucalyptus wetland, ~~and more than 5~~100 feet from the wetland agricultural drainages on the parcel, and more than 400 feet from the ponds located on the adjacent parcel to the west.

Neither the California red-legged frog nor the San Francisco garter snake were observed on the property during field surveys. The Thomas Reid 2003 report notes, however, that these species could occur in the eucalyptus wetland area long the northern boundary of the property and in the drainage perpendicular to the western property boundary. The potential for these species to occur within the remainder of the parcel is low, however, because of the disturbed nature of the site due to past disking and agricultural activities; which discourage the California red-legged frog and the San Francisco garter snake from moving into an area. To ensure that no impacts to these species take place due to construction activities, Special Condition #5 requires that a pre-construction survey be completed by a qualified biologist to determine if California red-legged frog or San Francisco garter snake are present in or adjacent to the proposed construction area. Also, this condition, as well as Special Condition #6, require the implementation of appropriate avoidance measures during grading/construction to protect the sensitive wetland habitats on the site. Special Condition #7 provides further protection for sensitive habitats by requiring submission of a post-construction stormwater pollution prevention plan. With these conditions, the revised project is consistent with LUP Policy 7.3.

In conclusion, the revised proposed residential development is located ~~at least 300~~ 100 feet from the eucalyptus wetland, and greater than 100 feet from ~~and the agricultural ditch wetlands on the site, as well as 50 feet from~~ and the farmed wetland on the site, consistent with the LCP's wetland buffer



requirements. The project is conditioned to ~~reduce the house size to 2,500 square feet within~~ limit the residential development to a 10,000 square foot building envelope located in an area at least ~~3100~~ 100 feet from ~~most all~~ wetlands on the property, ~~and 50 feet from the farmed wetland.~~ All remaining portions of the parcel outside this 10,000 square foot building envelope (except the driveway) will be placed under an agricultural conservation easement, which allows for the continuation of agricultural harvesting/production in the wetland area but precludes agricultural structures or residential development in the wetland area. This approval includes special conditions to protect the California red-legged frog, the San Francisco garter snake, and wetland areas on the parcel during construction. With these conditions, the proposed project is consistent with the policies of the Sensitive Habitats component of the LCP.

3. Water Supply

LUP policy 5.22 (equivalent to Zoning Regulations Section 6355(B)) provides protection for agricultural water supplies and states (in relevant part):

5.22. Before approving any division or conversion of prime agricultural land or other land suitable for agriculture, require that: a. The existing availability of an adequate and potable well water source be demonstrated for all non-agricultural uses according to the following criteria: (1) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with LCP Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel... b. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished...

LUP Policy 5.26(a) allows for development of small water impoundments on agricultural land to provide additional water supplies for farmers, and states:

5.26(a). Encourage farmers, acting individually or as a group, to develop: (1) their own water supplies by utilizing small off-stream reservoirs which draw from winter stream flows or (2) dams on intermittent streams.

Thus, LUP Policy 5.22 & Zoning Regulations Section 6355(B) require that before either prime agricultural land or other land suitable for agriculture can be converted to a non-agricultural use, that the non-agricultural use demonstrates both the existence of an adequate and potable well water source on the parcel, as well as that it will not diminish adequate and sufficient water supplies needed for agricultural production and sensitive habitat.

The applicant proposes to convert an existing agricultural well on the parcel to domestic use. County Environmental Health permitted the well in February 2000 (pers. comm. Steve Hartsell, San Mateo County Dept. of Environmental Health). Although it was approved by the County as an agricultural well, it has never been used to provide water for agricultural use on the property. The County's minimum flow base standard for an adequate residential water supply is 2.5 gallons per minute. The results from a pump test (Exhibit 12, pp. 1-2) performed on this well demonstrate that the well meets



this minimum flow base standard for residential use. Also, water analyses performed on water samples from the well meet the Environmental Protection Agency's drinking water standards (Exhibit 12, pg. 3). Additionally, the County's approval included Environmental Health Division special conditions that require the applicants to obtain a certification for the well as a domestic water source prior to issuance of the building permit, and also require the applicants to obtain a permit to operate the well as a domestic source prior to the final inspection of the building permit (see Exhibit 13, conditions #37 & 39). These conditions remain in effect pursuant to Special Condition #8 of this approval. Thus, the proposed project is consistent with the first of the two requirements of San Mateo County LUP Policy 5.22(a) and Zoning Regulations Section Zoning Regulation 6355(B) regarding the existence of an adequate and potable well water source on the parcel.

Agricultural water for the parcel will continue to be provided from Lake Lucerne, which is a series of manmade reservoirs located less than one mile from the subject parcel. The Lake Lucerne Water Company maintains dams and a pump at the lake reservoirs. Lake Lucerne has adequately provided water for agriculture in this area of San Mateo County for many years, except during a protracted drought in the 1970s when the Lake reservoirs virtually dried up. During that drought period, there were major cutbacks in agricultural uses in the area until the drought ended and water was again available for agricultural use (pers. comm. Jack Olsen, Executive Director San Mateo County Farm Bureau). The Peninsula Open Space Trust (POST) is the majority shareholder in Lake Lucerne. Staff at POST has stated that in recent years there has been more than ample water from Lake Lucerne to serve the agricultural parcels that have shares in the Lake Lucerne Mutual Water Company (pers. comm. Walter Moore, POST). Currently, however, there are no additional shares available for purchase in the Lake Lucerne system.

Water from Lake Lucerne is pumped to various agricultural operations in the area, according to existing water rights. The subject parcel's water supply is provided by 14 shares in the Lake Lucerne system. In a normal year of rainfall, these shares produce 14 acre-feet of water (1 share equals 1 acre-foot of water). In general, for flood or sprinkler irrigation, 2.5 acre-feet of water per year is required per acre of cultivation; for drip irrigation, approximately 1.5 acre-feet of water per year is required per acre of cultivation. Thus, to adequately irrigate approximately 16 acres of this parcel would require between 24 and 40 acre feet of water per year depending on whether sprinkler or drip irrigation is utilized, or 10 to 26 acre feet per year more than the water rights allocated to the project site from the Lake Lucerne system. LUP Policy 5.26(a) encourages the development of alternative water supplies, such as agricultural ponds, to support farming operations on PAD-zoned land. In the absence of an additional water supply to support continued agricultural use of the property, the proposed conversion of the existing agricultural well to a domestic well is inconsistent with the requirement of LUP Policy 5.22 & Zoning Regulations Section 6355(B) that adequate and sufficient water supplies needed for agricultural production are not diminished.

To permit the proposed conversion of the existing agricultural well to a domestic well while ensuring that agricultural use on the parcel is served by an adequate water supply, an additional agricultural water supply must be developed. Therefore, Special Condition #2 requires the applicants to provide an



additional water supply as needed to ensure an adequate water supply is available for agricultural use of the property. The capacity and manner in which this additional water supply shall be provided will be determined by the agricultural conservation easement grantee in consultation with the Executive Director, and may include but is not limited to the construction of an agricultural pond (see Exhibit 14), installation of a well, or acquisition of additional water rights from the local irrigation district. As conditioned, the proposed project is consistent with LUP Policy 5.22(b) regarding the requirement that water supplies for agricultural production not be diminished.

Finally, the eucalyptus wetland located on the applicants' parcel, as well as two ponds located on an adjacent property, receive their water primarily from surface drainage and agricultural drainages located on the parcel and adjacent parcels, not from groundwater. Thus the conversion of the agricultural well to a domestic use will not diminish these sensitive habitat areas. Thus, the proposed project is consistent with LUP Policy 5.22(b) and Zoning Regulations Section 6355(B) regarding protection of agricultural water supplies and sensitive habitats.

4. Visual Resources

LUP policy 8.5(a) requires that new development be sited to minimize visual impacts from State and County Scenic Roads, and states:

8.5a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches...

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.

LUP Policy 8.16 requires the use of landscaping to mitigate the visual impact of development, and states:

a. Use plant materials to integrate the manmade and natural environments and to soften the visual impact of new development. b. Protect existing desirable vegetation. Encourage, where feasible, that new planting be common to the area.

LUP Policies 8.18 and 8.19 provide for development design requirements and state:



a. Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.

The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.

Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.

b. Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site. c. Require that all non-agricultural development minimize noise, light, dust, odors and other interference with persons and property off the development site.

c. Require that all non-agricultural development minimize noise, light, dust, odors and other interference with persons and property off the development site.

8.19 Colors and Materials

8.19 a. Employ colors and materials in new development which blend, rather than contrast, with the surrounding physical conditions of the site. b. Prohibit highly reflective surfaces and colors except those of solar energy devices.

The project site is located approximately ½-mile inland from the Cabrillo Highway State Scenic Corridor. Aerial photographs show a residence surrounded by evergreen trees and greenhouses to the immediate south of the subject property (see Exhibit 4). Further to the south is an area with approximately eight residences visible from these aerial photographs. Approximately one-half mile to the south are predominantly undeveloped lands surrounding Lake Lucerne and Arroyo de los Frijoles.

The County-approved and currently proposed project consists of a two-story residence and associated structural development totaling 6,785 square feet, as well as a pool, patios, driveway, and parking area. The location of the County-approved and currently proposed residence was several hundred feet from Bean Hollow Road. The County noted that the development would be briefly visible from several points along Cabrillo Highway.

The visual resource policies of the certified LCP require that the house be placed in the least visible location that best preserves public views consistent with all other applicable LCP Policies. The



proposed residence will be visible briefly from Cabrillo Highway due to gaps in the existing vegetation located directly along the Highway. As stated above, however, the proposed development will be located approximately one-half mile from Cabrillo Highway. Additionally, there are approximately eight residences located closer to the Cabrillo Highway than the proposed project; thus, this is not a visually pristine area along the Cabrillo Highway. Furthermore, the public coastal trail located along the shoreline on the bluff top is at a lower level than the Highway; therefore, it will not be possible to see any part of the proposed development from this public viewpoint or from the beach below the bluff. Additionally, a visual analysis performed by the County determined that relocating the house to either a more northern or more southern portion of the property would increase its visibility from Cabrillo Highway. Given all the above, the Commission finds that the proposed location of the house will minimize the visual impact of the development with respect to views from Cabrillo Highway, consistent with LUP Policy 8.5(a). As discussed in the Agricultural Finding above and required in Special Condition #1, however, the Commission is requiring that the residential structure be limited to 2,500 square feet in size, within a 10,000-square foot building envelope. Additionally, Special Condition #1 requires the relocation of the residence to a location several hundred feet southeast of the County-approved location (Exhibit 10), in an area much closer to Bean Hollow Road (which is *not* a County Scenic Road). The required reduction in development size provides consistency with the LCP's requirement to reduce encroachment on agricultural land and to not diminish the ability to keep all prime agricultural land in production. The requirement to relocate the residence as close to Bean Hollow Road as possible, without encroaching on the existing non-active agricultural ditch easements, further reduces the project's encroachment on agricultural land. Although the development will be briefly visible from points along Cabrillo Highway, the new location will provide the least impacts to the prime agricultural land resources on the parcel, consistent with the agricultural policies of the certified LCP.

~~The Commission finds that the location necessitated by application of the agricultural policies of the LCP to the proposed project is also consistent with the provisions of LCP 8.5 to locate new development in the least visible location that best preserves public views consistent with all other LCP policies. The reduced footprint of the house and the relocation of the development closer to Bean Hollow Road, a non-Scenic Country Road, coupled with the approximately ½ mile distance from the Cabrillo Highway Scenic Corridor, will minimize the visual impact of the development, consistent with LUP Policy 8.5(a).~~

LUP Policy 8.16 requires the use of landscaping to mitigate the visual impact of development. The residence will be visible briefly from Cabrillo Highway. Special Condition #1 requires submission of a landscaping plan to provide a natural frame of vegetation to the new structure and to ensure that the house blends in with the surrounding environment. Additionally, LUP Policies 8.18 and 8.19 provide for development design and color requirements to ensure that the development will blend with and be subordinate to the surrounding environment. Special Condition #1 also requires submission of the proposed colors and materials to be used for external surfaces to ensure that the development blends in well with the surrounding rural environment. As conditioned, the project is consistent with the Visual Resource Policies of the San Mateo County LCP.



5. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding must be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.

The environmental review of the project conducted by Commission staff involved the evaluation of potential impacts to relevant coastal resource issues, including agricultural resources, water supply, visual resources, and environmentally sensitive wetland habitats. This analysis is reflected in the findings that are incorporated into this CEQA finding as if set forth in full. This staff report responds to all public comments that have been received as of the date of this staff report. Mitigation measures are incorporated as conditions of this approval. Accordingly, as so conditioned, the Commission finds that the proposed project is consistent with CEQA, as there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.



V. Appendix A: Substantive File Documents

EMC Planning Group, Inc. June 14, 2005. Potential Impact of Development on Visual Resources, Bean Hollow Road Single Family Residence, Pescadero, California.

EMC Planning Group, Inc. June 14, 2005. An Economic Analysis of a Farming Enterprise on a 17.98-acre site near Pescadero, San Mateo County.

David B. Kelley. October 9, 2004. Assessment of Farmed Wetlands – Polacek Family Residence Site, 900 Bean Hollow Road, Pescadero, San Mateo County, California.

San Mateo County Agricultural Industry Profile & Strategic Farmland Maps – Final Report. July 30, 2004. American Farmland Trust.

David B. Kelley. June 2004. Soils of Polacek Property – Site-Specific Reconnaissance Survey, Bean Hollow Road, Pescadero, San Mateo County, California.

EMC Planning Group, Inc. May 27, 2004. Wetland Determination Report – Polacek Single Family Residence.

California Coastal Commission. March 19, 2004. Appeal Staff Report – Substantial Issue Determination.

California Coastal Commission. February 6, 2004. Notification of Appeal Period for Application No. 2-SMC-02-046 (Local Permit No. PLN2002-01999).

California Coastal Records Project. CaliforniaCoastline.org. Images 6269-6284, taken on September 20, 2002. As shown on website on February 23-25, 2004.

Committee for Green Foothills, Lennie Roberts. December 2, 2002 letter to Gabrielle Rowan, San Mateo County Planning Division.

San Mateo County Department of Agricultural/Weights & Measures. San Mateo County Agricultural Reports 2001, 2002, & 2003.

San Mateo County. 1994. Zoning Regulations.

San Mateo County. 1998. Local Coastal Program Policies.

San Mateo County. November 2, 2000. Planning and Building Division Staff Report to the Zoning Officer on Item #2/Costella/Moceo/Polacek, Consideration of a Conditional Certificate of Compliance and a Coastal Development Permit to Legalize a 17.98-acre parcel.

San Mateo County. September 10, 2003. Planning and Building Division Staff Report to the Planning Commission on Item #9/Polacek. Includes Attachments such as Initial Study and Negative Declaration, Biologist Report by Thomas Reid Associates, Prime Soils Map, Photo Simulations.

San Mateo County Planning and Building Division. December 8, 2003. Report to the Agricultural Advisory Committee from Gabrielle Rowan, Project Planner. County File No. PLN2002-0199 (Polacek), including Attachment C, Agricultural Land Management Plan for Parcel & 086-191-120.



San Mateo County Planning and Building Division. January 16, 2004. Notice of Approval by the Planning Commission of County File No. PLN2002-0199 (Polacek).

San Mateo County Planning and Building Division. February 3, 2004. Notice of Final Local Decision for County File No. PLN2002-0199 (Polacek).

US Department of Agriculture. 1961. Soil Survey, San Mateo Area, California. Soil Conservation Service, Series 1954, No. 13, Issued May 1961.

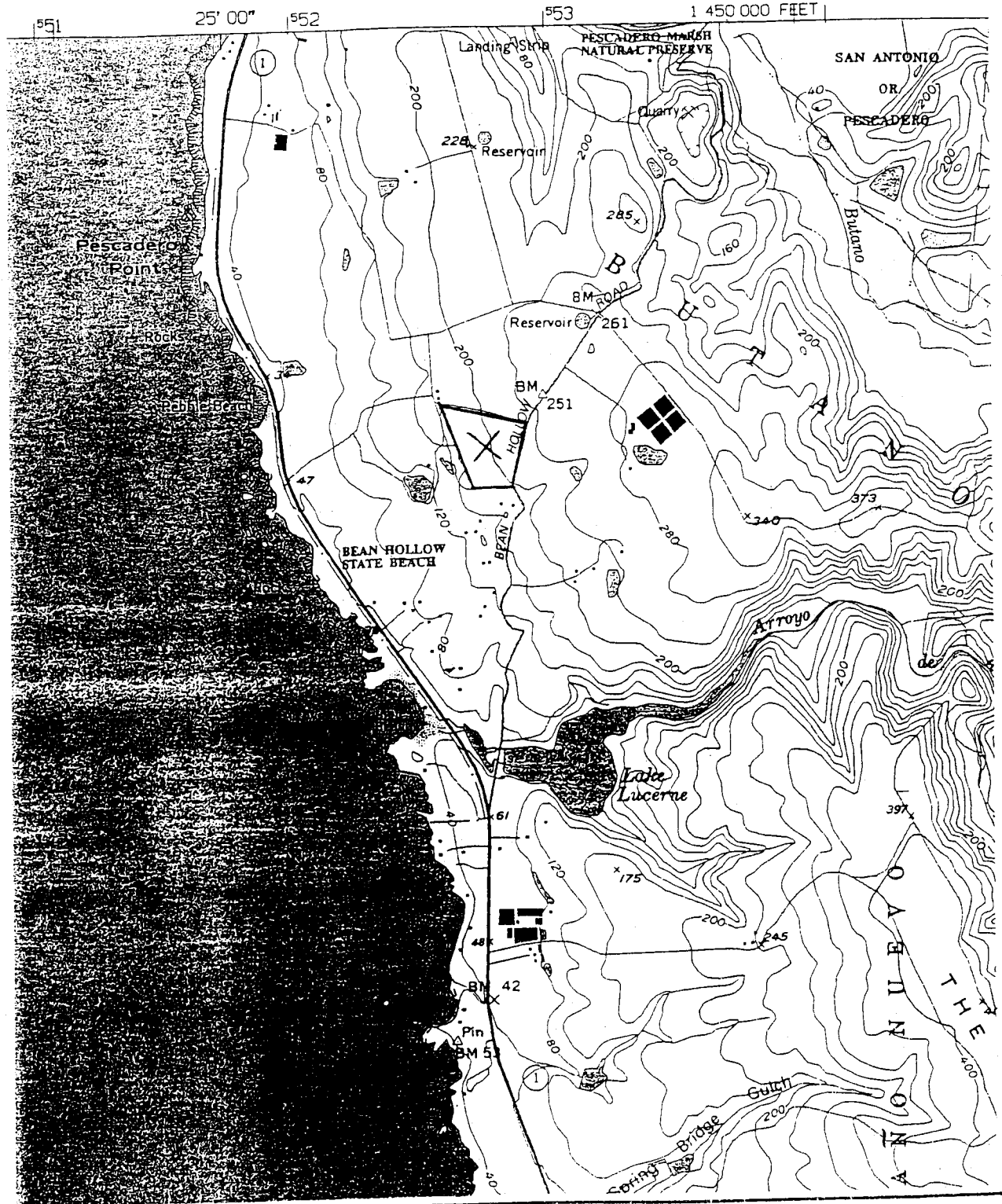


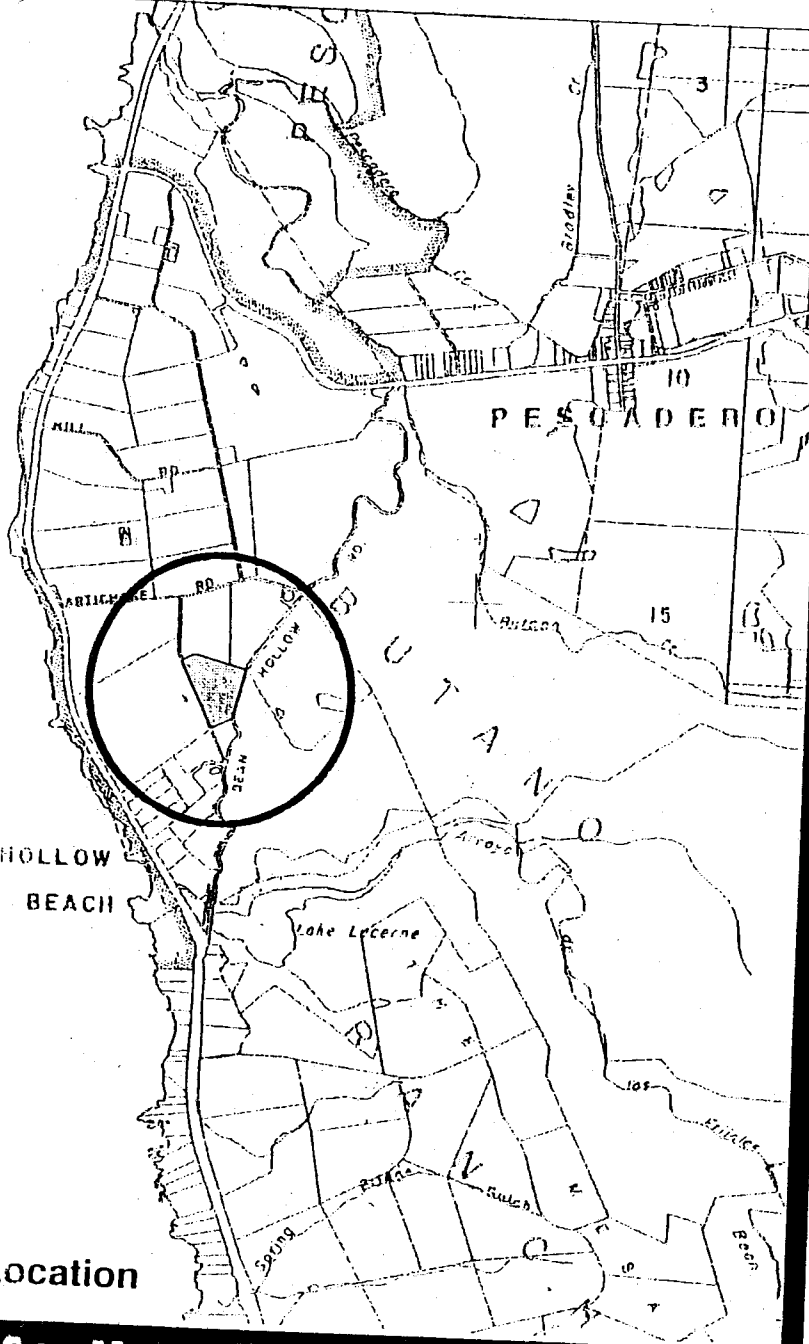
Figure 1. Location of Po. k property in Pescadero, California: n USGS 7.5 minute series map, Pigeon Point Quadrangle.

Exhibit 1 pg. 1 of 2

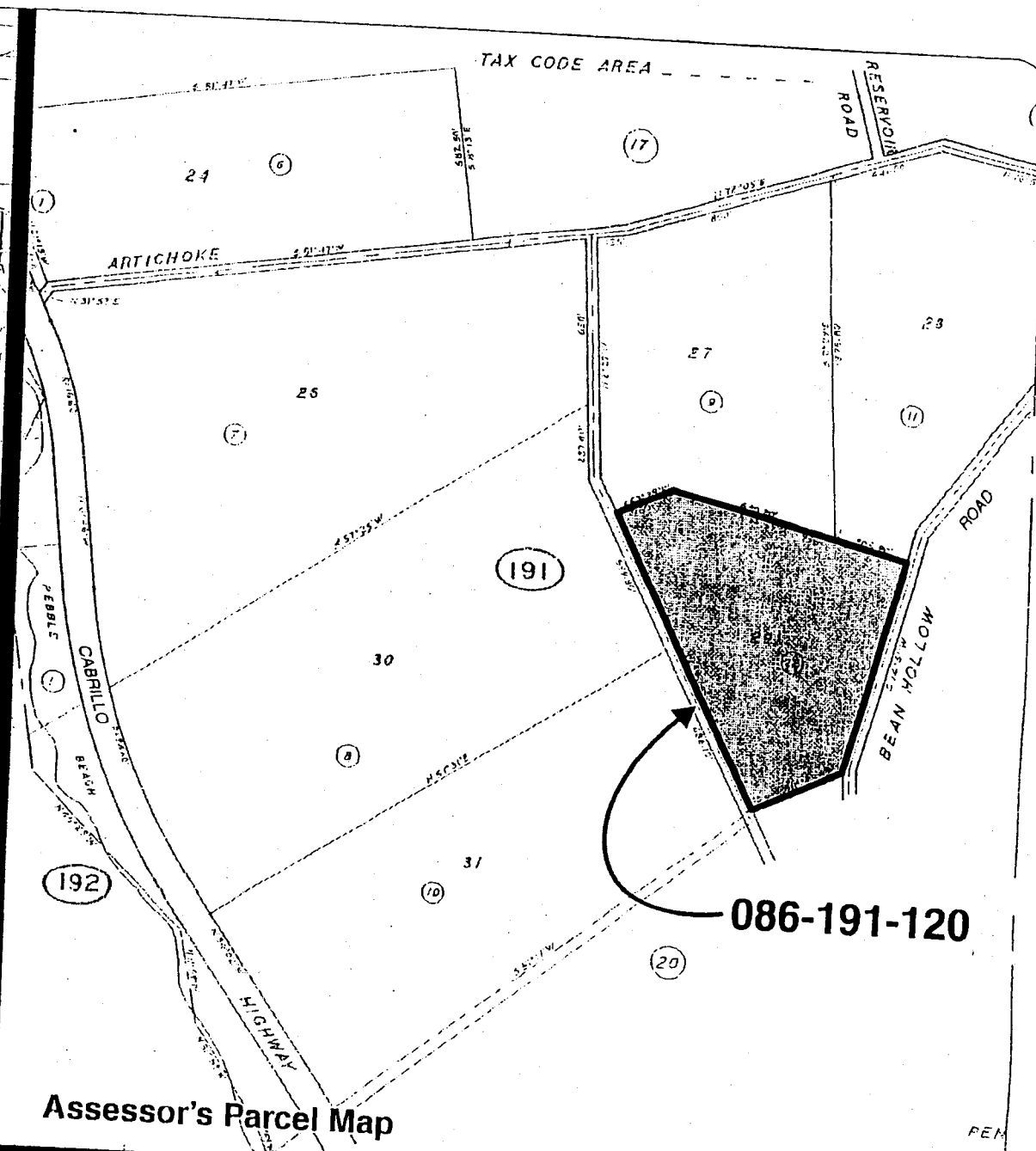
A-2-SMC-04-002 (POLACEK)

PIGEON POINT C
CALIFORNIA-SAN
7.5 MINUTE SERIES





Location



Assessor's Parcel Map

086-191-120

San Mateo County Planning Commission Meeting

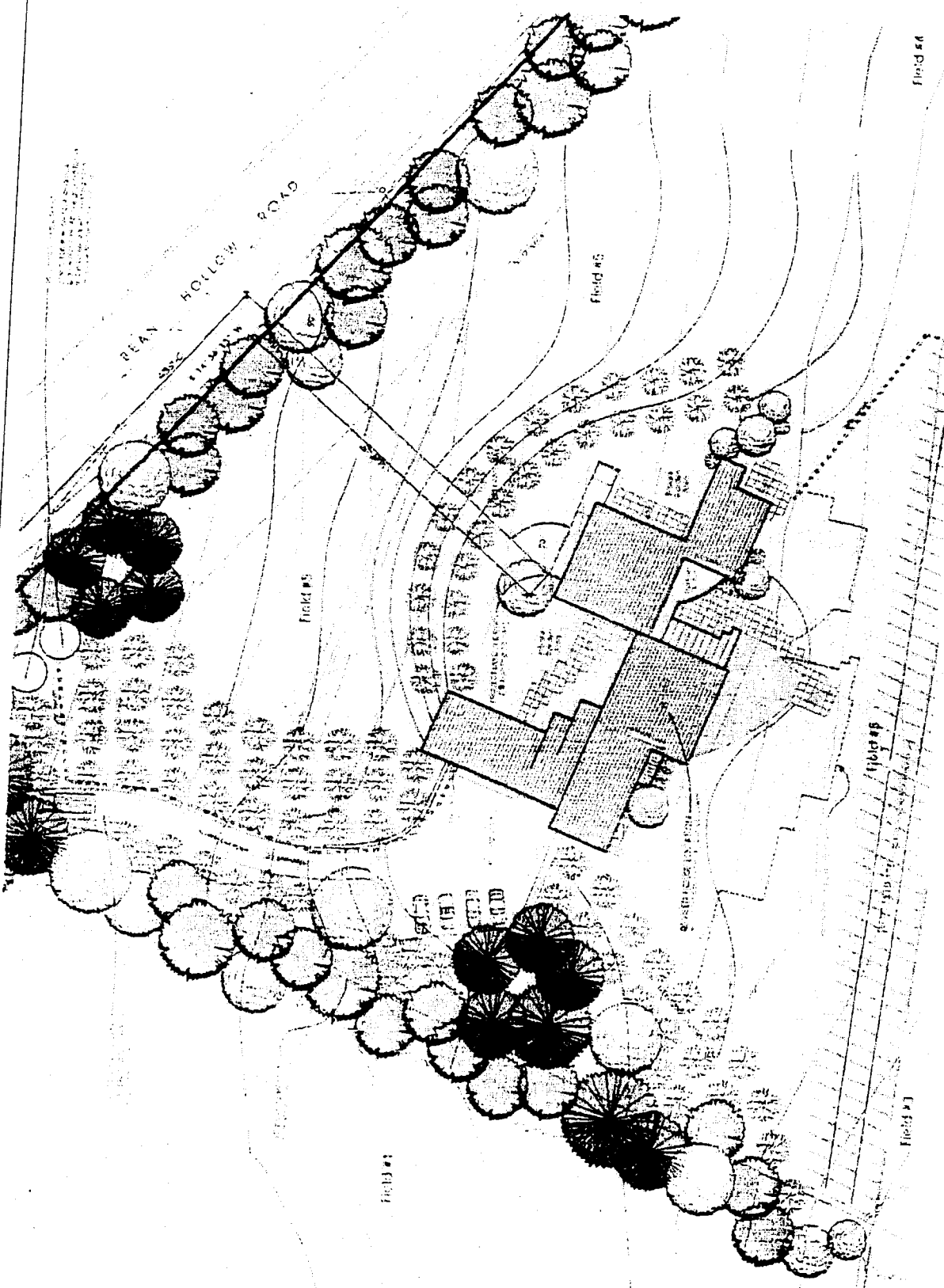
Applicant: Polacek

File Numbers: PLN 2002-00199

Exhibit 1, pg. 2 of 2

A-2-SMC-04-002 (POLACEK)





PARTIAL SITE PLAN

San Mateo County Planning Commission Meeting

Applicant: Polacek

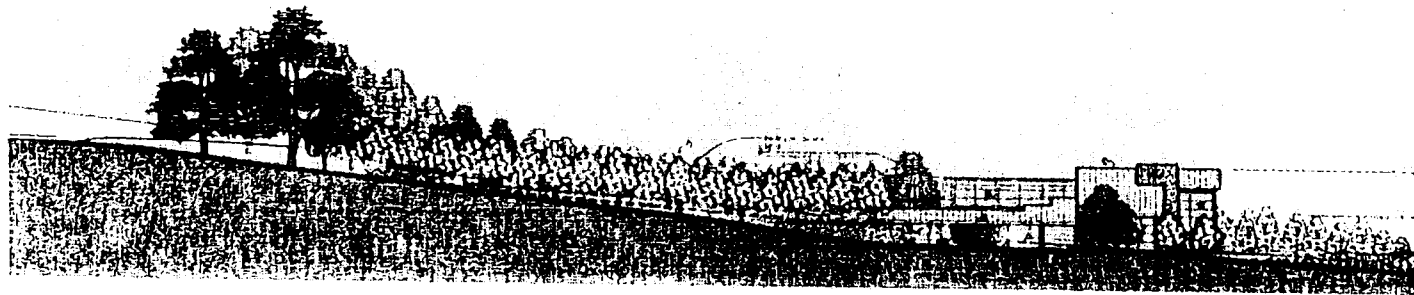
File Numbers: PLN2002-00199

Exhibit 2, Pg. 2 of 8

A-2-SMC-04-002 (POLACEK)

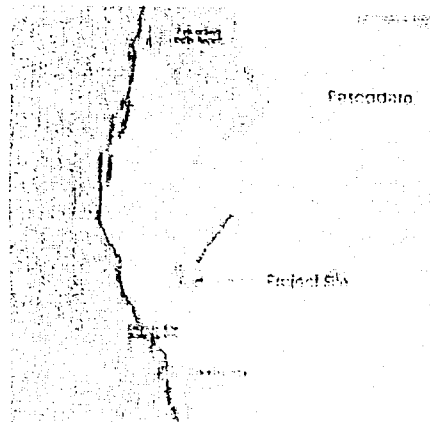
BEAN HOLLOW RESIDENCE



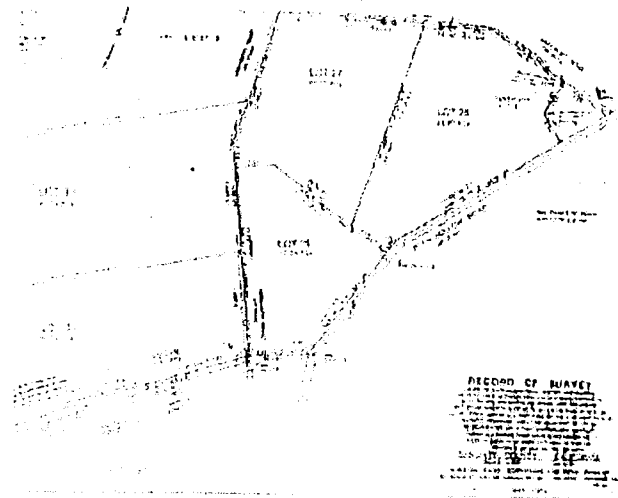


11 SITE SECTION @ DRIVEWAY

- 1 PROJECT INFORMATION
- 2 SITE PLAN
- 3 PARTIAL SITE PLAN
- 4 1ST FLOOR PLAN
- 5 2ND FLOOR PLAN
- 6 3RD FLOOR PLAN
- 7 S & W EXTERIOR ELEVATIONS
- 8 S & W EXTERIOR ELEVATIONS
- 9 SITE & BUILDING SECTIONS
- 10 SHEET INDEX



13 LOCATION MAP



12 SURVEY FROM BOOK OF MAPS

OWNER: ANTHONY POLACEK	DATE: 04/02/02
TYPE: RESIDENCE	LOT: 1000
AREA: 1000 SQ. FT.	PERMITS: 1000
PROJECT: BEAN HOLLOW RESIDENCE	DESIGNER: ANTHONY POLACEK
DATE: 04/02/02	SCALE: 1/4" = 1'-0"
PROJECT INFORMATION	

10 PROJECT INFORMATION

BEAN HOLLOW RESIDENCE

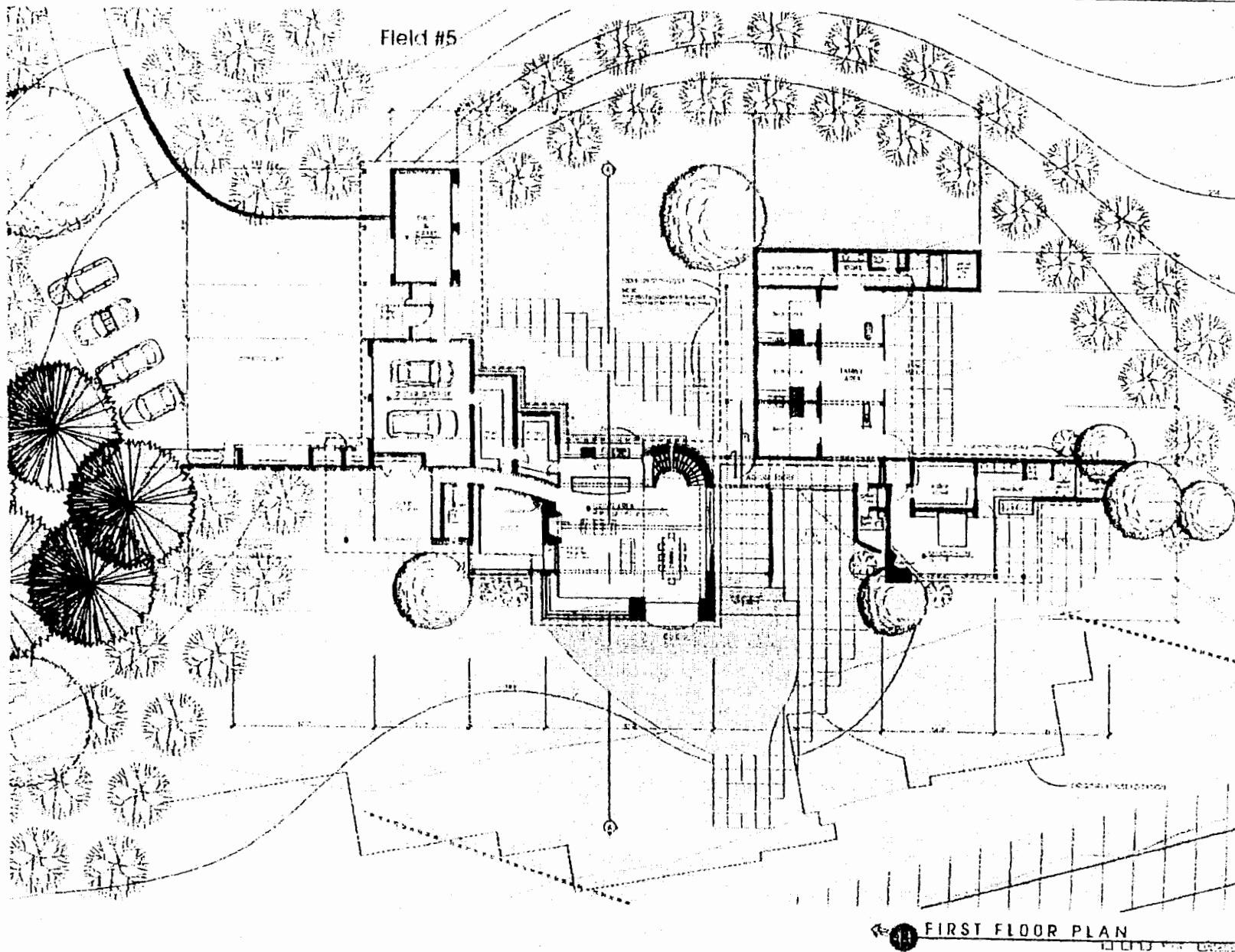
San Mateo County Planning Commission Meeting

Applicant: **Polacek**

File Numbers: **PLN2002-00199**

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BEAN HOLLOW RESIDENCE

← FIRST FLOOR PLAN

A4

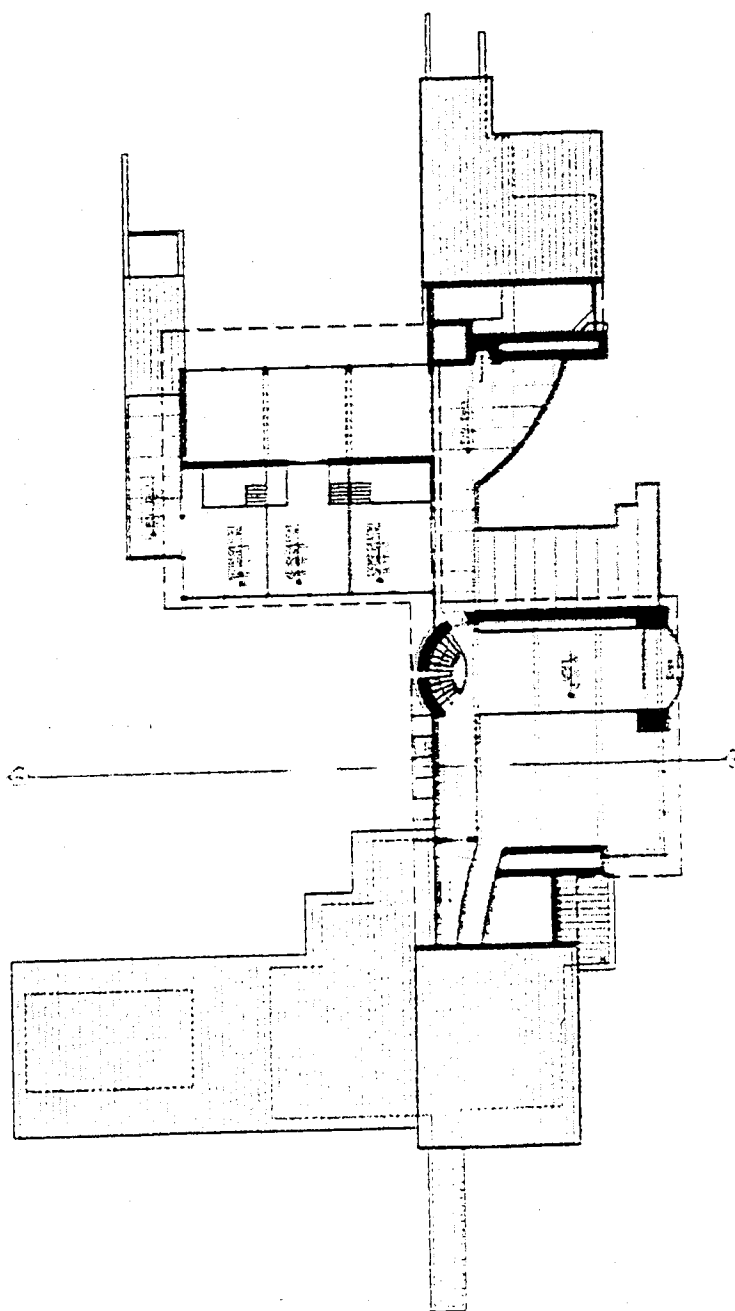
San Mateo County Planning Commission Meeting

Exhibit 2, pg. 4 of 8

Applicant: **Polacek**

File Numbers: **PLN2002-00199**

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SECOND FLOOR PLAN

A5

BEAN HOLLOW RESIDENCE

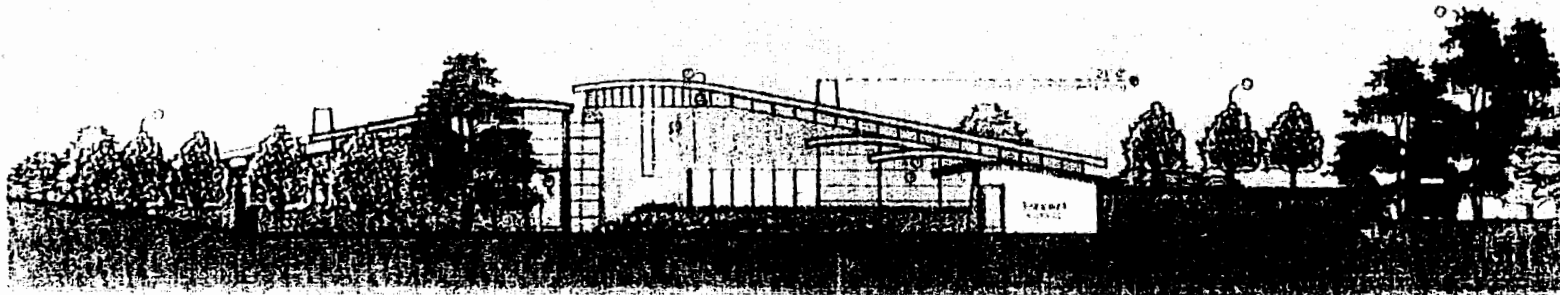
San Mateo County Planning Commission Meeting

Exhibit 2, Pg. 5 of 8

Applicant: Polacek

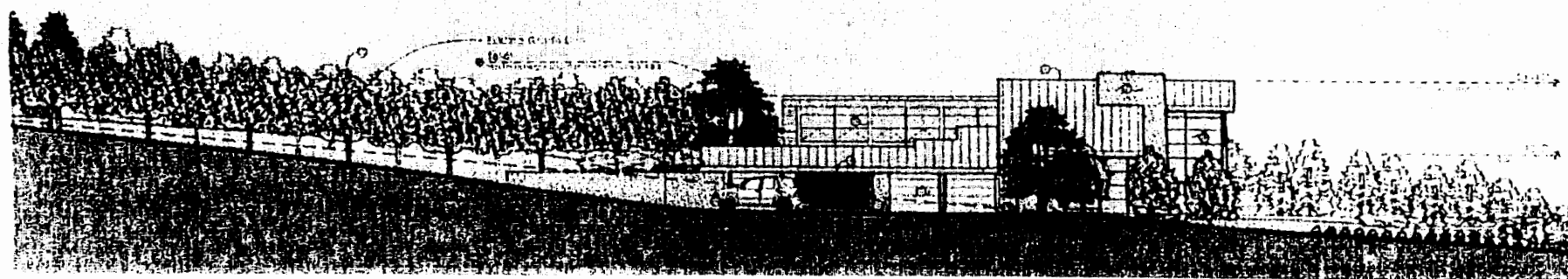
File Numbers: PLN2002-00199

A-2-SMC-04-002 (POLACEK)



- THE EXTERIOR MATERIALS:
1. EXTERIOR BRICKWORK
 2. STAINLESS STEEL METAL PANELS
 3. STAINLESS STEEL METAL PANELS
 4. STAINLESS STEEL METAL PANELS
 5. STAINLESS STEEL METAL PANELS
 6. STAINLESS STEEL METAL PANELS
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 11. STAINLESS STEEL METAL PANELS
 12. STAINLESS STEEL METAL PANELS

02 NORTH EXTERIOR ELEVATION



01 EAST EXTERIOR ELEVATION

BEAN HOLLOW RESIDENCE

A6

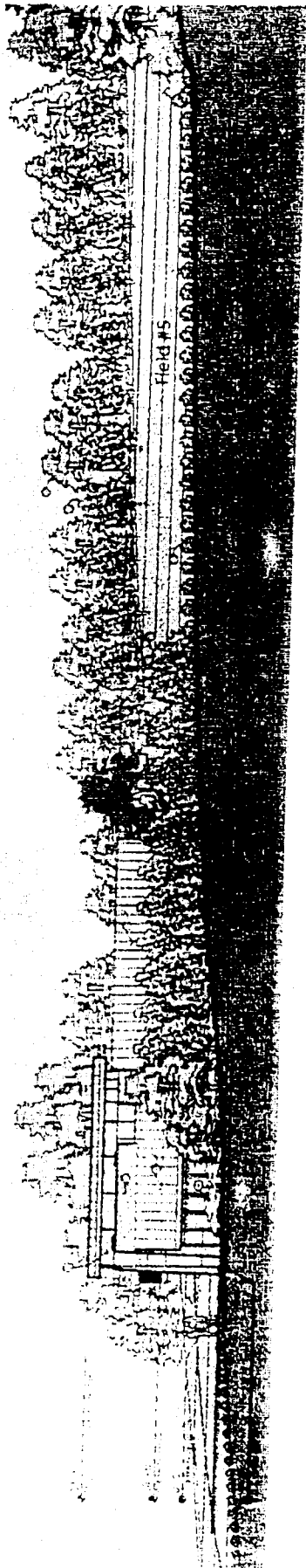
San Mateo County Planning Commission Meeting

Exhibit 2, pg. 6 of 8

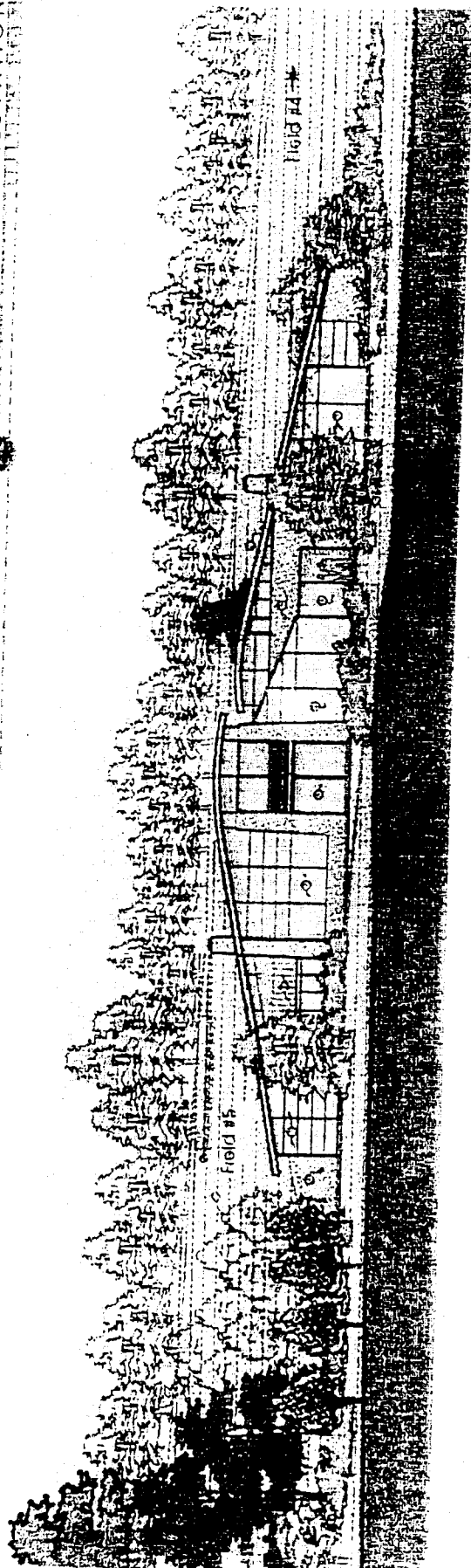
Applicant: **Polacek**

File Numbers: **PLN2002-00199**

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72 SOUTH EXTERIOR ELEVATION



71 WEST EXTERIOR ELEVATION

San Mateo County Planning Commission Meeting

Exhibit 2, Pg. 7 of 8

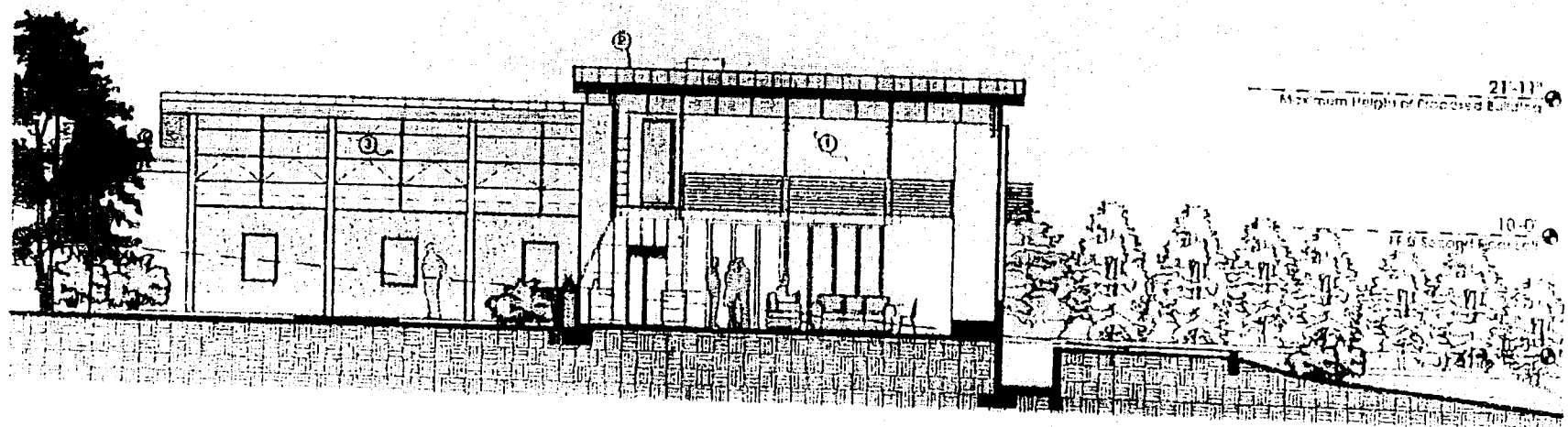
Applicant: Polacek

File Numbers: PLN2002-00199

A-2-SMC-04-002 (POLACEK)



82 SITE SECTION A-A



81 BUILDING SECTION A-A

BEAN HOLLOW RESIDENCE

A8

San Mateo County Planning Commission Meeting

Exhibit 2, pg. 8 of 8

A-2-SMC-04-002 (POLACEK)

Applicant: **Polacek**

File Numbers: **PLN2002-00199**

Agricultural Land Management Plan for Parcel # 086-191-120

Background: History, Crops, Soils, Water,

History

The Polacek property was part of the Campinotti Ranch and has been farmed in row and grain crops since 1900 or earlier. The land was subdivided in the 1920's. The land was most recently owned by Peter and Sherry Marchi, Gerald Marchi, Frank Costella, and Ralph Moceo and farmed by Marchi Central Farms.

Crops

Historical crops have been artichokes, fava beans, brussel sprouts, leeks, hay, straw flowers, and ornamental eucalyptus. The ornamental eucalyptus was planted on the least productive row cropland. A wide variety of experimental crops have been suggested by local farmers, the UC Davis Agricultural Extension and product suppliers. Historically, wind and soil quality have been significant constraints on coastal crops on this farm. Wind has caused damage to crops and increased evaporation of irrigation water. See maps A and B.

Soils

Some soils are Class III prime soils suitable for a variety of coastal specialty crops. They are classified by a recent soil survey as "sandy loam - deep" or "sands over clay" by the soil and agricultural specialist at Kelley and Associates Environmental Sciences, Inc. These soils are primarily located in the western portions of the property and in the northeast corner of the property. Areas in the eastern portion of the property including the land on which the residential development is proposed is classified as "sandy loam - shallow" or "clays - wet" and are not considered prime soils.

Water

The water supply is provided by 14 shares in the Bean Hollow/Lake Lucerne system and in a normal year produces greater than 14 acre-feet of water. This water supply is sufficient for a wide variety of coastal crops.

The Bean Hollow/Lake Lucerne System has been a reliable source of agricultural water for many years. It is intended that this water will continue to be used as it has been. The Lake Lucerne Water Company maintains dams and a pump at the lake. Water is pumped to a nearby reservoir which serves several uses in the area according to water rights. It is proposed that water will be pumped from the reservoir through existing underground pipes owned by Marchi Farms. Water will be distributed within the parcel from a valve located at the northeast corner of the property. See Map C.

Note that agricultural ditches within the property and flowing through the property shown in Map D currently exist on the property and are proposed to be left in place. They will be maintained cooperatively with adjoining neighbors where appropriate. Several ditch easements exist but have not been physically implemented. As required, these easements will not be blocked by permanent development.

Land Use Plan

The property is naturally divided into five areas by topography, tree plantings, ditches and drainage swales. The three westerly and southerly fields have a total of 13 acres, the proposed home site field has 2 acres, and the northerly eucalyptus field has 3 acres.

- Field #1, Northeast corner, 3.1 acres, ornamental eucalyptus
- Field #2, Northwest corner, 5.5 acres, row crops and barn.
- Field #3, West, center, 3.1 acres, row crops
- Field #4, South side, 3.8 acres, row crops
- Field #5, East, Center, 2.5 acres, experimental crops and home site.

Economics

The limited size and crop potential for an 18-acre farm limits the potential farming operation to two general strategies. (1) It is too small for an independent conventional farming operation and if not farmed by owner needs to be leased to a larger operator. (2) It is large enough for a small specialty crop operation if new crops prove feasible to grow given the climate and the markets are developed to support it.

Near-term plan:

The near-term plan for the next 3-5 years is to continue leasing fields 2, 3 & 4 to the Marchis or other local farmers for conventional agriculture at a lease rate equal to or below agricultural market rates, while beginning to experiment with other crops near the house in field #5. The eucalyptus orchard in field #1 will remain as is, a windbreak. Furthermore, if no lessee can be found the Polaceks will farm these fields, even at a loss, for a period of at least two years.

To improve the local microclimate and shelter crops from the prevailing winds, additional windbreak trees will be planted along the northern boundary, and additional screening trees will be planted along the eastern boundary.

Field #5 is the best location for experimental crops because it leaves the large fields open for conventional agriculture and has the best wind protection due to the eucalyptus grove and screening trees along Bean Hollow Road.

Portions of field #5 surrounding the proposed house will be planted with a variety of orchard and berry crops and will be managed by the owners. Several varieties of orchard,

berry, herb and vegetable crops will be chosen and tested at the site. Those crops that do well in the area will be replanted in lieu of those that do not do well. (See Appendix 1 for list of proposed test crops). Earth berms, planted windbreaks, and the house structure will be strategically used to reduce the impact of wind in this area.

Long-term plan:

The long-term plan is to for the owners to gradually increase production of new specialty crops which are found to be marketable, and phase out the conventional crops. The Polaceks will farm all fields themselves with conventional or experimental crops or will make available these lands for lease.

Pesticide and Herbicide Use

Some pesticides and/or herbicides may be used in fields #2 and #3; however there will be preference for lessees and crops that require less chemicals. It is intended that use of chemicals will be minimized in fields #1, #4 and #5. Preference will be given to organic crops to the extent practicable.

Farm Labor

Farm labor will be the responsibility of the lessees for fields #2, #3 and #4. Fields #1 and #5 will be maintained by the owner, with additional labor as needed hired from the Lessee or the labor pool at large. On this size parcel the labor requirements will not be extensive and it will be expected that the lessees would be able to provide their own labor either from existing resources or by hiring the Lessee's workers.

Ownership and Leases

All sections are owned by the applicant and are the legal responsibility of the applicant. Separate lease agreements will be entered into with lessee(s) for fields #2, #3 and #4.

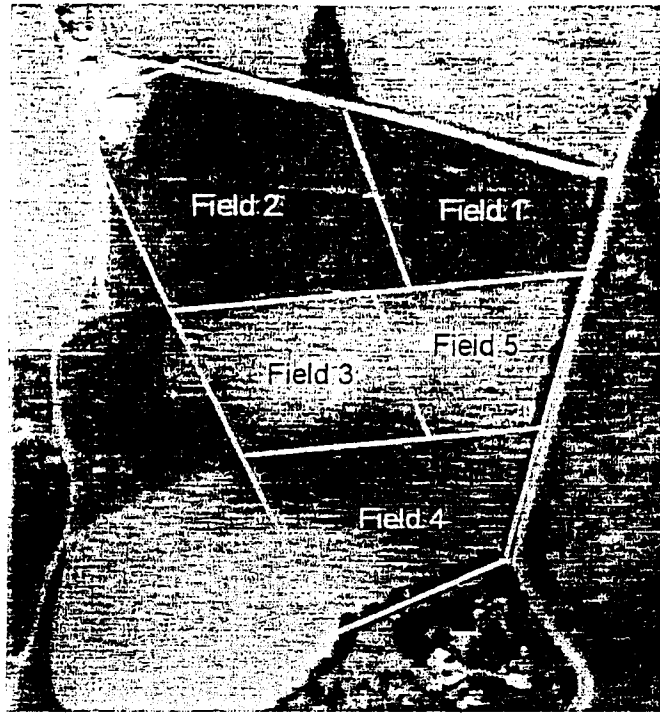
Marketing

Marketing products from fields #2, #3 and #4 will be the responsibility of the lessees. Products from Field #5 and perhaps field #1 will be marketed by the owners at local markets.

This combination of conventional and experimental crops offers the best opportunity for the property continuing in economic production. It leaves the proven conventional farming on the most productive ground.

Recent Crops

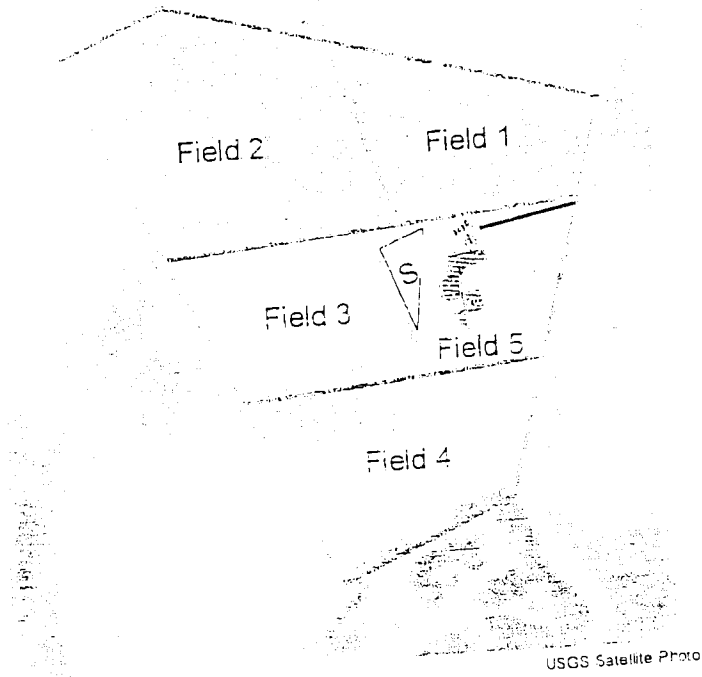
- Field 1
 - Ornamental Eucalyptus
- Fields 2, 3, 4, 5
 - Straw Flowers
 - Hay
 - Brussel Sprouts
 - Fava Beans
 - Leeks
 - Artichokes



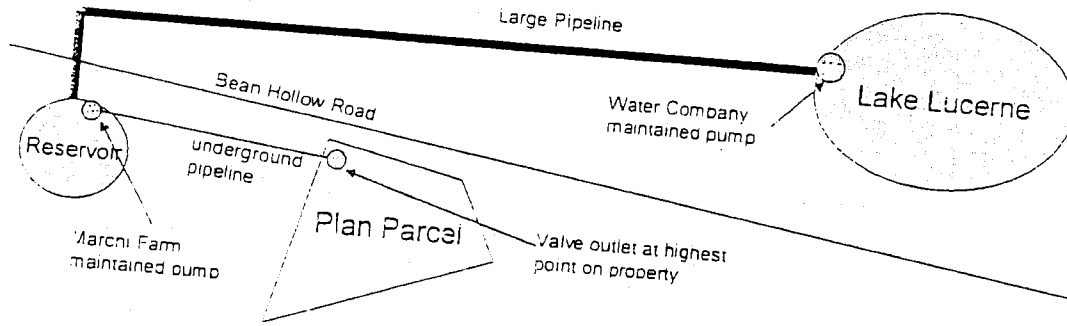
USGS Satellite Photo

New Crop Plan

- Field 1
 - Ornamental Eucalyptus
- Fields 2, 3, 4
 - Hay
 - Brussel Sprouts
 - Fava Beans
 - Leeks
 - Artichokes
- Field 5
 - Development
 - Fruit and Berry Varieties

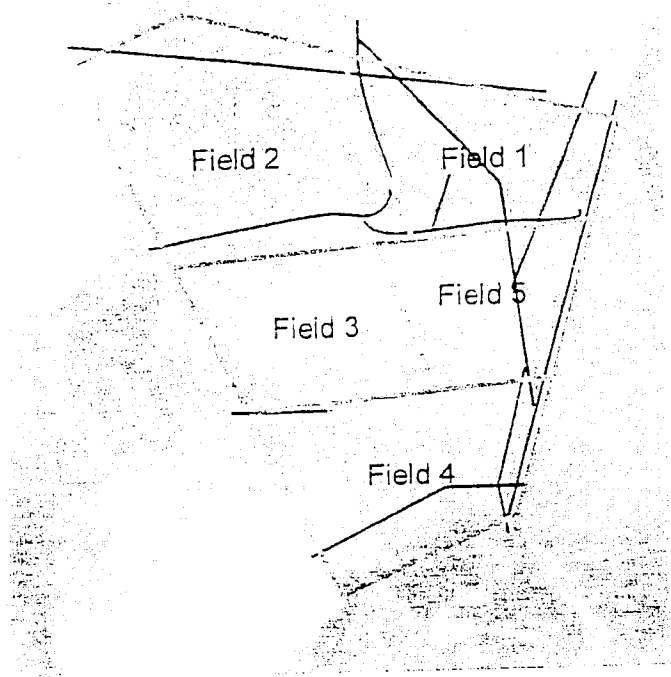


Map C - Water Distribution Map



Ditch Map

- Dark Blue Line = Ditch Easements
- Teal Blue Line = Ditches in Place



Appendix 1 – Potential Experimental Fruit and Berry Varieties

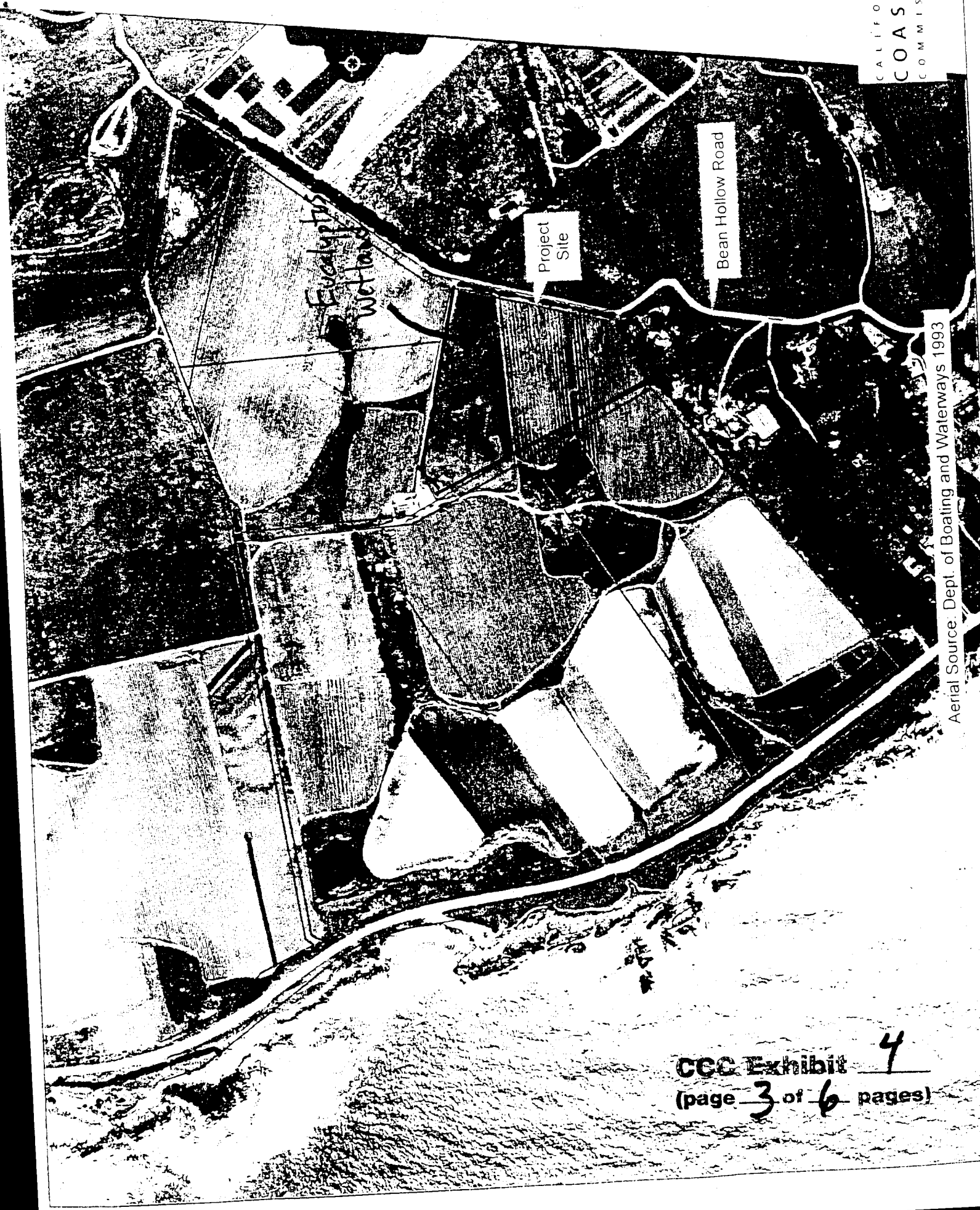
- Blueberries – Sharpblue, Gulf Coast, Marimba
- Currants – Consort Black, Elk River
- Raspberries – Autumn Bliss, Cascade Delight
- Blackberry – Ollalie, Logan, Marion, Arapaho, Black Douglas, Boysenberry
- Chokeberry
- Elderberry - Blue
- High Bush Cranberry
- Mulberry - Illinois Everbearing, Black Beauty
- Quince – Aromatenaya, Orange, Pineapple, Smyrna
- Ginko Biloba
- Apple – Anna, Dorsett Golden, Einshemer, Gordon, Tropical Beauty, Winter Banana
- Fig – Osborn, White Genoa, Black Mission, Conadria
- Pomegranate – Eversweet, Ambrosia
- Persimmon – Diospyros lotus, Diospyros kaki, Fuyu
- Pear – Baldwin, Carnes, Fan Stil, Garber, Hengsan, Hood, Kieffer, Orient, Pineapple, Seleta, Spadona



Aerial Source: Dept. of Water Resources 2001

Eucalyptus
wetland





Evolutionary
Wetland

Project
Site

Bean Hollow Road

Aerial Source: Dept. of Boating and Waterways 1993



Project Site

Bean Hollow Road

Aerial Source: Dept. of Boating and Waterways 1986

Project
Site

Bean Hollow Road

Aerial Source: Dept. of Water Resources 1978



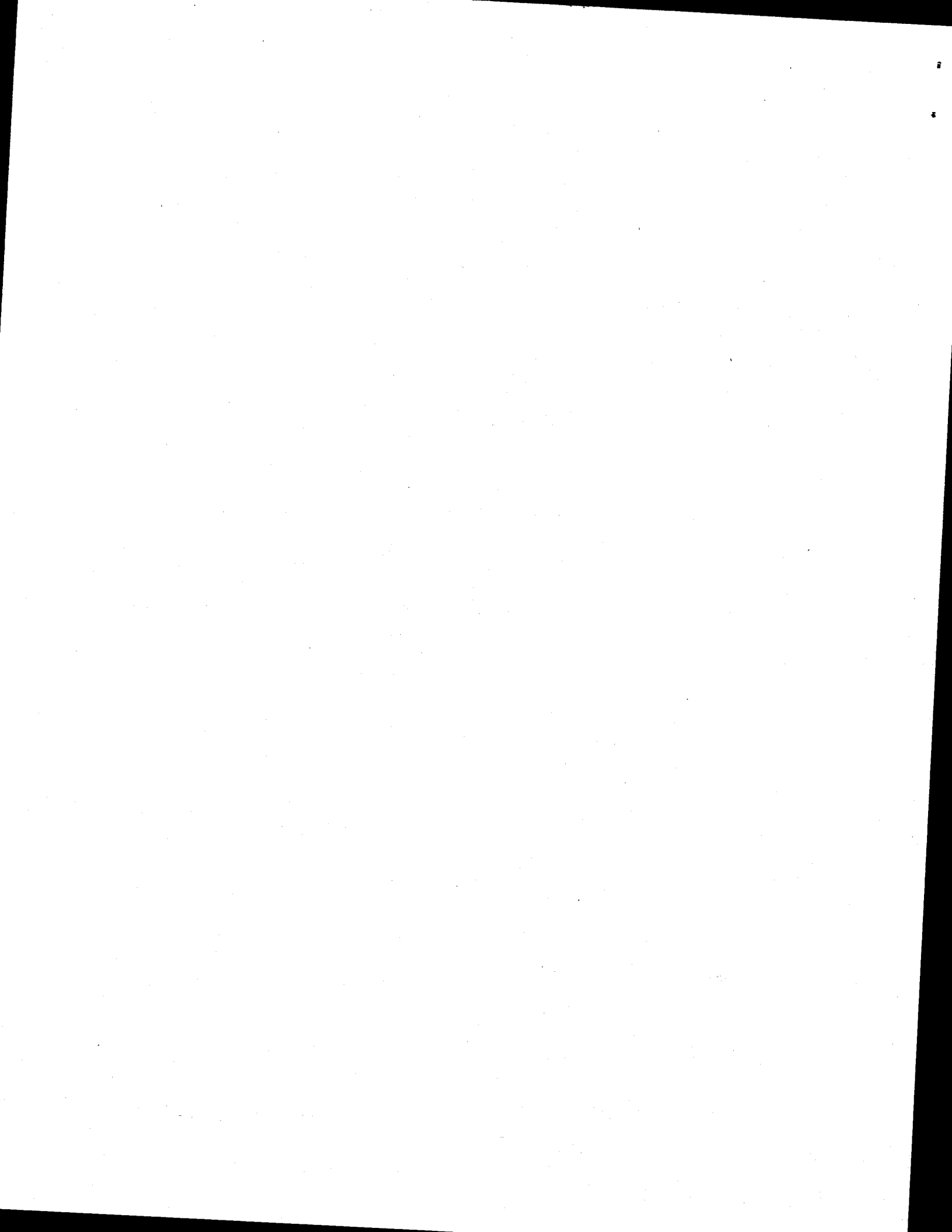
Project Site

Bean Hollow Road

CCO Exhibit 4
(page 4 of 6 pages)

Aerial Source: Dept. of Navigation and Ocean Development 1970

CALIFORNIA
COASTAL
COMMISSION



Coastal Act Agricultural Definitions and Policies

Section 30108: Feasible

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Section 30113: Prime agricultural land

"Prime agricultural land" means those lands defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.

Section 30241: Prime agricultural land; maintenance in agricultural production

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas, agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
- (f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30241.5: Agricultural land; determination of viability of uses; economic feasibility evaluation

- (a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements: (1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. (2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program. For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the

economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program. (b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242: Lands suitable for agricultural use; conversion

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

San Mateo County LUP Applicable Land Use and Agricultural Policies

1.8: Land Uses and Development Densities in Rural Areas

a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

5.1: Definition of Prime Agricultural Lands

Define prime agricultural lands as: a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. b. All land which qualifies for rating 80-100 in the Storie Index Rating. c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than \$200 per acre. e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

5.2: Designation of Prime Agricultural Lands

Designate any parcel which contains prime agricultural lands as Agriculture on the Local Coastal Program Land Use Plan Map, subject to the following exceptions: State Park lands existing as of the date of Local Coastal Program certification, urban areas, rural service centers, and solid waste disposal sites necessary for the health, safety, and welfare of the County.

5.5: Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) nonresidential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

5.8: Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated: (1) That no alternative site exists for the use, (2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses, (3) The productivity of any adjacent agricultural land will not be diminished, and (4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

APPLICABLE PLANNED AGRICULTURAL DISTRICT (PAD) ZONING REGULATIONS

SECTION 6350. PURPOSE OF THE PLANNED AGRICULTURAL DISTRICT. The purpose of the Planned Agricultural District is to: 1) preserve and foster existing and potential agricultural operations in San Mateo County in order to keep the maximum amount of prime agricultural land and all other lands suitable for agriculture in agricultural production, and 2) minimize conflicts between agricultural and non-agricultural land uses by employing all of the following techniques: (a) establishing stable boundaries separating urban and rural areas and, when necessary, clearly defined buffer areas, (b) limiting conversions of agricultural lands around the periphery of urban areas to lands where the viability of existing agricultural use has already been severely limited by conflicts with urban uses, and where the conversion of such land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, (c) developing available lands not suitable for agriculture before converting agricultural lands, (d) assuring that public service and facility expansions and non-agricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and (e) assuring that all divisions of prime agricultural land (except those stated in (b)) and all adjacent development does not diminish the productivity of prime agricultural lands and other land suitable for agriculture.

SECTION 6351(A). DEFINITIONS. For the purposes of this Chapter, certain terms used herein are defined as follows: A. Prime Agricultural Land: 1. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Compatibility Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts. 2. All land which qualifies for rating 80-100 in the Storie Index Rating. 3. Land which supports livestock use for the production of food and fiber, and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture. 4. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200 per acre. 5. Land which has returned from the production of an unprocessed agricultural plant product on an annual value that is not less than \$200 per acre within three of the five previous years. The \$200 per acre amount in subsection (4) and (5) shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized Consumer Price Index.

SECTION 6352(A). USES PERMITTED. The following uses are permitted in the PAD:
A. On Prime Agricultural Lands: 1. Agriculture. 2. Non-residential development customarily considered accessory to agricultural uses. 3. Soil dependent greenhouses and nurseries provided that a soil management plan is prepared showing how open prime soils on the site will be preserved and how soils will be returned to their original condition when operations cease. 4. Temporary roadstands for seasonal sale of produce grown in San Mateo County providing that (1) sales activities are limited to less than a nine month operating period per year, (2) all structures are of portable construction and shall be removed from the site within 10 days of the seasonal closure of the stand, (3) roadstand size shall be limited to 200 square feet and

appearance, including signs, color and materials, is consistent with the policies of the certified LCP and meets the satisfaction of the Planning Director, and (4) access and parking requirements meet the satisfaction of the Director of Public Works, however, no impervious paving shall be required. 5. Repairs, alterations, and additions to existing single-family residences. 6. Keeping of pets in association with a one-family dwelling. 7. Limited keeping of pets in association with a farm labor housing unit or multiple-family dwelling unit. 8. Animal fanciers.

SECTION 6353A. USES PERMITTED SUBJECT TO THE ISSUANCE OF A PLANNED AGRICULTURAL PERMIT. The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this ordinance. Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore. A. On Prime Agricultural Lands: 1. Single-family residences. 2. Farm labor housing. 3. Public recreation/shoreline access trail (see Section 6355D.2). 4. Non-soil dependent greenhouses and nurseries if no alternative building site on the parcel exists. 5. Onshore oil and gas exploration, production, and minimum necessary related storage subject to the issuance of an oil well permit, except that no wells shall be located on prime soils. 6. Uses ancillary to agriculture. 7. Permanent roadstands for the sale of produce, providing that the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, and subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance. 8. Facilities for the processing, storing, packaging, and shipping of agricultural products. 9. Commercial woodlots and temporary storage of logs.

SECTION 6355(A-D). SUBSTANTIVE CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT. It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria:

A. General Criteria: 1. The encroachment of all development upon land which is suitable for agricultural use shall be minimized. 2. All development permitted on a site shall be clustered. 3. Every project shall conform to the Development Review Criteria contained in Chapter 20A.2 of the San Mateo County Ordinance Code.

B. Water Supply Criteria: 1. The existing availability of an adequate and potable well water source shall be demonstrated for all non-agricultural uses according to the following criteria: (a) each existing parcel developed with non-agricultural uses, or parcel legalized in accordance with Local Coastal Program Policy 1.29, shall demonstrate a safe and adequate well water source located on that parcel, and (b) each new parcel created by a land division shall demonstrate a safe and adequate well water source located either (1) on that parcel, or (2) on the larger property that was subdivided to create the new parcel, provided that a single well water source may not serve more than four (4) new parcels. 2. Adequate and sufficient water supplies needed for agricultural production and sensitive habitat protection in the watershed are not diminished. 3. All new non-

agricultural parcels are severed from land bordering a stream and their needs prohibit the transfer of riparian rights.

C. Criteria for the Division of Prime Agricultural Land: 1. Prime Agricultural Land which covers an entire parcel shall not be divided. 2. Prime Agricultural Land within a parcel shall not be divided unless it can be demonstrated that existing or potential agricultural productivity of all resulting parcels would not be diminished. 3. Prime Agricultural Land within a parcel will not be divided when the only building site would be on such Prime Agricultural Land.

D. Criteria for the Conversion of Prime Agricultural Lands: 1. General Criteria: Prime Agricultural Land within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless it can be demonstrated that: a. No alternative site exists on the parcel for the use, b. Clearly defined buffer areas are provided between agricultural and non-agricultural uses, c. The productivity of an adjacent agricultural land will not be diminished, and d. Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality. 2. Public Recreation Facilities Criteria: For a recreation facility on land owned by a public agency before the effective date of this ordinance, the following additional criteria apply: a. The agency, as a condition of approval of the Planned Agricultural Permit, executes a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture. b. The agency, whenever legally feasible, agrees to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use. 3. Agriculturally Related Uses Criteria: For uses ancillary to agriculture, facilities for the processing, storing packaging and shipping of agricultural products, and commercial woodlots and temporary storage of logs, the following additional criteria applies: a. The area of Prime Agricultural Land converted shall be as small as possible, and, b. In all cases, the area of Prime Agricultural Land converted shall not exceed 3 acres.

SECTION 6361. PROCEDURAL CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT.

A. Master Land Division Plan: Before any division of land, the applicant shall file a Master Land Division Plan demonstrating how the parcel will be ultimately divided according to maximum density of development permitted and which parcels will be used for agricultural and non-agricultural uses if conversions are permitted. Division for non-agricultural parcels shall be as small as practicable, not to exceed 5 acres when used for residential purposes, and shall ensure that minimum domestic well water and on-site sewage disposal area requirements are met. Division shall be permitted in phases, and all future divisions occurring on land for which a plan has been filed must conform to that plan. Master Land Division Plans shall not be required for land divisions which solely provide affordable housing, as defined by LCP Policy 3.7 on March 25, 1986.

B. Easements on Agricultural Parcels: After a Master Land Division Plan has been filed, and as a condition of approval thereof, the applicant shall grant to the County (and the County shall accept) an easement containing a covenant, running with the land in perpetuity, which limits the use of the land covered by the easement to agricultural uses, non-residential development customarily considered accessory to agriculture (as defined in Section 6352C and D of this ordinance) and farm labor housing. The covenant shall specify that, anytime after three years

from the date of recordation of the easement, land within the boundaries of the easement may be converted to other uses consistent with open space (as defined in the California Open Space Lands Act of 1972 on January 1, 1980) upon the finding that changed circumstances beyond the control of the landowner or operator have rendered the land unusable for agriculture and upon approval by the State Coastal Commission of a Local Coastal Program amendment changing the land use designation to open space. Uses consistent with the definition of Open Space shall mean all those uses specified in the Resource Management Zone (as in effect on November 18, 1980). Any land use allowed on a parcel through modification of an agricultural use easement shall recognize the site's natural resources and limitations. Such uses shall not include the removal of significant vegetation (except for renewed timber harvesting activities consistent with the policies of the Local Coastal Program), or significant alterations to the natural landforms.

C. Agricultural Land Management Plan: For parcels 20 acres or more in size before division or conversion, the applicant shall file an agricultural land management plan demonstrating how, if applicable, the agricultural productivity of the land will be fostered and preserved in accordance with the requirements of Sections 6350 and 6355 of this ordinance.

D. Map and Deed Notice: When a parcel on or adjacent to agricultural land is subdivided, the following statement shall be included as a condition of approval on all parcel and final maps and in each parcel deed. This subdivision is adjacent to property utilized for agricultural purposes, and residents of the subdivision may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconveniences or discomfort from normal, necessary farm operations.

E. Findings: The County shall make findings with respect to each application for division or conversion of lands in the Planned Agricultural District. Such findings shall be in writing, based on fact, and shall set forth specific reasons why proposed division or conversion meets or fails to meet all applicable requirements of this ordinance.

SECTION 6363. ESTABLISHMENT AND APPLICATION OF PLANNED AGRICULTURAL DISTRICT.

Any parcel of land in the Coastal Zone which contains prime agricultural land and lands suitable for agriculture shall be included in the Planned Agricultural District. The Planned Agricultural District is hereby established and applied to the area depicted on the maps entitled "Planned Agricultural District Boundary," for the Mid-Coast and South Coast, both dated January 23, 1979, and on file in the offices of the County Planning Department.

COMMISSION PERMIT HISTORY ON PAD-ZONED LAND

In reviewing the proposed project, Commission staff has reviewed past permit history on agricultural land in San Mateo County. This review is not comprehensive, i.e., it does not include a complete analysis of all previously allowed (or denied) development on agricultural land in San Mateo County, but is representative of past actions in this area over the last eight years.

The permit history detailed in the table below, however, does not include an analysis of whether the conditionally permitted single family residences diminish the ability to keep prime agricultural land and other land suitable for agriculture in agricultural production in contravention of LCP Policy 1.8a. An analysis has not been done regarding the existence or non-existence of continuing farm or ranching operations on these parcels since residential development has taken place.

CCC ID#	Location	Project Description	Prime or Land Suitable for Agriculture	Action by CCC
2-SMC-00-080 (Hines)	Ranch Rd West, Pescadero	4,315 sf SFD; 838 sf garage; 6,400 gal water storage tank	26.86 acres; LSA	
2-SMC-01-076 (Deierling)	4000 Stage Rd., Pescadero	3,812 sf SFD, 720 sf garage; 1000 ft. long driveway	45.7 acres; LSA	
1-SMC-97-315 (Turner)	4995 Stage Road, HMB	Construct 3,890 sf SFD and 1,200 sf stable for horses	Prime/LSA - 40.28 acres	
1-SMC-98-417 (Balopulos)	1180 Lobitos Creek, HMB	Construct 3,185 sf SFD (including 615 sf attached garage)	2.5 acres - LSA	
2-SMC-01-207 (Sullivan)	37 Frenchman's Creek Rd, HMB	Construct 2,779 sq. ft. SFD & 5,000 gallon water storage tank on a 62.5-acre PAD parcel; COC to confirm legality of parcel.	62.5 acres - LSA	
2-SMC-02-033 (Martinson)	3200 Miramontes Point Rd., HMB	Construct 4,475 sq. ft. SFD, 1,440 sq. ft. detached accessory structure, convert ag well.	22 acres - LSA	
2-SMC-02-099 (Donovan)	Cabrillo Highway, HMB	Construct 3,074 sq. ft. SFD, 616 sq. ft. garage, drill a domestic well.	54.1 acres - LSA	

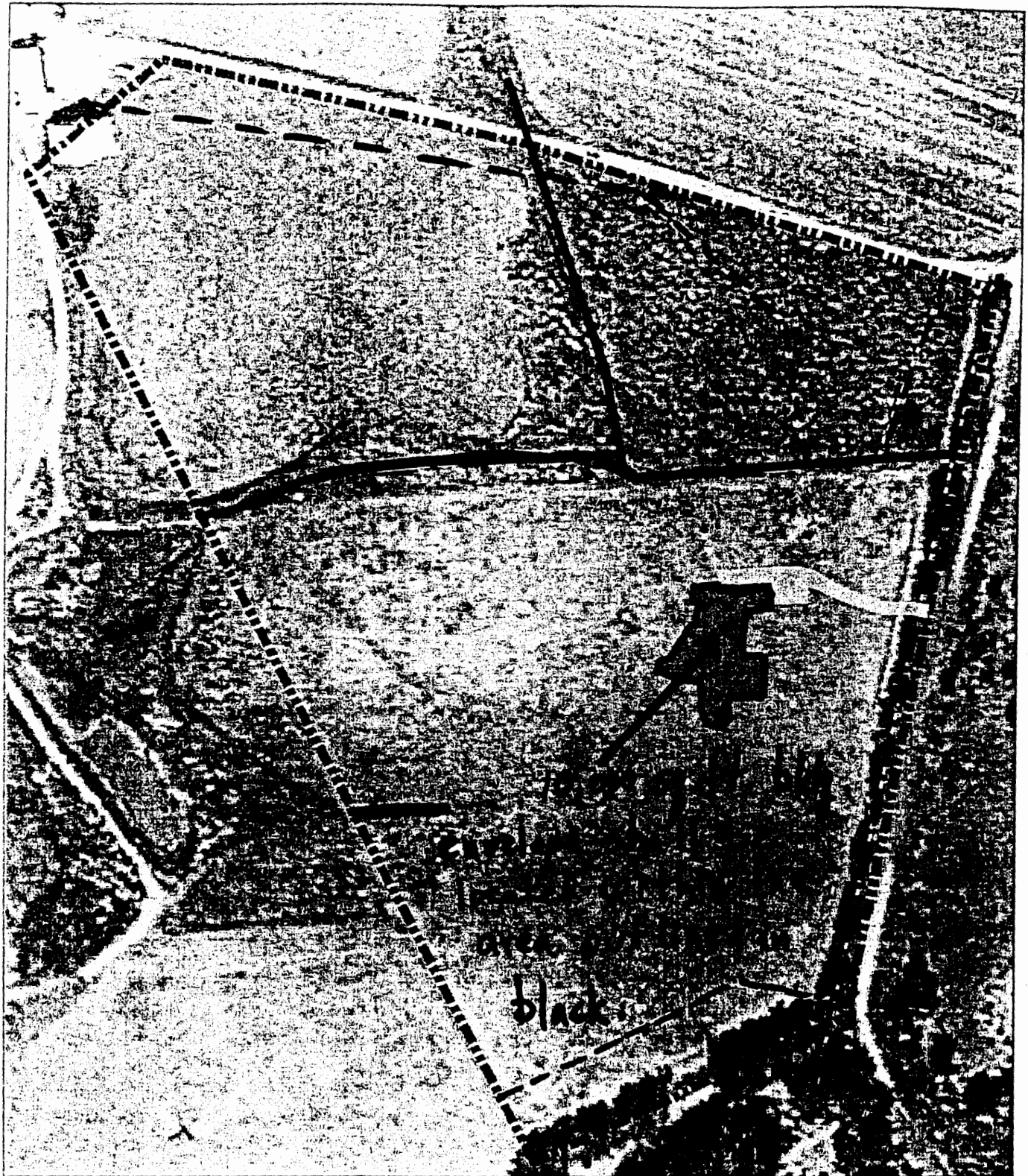
A-2-SMC-02-004 (Polacek)
Exhibit 9, pg. 1 of 3

2-SMC-01-159 (Palmer)	321 Verde Rd, HMB	Construct 3,423 sq. ft. SFD, convert 2 existing dwellings to affordable housing; allow 5 horses to be kept on parcel.	46 acres – LSA	
2-SMC-00-189 (Anderson)	400 Dehoff Canyon Rd., HMB	Construct 2,881 sf SFD; convert existing 950 sf SFD to affordable housing.	LSA – 30 acres	Appealed to CCC (A-2-SMC-00- 038) – No Substantial Issue
1-SMC-97-300 (Dixon)	2300 Stage Rd., Pescadero	Convert existing farm labor housing to non-farm labor (768 sf??) SFD;	Prime/LSA – 503 acres	
1-SMC-98-25 (Gardiner)	615 Bean Hollow Rd, Pescadero	Construct 3,000 sf SFD; convert ag well to domestic well.	Prime/LSA – 8.5 acres	
A-2-SMC-00-028 (Blank)	4100 Cabrillo Hwy, Pescadero	Construct 15,780 sf SFD, equipment barn, relocate farm labor housing, on 261-acre parcel.	Prime/LSA – 261 acres	Appealed by CCC – conditioned approval; clustered farm labor housing with other bldgs on LSA, instead of prime land. Project description includes some proposed ag use.
A-2-SMC-99-066 (Lee)	2050 Cabrillo Hwy, Pescadero	Construct 6,000 sf SFD on 84-acre parcel.	Prime/LSA – 84 acres	Appealed by CCC - Approved with conditions; no ag finding
A-3-SMC-95-025 (Pellegrini)	Audobon Ave., Montara	Construct 21,000 sf SFD on 10-acre PAD parcel.	Prime (10 acres), but no contiguous ag parcels; surrounded by smaller developed lots zoned R-1.	Appealed to CCC – No Substantial Issue
2-SMC-01-306 (Marsh)	333 Tunitas Creek Rd., San Gregorio	Construct 2,655 sf SFD & 846 sf detached garage; convert ag well to domestic use.	8 acres – Prime	
2-SMC-99-351 (Templeton)	Pescadero Creek Rd @ Dearborn Park Rd	Construct 2,300 sf SFD, 484 sf detached carport; 1,728 sf barn for horses.	3.6 acres – Prime	

A-2-SMC-02-004 (Polacek)
Exhibit 9, pg. 2 of 3






2-SMC-99-367 (Muzzi)	2550 Pescadero Rd	Construct 1,790 sf SFD & attached garage; add 1,056 sf trailer for farm labor housing; convert ag well for domestic use; legalize 5-acre parcel.	5 acres – prime	
1-SMC-98-303 (Peterson/Schabe)	11260 Cabrillo Hwy, Pescadero (just north of Bean Hollow Rd.)	Construct a 1,322 sf addition to an existing 2,674 sf SFD.	No info on parcel size or soil type.	
2-SMC-02-212 (Lustig)	715 Bean Hollow Rd.	Addition to existing 2576 sf SFD (including garage); after addition, total sf = 4245 sf (including garage).	TPZ-CZ/PAD – 4.11 acres; no soil info	Approved by County - No record of CCC staff receiving Final Location Action Notice
A-1-SMC-97-013 (Lucchini)	West side of Hwy One, 800 feet south of HMB City limits	Requested to construct 3,490 sf SFD (including garage) and 2,033 foot long driveway; approved for 3,140 sf house and garage; 4,000 sf building envelope.	Prime – 4.88 acres	Appealed by CCC – substantial Issue 4/10/97; approved with conditions 5/12/98 (deed restriction allowing only ag use on remainder of property; reduced allowable house to max of 3,140 sf (including garage) and 4,000 sf building envelope (due to visual concerns); required re-design of house to look like farmhouse.

A-2-SMC-02-004 (Polacek)
Exhibit 9, pg. 3 of 3



0 150 feet

Legend

-  Driveway
-  House
-  Property Boundary
-  Inactive Ditch Easements
-  Easements with Active Ditches

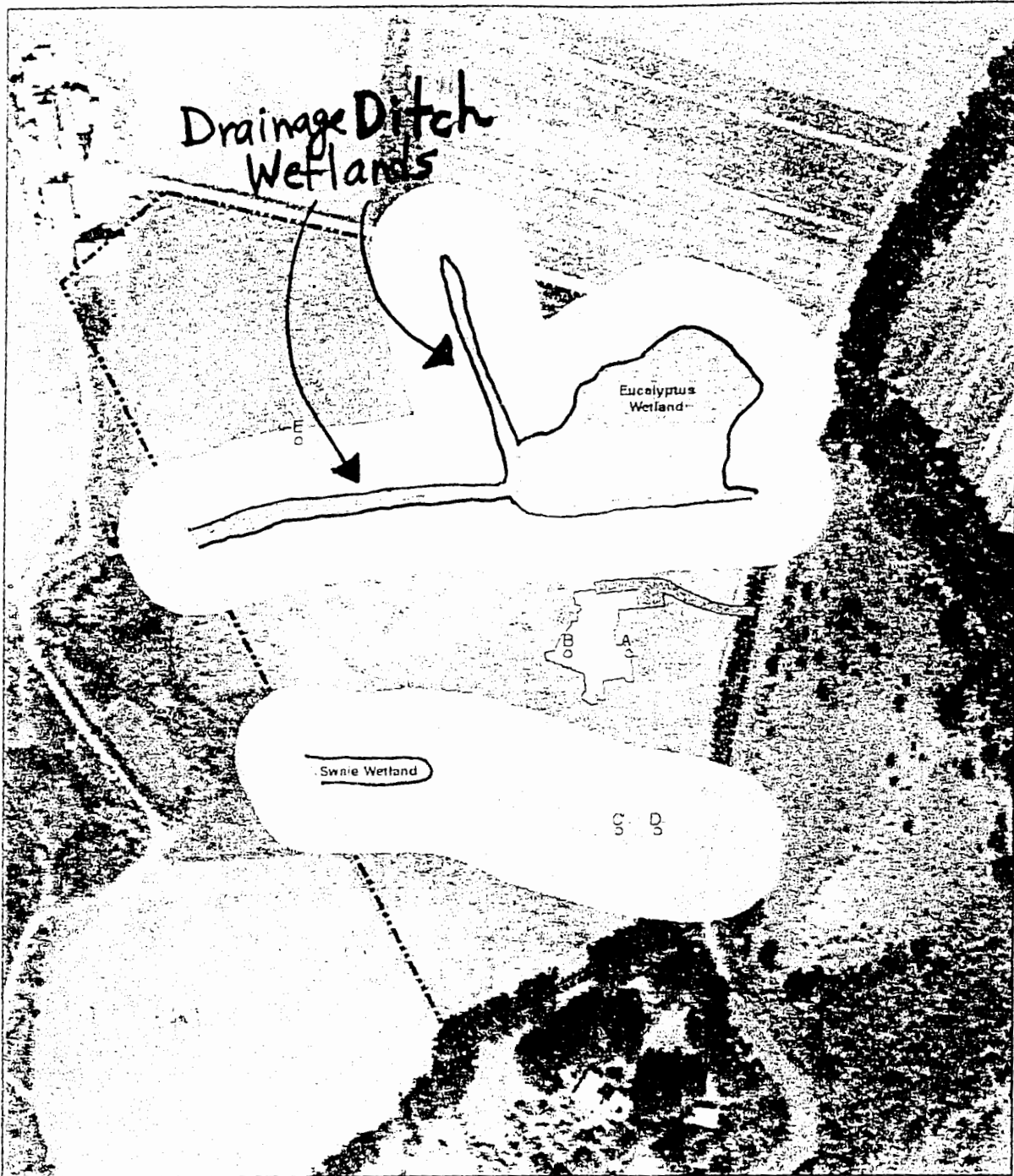
Source: EMC Planning Group Inc., 2005; Terraserver, 2002

Figure 1

Approximate Ditch Easements Map

Polacek Single Family Residence





Note: Soil Locations are approximates based on field data.

Source: EMC 2004; David Kelley and Associates 2004; Orthophoto Terraserver, 2002

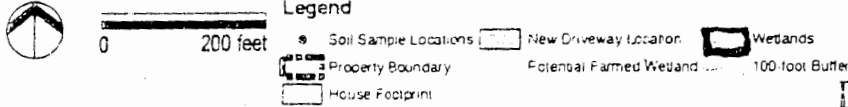


Figure 2
**Delineated Wetlands,
 Potential Farmed Wetlands, and Wetland Buffers**
 Polacek Single Family Residence

SIMMS PLUMBING & WATER EQUIPMENT, INC.

P.O. BOX 738
 PESCADERO, CA 94060
 (650) 279-1823

WELL REPORT INFORMATION

OWNERS NAME MOCEO ASSOCIATES
 ADDRESS 088-191-120 LOT 29
 TEST DATE NOVEMBER 20, 2000
 WELL DEPTH 27'-0
 STANDING WATER LEVEL 0'-0
 STATIC WATER LEVEL 21'-5
 PUMP SETTING 25'-0
 TIME TEST BEGAN 7:00 AM

TIME	DRAWDOWN	G.P.M.
7:00	0'-0	8.0
7:15	8'-8	8.0
7:30	15'-5	8.0
7:45	21'-1	8.0
8:00	21'-2	8.0
8:15	21'-3	8.0
8:30	21'-4	8.0
8:45	21'-6	8.0
9:00	21'-4	7.5
9:15	21'-6	7.25
9:30	21'-5	7.0
9:45	21'-5	6.0
10:00	21'-5	5.0
10:15	21'-5	4.0
10:30	21'-4	4.0
10:45	21'-5	3.75
11:00	21'-4	3.75
11:15	21'-4	3.75
11:30	21'-4 1/2	3.75
11:45	21'-5	3.75
12:00	21'-6	3.75
12:15	21'-6	3.3
12:30	21'-6	3.3
		2.5

RECOVERY RATE

12:35	21'-1
12:45	20'-9
12:55	20'-3
1:05	18'-4
1:10	18'-9

SIMMS PLUMBING & WATER EQUIPMENT, INC.

P.O. BOX 731
 PESCADERO, CA 94060
 (650)879-1123

MOCEO ASSOCIATES 086-191-120 NOVEMBER 20, 2000
 Bill To Job Location Date

System to be: Individual Shared

Type: Well Spring Horizontal Well Stream

Location of Water Source (APN):

APN's to be served: 1.) 086-191-120 2.)
 3.) 4.)

WELL PUMPING TEST

DATE	PUMP RATE	CURVED	TOTAL YIELD
11-20-2000	2.6	6.5	2.5
DRAWN DOWN	STATIC WATER LEVEL	WELL DEPTH	PUMP LEVEL
21'-5"	21'-5"	27'-0"	25'-0"

Disclaimer

This report is for informational purposes only. It is in lieu of, and supersedes any other representations or statements of the agents or employees of the company, and all other requirements or statements shall be relied upon as the customer's own risk.

The data and conclusions herein are based upon the tests and observations of the company using standard and accepted practices of the groundwater industry. However, conditions in water wells are subject to dramatic changes in even short periods of time. Additionally, the observational techniques employed may be subject to considerable error due to factors within the well and groundwater formation which are beyond the company's immediate control.

Therefore, the data and conclusions are valid only as of the date and within the limitations of the test and installation indicated, and should not be relied upon to predict either the future quantity or quality of the water the well will produce. The company makes no warranties, either express or implied as to such future water production. Further, it expressly disclaims and accepts liability consequential or incidental damages arising out of the breach of its express or implied warranty of future water production, or arising out of any further use of this report by the customer or third parties.

In processing the data and conclusions herein, unless expressly stated to the contrary, does not represent the well or pump system is in any particular condition or state of repair, nor that the water will satisfy governmental ordinances or regulations, nor that the water is adequate or a particular use contemplated by the owner.

Steve D Simms
 Steve Simms

11-21-2000
 Date



AnaCon Testing Laboratories, Inc.

415 Fairchild Drive
Telephone: (650) 335-1233

Mountain View, California 94043
Facsimile: (650) 335-1076

November 28, 2000 / ld

Simms Plumbing
P.O. Box 738
Pescadero, California 94060

ATL No.: 0023.01
Lab No.: 40628.1.6
Cert. No.: 1535

Attention: Steve Simms

Service: ANALYSES OF WATER

Sample Identification: Moceo Associates - Lot 29, Pescadero, CA (APN 086-191-120)

Date Received: November 20, 2000

<u>Constituent</u>	<u>Found</u>	<u>Detection Limits</u>	<u>Required</u>	<u>Method *</u>
Chloride, ppm Cl	105	---	< 500	4500-Cl B
Iron, ppm Fe	0.12	0.043	< 0.30	3500-Fe B
Manganese, ppm Mn	0.018	0.015	< 0.05	3500-Mn B
Nitrate, ppm NO3	Separate Report	0.1	< 45	4500-NO3
Specific Conductance, umhos	535	---	< 1600	2510 B
Total Coliform Bacteria	Absent	---	Absent	9221 B

< = less than; > = greater than; N.D. = Not Detected.

* Standard Methods for the Examination of Water and Wastewater, 18th Edition

This sample meets the EPA drinking water requirements.

Respectfully submitted,
AnaCon Testing Laboratories, Inc.

Louis Davis
Chemistry Laboratory

CCC Exhibit 12
(page 3 of 5 pages)

Enclosures: 2



SCIENTIFIC ENVIRONMENTAL LABORATORIES, INC.

AnaCon Testing Lab. Inc.
415 Fairchild Drive
Mountain View, CA 94043

Attn: Mr. Richard Maynez

Released: 11-27-00
Lab ID : M008908
Recv'd : 11-20-00
Col'd : 11-20-00
Sampler : AnaCon
Analyst : HA
Analyzed: 11-21-00
Matrix : Liquid

Analysis: Nitrate as NO₃

Method: EPA 300.0

Detection Limit: 0.05 mg/L


Source

086-191-12 Lot # 29 Pescadero, CA

Result (mg/L)

30.0

SF:dc


Shui Fong
Director, Water Laboratory

not 12-1-00
HP
CCC Exhibit 12
(page 4 of 5 pages)



HEALTH SERVICES AGENCY

December 7, 2000

via fax 726-0824

Ana Polacek
P. O. Box 2393
El Granada, CA 94018

Subject: Septic system for 700 Bean Hololow Road, Pescadero (APN 086-199-120)

Dear Mrs. Polacek

Percolation testing on this site has been approved by Environmental Health. Based on the results a septic system that can adequately serve a single-family residence can be installed and approved here.

There is some question about the presence of seasonal high groundwater on the site. This can be addressed by proposing a shallow septic system (3 feet) or performing wet weather testing.

If you have further questions please call me.

Sincerely,

Steven R. Hartsell, REHS
Program Supervisor

CCC Exhibit 12
(page 5 of 5 pages)

PUBLIC HEALTH AND ENVIRONMENTAL PROTECTION DIVISION

Board of Supervisors: Rose Jacobs Gibson • Richard S. Gordon • Mary Griffin • Jerry Hill • Michael D. Nevin • Health Services Director: Margaret Taylor

455 County Center • Redwood City, CA 94063 • phone 650.363.4305 • toll 650.573.0206 • fax 650.363.7382

<http://www.health.co.san-mateo.ca.us>

County of San Mateo
Environmental Services Agency
Planning and Building Division

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN PLN2002-00199

Hearing Date: January 14, 2004

Prepared By: Gabrielle Rowan

Adopted By: Planning Commission

FINDINGS

Regarding the Negative Declaration. Found:

1. That the Negative Declaration is complete, correct and adequate, and prepared in accordance with the California Environmental Quality Act and applicable State and County guidelines.
2. That, on the basis of the Initial Study and comments hereto, there is no evidence that the project, subject to the mitigation measures contained in the Negative Declaration, will have a significant effect on the environment.
3. That the Negative Declaration reflects the independent judgment of San Mateo County.
4. That the mitigation measures identified in the Negative Declaration, agreed to by the applicant, placed as conditions on the project, and identified as part of this public hearing, have been incorporated in to the Mitigation and Reporting Plan in conformance with California Public Resources Code Section 21081.6.

Regarding the Planned Agricultural Permit. Found:

5. That the proposed project, as described in the application and accompanying materials, complies with all applicable criteria for issuance of a Planned Agricultural District Permit contained in Section 6355 of the Zoning Regulations.

Regarding the Coastal Development Permit. Found:

6. That the project, as described in the application and accompanying materials required by Section 6328.7 and as conditioned in accordance with Section 6328.14, conforms with the plans, polices, requirements and standards of the San Mateo County Local Coastal Program.
7. That the project conforms to the specific findings of the San Mateo County Local Coastal Program.
8. That the number of building permits for construction of single-family residences other than affordable housing issued in the calendar year does not exceed the limitations of Local Coastal Program Policy 1.23.

CONDITIONS OF APPROVAL

Planning Division

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Planning Commission on January 14, 2004. Minor revisions or modifications to the project may be approved by the Planning Administrator if they are consistent with the intent of and in substantial conformance with this approval.
2. These permits shall be valid for one year from the date of approval within which time an application for a building permit shall be submitted and issued. Any extension of these permits shall require submittal of a request for permit extension and payment of applicable fees no less than 30 days prior to expiration.
3. The applicant shall apply for and be issued a building permit prior to the start of construction, including any grading or clearing activity. The County Geologist shall review and approve all project-related construction plans and reports prior to the issuance of a building permit.
4. All proposed development shall be designed and constructed in accordance with the latest earthquake resistance standards of the Uniform Building Code (UBC) released by the International Conference of Building Officials (ICBO) and as adopted by San Mateo County.

5. At the building permit stage, the applicant shall submit a geotechnical report in accordance with the standards of the San Mateo County Geotechnical Section.
6. The applicant shall submit an erosion and sediment control plan. The plan shall stipulate all such measures to be implemented at the project site in the event of a storm during construction. The plan shall be included as part of the project's building permit application and construction plans. The submitted and approved plan shall be activated during the period of grading and construction activity. Any revisions to the plan shall be prepared and signed by the project engineer. It shall be the responsibility of the applicant to regularly inspect the erosion control measures and determine that they are functioning as designed and that proper maintenance is being performed. Deficiencies shall be immediately corrected.

During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:

- a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
- b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
- c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
- d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
- e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
- f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.

The plan shall be based on the specific erosion and sediment transport control needs of the area in which grading and construction are to occur. The possible methods are not necessarily limited to the following items:

- a. Confine grading and activities related to grading (construction, preparation and use of equipment and material storage/staging areas, preparation of access roads) to the dry season, whenever possible.
- b. If grading or activities related to grading need to be scheduled for the wet season, ensure that structural erosion and sediment transport control measures are ready for implementation prior to the onset of the first major storm of the season.
- c. Locate staging areas outside major drainage ways.
- d. Keep the lengths and gradients of constructed slopes (cut or fill) as low as possible.
- e. Prevent runoff from flowing over unprotected slopes.
- f. Keep disturbed areas (areas of grading and related activities) to the minimum necessary for demolition or construction.
- g. Keep runoff away from disturbed areas during grading and related activities.
- h. Stabilize disturbed areas as quickly as possible, either by vegetative or mechanical methods.
- i. Direct runoff over vegetated areas prior to discharge into public storm drainage systems, whenever possible.
- j. Trap sediment before it leaves the site with such techniques as check dams, sediment ponds, or siltation fences.
- k. Make the contractor responsible for the removal and disposal of all sedimentation on-site or off-site that is generated by grading and related activities of the project.
- l. Use landscaping and grading methods that lower the potential for downstream sedimentation. Modified drainage patterns, longer flow paths, encouraging infiltration into the ground, and slower stormwater conveyance velocities are examples of effective methods.
- m. Control landscaping activities carefully with regard to the application of fertilizers, herbicides, pesticides or other hazardous substances. Provide proper instruction to all landscaping personnel on the construction team.

7. The applicant shall, pursuant to Section 5023 of the San Mateo County Code, submit a post-construction stormwater control/drainage plan, as prepared by their civil engineer or erosion control consultant at the building permit stage. The plan shall be included as part of the project's building permit application and construction plans. The County Building Inspection Section and Department of Public Works shall ensure that the approved plan is implemented prior to the project's final building inspection approval. The required drainage plan shall show the necessary mechanisms to contain all water runoff generated by on-site impervious surfaces and shall include facilities to minimize the amount and pollutants of stormwater runoff through on-site percolation and filtering facilities to control stormwater runoff from the project site once the project is completed. In addition, the plan shall indicate that:
 - a. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers, herbicides and pesticides, which can contribute to runoff pollution.
 - b. Where subsurface conditions allow, all building roof downspout systems shall be designed to drain into a designated, effective infiltration or structure (refer to BMPs Handbook for infiltration system designs and requirements).
8. The applicant shall seed all disturbed areas (beyond the improved portions of the project site) with a native grassland mix applied in conjunction with mulch and tackifier, as directed and overseen by the applicant's landscape architect, as soon as grading activities are completed in order to minimize the potential establishment and expansion of exotic plant species into newly-graded areas. Such actions shall be indicated on the final building plans. Planning staff shall confirm that such revegetation/reseeding has been adequately applied prior to the Building Inspection Section's final inspection of the project's respective building permit.
9. The applicant shall submit a dust control plan to the Planning Division for review and approval prior to the issuance of a building permit associated with any of the proposed projects. The plan shall include the following control measures:
 - a. Water all active construction areas at least twice daily.
 - b. Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

- c. Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- d. Apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking and staging areas at construction sites. Also, hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- e. Sweep daily (preferably with water sweepers) all paved access roads, parking and staging areas at construction sites.
- f. Sweep adjacent public streets daily (preferably with water sweepers) if visible soil material is carried onto them.
- g. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- h. Limit traffic speeds on unpaved roads within the project parcel to 15 mph.
- i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- j. Replant vegetation in disturbed areas as quickly as possible.

The approved plan shall be implemented for the duration of any grading, demolition and construction activities that generate dust and other airborne particles

- 10. Since the total land area disturbed by the project equals or exceeds one acre, the applicant shall submit to the Planning Counter one copy of a Notice of Intent (NOI) to obtain a General Construction Activity Stormwater Permit from the State Water Resources Board and submit to the Building Counter one copy of a Stormwater Pollution Prevention Plan approved by the State Water Resources Board before the issuance of the building permit.
- 11. Noise levels produced by construction activities shall not exceed the 80-dBA level at any one moment and shall otherwise be subject to the limits imposed by the San Mateo County Ordinance Code, Chapter 4.88.
- 12. In addition to Condition No. 7, the applicant's drainage plan shall show that water runoff from the roof of the house be directed to on-site pervious surfaces to promote filtration and that the driveway and any grade-level patios shall be comprised of a pervious surface

material (e.g., graveled, paver-blocks, pervious/porous concrete). Alternatively, the driveway could also be comprised of non-pervious surface materials provided that all driveway surface runoff is handled by containment and filtration mechanisms as described in Condition No. 7. These elements shall be shown on the site plan and included as part of the project's final building permit application and construction plans. The construction plans shall reference the California Stormwater Best Management Handbooks for the control of surface water runoff and the prevention of polluted water runoff that may affect groundwater resources to the satisfaction of the Planning Director. The County Building Inspection Section and Planning Division shall ensure that these elements are implemented prior to the respective project's final inspection and occupancy approval.

13. The applicant shall install the on-site sewage disposal system with the required permits and meet all requirements of the Environmental Health Division.
14. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan to the Planning Division for review and approval. This landscape plan shall show the location, types and sizes of all landscaping elements and shall show how views from the west and east, from Bean Hollow Road and Highway 1, will be softened by the introduction of trees and shrubs. The approved landscaping plan shall be installed prior to a final on the building permit. The landscaping plan shall utilize native species and will minimize the use of non-native and invasive species as specified by the California Department of Food and Agriculture. No species included in the 1999 California Exotic Pest Plant List should be used for landscaping purposes. The landscaping plan shall also reflect measures included in the agricultural land management plan in order to provide appropriate shelter belt type windbreaks for the proposed construction and the potential agricultural operations on the site.
15. The applicant shall submit exterior color samples (no larger than approximately 4 square inches) for walls and trim to the Planning Counter for review and approval by the Planning Division prior to painting the structures. The applicant shall include the file/case number with all color samples. Color verification by a building inspector shall occur in the field after the applicant has painted the structure an approved color but before the applicant schedules a final inspection. The proposed colors and materials to be used for external surfaces should consist of natural materials and earth-tone colors to ensure that the development blends in well to the surroundings.
16. As recommended in the report submitted by MRC Consulting, dated June 2002, the applicant shall ensure that if during construction or grading, any evidence of archaeological traces (human remains, artifacts, concentration of shale, bone, rock, ash) is uncovered, then

all construction and grading within a 30-foot radius shall be halted, the Planning Division shall be notified, and the applicant shall hire a qualified archaeologist to assess the situation and recommend appropriate measures. Upon review of the archaeologist's report, the Planning Administrator, in consultation with the applicant and the archaeologist, will determine steps to be taken before construction or grading may continue.

17. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, prior to the start of construction, exclusionary fencing around the entire construction area of the project shall be installed to exclude the California Red-Legged Frog (CRLF) and San Francisco Garter Snake (SFGS) from the construction area. This fencing shall remain throughout the construction phase and shall be regularly inspected and maintained.
18. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, during the construction phase of the project, a trained biologist or a trained on-site monitor should check the site daily for the presence of the CRLF and SFGS, and if any are found, construction should be halted until they disperse naturally. The biologist in charge and the on-site monitor should be aware of all terms and conditions set by the U.S. Fish and Wildlife Service and California Department of Fish and Game on the project. The biologist in charge should train the on-site monitor in how to identify CRLF and SFGS. The biologist in charge should visit the site once a week during construction and check in with the trained on-site monitor. During the grading and construction phase of the project, the trained biologist shall report weekly to County Planning Staff.
19. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, all construction workers shall be informed of the potential presence of CRLF and SFGS to prevent harm to dispersing frogs or snakes during the construction phase of this project.
20. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, during the construction, all holes shall be covered at night to prevent CRLF or SFGS from taking cover in holes on the construction site.
21. As recommended in the report submitted by Thomas Reid Associates, dated April 2003, the dwarf eucalyptus grove shall be excluded from future farming operations and protected from invasive species (e.g., pampas grass, silver mountain gum eucalyptus) due to the important wildlife habitat value of this area.
22. All new power and telephone utility lines from the street or nearest existing utility pole to all structures on the property shall be placed underground starting at the closest existing power pole.

23. Prior to the issuance of a building permit, the applicant shall record a deed restriction on the property which states that the proposed development is adjacent to property utilized for agricultural purposes. Residents may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting, which occasionally generate dust, smoke, noise and odor. San Mateo County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal necessary farm operations.

Building Inspection Section

24. Prior to pouring any concrete for the foundation, written verification must be provided from a licensed surveyor that setbacks have been maintained as per the approved plans.
25. An automatic fire sprinkler system shall be installed. This permit must be issued prior to or in conjunction with the building permit.
26. A site drainage plan must be submitted which will demonstrate how roof drainage and site runoff will be directed to an approved location. Disposal of this drainage must incorporate a bio-filter design that will help reduce contaminants prior to discharge that enters drainages or water courses.
27. At the time of application for a building permit, a driveway plan and profile will be required.
28. At the time of application for a building permit, a revised plot plan will be required that will show the location of proposed propane tanks, and required fire standpipes.

Department of Public Works

29. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed residence per Ordinance #3277.
30. The applicant shall submit, for review by the Department of Public Works and the appropriate Fire District, a plan and profile of both the existing and the proposed access from the nearest "publicly" maintained roadway (Bean Hollow Road) over the "private lane" to the driveway to the proposed building site.

31. Should the "private lane" not meet or exceed the County's minimum standards for a "safe and adequate access," including provisions for handling both the existing and proposed drainage, the applicant shall have designed and shall upgrade the current access to meet these minimum standards.
32. Should the access shown go through neighboring properties, the applicant shall provide documentation that "ingress/egress" easements exist providing for this access.
33. The provision of San Mateo County Grading Ordinance shall govern all grading on and adjacent to this site. Unless exempted by the Grading Ordinance, the applicant may be required to apply for a grading permit upon completion of the County's review of the plans and should access construction be necessary.
34. The applicant shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line/edge of easement) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for handling both the existing and the proposed drainage along with showing a "turnaround" meeting Fire District requirements.
35. No construction work within the County right-of-way shall begin until Public Works requirements for the issuance of an encroachment permit, including review of applicable plans, have been met and an encroachment permit issued by the Department of Public Works.

Environmental Health Division

36. Prior to the issuance of a building permit, the applicant shall submit the health review fee of \$89.00.
37. Prior to the issuance of a building permit, the applicant shall obtain a certification for the well as a domestic water source.
38. Prior to the issuance of a building permit, the applicant shall submit an application for the on-site sewage disposal permit along with two copies of the site plan showing the design of the septic system.

Mike and Ana Polacek
January 16, 2004
Page 13

39. Prior to the final inspection of the building permit, the applicant shall obtain a permit to operate the well as a domestic source.
40. Prior to the final inspection of the building permit, the applicant shall install the on-site sewage disposal system with the required permits and meet all requirements of the Environmental Health Division.

pcd0114o_9kr.doc

RESOLUTION NO. 012100

BOARD OF SUPERVISORS
COUNTY OF SAN MATEO, STATE OF CALIFORNIA
* * * * *

RESOLUTION ACKNOWLEDGING RECEIPT
OF THE CALIFORNIA COASTAL COMMISSION'S RESOLUTION
APPROVING CATEGORICAL EXCLUSION E-81-1
AND ACCEPTING AND AGREEING TO THE TERMS AND CONDITIONS
TO WHICH THE EXCLUSION HAS BEEN MADE SUBJECT

RESOLVED by the Board of Supervisors, County of San Mateo, State of California, that

WHEREAS, on April 1, 1981, the California Coastal Commission found that the actions taken by the San Mateo County to implement the Local Coastal Program as conditioned were legally adequate, and thereby returned to the County permit review authority in the Coastal Zone, and

WHEREAS, on April 1, 1981, the California Coastal Commission subsequently granted the County Categorical Exclusion E-81-1, with conditions, exempting single-family dwellings in designated areas of Montara, Moss Beach and El Granada, and agriculturally related development in designated rural areas from Coastal Development permit requirements,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of San Mateo County: (1) acknowledges receipt of the California Coastal Commission's resolution approving categorical exclusion E-81-1 and (2) accepts and agrees to the terms and conditions to which the exclusion has been made subject.

* * * * *

CATEGORICAL EXCLUSION ORDER E-81-1

San Mateo County, Central Coast Region

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30610(e) and 30610.5(b), categorically excluding from the permit requirements of the California Coastal Act of 1976 the categories of development within the specifically defined geographic area described below.

I. BACKGROUND/GEOGRAPHIC AREA/CATEGORY OF DEVELOPMENT/COASTAL ACT

Section 30610 of the Coastal Act allows the State Commission to adopt a Categorical Exclusion for a specific type of development within a defined geographic area.

Section 30610(e) states:

"Any category of development, or any category of development within a specifically defined geographic area, that the Commission, by regulation, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the Commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and that such exclusion will not impair the ability of local government to prepare a local coastal program."

Public Resources Code Section 30610.5(b) additionally requires that the following findings and the provisions must be made.

Section 30610.5(b) states in part:

"Every exclusion granted...shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division and an order granting an exclusion under Sub-division (e) of Section 30610...may be revoked at any time by the Commission if the conditions of the exclusion are violated..."

A. Geographic Area

The proposed Categorical Exclusion, consistent with the certified LCP, is intended to eliminate the requirement for a Coastal Development Permit for the uses described in areas: (1) defined as urban in the LCP, zoned R-1/S-17 or R-1/S-9, designated as medium density or medium low density residential in the Land Use Plan; and, (2) defined as rural in the LCP, zoned PAD, RM/CZ, or TP/OZ. (Maps will be available at meeting).

B. Category of Development

The following types of development are excluded from coastal permit requirements within the geographic area, for parcels existing on the effective date of certification.

Single-Family Residences

On lots conforming to zoning district regulations, the construction, reconstruction, demolition, repair, maintenance, alteration or addition to any single-family dwelling or accessory building which does not require a variance after: (1) applying Design Review (DR) District regulations and (2) reviewing and approving required geologic reports in hazardous areas as defined in Policy 9.10 of the Local Coastal Program. All development must conform to the following criteria:

1. Area is within urban boundary of the Local Coastal Program (LCP).
2. Area was designated as Medium Density or Medium Low Density Residential in the Local Coastal Program.
3. Area is zoned either R-1/S-17 or R-1-1/S-9.
4. Area is not between the first public through road and the sea.
5. Area is not in an existing or proposed Geologic Hazards (GH) Overly Zone.
6. Area is not within a 100-year floodplain.
7. Area is not within appeal jurisdiction of the Coastal Commission.
8. Approval of any development in this category will not exceed the total number of residential building permits yearly authorized by the Board of Supervisors according to Policy 1.19 of the Local Coastal Program.

Agriculturally Related Development

1. The construction, improvement or expansion of barns, storage buildings, equipment buildings and other buildings necessary for agricultural support purposes, provided such buildings (a) do not exceed 36 feet in height; (b) do not cover more than 10,000 square feet of ground area; (c) do not include agricultural processing plants, greenhouses or mushroom farms; (d) are not located within 100 feet of blue line streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, 100 feet of the edge of any coastal bluff or 100 feet of Pescadero Marsh; and, (e) are not located on a slope of over 30%.
2. Improvement and expansion of existing agriculturally-related processing plants, mushroom farms or greenhouses not on Prime Agricultural Land, and existing soil dependent greenhouses on Prime Agricultural Land provided that such improvements do not exceed 36 feet in height or increase ground coverage by more than 25% or 10,000 square feet, whichever is less.
3. Paving in association with development listed in paragraphs 1 and 2, above, provided it is included within applicable ground cover limits and does not exceed 10% of the ground area covered by the development.
4. Fences for farm or ranch purposes, not including any solid or chain link fences or fences which would block existing equestrian and/or pedestrian trails.

5. Water wells, well covers, pump houses, water storage tanks of less than 10,000 gallons capacity and water distribution lines, including up to 50 cubic yards of associated grading, provided such water facilities are used for on-site agriculturally-related purposes only.



6. Water impoundments located in drainage areas not identified as blue line streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, provided such impoundments do not exceed 25 acre feet in capacity.

7. Water pollution control facilities for agricultural purposes if constructed to comply with waste discharge requirements or other orders of the Regional Water Quality Control Board.

CONDITIONS

1. For Agriculturally Related Development, #1(d) should be clarified so that no development is excluded within 100 feet of any wetland meeting the definition of Local Coastal Program policy 7.14.
2. For Agriculturally Related Development, #6 shall be revised to indicate that all grading permits must be granted before water impoundments as defined are excluded.
3. All agriculturally-related development located within a hazardous area identified on the LCP Hazards Maps shall not be excluded from coastal development permit requirements.
4. Maps showing excluded areas for agriculturally related development with the appropriate approved zone district shown shall be submitted for Commission Executive Director review and concurrence before the County implements the Exclusion.
5. Maps showing excluded development shall be revised to not include any areas of potential public trust. Those areas include: San Gregorio, Pomponio and Gazos Creeks adjacent to and east of State Highway One, and additional areas adjacent to Pescadero Marsh along Pescadero and Butano Creeks.
6. Within the South County, the previously subdivided areas of Dearborn Park and Butano Falls tracts, zoned R-1/S-7+S-8+S-9 and S-10, are not excluded.

Limitations on Exclusion

- A. This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code Section 30610(d) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state or local government or agency.
- B. This exclusion shall not apply to tide and submerged land, beaches and lands immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, potential public trust lands as identified by the State Lands Division in the trust claims maps wetlands as identified in the power plant siting wetland resources maps.

CALIFORNIA COASTAL COMMISSION

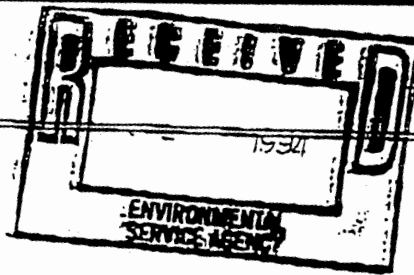
LOCAL COAST AREA OFFICE

1000 STREET, STE. 300

REDWOOD CITY, CA 94060

TELEPHONE: (415) 904-5200

TELEFAX: (415) 904-5200



PETE WILSON, Governor



July 25, 1994

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FEB 28 2002

CALIFORNIA COASTAL COMMISSION

Paul M. Koenig, Director
Environmental Services Agency
County of San Mateo
590 Hamilton Street
Redwood City, CA 94063

SUBJECT: Coastal Commission Action on Partial Rescission of San Mateo County
Categorical Exclusion E-81-1

Dear Mr. Koenig:

On May 10, 1994, the California Coastal Commission approved staff's recommendation to rescind that portion of the County's Categorical Exclusion E-81-1 that excluded agricultural water wells in the Pillar Point Marsh groundwater basin watershed from the requirement for obtaining a coastal development permit from the County. Please see the attached copy of the portion of the categorical exclusion relating to agricultural development, amended to reflect the Coastal Commission's action (Attachment 1). Also attached for your use is a copy of the adopted recommendation, resolution, and findings (Attachment 2). The amended language supersedes the original language in Categorical Exclusion E-81-1 and is effective as of May 10, 1994. We appreciate the cooperation of your agency and the County Board of Supervisors in supporting Coastal Commission staff's recommendation in this matter.

If you have any questions, please call Steve Guiney in this office.

Sincerely,

David Loomis
Assistant District Director

Attachments

- Janice Jagelski, Planning Division
- Jim Claitor, ETOP Properties
- Scott W. Horsley, Horsley & Witten
- Lennie Roberts, Committee for Green Foothills
- L.J. D'Addio, Citizens Utilities
- Anthony K. Kash, Coastside County Water District
- Miane Kampe, Princeton Citizens Advisory Committee
- Louis Wall

CCC Exhibit 14
(page 5 of 6 pages)

- e. If Coastal Commission monitoring identifies an overall shortage in the aquifer, additional replacement wells may not be permitted without Coastal Development Permits.
 - f. Formal notice of the intent to issue an Exclusion from a CDP for a replacement well shall be provided to interested parties.
6. Water impoundments located in drainage areas not identified as blue line streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, provided such impoundments do not exceed 25 acre feet in capacity.
 7. Water pollution control facilities for agricultural purposes in. constructed to comply with waste discharge requirements or other orders of the Regional Water Quality Control Board.

1041L



Sustainable Living Designs
P.O. Box 341 Point Reyes Station, CA 94956
(415) 663-9090 www.permacultureinstitute.com
lic. # 567589

January 24, 2005

To Whom It May Concern:

I'm writing this letter regarding the project for Michael and Ana Polacek in Bean Hollow, Half Moon Bay.

My background is in consulting and design farms and agricultural projects that are ecologically sound and provide increased habitat and bio-diversity value.

I was hired by the Polaceks in 2003 to help them develop an agricultural project that is ecologically sound and economically viable on their 18 acre parcel.

The surrounding farms consist of annual vegetable production that mostly involve cool season crops like brussel sprouts, cabbage, broccoli, onion etc. These crops heavy feeders requiring a lot of nutrients are conventionally grown with pesticides, herbicides and chemical fertilizers applied repeatedly throughout the growing season.

While we recognize the great importance of maintaining agricultural land in these rural areas we also acknowledge how destructive conventional agriculture can be on the environment. The solutions exist to create a system that results in increased habitat, bio-diversity for native species as well as providing an economically viable agricultural system.

The Polaceks are interested in providing a resource for the surrounding agricultural community to develop ways to increase the types of crops that can be grown in this coastal climate with some marginalized soils thus aiding in the needed diversification of agricultural crops. Windbreaks of native and agriculturally valuable species has been designed into the project to reduce water consumption and soil erosion. There is a zone to experiment with plants on a small scale and collect needed data for the local agricultural community. This diverse cropping systems eliminates the need for chemical fertilizers, herbicides and pesticides. Productivity is increased as there are multi-canopies and multi-tiered crops growing in the same areas. There is also a system for developing on-site fertility over time eventually eliminating the need to import fertilizers.

I encourage the Coastal Commission to support such a project.

Respectfully,

Penny Livingston-Stark
Permaculture Institute of Northern California
PO Box 341
Point Reyes Station, CA 94956
(415) 663-9090

CCC Exhibit 15
(page 1 **of** 9 **pages)**

Concept for Agricultural Plan
Polacek Residence
900 Bean Hollow Road

Goal

To develop a working model of agricultural diversification strategies.

Value

To increase biological diversity & habitat while providing a working economically viable agriculture system.

Cropping System

By diversifying farm crops to many different types of agricultural strategies, fertility will increased due to the increase in birds, butterflies, pollinators, insects, frogs etc. An ecological complexity starts to occur. This plan reflects the following components.

Conventional rotational cropping system which includes the following:

Broccoli, Cauliflower, Garlic, Onions, Kale, Brussel Sprouts, Collards, Lettuce, Spinach and other mixed greens.

Perennial Crops:

The focus is on plants that require low inputs with potentially high yields that would thrive in the existing coastal conditions.

Medicinal Plants - These plants offer a potentially lucrative return depending on finding the appropriate markets. We suggest developing a business relationship with local small scale herbalists prior to planting in any large quantity.

Edible Flowers – High end restaurants would be a potential market for fresh edible flowers to be added to salads, greens, desserts etc.

An Experimental Farm -This would include small numbers of specific plants that are not currently well known on the market in the US. Many are highly valued in other countries like Russia, China and Japan. Due to the close proximity to affluent and potentially sophisticated markets, this would be the ideal place to experiment and see how these food and medicinal plants do and if there is a potential market before planting on a large scale.

Fertility System

Developing on-site fertility by cover cropping, mulching, animal manures, composting, & vermiculture. Additional fertilizer can be easily developed on the farm by making compost & worm casting tea along with fermentation.

Animals - Animals to aid in farm management:

Bees, chickens, ducks and geese help provide pollination, fertilization as well as insect and weed management.

Habitat Development

Native Plants will be used as a foundation for the farm along with enhancing existing native wetland vegetation.

Non-disturbed areas - Some existing areas determined to be high habitat value will be left alone to eliminate disturbance of nesting animals.

CARR MCCLELLAN
INGERSOLL THOMPSON & HORN

Professional Law Corporation

Norman I. Book, Jr.
nbook@carr-mcclellan.com

January 21, 2005

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JAN 21 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREAChris Kern
California Coastal Commission
North Central Coast District Office
45 Fremont, Suite 2000
San Francisco, CA 94105-2219**Re: Polacek Single Family Residence, Pescadero, California**
Uniqueness Factors and Local Coastal Plan Excerpts

Dear Chris,

Thank you for organizing the January 10, 2005 meeting. The following items are in response to our discussions regarding "uniqueness factors" and the allowances included in the San Mateo County Local Coastal Plan for residential development in agricultural areas.

I. Uniqueness Factors

1. The size of the parcel. The Polacek parcel is less than 18 acres, less than 14 acres if delineated wetlands are excluded.
2. The parcel is relatively isolated from other agricultural operations by County and agricultural access roads, natural drainages, agricultural drainages, and wetlands. The parcel also includes significant impediments to successful agricultural production, including poor soils in some areas, steep slope, and scouring wind.
3. The soil characteristics of the property do not lend easily to agricultural production. In interviews with farmers that have tried to grow crops on this parcel, substantial soil amendments, fertilizers, and maintenance have been required to grow crops. The original sale of the parcel to the Polaceks is due to these requirements.
4. The crops previously produced on the subject parcel and in nearby areas are not economically viable.

CCC Exhibit 15
(page 4 of 9 pages)

216 Park Road • Burlingame • California 94010

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www.carr-mcclellan.com

January 21, 2005

Page 2

5. The Polaceks are willing to experiment in crop production, investing in different crops on their site that may be feasible for production at a larger scale by other local farmers.
6. The Polaceks prefer low to no pesticide and herbicide use on their property. Runoff from the vicinity of their property drains directly to a pond complex to the west, which in turn drains to the ocean. A reduction in pesticide use at the site will also reduce the amount of pesticides and herbicides entering the Pacific Ocean.
7. The Polacek property is located in close proximity to other existing residential properties, and will not be an isolated residence.
8. The house has been designed to maximize environmental considerations on the property, including passive solar heating, wind protection, and contains features that will blend the roofline with surrounding landforms.
9. The house is sited on the least productive soil on the property.
10. The house is completely outside of the designated Cabrillo Scenic Corridor and is minimally visible from Highway 1.
11. The eastern edge of the parcel borders Bean Hollow Road, an existing county road not designated as a county or state scenic road.
12. The Polaceks are willing to enter into the agreement described below.

II. Applicable Local Coastal Plan Policies

1. Policy 1.8c includes regulations on density credits for non-agricultural uses. One density credit is needed for each dwelling unit. Density credits are outlined in Table 1.3 which states in the introductory paragraph "All legal parcels shall accumulate at least one density credit."
2. Policy 1.23a includes regulations on the timing of development on the South Coast. Table 1.4 outlines the number of "building permits allowed per year for new residential construction" in rather small areas like "Butano", "Gazos", "Pomponio" and others. This table places a limit on residential permits in the "Bean Hollow" area of 5 per year. Actual construction has proceeded at a much slower pace.

CCC Exhibit 15
(page 5 of 9 pages)

January 21, 2005

Page 3

3. Policy 5.5b includes regulations on the conditionally permitted uses on "prime agricultural land". 5.5b (1) itemizes "single-family residences" as the first conditionally permitted use. Policy 5.6b (1) similarly itemizes "single-family residences" as the first conditionally permitted use on soils suitable for agriculture.
4. Policy 5.8a specifies the conditions required to convert "prime agricultural land" within a parcel to a conditional use (e.g. residential use). Four points must be demonstrated 1) no alternative exists, 2) clearly defined buffer areas are provided, 3) productivity of adjacent agricultural land will not be diminished and 4) (not applicable to this project). We believe our submittals satisfy these conditions. See discussion below as to condition 3).
5. Policy 5.10a similarly specifies the conditions required to convert "land suitable for agriculture" within a parcel to a conditional use (e.g. residential use). Five points must be demonstrated 1) all unsuitable lands have been developed or are undevelopable, 2) continued or renewed agricultural use is not "feasible", 3) clearly defined buffer areas are provided, 4) productivity of adjacent agricultural land will not be diminished and 5) (not applicable to this project).

Here the primary issue is condition 2). Granting that we might differ on the issue of what feasibility means in the context of an 18-acre parcel, the Polaceks are now willing to commit the non-residential area of the property to agricultural use as discussed below.

6. Policy 5.11 includes regulations on the maximum density of development per parcel. 5.11c states "in any event, allow the use of one density credit per parcel".
7. Policy 5.15a requires as a condition of approval that when land suitable for agriculture is used for non-agricultural purposes, a statement must be recorded acknowledging that the development is in an agricultural area and that occasional "inconveniences and discomforts" are likely and must be allowed. The Polaceks are prepared to comply with this Policy.
8. Policy 7.18 deals with buffer zones around wetlands. The policy states that the buffer zone should be 100 feet. The required buffer zones have been provided for.
9. Policy 8.5a includes regulations on the location of development related to visual impact. The policy outlines three requirements: 1) "least visible site from State and County Scenic Roads" 2) least likely to impact views from "public viewpoints" 3) consistent with

January 21, 2005

Page 4

other LCP requirements. We believe the site visit will confirm that these requirements will be satisfied.

10. Policy 8.17 includes regulations on grading and adding roads in rural areas. We believe the care with which the house has been designed satisfies the requirements of this Policy.
11. Policy 8.18a includes regulations on the general design requirements and includes points that the development should "blend in and be subordinate to" the area and that it should be "as unobtrusive as possible". Same comment as on item 10 above.
12. Policy 8.18b includes regulations on the requirement of screening development from scenic roads by "vegetation or other materials which are native to the area or blend with the natural environment and character of the site". Screening will need to be addressed after the site visit.
13. Policy 8.20 required that the proposed house be related in size and scale to adjacent buildings and landforms. The scale of the house is comparable to other residences which have been approved by the Commission on agricultural lands. The residence to the immediate south of the subject property is being substantially enlarged.

III. Applicable County of San Mateo Zoning Regulations

1. Section 6353 includes regulations on the "uses permitted subject to the issuance of a planned agricultural permit. Section 6353A.1. lists "single family residences" "on prime agricultural lands" as such a permitted use. Similarly section 6353B.1. lists "single family residences" "on lands suitable for agriculture and other lands" as such a permitted use.
2. Sections 6355D. and F. mirror Policies 5.8a and 5.10a discussed above.
3. Section 6356 includes regulations on the maximum density of development and states, "all legal parcels shall accumulate at least one density credit."
4. Section 6358 includes regulations on the maximum height of structures and that structures shall not "exceed three stories or 36 feet in height". The maximum height of the proposed house is 22 feet.
5. Section 6361 includes regulations on the criteria for issuance of a planned agricultural permit. Section 6361C. states "for parcels 20 acres or more in size before division or

January 21, 2005

Page 5

conversion, the applicant shall file an agricultural land management plan demonstrating how, if applicable, the agricultural productivity of the land will be fostered and preserved".

Based upon previous submittals and for the reasons outlined above, we submit that the above described policies and regulations have been considered and incorporated into the project design and planned uses for the subject parcel.

IV. Commitment to Agricultural Use

1. On page 15 of the Substantial Issue Staff Report it is stated that in the absence of a legally enforceable requirement that the remainder of the parcel be used for agricultural production, there is insufficient support for the proposition that the project complies with LUP Policy 5.8.(a) (3).

As pointed out above the County does not require even the filing of an agricultural plan for parcels less than 20 acres. Further, a number of single-family residences have been permitted on agricultural lands in the vicinity of the subject parcel without requiring a commitment to agricultural production on the balance of the land.

Notwithstanding the foregoing, the Polaceks are prepared to enter into an enforceable agreement with the Commission which would include the following:

- (a) A commitment to utilize the non-residential portion of the parcel in accordance with the revised Agricultural Land Management Plan included herewith; and
- (b) Preservation of the wetlands by the recordation of a conservation easement.

With regard to the Commission's desire to transfer the administration of the Agreement to a third party, we believe it may take considerable time and effort to find a suitable third party willing to assume the responsibility and to work out the mechanics of how fields 2, 3, and 4 would be made available for this purpose. Therefore, the agreement would commit the Polaceks to execute an Offer to Dedicate during the term of which the third party administration would be arranged.

The Agreement would provide that it is binding upon heirs, successors and assigns of the Polaceks and the Agreement, or a memorandum thereof, would be recorded.

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(page 8 of 9 pages)

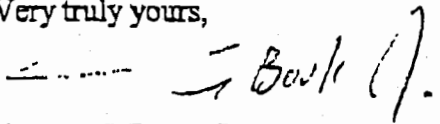
January 21, 2005
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If the foregoing meets with your approval, I will prepare a draft agreement for your review. We believe that this agreement will provide the mechanism for this project to move forward with a favorable staff recommendation. We are most hopeful that staff approval of the agreement can be accomplished in time to have this matter agendized for the Commission's February meeting.

After your review of the foregoing, please give me a call so that we can discuss any questions or comments you may have.

Per your request, I am also enclosing a Takings Analysis prepared by Mike Polacek.

Very truly yours,



Norman I. Book, Jr.

cc: Mike Polacek, Applicant
Charles Lester, Deputy Director, California Coastal Commission
Janet Ilse and Michael Groves, EMC Planning Group Inc.

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CCC Exhibit 15
(page 9 of 9 pages)

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AUG 25 2005

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COASTAL COMMISSION

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STATE OF CALIFORNIA
COASTAL COMMISSION

CERTIFIED COPY

MICHAEL & ANNA POLACEK)
COMMUNITY OF PESCADERO)
COUNTY OF SAN MATEO)

Appeal No. A-2-04-2

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Thursday, May 12, 2005
Agenda Item No. 13.a.

Bechtel Conference Center
Encina Hall
Stanford University
Palo Alto, California

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A P P E A R A N C E S

COMMISSIONERS

Meg Caldwell, Chair
Patrick Krueer, Vice Chair
Toni Iseman
Ben Haddad, Alternate
Scott Peters
 Dave Potter
Mike Reilly
Dan B. Secord
Mary Shallenberger
Sara Wan
 Sharon Wright, Alternate

Brian Baird, Resources Agency

STAFF

Peter Douglas, Executive Director
Ralph Faust, Chief Counsel
Dan Olivas, Deputy Attorney General
Jamee Jordan Patterson, Deputy Attorney General
Charles Lester, Deputy Director
Chris Kern, Coastal Program Analyst

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1 California Coastal Commission

2 May 12, 2005

3 Michael & Anna Polacek -- Appeal No. A-2-04-2

4 * * * * *

5 11:15 a.m.

6 DISTRICT DIRECTOR LESTER: That brings us to Item
7 13.a. This is an appeal in San Mateo County concerning a
8 single family home on agricultural land in southern San Mateo
9 County.

10 I did want to point out that we have addendums in
11 your packet, and substantial correspondence packages, as
12 well, for both this item and the following item, Item 13.b.

13 I also wanted to point out, in particular, as part
14 of that addendum, there is a correction to our discussion of
15 the *Williamson Act*. There is a letter in your packet from
16 the office of Assemblyman Laird, and in our haste, we did
17 make some mischaracterizations of that amendment to the
18 *Williamson Act*. The addendum discusses that change, as well
19 as we will address that in further detail when Mr. Kern makes
20 his presentation.

21 We also have had a number of discussion with
22 Assemblyman Laird's office since production of the report,
23 and notwithstanding the first attempt to characterize that
24 amendment, we still think that the overall propositions that
25 are addressed that by amendment, in terms of dealing with

1 non-agricultural trends state wide on *Williamson Act* lands is
2 relevant to the discussion today.

3 With that, I would ask Mr. Chris Kern to make the
4 presentation for 13.a.

5 COASTAL STAFF ANALYST KERN: Good morning, Madam
6 Chair, Commissioners.

7 As Dr. Lester mentioned Item 13.a. is the de novo
8 portion of the Commission's appeal of a permit granted by San
9 Mateo County to Michael and Anna Polacek for the construction
10 of a single family home on an 18-acre agricultural parcel.

11 Dr. Lester pointed out that we distributed an
12 addendum. There was one change that we would like to make to
13 the staff recommendation on page 3 of the addendum. This is
14 a clarification of our intent, with respect to Special
15 Condition No. 2.B., paragraph 4, of that condition.

16 And, the change would be, the sentence that is
17 underlined, the addition would be:

18 "The permittees may satisfy this require-
19 ment either by engaging in good faith in
20 agriculture at a commercial scale,
21 and/or by leasing the area of the
22 property outside of the approved
23 10,000-square foot development envelope,
24 in whole or in part, to a farm operator
25 for commercial agriculture use."

1 COMMISSIONER WAN: Wait, could you back up. What
2 page? and what line?

3 COASTAL STAFF ANALYST KERN: I am sorry. I am on
4 page 3 of the addendum --

5 COMMISSIONER WAN: Right, couldn't find it.

6 COASTAL STAFF ANALYST KERN: -- and it is No. 4,
7 which is paragraph 4 of Condition 2.B.

8 COMMISSIONER WAN: Got it, thank you.

9 COASTAL STAFF ANALYST KERN: And, we are striking
10 in that third sentence a term, and we are saying:

11 "The rate of any lease for purposes of
12 this condition shall not exceed the
13 current market rate for comparable
14 agricultural land in the region."

15 And, that was just to clarify our intent that
16 there is no issue, if the property owner wishes to offer the
17 lease for a lower rent rate than the market rate.

18 The proposed development includes a 4,970-square
19 foot single family home with an 861-square foot garage,
20 storage area, 350-square foot garden shed, 600-square feet of
21 indoor-outdoor greenhouse which is attached to the house, for
22 a total of 6,785-square feet. And, in addition, includes a
23 swimming pool, new septic system, landscaping, 1400-cubic
24 yards of grading and the conversion of an existing
25 agricultural well for domestic purposes.

1 The total development envelope, including non-
2 agricultural landscaping, driveway, et cetera, would occupy,
3 approximately 2 acres of the 18-acre parcel.

4 The project site is entirely comprised of prime
5 agricultural lands and up until the sale to the current
6 property owner was farmed as part of an, approximately,
7 200-acre holding, in a variety of crops, most recently it was
8 in brussel sprouts.

9 Staff is concerned that the project would result
10 in significant cumulative impacts on the availability and
11 affordability of coastal agricultural lands for farming.

12 This concern centers on the effect that such high
13 value residential estate development has on the cost of farm-
14 land, since land cost is a major factor in the economic
15 viability of agriculture.

16 The issue of speculation for development driving
17 up land costs, and how this impact coastal agriculture has
18 long been recognized and was specifically addressed in the
19 1973 coastal plan. In the coastal plan, agricultural
20 policies were carried through in both the *Coastal Act* and the
21 San Mateo County LCP, which includes strong policies designed
22 to prevent the loss of coastal agricultural lands to new
23 development, and requires that the maximum amount of
24 agricultural land remain in production.

25 There have been some questions as to whether or

1 not a factor that the Commission can consider in evaluating
 2 protection of agricultural lands, and protection of
 3 agricultural viability, includes land cost, and we wanted to
 4 point to specific policies, both in the Coastal Act, and the
 5 LCP that clearly allow the Commission, and acquire the
 6 Commission to consider land costs in determining agricultural
 7 viability, and how development affects that.

8 Section 30241(e) in the Coastal Act has language
 9 which is reiterated, essentially, in LUP Policies 5.8 and 510
 10 of the San Mateo LCP, and Zoning Code Section 63.50(d) and
 11 63.55(d)(1)(d), and I just wanted to read from the LUP, the
 12 relevant section.

13 This is from Policy 510, the exact same language
 14 as in 5.8 and in the Zoning Codes I cited, and it says:

15 "Prohibit the conversion of lands suitable
 16 for agriculture within a parcel to
 17 conditionally permitted uses, unless all
 18 of the following can be demonstrated."

19 And, the last of the five criteria listed is:

20 "Public service and facility expansions, and
 21 permitted uses, do not impair agricultural
 22 viability, including by increased assessment
 23 costs, or degraded air and water quality."

24 In addition, in the section in the Coastal Act
 25 that addresses agricultural feasibility analysis that the

1 Commission is required to conduct, when considering a
2 proposal to convert agricultural lands to a non-agricultural
3 development, land cost is specifically excluded from
4 consideration in assessing agricultural feasibility, the
5 notion being that land cost is a significant factor, of
6 course, in feasibility analysis, but what we are really
7 looking at when we are evaluating a proposed conversion of
8 agricultural lands, is the land's viability for farming,
9 excluding what the price of land might do in that assessment
10 -- if you follow me.

11 So, the focus in the past, and in the past plans
12 and approach to this, has really been a concern about the
13 loss of agricultural lands to residential subdivisions, and
14 until recently this concern was addressed by directing new
15 residential subdivisions to the periphery of developed areas,
16 and by keeping agricultural lands in large parcels. The
17 notion being that if they could not be subdivided, large
18 agricultural parcels would be valued more for their continued
19 use for farming or grazing, than for non-agricultural
20 development. And, until recently, this proved to be the case
21 in most instances.

22 Today, however, we are finding that even prime
23 crop land, such as the applicant's property, is valued not
24 for its agricultural potential, but for its use for
25 development of a single home. The recent history of this

1 project is illustrative of this issue.

2 When the 18-acre project site was last assessed,
3 based on its use for farming, its value was set at
4 \$155,500.00. This assessment was done in conjunction with
5 the sale of the property from one farm owner to another in
6 1998. Prior to this transfer, the property had been taxed at
7 an assessed value of \$26,835.00. Two years later, in 2000,
8 the site was reappraised at a value of \$750,000.00, based
9 according to the county assessor's office, on its value for
10 residential development, not farming.

11 The present assessed value of the property is
12 \$794,868.00 and the estimated value, with the proposed
13 development is between \$1.8 and \$2.3 million. Thus, the
14 appraised value of the project site for the proposed single
15 family home is at least 100 or 200 times its appraised value
16 for farming.

17 As noted in the staff report, the importance of
18 land costs to agricultural viability is widely recognized
19 throughout the state and the nation, but the impact of estate
20 development on agricultural land costs is mostly anecdotal at
21 this point; however, in the addendum we cited 2003 economic
22 analysis by Strong Associates, that was commissioned by the
23 Marin County Planning Department specifically to address the
24 effects of high value estate development to agricultural
25 liability.

1 I would like to note a few of the key findings to
2 the study, since it is directly on point regarding this
3 issue, and based on all of the research that staff conducted
4 is the only economic analysis that really got to the crux of
5 this matter.

6 And, there are a few quotes here. What was not
7 anticipated 30 years ago was that some landowners, or buyers,
8 would use large agriculturally zoned parcels for,
9 essentially, estate development. High value residential
10 development keeps the large acreage intact, but undermines
11 the economics and the will to maintain agricultural use.

12 Today, this speculation is not so much for sub-
13 division into suburban housing, but it is for high value
14 estate development. The concerns are the same, however.
15 Land costs can be driven up beyond agriculture's ability to
16 pay for the taxes, insurance, and maintenance costs
17 associated with the land. New estate owners may not be
18 interested in making long term investments in agricultural
19 improvements, or even accommodating agricultural use, and
20 there can be land use conflicts between non-agricultural
21 residents, and commercial agricultural operations. Keeping
22 land values, and thus costs, in balance with agricultural
23 income is critical to maintaining long term agricultural
24 viability.

25 One of the factors in agricultural viability

1 evident in the Strong study, is that agriculture, typically,
2 operates on a slim margin, and is not very tolerant of the
3 increased operation of costs.

4 The analysis in the Strong study includes five
5 case studies involving estate developments on agricultural
6 lands that are either proposed, or have been approved by
7 Marin County. These case studies show that before
8 improvements the parcels ranged from small net incomes, to
9 significant net costs, but after improvements, all of the
10 parcels have costs exceeding potential agricultural income.

11 And, David Strong, in his analysis concludes that:

12 "While these landowners may choose to sustain
13 higher annual land costs for the benefits of
14 their rural estate lifestyle, land holding
15 costs in a range of 3 to 10 times the potential
16 agricultural income will, in the long term,
17 be a disincentive to continued agricultural
18 operations."

19 The American Farmland Trust conducted a study in
20 2004 of San Mateo County agriculture, under contract with the
21 Peninsula Open Space Trust, which reviewed, among other
22 things, the economic and development pressures affecting
23 agriculture in the county. This study shows that over the
24 past 25 years, the county's land and farms decreased 45
25 percent.

1 Although the AFT study does not differentiate
2 between agricultural lands lost inside and outside of the
3 coastal zone, much of the agricultural lands in San Mateo
4 County are in the coastal zone, and according to POST, AFT's
5 findings are representative of the trends for the San Mateo
6 coastal agricultural lands.

7 These data suggest that implementation of the
8 Coastal Act and agricultural protection policies has not been
9 entirely effective in keeping the maximum amount of
10 agricultural land in production.

11 The AFT study also shows that the rate of decline
12 in farmland acreage is increasing with a 28 percent reduction
13 in both land and farms, and average farm size, during the
14 period between 1992 and 2002. And, AFT attributes the loss
15 of farmland, in part, to increased land costs, stating,
16 quote:

17 "Not surprisingly, as land and farms declined,
18 land values increased dramatically."

19 In staff's opinion, the difficult question
20 presented by the proposed project is not whether the
21 development would affect the cost of farmland, or whether
22 increased costs of land impacts the viability of farming, but
23 rather what can, or should, the Commission do about this
24 issue?

25 We acknowledge that this is a difficult question,

1 and it is one that we have been struggling to find an
2 acceptable solution to for the last several months. To that
3 end, we have reviewed dozens of articles and studies. We
4 have researched how other regions of California, and other
5 states, are approaching this issue. We spoke with
6 representatives of local, state, and national government, and
7 non-government organizations dealing with farmland protection
8 issues.

9 And, through this research, we have learned that
10 while there is a growing awareness and concern, particularly
11 on the west and east coasts, about the impacts of estate
12 development, and what is being called rural, or ex-urban,
13 sprawl, on the availability, and affordability of farmland,
14 only a few specific measures have thus far been identified to
15 address this issue, and these include prohibition of all non-
16 agricultural development on farmland, limitations on the
17 value and/or scale of non-agricultural development,
18 agricultural conservation easements, and right-to-farm
19 ordinances.

20 The staff considered each of these measures
21 carefully in forming our recommendation for the proposed
22 development, and I would like to go through each of these
23 with you.

24 Although, some of the LCPs that we deal with,
25 allow as a principally use, one house on any agricultural

1 parcel, as a permitted, under the San Mateo LCP residential
2 development is a conditional use, and a house may only be
3 permitted where it would not diminish the productivity or
4 viability of agricultural land, or the ability to keep all
5 agricultural land in production.

6 The proposed development would directly displace,
7 and permanently remove from production, approximately two
8 acres of prime crop land, that up until the time that it was
9 sold to this applicant was actively farmed. Moreover, as I
10 have been discussing, the value of this property is now
11 considered to be based on its use for the proposed
12 development, rather than its use for farming, and it is
13 priced well out of reach of its value for farming.

14 As such, the project would diminish the
15 productivity and viability of agricultural lands, and the
16 ability to keep all agricultural lands in production, both on
17 the property, itself, and throughout the county's coastal
18 zone.

19 And, as such, staff considered a denial
20 recommendation, and we discussed this possibility with the
21 applicant; however, since the LCP does not specifically
22 prohibit residential development, even on prime farmland, we
23 decided against a denial recommendation, and instead, saw a
24 way to reconcile the conflicts presented by the project with
25 the LCP's agricultural policies.

1 To accomplish this, we recommended the Commission
2 employ each of the three remaining measures that I mentioned
3 limit the scale of the development, require the dedication of
4 an agricultural conservation easement, and require record-
5 ation of a right-to-farm indemnification deed restriction.

6 The Strong Associates study found that the effect
7 of estate development on agricultural land values directly
8 corresponds with house size, with the largest most expensive
9 homes having the greatest impact on land costs. Smaller
10 homes have less impact on land costs, and therefore on the
11 viability of the land for agricultural use.

12 More importantly, we think, is the land
13 speculation that is the major driver in the recent increase
14 in land costs, is driven by the desire to build large estate
15 homes on agricultural lands on these large scenic parcels in
16 the coastal zone, and not for the development of modest size
17 homes, more typical of the rural coastal zone.

18 And, just as limiting, or prohibiting subdivisic
19 of agricultural lands was effective in avoiding eliminating
20 the speculation for use of agricultural lands for new
21 residential subdivision, and therefore, you know, for the
22 last 25-30 years was effective in keeping agricultural la
23 costs low, we think that limiting the speculation to use
24 agricultural lands for large homesites would have the sa
25 effect in helping to keep agricultural land costs low, a

1 therefore coastal agriculture viable.

2 The Strong study recommends, therefore, that a
3 ceiling be established on the size of homes as a means to
4 maintain an agriculturally friendly ratio of land costs to
5 agricultural income. And this same recommendation was oft
6 repeated by planners and policy analysts that we spoke with
7 in our research on this issue.

8 In order to determine what the size limit for
9 residential development should be, to carry out the LCP
10 agricultural protection policies, Commission staff reviewed
11 all available records for existing residential development in
12 the agricultural zone for the county. These data show that
13 the average size of existing single family residences, within
14 the PAD zone, is substantially smaller than the proposed
15 development, but in the past 8 years several very large homes
16 have been constructed.

17 According to these data, the median size of the
18 existing homes on agricultural lands in the county's coastal
19 zone is 2,270-square feet, and the average, which is
20 influenced by a small number of very large homes, is 2,677-
21 square feet.

22 The data also show that, to date, residential
23 development has occurred on approximately 15 percent of the
24 roughly 1100 agricultural parcels in the county's coastal
25 zone, and that only a small fraction of these developments

1 involve large estate homes. Thus, while several large homes
2 have recently been constructed in the agricultural zone, that
3 are similar in size, or larger than the proposed project,
4 these developments greatly exceed the scale of typical
5 residences in the PAD zone, and the development of such large
6 homes is a relatively recent trend on agricultural lands in
7 San Mateo County.

8 Because this is a recent trend, the staff believes
9 that by acting now to establish a limit to the size of new
10 homes on agricultural lands, the Commission can prevent the
11 cumulative impacts that such development would otherwise have
12 on agricultural land costs, thereby protecting continued
13 agricultural viability.

14 Conversely, not restricting the size of the
15 proposed residence would serve to support the current market
16 incentives to construct large, expensive homes on farmland,
17 and lead to further loss of agricultural production, due to
18 high land costs and speculation.

19 The Strong study notes that setting an acceptable
20 ceiling for residential development on farmlands is a policy
21 decision, not a precise, calculation -- and this is an
22 economist who wrote this study. His recommendation is that
23 the policy makers need to seek an appropriate ceiling that
24 balances long term economic viability of agriculture, while
25 still allowing a livable residence.

1 The staff concurs with this observation, and we
2 recommend that the Commission base the size restriction on a
3 scale of existing development in the rural San Mateo County
4 coast. It is our belief, that by restricting new homes to a
5 more modest size of the typical coastal farmland, the
6 Commission's action would reduce the cumulative effects of
7 the development on agricultural liability by limiting the
8 speculation that is driving high land costs, and would still
9 allow a reasonable residential use of the property, akin to
10 what other people who live in the coastal zone, presently,
11 have.

12 As such, the staff recommends the Commission limit
13 the size of the proposed residence to 2500-square feet.
14 Thus, 2500-square feet, is essentially, splitting the
15 difference between the average and median sizes of existing
16 development in the rural coastal zone, and it also happens to
17 correspond with the threshold recently established under the
18 *Williamson Act* of 2500-square feet, which Dr. Lester
19 mentioned that we got wrong in our description in the staff
20 report, but that we have corrected in the addendum. And, I
21 want to explain the background of that a bit more.

22 I have had conversations, both with the director
23 at the Department of Conservation that deals with *Williamson*
24 *Act* contracts, and was involved in this legislation, as well
25 as Assemblyman Laird's staff. Both the Department of

1 Conservation and Assemblyman Laird's staff believe that the
2 2500-square foot figure is relevant to our purposes today.
3 But, I think it is important to clarify what the intent of
4 that legislation was in the first instance.

5 The concern, really, that drove that amendment to
6 the *Williamson Act* was an increase in violations of the
7 *Williamson Act* involving large developments on -- large
8 non-agricultural developments on contracted lands, and what
9 the Department of Conservation was realizing was that
10 landowners and developers were willing to risk the penalties
11 if they were caught in a violation, because the penalties
12 were too low, and the value of the land for these large
13 developments was great enough that it was worth the risk.

14 The effect of the legislation was to, really,
15 create two classes of violations, sort of the minor violation
16 of the misdemeanor, and the major violation, the felony.

17 And, for the felony, which involves violations
18 where the structure exceeds 2500-square feet, the penalty
19 amounts are doubled.

20 And, in our discussions, really, the reason why we
21 feel, and both Assemblyman Laird's staff and the Department
22 of Conservation staff agree, that the 2500-square foot is
23 relevant for our purposes, is because the legislature made a
24 policy call about which kinds of development, and what scale
25 of development they considered to be, really, the gross

1 violations, the problem that was driving this, and that that
2 was what they wanted to go after, and that it is significant
3 that they picked 2500-square feet as the threshold for the
4 gross violation.

5 Other conditions that the staff is recommending
6 are, I think, less controversial, but I would like to cover
7 those, as well.

8 We are recommending that the development be
9 limited to a 10,000-square foot defined envelope, and we are
10 recommending that the development envelope be shifted from
11 where the applicant proposes it, to as close as possible,
12 consistent with the LCP, to being Hollow Road. The purpose
13 of this is to meet the LCP requirements of minimizing
14 encroachment of the development onto agricultural lands.

15 The limitations to, you know, how far we can shift
16 the building envelope are a farmed wetland area that you may
17 not be able to make out the letters, the two data points "C"
18 and "D". This is an area that is under cultivation, and has
19 been under cultivation and has no vegetation, but appears,
20 based on the soil characteristics, and the water table, to be
21 what we would consider to be a farmed wetland under the LCP.

22 This LCP requires 100-foot buffer from wetlands,
23 but allows that buffer to be reduced to a minimum of 50 feet
24 where finding can be made that a reduced buffer would not
25 have an impact on any wetland resources. We believe that a

1 50-foot buffer can be justified in this instance, because
2 there is not wetland vegetation, and this area doesn't
3 support any native flora or fauna. It is an area that would,
4 likely, revert to a more productive wetland, were the farm
5 left fallow, and not under cultivation, but under cultivation
6 there are no significant resources to protect.

7 And, therefore, in order to minimize encroachment
8 onto agricultural lands, we think that it would be justified
9 to go with the minimal 50-foot buffer.

10 The other constraint is that there are existing
11 agricultural irrigation ditch easements -- which are shown in
12 that green -- and while there are no ditches in those
13 easements, the easements nevertheless exist on the property,
14 and we think it is important not to encroach on those
15 easements, and probably wouldn't be legal to encroach on
16 those easements, as they reserve rights for agricultural
17 purposes on the property.

18 So, we have a revised plan condition requiring the
19 applicant to come back, meeting the criteria that they reduce
20 their development footprint to 10,000-square feet, and ship
21 that footprint as closely as we can get it to Bean Hollow
22 Road without encroaching within 50 feet of the wetland, or
23 onto the ditch easements.

24 We, also, are requiring that the applicant record
25 an offer to dedicate an agricultural conservation easement,

1 or outright grant an agricultural conservation easement, if
2 prior to the issuance of the permit an acceptable grantee can
3 be identified.

4 And, I wanted to note that the easement that we
5 are recommending is a little unusual, in that the standard
6 agricultural conservation easement really only contains
7 prohibitions against nonagricultural development, and can
8 insure that land remains available for agricultural use, but
9 doesn't insure that the land would actually be in
10 agricultural use.

11 Our concern is that when we are dealing with this
12 kind of estate development, the terms of the easement need to
13 be stronger, because typically the property owner, the
14 landowner is not a farmer, and may have, you know, less of an
15 incentive to keep the land, actually, in agricultural use,
16 even where such use would be viable.

17 As such, we are recommending, and what is known as
18 an affirmative clause, to the agricultural easements, and
19 this was based on research, again, that we conducted, and
20 recommendations specifically from an organization called
21 California Farm Links, which works with land trusts, and
22 conservation agencies, on agricultural easements, and
23 advocates that this clause be inserted when a land trust goes
24 out and purchases an easement from a farmer, for example.

25 This is, also, a term that has been included in an

1 agricultural conservation easement that was required just
2 last week by Marin County, in dealing with a very similar
3 project, which we may see on appeal, they just took their
4 final action on it. And, in that case, Marin County, again,
5 included an affirmative clause that requires, so long as it
6 is reasonably feasible, that the land in the easement remain
7 in agricultural use.

8 There is a safety valve to that. The applicant
9 can request that that requirement be extinguished upon a
10 showing that continued agricultural use is not feasible, but
11 that would require both county and Commission approval
12 through an LCP amendment to redesignate the site from
13 agriculture to open space, and the open space protections
14 would remain under the easement, under that instance.

15 And, then, finally we are also requiring the
16 applicant to record an offer to -- I am sorry, not an offer
17 to dedicated -- a right to farm deed restriction. This is
18 based, primarily, on the county's right to farm ordinance,
19 but goes a step further than the right to farm ordinance.

20 We've discussed this with the applicant, and the
21 applicant's attorney, and we were in agreement on that
22 condition. We did have a minor change to the indemnificat
23 provision that is in our addendum, that was discussed betw
24 staff counsel and the applicant's legal counsel.

25 And, with that, unless the Commission has any

1 questions?

2 EXECUTIVE DIRECTOR DOUGLAS: No, there are just
3 some closing observations, in terms of the staff's present-
4 ation.

5 Obviously, the issue is going to be raised that
6 there have been other larger homes approved in the coastal
7 zone on ag lands before, and why treat this applicant
8 differently. It is clear to us, after looking at what was
9 happening, and the trend that we are seeing, that this is an
10 accelerating direction that we see uses of ag lands going in
11 on the coast, and we felt that it was, really, imperative
12 that the line be drawn.

13 In terms of the future of the California coast,
14 and looking at the whole question of what happens in rural
15 coastal California, and what can be done to protect
16 agricultural lands consistent with the policies of both the
17 LCP and the Coastal Act, that this is the most important
18 issue to have come before the Coastal Commission in many,
19 many years, and I can't underscore that enough, because what
20 you do here, today, is going to set the tone and the
21 direction for the protection, or lack of protection, of
2 agricultural land as a viable agricultural resource.

So, we know this is extremely controversial, but
we also know, and we want to underscore the importance of it
to the future of the coast.

1 So, with that, unless, Charles, you have any
2 additional comments?

3 DISTRICT DIRECTOR LESTER: I did just want to add
4 that it is a recognized trend, and in fact, San Mateo County
5 had been dealing with this in recent years.

6 There is a discussion in the staff report about a
7 house size ordinance that was being contemplated for the raw
8 lands and documentation at the county has shown, of the
9 increase of house size of between, sometime in the 90s, and
10 more recently, but that effort has been put on hold, but they
11 were contemplating a scale limitation, albeit, I think,
12 somewhat larger than the one proposed today.

13 EXECUTIVE DIRECTOR DOUGLAS: That completes the
14 staff report.

15 CHAIR CALDWELL: Thank you.

16 I just want to point out, that we have an enormous
17 number of speaker slips that have been submitted, that would
18 take us, probably, an hour-and-a-half to get through, so I
19 want to consult with my fellow Commissioners on what your
20 pleasure is here.

21 Would you like to break for lunch now, before we
22 start the public hearing?

23 COMMISSIONER SECORD: Let's do ex partes.

24 CHAIR CALDWELL: You want ex partes now? all
25 right, let's do ex partes now, and then break for lunch.

1 COMMISSIONER REILLY: Public comment?

2 CHAIR CALDWELL: Starting on my right.

3 Commissioner Reilly?

4 COMMISSIONER REILLY: Are we also going to take
5 public comment before we break?

6 CHAIR CALDWELL: No, the public comment is about
7 an hour-and-a-half.

8 COMMISSIONER REILLY: No, the general --

9 CHAIR CALDWELL: Oh, yes, we will definitely take
10 general public comment.

11 Thank you, yes, I am learning to remember that
12 one, Commissioner Reilly, but thank you for the reminder.

13 COMMISSIONER REILLY: Sure.

14 CHAIR CALDWELL: Starting on my right.

15 COMMISSIONER BAIRD: I was contacted by --
16 actually met with the applicant, Mr. Waddell, and
17 representatives --

18 CHAIR CALDWELL: No, this is the Polacek item.

19 COMMISSIONER BAIRD: Oh, I am sorry, you are
20 right. I am off, and I have nothing to report.

21 CHAIR CALDWELL: All right.

22 COMMISSIONER ISEMAN: I met on April 25 with Mr.
23 Polacek in Laguna Beach. He came to my office and spoke at
24 length the house that he wants to develop, its environmental
25 sensitivity, the question about the size, the size of his

1 family, the location of the lot, the concern about where it
2 will be in relationship to the main road.

3 COMMISSIONER PETERS: Thank you, Madam Chair.

4 Chris Cameron of my staff met with Mr. Polacek on
5 April 26, and spoke again with him on the phone on May 6, and
6 provided information about the size of other homes in the
7 area, architectural renderings that demonstrated their
8 efforts to avoid visual impacts, preservation of higher
9 quality agricultural land, avoidance of wetlands areas, and
10 commitments to continued farming the land. Mr. Polacek
11 argued for approval of the project.

12 COMMISSIONER SECORD: Madam Chair, on the -- my
13 calendar shows the 5th of May I had a conference with Mike
14 Polacek in my office in Santa Barbara.

15 He discussed his project, his plans for the home,
16 his concerns about the size of the house, versus the size of
17 his family, and the staff report. The rest of the convers-
18 ation was, substantially, the same as what Commissioner
19 Peters reported.

20 On the 12th of May, I spoke with Jack Olson of the
21 Farm Bureau, and a former owner of this project, by the name
22 of Peter Marchi, and they expressed similar concerns, and
23 discussed the agricultural situation and the *Williamson Act*.

24 CHAIR CALDWELL: Thank you.

25 Commissioner Kruer.

1 CHAIR KRUER: Yes, last Friday, I met with Allison
2 Roth, Marco Gonzalez and Dave Gruber, and they support the
3 staff recommendation in this regard.

4 Then, in the lobby today, I ran into Catherine
5 Caufield, and she gave me her input, in regard that she felt
6 that there should be some size limit on the house, whether it
7 is 2500 or 3000, at some type of limit.

8 Also, my office got a call last week and the week
9 before from Mr. Polacek, trying to get an appointment to meet
10 with me, but unfortunately, I wasn't able to do that before
11 this meeting.

12 And, also I had a call from Jack Olson to get
13 together, see him up here at the meeting, a phone call, and
14 unfortunately, I was looking for him out here a couple of
15 times, but I didn't find him, so I didn't get a chance to do
16 that.

17 COMMISSIONER POTTER: I had a meeting last week
18 with Michael Groves, regarding the project, similar to that
19 described by Mr. Peters.

20 I also had a brief discussion in the lobby about
21 an hour-and-a-half ago, regarding the new location, and the
22 effect that it was now in and around a wetland area, and the
23 inappropriateness of that site.

24 CHAIR CALDWELL: Commissioner Haddad.

25 COMMISSIONER HADDAD: Mr. Polacek attempted to

1 contact me at my office, as well, but we never spoke.

2 CHAIR CALDWELL: Commissioner Reilly.

3 COMMISSIONER REILLY: My previous ex partes with
4 Mr. Polacek are on file.

5 On Monday, I talked with Jack Olson and John
6 Gamper of the State Farm Bureau about many of their concerns
7 here, and almost all of my conversations relate to both 13.a.
8 and 13.b. and so I just will say that.

9 One of the things that they were concerned about
10 was the staff recommendation on 13.b. about the ESHA
11 designation, but specific to this, a concern also that ag
12 conservation agreements could turn into open space and take
13 land out of ag, was of specific concern. The errors that
14 staff made in interpreting AB 1492 and the *Williamson Act* and
15 in particular -- and I say this because it still hasn't been
16 corrected -- that the 2500-square foot reference in 1492 did
17 not have any relevance to structures which were permitted to
18 and allowed under the contract, as a single residence would
19 be in most cases.

20 And, finally, just a general concern that the Farm
21 Bureau had about the level of understanding and expertise,
22 both of staff and the Commission on agricultural issues, and
23 what makes ag work, and what gets in its way.

24 I had, also, a conversation on Monday with San
25 Mateo County Supervisor Rich Gordon, and he was concerned

1 about the manner in which staff was approaching the house
2 size limit, and I think we have also gotten a letter to
3 reinforce that from their county counsel, that they feel that
4 the appropriate way of doing this is through an LCP amendment
5 to be generated at the county level, rather than staff taking
6 an action, and establishing an house size on a particular
7 application.

8 Also, had a conversation, Monday, with Peter
9 Ashcroft, who is with Redwood Chapter of the Sierra Club,
10 indicating that the Redwood Chapter has passed a resolution
11 supporting the staff's recommendation.

12 And, at the reception last night, I had a brief
13 conversation with Mark Massara, and also Catherine Caufield,
14 from the Marin Environmental Action Group, both of whom
15 indicated their support for the staff recommendations.

16 CHAIR CALDWELL: Commissioner Wright.

17 COMMISSIONER WRIGHT: Yes, I had a meeting with
18 the applicant, Mr. Polacek, on Tuesday here in Palo Alto,
19 discussed many of the same things as with Commissioner Peters
20 and Secord about the size of the house, his interest in
21 maintaining and finding viable agricultural uses on the
22 property.

23 CHAIR CALDWELL: Thank you.

24 Before we move to the public comment period for
25 items that are not on the agenda, which is typical for us

1 before we break for lunch, I want to ask everyone in the room
2 to please -- accept for staff, of course, who is free to
3 accost us at any time -- to refrain from approaching any of
4 the Commissioners on anything related to 13.a. It is
5 inappropriate. We have started the public hearing, and we
6 must not entertain any ex parte communications now that we
7 have started this item.

8 [Public Comment Period, Lunch Break, and Closed Session held]

9 CHAIR CALDWELL: Thank you for rejoining us. We
10 were in the middle of 13.a.

11 Oh, we have a report on closed session from our
12 legal counsel.

13 [Report Given]

14 CHAIR CALDWELL: Dr. Lester, I believe we had
15 included your staff report. We had taken ex partes, and so
16 it is now time to begin the public hearing process?

17 DISTRICT DIRECTOR LESTER: That is correct.

18 CHAIR CALDWELL: Okay, just wanted to make sure we
19 are on course here.

20 I have three speaker slips submitted by the
21 applicant and the applicant's representatives, and I don't
22 know which order you would like to appear, but Mike Polacek,
23 Anna Polacek and Norm Book. All right, whoever is first, if
24 you could --

25 UNIDENTIFIED SPEAKER: Janet Ilse should be in

1 there, as well.

2 CHAIR CALDWELL: Janet Ilse, we will look for that
3 speaker slip, thank you.

4 If you would approach the podium and state your
5 name, and let me know how you would like to take up your 15
6 minutes. You will have 15 minutes, total, some of which you
7 can reserve for rebuttal.

8 MR. POLACEK: Okay, but first I would like to plug
9 in here.

10 CHAIR CALDWELL: That may take a little while.

11 [Pause in proceedings.]

12 MR. POLACEK: Okay, I am Mike Polacek. I am the
13 applicant for this agenda item. I know you have heard a
14 number of issues here already, and so I'll try to be brief
15 and get to the main points.

16 CHAIR CALDWELL: And, how would you like to use
17 your time?

18 MR. POLACEK: We will be splitting it up with the
19 three speakers.

20 CHAIR CALDWELL: How much time do you need, sir?

21 MR. POLACEK: I will need, approximately, 12
22 minutes.

23 CHAIR CALDWELL: Okay.

24 MR. POLACEK: And, I am, actually, going to be
25 leaving and throwing it to one person, and coming back.

1 CHAIR CALDWELL: Okay, well, we actually keep
2 track of time, so if you could indulge me in telling me how
3 much time you need initially? Or, we will just keep the 15
4 minutes running, and then when it is up --

5 MR. POLACEK: Ten to 12 minutes should do it.

6 CHAIR CALDWELL: And, then, you want to reserve
7 three minutes for rebuttal?

8 MR. POLACEK: And, then, I am going to a couple of
9 other speakers, so then we will use --

10 CHAIR CALDWELL: Okay, you will have 12 minutes --

11 MR. POLACEK: Okay.

12 CHAIR CALDWELL: -- for your entire presentation,
13 and then we will have others come up and provide public
14 testimony, and then you will have three minutes for rebuttal.
15 Does that sound reasonable.

16 MR. POLACEK: And, can I include other speakers in
17 my presentation?

18 CHAIR CALDWELL: Yes.

19 MR. POLACEK: Thank you.

20 So, basically, we can agree to all of the
21 conditions that have been proposed by staff, with the
22 exception of two conditions, and the other conditions we can
23 agree to, basically, with minor edits, and Janet is going to
24 pass out those. Those have also been made available to
25 staff, and are also in our attorney's letter. But, just to

1 make it easy on everybody, in that blue color, those are our
2 condition, edited recommendations.

3 The conditions we can't agree with are 1. (A) and
4 1. (B). and I will deal with those.

5 Also, a clarification, or a more accurate state-
6 ment of the usage of our land, as it was said in the report,
7 and by staff again this morning, that we take up two acres of
8 the parcel, and in reality we take up about one-quarter acre,
9 one-fourth of an acre, and not two acres, which is 1.4
10 percent of the parcel.

11 Also, staff mischaracterized county's actions on
12 this as on hold, and that is untrue. The county is actually
13 dealing with this house size issue actively, and I believe
14 the county will talk to that at this meeting.

15 First, our project background, I would like to
16 introduce my wife, Anna, here, and also not here are our
17 couple of little kids that we have, as part of our growing
18 family. We have a growing family. We plan to have more
19 kids, and we also have elderly parents that we plan to have
20 at some point have the option of living with us.

21 We have lived on the coast for over 10 years, and
22 we bought this land after doing a lot of research with the
23 county, and the LCP, on what we could do on this land. We
24 also hired an environmental architect to design a house that
25 is very low to the ground -- and I will show you a picture of

1 that. We submitted the application in 2002. That was
2 approved unanimously by the county planning commission, and
3 it was not appealed to the board of supervisors at the San
4 Mateo County, but it was then appealed by the Coastal
5 Commission.

6 This is a picture of our house. Our goal for this
7 house is to support our family, but also be in line with the
8 requirements of the LCP regarding visibility, and most
9 importantly in this area, agriculture, so we kept the house
10 very low to the ground. It is kind of an aerodynamic design.
11 We have a curved roof. At the ends of the house those are,
12 basically, very close to natural grade, and the top of the
13 house is a full 14 feet below the maximum height allowance in
14 that area.

15 It is, essentially, a one-story house with lofts
16 in that central section there, in the middle that you can
17 see. The house also digs into the ground, so the front of
18 the house, as you can see it here, is actually the only part
19 of the house where the floor is at natural grade. The rest
20 of the house, the floor is below natural grade, as we dig
21 into the parcel to provide, again, a lower profile, and a
22 more environmentally sensitive home.

23 San Mateo County has LCP regulations that allow
24 one dwelling unit per legal parcel. This is a legal parcel.
25 We are, conditionally, allowed one dwelling unit. In

1 addition to that, this Bean Hollow area that this house is
2 in, is all PAD, and the LCP has a buildout rate of five homes
3 per year in the Bean Hollow area, and I'll show you a chart
4 in the next slide of how many homes have been built.

5 As said before by staff, there is a conditionally
6 permitted use for residential development. There is no
7 quantitative limits in the LCP, except for the house height.
8 The rest of the limits really talk about qualitative things
9 like be as unobtrusive as possible, which we believe we have
10 satisfied that with our design.

11 The LCP buildout, as you can see here, the Bean
12 Hollow area is allowed five per year. That is the
13 allocation. The last five years there have been none, no
14 houses built, and in the last ten years, there has been one
15 home built. That is not one per year, that is one, total, in
16 the last ten year. So, there is hardly an epidemic of home
17 building out here in the Bean Hollow area, and certainly
18 development is not out of control, or any such character-
19 ization.

20 If you look at homes in the Bean Hollow area, this
21 is our parcel here, in the upper left, and these are all
22 homes that are nearby homes. There are also other homes on
23 the east side of -- this is Bean Hollow Road here, and this
24 house, this parcel, is right on Bean Hollow Road, so there
25 are utilities on that road already, electrical, telephone,

1 things like that. And, a bunch of other homes in this area,
2 so it is, definitely, not a pristine, you know, never been
3 developed on area.

4 And, if you look at the closest parcel to us, this
5 parcel right here, there is a 2500-square foot house, which
6 has just been approved for an expansion of about 2500-square
7 feet, so that takes it over 5,000-square feet. Here is a
8 picture of that house I took a couple of weeks ago. It is a
9 large house, much taller than ours, and so we certainly argue
10 that we are in character with that area.

11 It is important to understand our home site
12 constraints. First, our home site is not constrained by any
13 -- we haven't entered into any *Williamson Act* contracts --
14 there was some discussion about that, and we are not under
15 the *Williamson Act*.

16 And, if you look at our parcel, these arrows that
17 I show here are really very strong northwesterly winds that
18 are there in the area. We took statistical data of actually
19 looking at the wind, and where it came from, and the wind
20 almost always comes from this direction, and they are
21 typically very strong winds, and that is important to under-
22 stand from an agricultural perspective, and also in terms of
23 where do you want to put a house.

24 Other constraints are the Cabrillo Scenic
25 Corridor, which is a line that actually goes up and down the

1 coast. Everything west of that line is the Cabrillo Scenic
2 Corridor, which is an area of greater visual significance, so
3 we have locked that out, saying we want stay out of that
4 area.

5 A bunch of other constraints here: there is an
6 existing eucalyptus orchard up here in the northeast section
7 of the property, and these other black lines are all ditch
8 easements, or existing agricultural irrigation ditches on the
9 parcel, so they really, you know, really go all over the
10 place, and again, we need to stay out of those areas,
11 certainly the existing ditches, but also the ditch easements.
12 So, you can see we are starting to limit where the home can
13 go.

14 And, so we chose to place the house here, in
15 behind, from a wind perspective, behind the existing
16 eucalyptus orchard here. That allows us to get us a nice
17 wind break, and it really helps in terms of things like
18 heating the house, and it also turned out to be the least
19 visible spot on the parcel.

20 We are not required to put together an
21 agricultural land management plan by the LCP. The LCP talks
22 about lands greater than 20 acres of having a requirement of
23 putting together such a plan. We are at 18 acres, so we are
24 not required to do that. Nonetheless, we put together a plan
25 with the local community, local farmers, UC Davis, and the

1 county. That plan was submitted and approved by the county
2 agricultural advisory committee. And, in addition to these
3 other experts, we hired a sustainable agricultural experts --
4 one of the key issues on this parcel is agricultural
5 sustainability.

6 And, we recognized -- and from plenty of inputs
7 from other experts -- we recognized that in order to make
8 this parcel agriculturally sustainable, there needed to be a
9 new type of farming, a new plan for this parcel, which relies
10 less on monoculture, more diverse crops, and certainly higher
11 margin crops, things that can be able to get a return, a
12 positive return. So, this agricultural land management plan
13 also includes aspects of that sustainable agriculture expert.

14 This is kind of a visual of that plan. Here is
15 the parcel, again. In the upper right-hand area, again, this
16 is the eucalyptus orchard, kind of leaving that as it is, and
17 our plan is really to keep fields two, three, and four here,
18 in traditional agricultural use through a lease arrangement
19 -- in the short term.

20 What we plan to do is also integrate the house
21 into a experimental agricultural operation here, again,
22 behind the wind, from this field, and also behind the wind in
23 terms of stuff going onto the east of the house. This allows
24 us to do experimental agricultural activities here, orchards,
25 different kinds of berries, a long list of things that we

1 were told by farmers, and other experts, this would be great
2 if we would try this stuff.

3 Over time, we want to move some of that stuff into
4 these fields, as we find out things that work, things that
5 can sell, things that we can get a yield out there.

6 The plan keeps over 98 percent of the parcel in
7 agricultural use, and it has a road map now with this plan,
8 to make this parcel much more sustainable, much more
9 economically viable as a commercial agricultural operation.

10 With that, let me introduce Janet Ilse, who is the
11 biologist who worked on our project.

12 MS. ILSE: Hi, my name is Janet Ilse. I am a
13 biologist and environmental planner hired by Mike Polacek to
14 address some of the issues of concern raised by coastal staff
15 in the appeal. We prepared a number of reports, as part of
16 this appeal process, and have met with them a number of
17 times.

18 Some of the issues that came up, we prepared a
19 report for impacts to sensitive habitat areas. I performed a
20 wetland delineation out in that area. I made sure that the
21 visual analysis was adequate, and we did find that the home
22 is almost invisible from Highway One.

23 We have supplied a takings analysis, prepared a
24 soils survey that delineated prime and non-prime soils on the
25 parcel, and also I prepared and authored an economic

1 feasibility analysis that looked at the parcel from a farming
2 perspective, looked at traditional crops and how the
3 economics could work on that parcel. And, I did not find
4 that it was viable in traditional agriculture.

5 I did do the wetland delineation on the property,
6 and based on Army Corps of Engineers criteria, the parcel
7 does not contain any wetlands. They require, you know, three
8 criteria to delineate a wetland. The LCP only requires one,
9 so therefore we ended up with wetlands defined in the
10 eucalyptus orchard, as well as the agricultural ditches.

11 And, then, during our soils survey analysis we did
12 find some wetland soils at Point C and D, which we delineated
13 as farmed wetlands.

14 On a regional approach, for biological resources,
15 the best habitat in the area is to the west. There are two
16 ponds to the west there, where the vegetation and habitat
17 have not been as disturbed by agricultural practices in the
18 area. That whole region, in that area, has been inundated
19 with pampus grass, which is an invasive species, and has
20 started to migrate across the Polacek parcel, and they have
21 agreed to implement and prepare an invasive species
22 management plan for that plant.

23 We hired David Kelly and Associates, of Davis,
24 California, to review the site and perform some field work
25 regarding prime soils on the property. Basically, this whole

1 parcel is part of a large coastal terrace, and has,
2 basically, been degrading over time as soils and agricultural
3 practices have removed the top soil from the higher areas of
4 the parcel, to the east, as they have been pushed down
5 towards the ocean, towards the west.

6 The blue area, and dark brown areas, are
7 considered the areas of most prime soils. The light tan
8 area, where the house is proposed for location, is at the
9 topographic high of the property, and so therefore has the
10 least favorable soils for agriculture.

11 So, we have moved on and updated our constraints
12 map to show the information --

13 EXECUTIVE DIRECTOR DOUGLAS: Three minutes left.

14 MS. ILSE: -- that we gained from the reports, to
15 show that we have a smaller building envelope than previous
16 thought.

17 MR. POLACEK: So, with that, that takes us to the
18 special conditions. The Special Conditions 1(A) talks about
19 moving the house to the southeast corner of the property, and
20 also a building envelope of 10,000-square feet.

21 Again, there is nothing in the LCP that talks
22 about a maximum building size of 10,000-square feet. Our
23 project, as proposed, is 11,343-square feet, excluding
24 landscaping and we would like to maintain that envelope.
25 That is about a quarter of an acre, and again 1.4 percent of

1 the parcel, and has absolutely no impact on agricultural
2 viability, if this is 1, 2, or 3 percent of the parcel.

3 Also, a very strange one for us was the staff
4 request to put the house in the southeast corner. At the
5 southeast corner of the parcel, there is wetlands, there is
6 prime soils, there is agricultural ditch easements, and it is
7 also downwind of all of the upwind stuff happening on this
8 parcel, and all the parcel, so it really increases the
9 probability of a conflict with agricultural use.

10 We think the location as we have proposed, behind
11 that existing orchard, low to the ground, is really the best
12 place for the house.

13 Special Condition 1(B) is the requirement to
14 reduce the house size to 2500-square feet. This one is
15 really -- as was talked about before -- it is an extremely
16 arbitrary number. The only real evidence in the report that
17 this number makes any sense at all is taking an average house
18 size, built in San Mateo County, PAD, from 1865 to today.
19 That is not 1965, it is 1865 to today. If you take the
20 average of all of those homes, built over that time period,
21 it adds up to an average of 2500-square feet. We think that
22 doesn't make sense. That doesn't pass the belly-laugh test.

23 So, I think we are really looking at the last 10
24 years, and we see an average of about 5,000-square feet. We
25 are below that, from a heated space standpoint, so we think

1 we are in scale there. So, we would like to completely
2 eliminate Special Condition 1(B).

3 We have a number of special conditions that we are
4 willing to agree to, that are pretty significant, in terms of
5 protecting agriculture. We are willing to agree to a
6 perpetual agricultural easement on the parcel, which includes
7 -- for the first time we have ever heard of it -- a
8 requirement to farm, and a requirement to maintain a water
9 supply on the parcel.

10 So, we are serious about this. We are willing to
11 make that an agreement, if we can work out these issues with
12 1(A) and 1(B).

13 We also are agreeing to the standard right-to-farm
14 provisions, and many other conditions. This was no cake walk
15 in going through San Mateo County. We had 40 other
16 conditions, pretty significant ones, including the removal of
17 pampus grass, and others, that we have also agreed to.

18 So, in summary, I think we would like to say that
19 there are no coastal access issues, there are no visual
20 issues on this parcel. They are primarily agricultural, and
21 today the parcel is very marginal as a agricultural
22 operation. There are poor soils, degraded soils, and there
23 are poor economics for this parcel.

24 So, our project places an environmentally
25 sensitive home on less that 2 percent of the parcel, and

1 protects in perpetuity the rest of the parcel for
2 agricultural use, which is something that doesn't exist,
3 frankly, for any parcel out there right now. If you have a
4 farm, if you have a house, or if you don't have a house,
5 there is nothing else out there that is protective this way.
6 So, we are strongly arguing we are protecting the
7 agricultural viability of this.

8 And, just lastly, from a fairness perspective, the
9 first time we heard this 2500-square foot number was two
10 Fridays ago. We have been going through this process for
11 years. Went through it a couple of years with the county, we
12 went through it for over a year with Coastal Commission, the
13 first time anybody ever talked about 2500 was two Fridays
14 ago, and that is just, fundamentally, unfair. You need to
15 make the rules available, easy to understand, and people will
16 abide by them.

17 And, I ask that you let us go forward with our
18 project, thank you.

19 EXECUTIVE DIRECTOR DOUGLAS: That was 16.5
20 minutes.

21 CHAIR CALDWELL: Richard Gordon.

22 MR. GORDON: Good afternoon, and thank you. I am
23 Richard Gordon, and I am currently serving as president of
24 the board of supervisors in the County of San Mateo.

25 And, I come today to clarify where we are, as a

1 county, relative to this issue of house size in the rural
2 area.

3 CHAIR CALDWELL: Mr. Gordon, how much time do you
4 need?

5 MR. GORDON: Three minutes, probably, at the most.

6 CHAIR CALDWELL: Perfect.

7 MR. GORDON: I'll try to be briefer.

8 We have begun, we have initiated a process of
9 looking at house sizes in the rural area. The matter came in
10 front of our board of supervisors. The board, after a
11 lengthy public hearing, requested additional information from
12 staff, particularly as it would relate to financial issues of
13 the transfer of land out of agriculture, if you allowed
14 houses of certain sizes.

15 The staff went back and started work on that
16 report. The financial aspect of that has been concluded at
17 an internal level. It was referred to our planning
18 department, and quite honestly, we have resource problems in
19 our planning department at the moment. The priority that we
20 gave to our planning department on coastal issues, at the
21 moment, is the update of our Local Coastal Plan, in the mid-
22 coast region.

23 We are in the middle of the public hearings on
24 that. It is taking longer than we hoped, and I am now
25 anticipating that we will get through with that process, and

1 have something to forward to you early this fall.

2 The issue of house size is in the que behind that
3 project, so once we complete the Local Coastal Plan, we will
4 be able to get back to that project of the house size issue.

5 My concern is, if you accept today, the proposal
6 of staff on the limitation of house size, you have de facto
7 changed our Local Coastal Plan. And, you have set the
8 standard for us, without the opportunity for our citizens to
9 participate in a public process around a Local Coastal Act
10 amendment and to bring that forward to you in a traditional
11 way.

12 There are some issues of concern that I believe
13 need to be addressed relative to house size. I think one of
14 the serious questions is how do we do that? what is the
15 process?

16 The process, traditionally, has been to rely on
17 the Local Coastal Plan, work with the local government, allow
18 the local government and its citizens to propose amendments,
19 and to bring those to you.

20 My concern is that this action sets new rules and
21 new regulations, and is, in affect, an amendment to our Local
22 Coastal Plan outside of the regular public planning process.

23 And, I hope, as you consider this issue, and the
24 one immediately to follow, which has the same recommendation
25 relative to house size, that you would take that into

1 consideration.

2 Thank you.

3 CHAIR CALDWELL: Thank you, sir. I understand you
4 are needing to leave the meeting?

5 MR. GORDON: Yes, Ma'am.

6 CHAIR CALDWELL: So, if there are any questions
7 for Mr. Gordon right now, this would be the time to ask them,
8 since he is having to leave the meeting.

9 Commissioner Wan.

10 COMMISSIONER WAN: Yes, you indicated that you
11 thought that this should go through the LCP process, but you
12 also indicated that you were going to deal with the LCP and
13 then you were going to deal with this issue, so if you
14 believe that that is the proper process, I am just curious to
15 know why you are not including that in your current LCP
16 process?

17 MR. GORDON: Let me clarify.

18 Our current LCP update is for the urban mid-coast
19 only. This is a process we have been at for about 2 years,
20 so it covers the unincorporated area north of Half Moon Bay,
21 up to Pacifica.

22 These issues, of this house size, are really
23 south-coast issues, rural issues, that don't necessarily
24 impact our urban mid-coast, and so that is why it is in a
25 separate que at the moment, separate citizen interests,

1 separate concerns would need to be addressed.

2 COMMISSIONER WAN: And, you indicated that this
3 initial mid-coast plan would probably be coming to us in the
4 fall, and what are you talking about in terms of time
5 relative to this issue?

6 MR. GORDON: The staff who works on these Local
7 Coastal Plan issues for us would be then freed up, once we
8 have transmitted this to you, our mid-coast Local Coastal
9 Plan update.

10 At that point -- and again, my best guess is fall,
11 to be honest with you. We would have the staff resources to
12 finish the analysis, and to bring an item back to the board
13 of supervisors for consideration.

14 COMMISSIONER WAN: You don't have any guess-
15 estimate as to what that -- because that could take another
16 couple of years, before you were --

17 MR. GORDON: No, I don't think so, at this point.
18 I mean --

19 COMMISSIONER WAN: I am talking about the house
20 size issue.

21 MR. GORDON: Exactly, and I would -- Mr. Douglas,
22 earlier, said that, you know, described this as an urgent
23 issue. I would concur, and if we had additional resources at
24 the local level, we would, probably, be doing both of these
25 at the same time. We just don't have those resources at the

1 moment.

2 But, it is something that we believe needs to be
3 looked at sooner, rather than later.

4 CHAIR CALDWELL: Commissioner Secord.

5 COMMISSIONER SECORD: Thank you, very much, for
6 coming Supervisor Gordon.

7 In San Mateo County, has there been any votes of
8 the people with respect to establishment of urban limit
9 lines? or any other things that would restrict development,
10 or sprawl to cities rather than have it going out into the
11 farms?

12 MR. GORDON: We do, in our Local Coastal Plan, we
13 do have an urban rural boundary, that separates our urban
14 mid-coast area from the balance of the coastal zone, which is
15 defined as rural. So, we do have that limit, and that is in
16 our certified LCP.

17 There are other restrictions, given our county, in
18 terms of any kind of sprawl that would come from our bayside
19 over the hill to the coast, including the fact that most of
20 the land is in dedicated reserve for the San Francisco Public
21 Utilities Commission watershed.

22 CHAIR CALDWELL: Commissioner Reilly.

23 COMMISSIONER REILLY: Thank you, Madam Chair.

24 Supervisor Gordon, if the county and your board
25 got a message, not only from staff, but from the Commission

1 that we really felt that this was an urgent matter to move
2 forward, is that something you think the board would be
3 willing to consider, in terms of allocation of priority
4 resources?

5 MR. GORDON: Absolutely, we could consider that.

6 I know a couple of us are, actually, as we look
7 forward to our budget hearings -- I am not sure that I look
8 forward to them -- but, we anticipate our budget hearings at
9 the end of June, and do have some proposals to actually try
10 to use some of our reserves to increase our planning staff.

11 We are very concerned that we are behind on many of
12 these issues.

13 COMMISSIONER REILLY: All right, thank you.

14 CHAIR CALDWELL: Supervisor, in your truncated
15 effort to address the issue of house size, previously, what
16 were the proposed house size limits for this area?

17 MR. GORDON: You know, I don't recall.

18 I can tell you, it was not 2500-square feet. I
19 think we were -- it may have been something in the range of
20 3000 or 4000, but I am only guessing and I probably shouldn't
21 do that. So, I don't have that answer for you.

22 CHAIR CALDWELL: And, just to follow up on that, I
23 don't know if you have had a chance to review the staff
24 report on this item, and the analysis that goes behind the
25 recommendation on limiting the house size, and I am wondering

1 if that analysis, essentially, mirrors the county's thinking,
2 in terms of why it would want to limit house size?

3 MR. GORDON: There are some similarities, but
4 there are some differences in what our staff initially
5 prepared, and what is in this staff report.

6 One of the things I would see in it -- and I would
7 also say that there is some outstanding information in this
8 staff report, that I believe our folks could use and analyze,
9 and would need to use and analyze to try to mesh the work
10 that they had done, with the work that the staff has done
11 here.

12 CHAIR CALDWELL: Okay.

13 Commissioner Kruer.

14 CHAIR KRUER: Just briefly, Supervisor Gordon, do
15 you believe, with the history that you have there with the
16 county, that there is a vast movement of a lot of potential
17 houses that would, if they had a perpetual easement on them
18 that they must farm, is that something that the county
19 really, 2500-square foot, or 3000, or 4000, what is your
20 opinion? how does that change the value? what do you
21 perceive, or your staff, have you looked into that, because I
22 don't understand the economics of that particular issue, the
23 way we are talking about it today.

24 What really hurts the value, more than anything
25 else, is the fact that you would put an easement like that on

1 it, not exactly the size of the house, you know, a person who
2 wants to build a mansion, doesn't exactly want to come in and
3 build something, and then have a perpetual easement, not that
4 I am saying I am against it, and having 4006 chickens, and 7
5 things, et cetera, what is your thought process on this? are
6 they beating the door down?

7 MR. GORDON: They are not beating the door down,
8 at the moment.

9 CHAIR KRUER: So, what --

10 MR. GORDON: I can tell you that, this is the
11 central question that our board of supervisors had at the
12 conclusion of our public hearing on this matter.

13 That was, you know, what are the financial
14 implications? what does this do, financially, by restricting
15 house size, with easements, and these other issues? and, how
16 does that relate to the goal that we have, which is the
17 protection of farmland?

18 And, some of the requests that we made, and the
19 staff report that is in process, is a report that looks at
20 the financial implications of these decisions.

21 CHAIR KRUER: All right, thank you, Supervisor.

22 CHAIR CALDWELL: Commissioner Baird.

23 COMMISSIONER BAIRD: Just this one question of
24 clarification.

25 You indicated that if this change was made it

1 would, in essence, be like an LCP amendment in advance of an
2 LCP review and amendment process. I wasn't crystal clear, do
3 you have a position on the staff recommendations,
4 specifically. I don't know if you actually said that.

5 MR. GORDON: I would, as it relates to the one
6 condition relative to house size, I would hope that you would
7 not accept that condition, and give us the opportunity to
8 complete our local process.

9 COMMISSIONER BAIRD: Okay, thank you.

10 CHAIR CALDWELL: Thank you.

11 Any further questions?

12 [No Response]

13 Thank you, sir.

14 MR. GORDON: Thank you.

15 CHAIR CALDWELL: Ed Thompson, if you could state
16 your name for the record, and you will have three minutes.

17 MR. THOMPSON: Thank you, Madam Chairman,
18 honorable Commissioners, I am Ed Thompson. I am the Calif-
19 ornia State Director for American Farmland Trust.

20 The AFT is a 25-year old national conservation
21 organization that works with officials and farmers to keep
22 our best land in agriculture and help grow and farm it in a
23 way that is good for the environment.

24 Our top priority, here is California, is to try to
25 direct land development onto the least productive land,

1 indeed, to avoid it altogether, and to insure that when we do
2 develop it, we develop it as efficiently as possible.

3 I am here today not to support or to oppose,
4 either this or the next application, but to urge the
5 Commission to take very seriously the trend that I think it
6 represents. The urban sprawl gets most of the attention
7 here. It is rural sprawl, scattered houses on large parcels
8 far from urban services that represent a more insidious and
9 more inefficient way of using land here in California.

10 According to the State Department of Conservation,
11 we are losing 40,000 acres of farmland a year here in Calif-
12 ornia to urbanization, and about 3300 of that, per year, is
13 here on the central coast here, with about 39,000 acres since
14 1990. But, those figures only count lots up to an acre-
15 and-a-half.

16 The Department is now doing a pilot study in four
17 counties, not along the coast, but they are showing that when
18 you count lots up to 10 acres in size, they have under
19 estimated the amount of farmland conversion by as much as a
20 third. So, what that implies is that there could be 1000
21 acres a year along the central coast that is going into large
22 lot residential development.

23 AFT, itself, did a study of these residential
24 ranchettes in the central valley a couple of years ago, we
25 documented almost 80,000 of these lots consuming over a half-

1 a-million acres, and there are about 200,000 people living on
2 them, which means that those folks were taking up 20 times as
3 much land per capita as a typical urban resident in the
4 valley. And, we don't have comparable figures for the coast,
5 but it is hard to believe that the coast is less attractive
6 than the central valley for this kind of development.

7 Of course, the problem with these ranchettes is
8 not just that they have the potential to take land out of
9 agriculture production, they set up the potential for
10 conflicts with agriculture production, and as it has been
11 mentioned already here, they do have a tendency to drive up
12 the cost of land, and this affects the economic viability,
13 not only of individual parcels, but the industry as a whole.

14 In fact, between '97 and 2002, according to the
15 census of agricultural, the amount of land available for
16 rental to agriculture in San Mateo County declined from
17 30,000 acres to about 13,000 acres. So, we don't really have
18 figures on the rental rates there, but I would doubt that
19 there is not a correlation of some kind.

20 One more point that I want to leave with you, and
21 it bears upon this application, as well as the next one, is
22 that a good case can be made for treating crop land and range
23 land differently, as it relates to rural residential
24 development.

25 On the coast, especially, crop land is far more

1 scarce, and more valuable for agriculture than grazing land.
2 In San Mateo, for example -- again these are census of
3 agriculture figures -- 6000 acres of crop land produces an
4 average of \$27,000 per acre per year, while 24,000 acres of
5 range land produces an average of about \$50 per acre per
6 year, so there is a vast difference between these two kinds
7 of land.

8 So, in conclusion, let me just urge the Commission
9 to carefully consider not just the impact of individual
10 proposals, such as this, but their cumulative impact on the
11 coast, and offer AFT's services or whatever we can do to help
12 you to fully document these, their potential risk as well as
13 the potential opportunities that might be created by new
14 innovative ways to marry development that does occur, with
15 the kind of agriculture that is going to evolve in the
16 future.

17 I, too, have to leave fairly soon, so if you have
18 any questions, I would be happy to take them now.

19 CHAIR CALDWELL: Any questions for Mr. Thompson?

20 [No Response]

21 None? thank you.

22 MR. THOMPSON: Thank you.

23 CHAIR CALDWELL: Sherwood Darington, and
24 Mr. Darington, if you would state your name for the record,
25 and you will have three minutes.

1 MR. DARINGTON: Thank you, very much, Madam
2 Chairman. My name is Sherwood Darington. I am the managing
3 director of the Monterey County Agricultural and Historical
4 Land Conservancy. The Land Conservancy has been in operation
5 for 20 years now, and our purpose is to preserve farm land,
6 you know, for future generations, and so far we have, in
7 Monterey County, alone, we have preserved over 14,000 acres
8 of farm land, and we are one of the most active farm land
9 conservation groups in the State of California.

10 We are also working in Pescadero area on another
11 project, that is about a half-mile from this particular
12 project, that consists of about 200 acres, and out of that
13 200 acres there is about 95 acres set in irrigated farm land.
14 And, this particular project fits into our overall vision of
15 this area of Pescadero very well, and we envision not only
16 this 18 acres on a western slope, but there is about 20 other
17 parcels on this same western slope, you know, that has had
18 previous subdivisions on them, with certificates of
19 compliance in place.

20 And, what our hope is, is to sort of combine these
21 all together, over a period time, with several agricultural
22 conservation easements, and in doing that, that allows the
23 homeowners a place to live on their site, and it also
24 provides an economic unit for local farmers to operate. This
25 project, by itself, independently, you know, is very

1 difficult to justify as an economic unit.

2 In regard to the house size, it is very
3 interesting to hear the staff say that the Department of
4 Conservation has a limitation of 2500- or 3000-square feet
5 per site. We deal, probably, more with environment conser-
6 vation than any other land trust in California, and we have
7 negotiated that out of their easements, because it is
8 unrealistic to expect people to live in houses that has a
9 predetermined size on them, you know, who want something more
10 for their families, and are willing to put their own assets
11 at risk in doing that.

12 We, recently, closed an easement on a bigger
13 parcel of land in southern Monterey County of about 3000
14 acres, and in their home that they built on that particular
15 property, was about 12,000-square feet, but you can't see it
16 from the road, you can't see it from most of the land that
17 they own.

18 And, so I think the visions from Highway One is
19 certainly -- should be more important to the public than the
20 size of the house.

21 So, with that, if you have any questions, I would
22 be happy to answer them.

23 CHAIR CALDWELL: Thank you, Mr. Darington.

24 Jeffrey Segall.

25 And, everyone, for your information, needs to

1 state their name for the record, and everyone but the
2 applicant -- actually, we will see -- has three minutes.

3 MR. SEGALL: Good afternoon, Madam Chairman and
4 members of the Commission, my name is Jeffrey Segall, and I
5 am the treasurer and a board member of the Committee for
6 Green Foothills. I believe you are in receipt of a letter
7 from Lenny Roberts, or legislative advocate for San Mateo
8 County. She is unable to attend the hearing today, and I
9 have been asked to attend in her stead.

10 The Committee for Green Foothills represents over
11 1300 members, family members, and for 43 years we have been
12 active in protecting open space in San Mateo and Santa Clara
13 Counties, from inappropriate development. Over the years,
14 the Committee and its members have played a very active role
15 in preserving the rural and agricultural makeup of the San
16 Mateo County coast.

17 And, in reference to a question earlier, there has
18 been an initiative in Santa Clara County to preserve the
19 agricultural character of the coast, that passed, I believe
20 in the '80s. That has been subject to two votes to appeal
21 it, and the votes to change this have gone down to defeat in
22 increasing numbers, so there are very strong public support
23 in San Mateo County for open space protection along the
24 coast.

25 The proposed project that you have before you will

1 do nothing to preserve agriculture in San Mateo, but are part
2 of a troubling trend that may be termed ranchette sprawl, or
3 agri-mansioning of the coast.

4 The applicants before you may be very sincere in
5 their desire to continue and enhance agricultural work on
6 their lands, but it is clear that if this sort of development
7 is allowed to continue, we will see the end of agriculture on
8 the San Mateo County coast in the planned agricultural
9 district, and run up in land prices. This will be the end of
10 agriculture on the San Mateo County coast, and the final crop
11 on these lands will be estate homes that you are seeing now.

12 On behalf of the committee, and the 1300 family
13 members, we ask that you uphold the Coastal Act's protection
14 of agriculture, as well as the terms of the San Mateo County
15 LCP and support the staff recommendation.

16 Thank you, very much, for consideration of my
17 comments.

18 CHAIR CALDWELL: Thank you.

19 Peter Murchi, and then the next speaker will be
20 Terry Gossett.

21 MR. MARCHI: Hi, my name is Peter Marchi.

22 CHAIR CALDWELL: Oh, sorry about that.

23 MR. MARCHI: That's all right. I am Peter Marchi,
24 a third generation farmer on the coast of San Mateo County.

25 Our family irrigated brussel sprouts using water

1 from Lake Lucerne as early as the 1940s. There was always
2 enough water from Lake Lucerne, with the exception of the
3 drought in the later '70s, which the farmers conserved to
4 make it through the drought.

5 The amount of water usage for artichokes is about
6 one acre-foot of water per acre. Brussel sprouts, leeks,
7 peas, guavas, is about .75 acre foot, per acre. Drip
8 irrigation is about one-third less usage.

9 Polacek property is capable of growing brussel
10 sprouts, but at best it is marginal soil. When we farmed the
11 Polacek property, we always had to put extra fertilizer to
12 carry our crops to harvest. We, currently, are farming
13 one-half of the Polacek property, the west one-half of the
14 property. We are farming the Polacek property rent free from
15 the Polacek's.

16 As a farmer owning property, the restricting of
17 house size would take away borrowing power that is needed for
18 our annual farm loan.

19 In the early 1980s, when the el nino hit, lucky
20 that my parents had a large sized home, because we lost about
21 30 to 40 acres of brussel sprouts, and the bank told is that
22 if they did not have the deed to our home, they would not
23 loan us any more money to continue, and I wouldn't be farming
24 today. Thank God, there was no house restriction on our
25 home, so that we could have a large home, so that the bank

1 would loan us money so I could continue farming.

2 Thank you.

3 CHAIR CALDWELL: Thank you, sir.

4 Terry Gossett, and then Rick Zbur.

5 MR. GOSSETT: Hello, Commissioners, my name is
6 Terry Gossett, representing Californians for Property Rights.
7 I am here to strongly support the applicant, and what
8 Supervisor Gordon said.

9 I would, first, like to tell you just how hard the
10 people of the mid-coast of Half Moon Bay are working on their
11 LCPs. LCP in Half Moon Bay, typically, they are having four
12 meetings a week. They met all of Saturday, the whole city
13 council. We take this very seriously, for the local
14 participation in determining the parameters, the height, the
15 sizes of homes, urban boundaries, et cetera. And, we would
16 hope that this Commission respects that.

17 When you take a staff recommendation, it not
18 affects this county, the mid-coast and Half Moon Bay, and
19 south coast, but it affects all of the other 126 LCPs in this
20 state. It sets the precedent where your Commission, pretty
21 well, -- we don't need local input.

22 When Rich Gordon had a meeting, one of his recent
23 meetings, there were 82 public speakers. They carefully
24 listened to every one of those comments. They worked them
25 into the plan for the mid-coast.

1 We are trying, Californians for Property Rights,
2 to get south coast included in the update, but as Supervisor
3 Gordon indicated, they had resources, and problems, and
4 diversity of the heavy rural character here, versus that of
5 mid-coast, so they partitioned it.

6 So, again, I just can't fathom how a staff could
7 say, arbitrarily, 2500-square foot for a house size, and that
8 would have precedent over having a hearing of the local
9 people that live here, for three, four, and five generations,
10 people that are farmers.

11 I also heard the applicant indicate that they
12 would stay with the 98 percent in ag. That is very
13 impressive. To me, when I hear this proposal, it appears
14 that Mr. Polacek has gone to great lengths to satisfy all of
15 the environmental, all of the agricultural, and he is using
16 his property rights in full conformance with everything in
17 the LCP that exists, 1998, that was for all of the unincor-
18 porated San Mateo County.

19 So, as a local person, living in Moss Beach, we
20 are extremely active at all of these meetings. This is where
21 we live. We plan to always live here, and we plan to be
22 stewards of the land, just like the 5 generations, just like
23 the Marchi's, and the Boredey's, and all of the people that
24 live here. We cherish it. It is very important to us.

25 If you are going to override that, then why do we

1 need the LCP? why do we have meetings four times a week at
2 Half Moon Bay, and mid-coast? why do we go to all of these
3 meetings, when we can just come here, and you can tell us how
4 it is going to be.

5 Thank you, for your consideration.

6 CHAIR CALDWELL: Thank you, sir.

7 Rick Zbur, and then Steve Schwartz.

8 MR. ZBUR: Good afternoon, members of the
9 Commission, my name is Rick Zbur, and I am representing Keith
10 Waddell, and I would like to speak to the 2500-square foot
11 house size limitation, because it is an issue in common with
12 the application that follows.

13 Because San Mateo County has a certified LCP,
14 conformity with the LCP becomes the yardstick that should
15 guide both of the actions before the Commission today.

16 The requirement of imposing a 2500-square foot
17 house size is neither authorized nor required by the existing
18 LCP. There is no house size limit. And, the county counsel
19 has confirmed in a letter that the county has never
20 interpreted the general ag protection policies to require --
21 that required minimizing impacts to agricultural lands to
22 impose a house size limit.

23 A key tenet of doctrines to statutory construction
24 looks to the intent of those adopting provisions, and the
25 past practice to ascertain legislative intent. In this case,

1 the county has confirmed that it has never imposed size limit
2 in the past, and under the general protection policies in the
3 LCP.

4 Indeed, your staff report confirms that the county
5 and Coastal Commission, itself, have approved many homes that
6 exceed the 2500-square foot limit in recent year.

7 The staff's basis for the 2500 limit is also
8 inaccurate and flawed. Staff's assertion that it is based
9 upon the *Williamson Act* is incorrect, and we submitted a
10 letter from Assemblyman Laird -- and I quote two sentences:

11 "The measure was never intended to establish
12 a statewide standard for the allowable size
13 of a residential development, incidental to
14 the primary use of the land for agricultural
15 purposes."

16 He goes on to say earlier in the letter:

17 "The bill did not limit buildings in *Williamson*
18 Act lands to 2500-square feet."

19 It is clear from the staff report that the intent
20 of the limit to depress agricultural land values. We believe
21 that this is unprecedented, and that it is without -- that
22 the Coastal Commission doesn't have authority, without
23 seeking an LCP amendment.

24 And, as you have heard today, the county, itself,
25 is considering an LCP amendment that considers house size,

1 and we believe that the Commission should look to that
2 process, that public process, which would allow the public a
3 full opportunity to air these issues.

4 The staff report, while it had an economic
5 analysis in it, did not consider many of the issues that
6 would be important: whether there should be differences based
7 on parcel size? based on family size? There are a host of
8 issues that have not been considered that should be
9 considered as a part of something that will have broad state-
10 wide implications.

11 Therefore, we believe that adopting a 2500-square
12 foot limit today, circumvents the LCP amendment process that
13 is set forth in the Coastal Act, and we request that the
14 Commission, today, refrain from imposing that limit on both
15 this, and the following application.

16 Thank you very much for your time.

17 CHAIR CALDWELL: Thank you.

18 Steve Schwartz, then Ann Nothoff.

19 MR. GAMPER: Madam Chair, members, I am actually
20 John Gamper with the California Farm Bureau, but I am an
21 advisory board member for Farmlink, and Mr. Schwartz asked me
22 to make a brief presentation on his behalf. He faxed a
23 letter to the staff, and since I am also scheduled -- or have
24 a card in to speak on this and the Waddell matter, you are
25 actually going to get a threefer, if you don't mind, and I

1 can actually keep my comments under 5 minutes.

2 CHAIR CALDWELL: Will you spell your last name?

3 MR. GAMPER: G-a-m-p-e-r.

4 CHAIR CALDWELL: Thank you.

5 MR. GAMPER: Farmlink is a nonprofit organization
6 that facilitates the transition of land between farmers and
7 beginner farmers, and also its main purpose is to protect
8 farm land.

9 We provide technical assistance and training, as
10 well as a data base connection between retiring farmers and
11 up-and-coming young farmers and ranchers, in the hope of
12 transitioning and establishing successful farm businesses.

13 Farlinks supports Special Condition No. 2 of the
14 staff report, related to the affirmative easement language,
15 for both Items 13.a. and 13.b. Farlinks is excited about
16 the possibility of setting a precedent and insuring continued
17 productive agricultural land that is purchased by non-farmers
18 will be able to be leased by farmers.

19 Requiring non-ag land buyers to lease to farmers
20 and to ranchers will be a powerful move that will continue
21 the Commission's long history of leadership in protecting
22 coastal lands. It also will give a strong leg up to
23 beginning farmers, where leasing is generally the most viable
24 option, and even preferable option, as they try to get into
25 the business.

1 It has been said that it is not farm land without
2 farmers; however, guaranteeing that farmland owned by non-
3 farmers is leased for agricultural production is at least a
4 very positive step in the effort to balance landowners' goals
5 and the Commission's mandate to protect the public interest
6 as it relates to farmland production.

7 Now, if I can shift hats, and put on my California
8 Farm Bureau Federation hat, I am director of taxation and
9 land use for the California Farm Bureau, and we are in
10 support of both the Polacek and the Waddell farm residences,
11 Coastal Development Permits.

12 We want to express our strong objection to the
13 aspect of the staff report, relative to the size of homes. I
14 know that the staff has backtracked, somewhat, from their
15 original stance that AB1492 established a new statewide
16 standard for the size of homes on contracted land, nothing
17 could be farther from the truth. I know they have backed off
18 from their previous exuberance, but in their staff report, in
19 their presentation this morning, I was stunned to hear the
20 contention that AB1492, or specifically *Section 51250* of the
21 *Government Code* has any relevance whatsoever in these
22 proceedings.

23 The creation of material breach provisions, and
24 enhanced penalties for material breach of contract, are based
25 on the supposition that the structure is illegal. You do not

1 get to the 2500-square foot threshold unless the structure is
2 illegal.

3 The Department of Fish and Game expressed concerns
4 to Clyde McDonald, and the Department of Conservation --
5 Clyde is Assemblyman Laird's staff, who staffed the bill --
6 that they acquire contracted land from willing buyers, and as
7 such, they are subject to the provisions of the contract.
8 They did not want small interpretive centers or restroom
9 facilities, portapottys, to be considered a material breach of
10 contract. And, so, the 2500-square foot was put in there, so
11 that restroom facilities could be placed on contracted land,
12 and would not be considered material breach.

13 And, so for the staff to say that this has
14 relevance to size of homes is beyond the pale, as far as I am
15 concerned.

16 Again, the purpose of the -- to even put one more
17 nail in this, it says in the staff report, on page 16 of the
18 addendum, that residential development on agricultural land
19 that is under *Williamson Act* contract, quote:

20 "Is allowable only if the residence is required
21 for, or is part of, the agricultural use and
22 is valued in line with the expected return
23 of the agricultural parcel."

24 EXECUTIVE DIRECTOR DOUGLAS: Time, Madam Chair.

25 MR. GAMPER: I talked to -- I sent this language

1 to --

2 CHAIR CALDWELL: Would you sum up.

3 MR. GAMPER: Yes.

4 I sent this language to Steve Olivas, senior staff
5 counsel at the Department of Conservation, yesterday. I got
6 a voice mail this morning that said, quote: DOC, the
7 Department of Conservation, doesn't tell local governments
8 how to use -- that they have to use a means test, meaning
9 that there is some connection between the value of the home
10 and the income produced from the land.

11 He also said that there is nothing mandatory in
12 the statute that requires such a test.

13 CHAIR CALDWELL: Thank you, sir.

14 MR. GAMPER: Thank you, very much.

15 CHAIR CALDWELL: Ann Nothoff, then Jack Olson.

16 MS. NOTHOFF: Good afternoon, my name is Ann
17 Notthoff. I am the California Advisory director for the
18 Natural Resources Defense Counsel, and 25 years ago I started
19 out my career working on the San Mateo County Local Coastal
20 Plan with Lenny Roberts and Mel Lane, and Lenny asked me to
21 come here today, too. It takes a couple of us to fill her
22 shoes.

23 One of the hallmarks of the Local Coastal Plan
24 here is to protect the agricultural nature and productivity
25 of the rural San Mateo coastline, and I think that over the

1 years, if you look and see, I think many of the main goals of
2 the coastal plan have been realized. We continue to have --
3 and I think one of the most notable things on the coast side
4 is that by and large development remains concentrated within
5 the urban service boundaries, and that is a hallmark and a
6 testament to the county's effectiveness in implementing the
7 rural protection policies.

8 Ed Thompson and I, he spoke earlier, we are both
9 members of Governor Schwarzenegger's CEQA Improvement
10 Advisory Task Force, and we are grappling with the very
11 serious problems of growth outside of the coastal zone.

12 And, I wanted to assure you that as difficult as
13 some of the issues that you are grappling with here, they
14 pale in comparison to the rampant growth outside of the
15 coastal zone. So, I think we all count ourselves lucky that
16 we have a law like the *Coastal Act*, and that we have Local
17 Coastal Plans with the policies that we have, that have, in
18 fact, resulted in a coastline that does not have the type of
19 sprawl development that we are seeing elsewhere.

20 And, I think that -- would it be better if the
21 county had an overall house size policy? yes, but absent
22 that, the *Coastal Act* requires that you look at each
23 application as it comes in front of you.

24 And, as when you now see the trends that are
25 happening, in terms of development in these rural areas, you

1 must act. And, I think that the, you know, it is very clear,
2 especially on the coast side, that it is a death of thousand
3 cuts, and each one of these individual decisions makes a big
4 difference for the future of the coast.

5 So, I urge you to support your staff recommend-
6 ation today, to look at these on a case-by-case basis, and to
7 protect the San Mateo coast.

8 Thank you.

9 CHAIR CALDWELL: Thank you.

10 Jack Olson, then Jo Chamberlain.

11 MR. OLSON: Good afternoon, Madam Chair, Jack
12 Olson, Executive Administrator San Mateo County Farm Bureau.

13 The Polacek's have gone to great length to fit the
14 spirit of the San Mateo County Local Coastal Plan. They have
15 identified the least productive soils on site for residential
16 development, and are proceeding with the process utilizing
17 that area.

18 Your staff has gone to great lengths in trying to
19 identify certain issues, but many things have been left out
20 of the staff report, and there are many other things that do
21 need to be brought into discussion.

22 First, San Mateo County actually had an 11 percent
23 increase in productive prime agricultural soil last year, for
24 the first time in many years. This was a major switch in
25 trend and direction, especially since the biggest lose of our

1 productive prime land has been by acquisition by public trust
2 entities. Peninsula Open Space Trust and others, have
3 actually taken better than 20 percent of our prime
4 agricultural land out of production.

5 There were comments about the number of density
6 values, and density credits available in our coastal area,
7 and at current tally, there has been better than 300 of these
8 units that have been acquired, and should be extinguished.

9 And, we think the time of right for open and
10 sincere and concise dialogue in finding out what is going on,
11 because if these densities have been taken away, or they have
12 been acquired for the public good, then they should be
13 retired as such, and the ag land should be protected.

14 We are very happy to see that both the applicants
15 today are willing to undertake agricultural production
16 easements on their property, but we feel, as a premise and a
17 condition relative to those easements, there has got to be
18 interaction with the local agricultural community, and local
19 producers, because we do have the knowledge and the under-
20 standing of activities and traditions in the local area to
21 make these things successful.

22 I know there was a comment from our chairman of
23 our ag advisory about lack of infrastructure, and I found
24 that a little disheartening, because currently in San Mateo
25 County, since the implication of the current farm bill in

1 2002, we have been able to secure in excess of \$1.3 million
2 for development of environmentally sensitive and protective
3 agricultural infrastructure to support our ag operations in
4 the county.

5 And, we are very proud of the work that has been
6 done, accordingly, through the efforts of Congresswoman Eshoo
7 and Congressman Farr, because we also had the pleasure of
8 being part of the Monterey Bay Marine Sanctuary, and we have
9 one of the most active and concise ag protection and water
10 quality programs in San Mateo County.

11 And, I would, again, offer the opportunity back to
12 your staff to, at any time, engage us with dialogue, because
13 we are concerned about a lot of the issues, and it is not
14 fair to bring these issues forward in such a limited fashion
15 with just a simply staff report.

16 We think this has to be a much more global
17 activity in bringing a lot more interest to the table to
18 discuss the issues, and much of this was begun by San Mateo
19 County two years ago, in which we convened an agricultural
20 summit that brought in excess of 280 diverse interests from
21 both the ag, environmental, and government fields together to
22 the table to talk about the issues.

23 And, we would encourage you to find the time to
24 get your staff to engage with us, because together we can
25 make this a very viable, productive area, and guarantee the

1 continuation of agriculture.

2 Thank you.

3 CHAIR CALDWELL: Thank you.

4 Jo Chamberlain, then Jim Rourke.

5 MS. CHAMBERLAIN: Jo Chamberlain, Honorable
6 Chairwoman, Commission members, it is an honor to have the
7 opportunity with you. I am a resident of the coast side, and
8 I am also speaking on behalf of the League for Coastside
9 Protection of San Mateo County.

10 And, we are here today to say that we are 100
11 percent in support of the staff's recommendation on both
12 parcels before you this afternoon. I can tell you, from
13 personal experience, that the Local Coastal Plan of San Mateo
14 County is not upheld by the planning commission, or the board
15 of supervisors. I see them, repeatedly, approve homes on
16 prime agricultural land.

17 This particular parcel is before you today because
18 they allowed a large, viable, piece of agricultural land to
19 be chopped up into smaller ranchette size. Now, was that the
20 intention of the Coastal Act when we passed it? I don't think
21 so.

22 It is very frustrating for me to see wonderful
23 people like this, because I have had the same experience on
24 the coastside, of putting a plan together on a parcel that I
25 have purchased, and have difficulty with it, because of acts

1 that were not in my control, but were in the control of the
2 Coastal Commission and the County of San Mateo County, but
3 they allowed zoning, and actions to ruin that, and make it
4 impossible for people then to not get their homes built, and
5 stay financially viable as the result of investments that
6 they made in the purchase of the land.

7 So, I am here today to tell you that the problem
8 is not this parcel. It is the problem of these LCPs, and
9 they are not upheld at the local level. They certainly are
10 not upheld in San Mateo County. We had a hearing about these
11 big houses, and there was huge support for minimizing the
12 size of the houses.

13 We are in this LCP, trying to have one percent
14 growth, and smaller houses, and we can't get the board of
15 supervisors to listen to us.

16 We are here today to beg you to please uphold the
17 Act. We have told Rich Gordon, and others, you can't make
18 these decisions that are in violation of the *Coastal Act*.
19 So, we are here today to ask you to please, our community
20 needs you to enforce the Act in its intent.

21 And, I can tell you, I have seen San Francisco
22 garter snakes in one place on the coast, and it is Bean
23 Hollow.

24 Thank you.

25 CHAIR CALDWELL: Jim Rourke, then Catherine

1 Caufield.

2 MR. ROURKE: Good afternoon Commissioners, my name
3 is Jim Rourke, and I am a resident and homeowner in the
4 coastal zone of rural San Mateo County, living in the outer
5 Pescadero rural region. I have been a homeowner in this area
6 for 35 years, and I have been visiting and acquainted with
7 this area for the 10 years before that.

8 In 1970, I married the eldest daughter of the only
9 real estate broker who has his office in Pescadero. There
10 were a few others, but they had offices in Half Moon Bay, and
11 places north. There was not a lot of sales of property at
12 that time, and the ratio of real estate folks to property
13 sales seemed in balance.

14 Now, the *Half Moon Bay Review* paper has a complete
15 section devoted to real estate sales that covers an entire
16 section of their paper.

17 In the past 10 to 20 years, I have seen an
18 explosion in the transfer of real estate property, which was
19 formerly in agricultural production, and priced at
20 agricultural prices, to prices being driven by development
21 pressures, speculative ventures, and being sold off as
22 private estates for gentlemen farms. These properties are on
23 prime soil, and farming as we know it is being pushed out.

24 For example, one working ranch sold 18 acre
25 parcels for agricultural price of \$10,000 per acre in March

1 11, 1999, then resold the 18 acres on December 20, 2001, some
2 21 months later for \$825,000 total, for \$45,833 per acre.
3 This \$45,833 price per acre is in the range that no one who
4 is farming can afford it.

5 Note, one of the previous speakers was the son of
6 one of the people that originally farmed that property, then
7 purchased it through a real estate deal and then resold it
8 some 21 months later, one of the parcels to the Polacek, is
9 now before you with the 18 acres, and now they want to re-
10 farm it. So, I guess I have to ask myself, why would you
11 farm it, then sell it, and then now re-farm it again?

12 This alarming trend is for the purchaser who
13 develops these parcels to build home that are not in keeping
14 with the *Coastal Act*, and that size of the house far exceeds
15 the homes that have been located in the area for many, many
16 years.

17 I have given you two pictures for comparison. I
18 would ask that you pass those around for comparison purposes.
19 The large house being 21,000-square foot, and the smaller one
20 being, typically, of what we see in San Mateo County.

21 I built a home, three bedroom, two bath, single
22 story, 2100-square feet in 1980 for three people, and this
23 home was adequate for me and my family to develop and grow.

24 Today, I would like to show you the two
25 photographs I have asked you to pass around, and one blends

1 with the community, and the other one is in great contrast,
2 and is an extremely large house which was built in the
3 coastal zone in San Mateo County, and the square footage is
4 21,000-square foot, and it doesn't blend with homes in the
5 other area, Its huge size, the style and color makes it out
6 of place, and it is.

7 These out-of-scale homes are not in keeping with
8 our rural coastal zone, and the land prices have driven out
9 of sight, and out of the reach of agriculture operators. Our
10 area will consist of the have and the have not's.

11 The monster house, home speculation for
12 agricultural area and land is changing our landscape, and is
13 not necessary for folks who build and live and blend in with
14 the dwellings in our area.

15 In short, I support the staff's recommendations to
16 limit the house size, and other special conditions that staff
17 has offered.

18 CHAIR CALDWELL: Thank you, sir.

19 MR. ROURKE: I would offer two more things, in
20 conclusion.

21 CHAIR CALDWELL: Yes.

22 MR. ROURKE: Number one, I listen to Supervisor
23 Gordon, and I would like to reassure you, being a long
24 resident of San Mateo County, that San Mateo County area does
25 not actively -- they are not interested in addressing its LCP

1 in an earnest fashion.

2 Number two, I have had a complaint registered with
3 the County of San Mateo concerning coastal resource
4 degradation issues, that I filed December 21, 2002, which has
5 never been answered. So, when you hear somebody tell you
6 that they are going to do something in a timely fashion, I
7 would tell you that is not in keeping with my experience.

8 Thank you.

9 CHAIR CALDWELL: Thank you.

10 Catherine Caufield, then John Gamper.

11 MS. CAUFIELD: Good afternoon, Madam Chairwoman
12 and Commissioners. My name is Catherine Caufield, and I am
13 representing the Environmental Action Committee of West
14 Marin.

15 Madam Chairwoman, I am representing a large group,
16 and one of my members has ceded his time to me, and so I
17 wondered if I could have five minutes, at the most.

18 CHAIR CALDWELL: Yes. Who is ceding time to you,
19 please?

20 MS. CAUFIELD: David Weinseff.

21 CHAIR CALDWELL: Can you raise your hand? thank
22 you.

23 MS. CAUFIELD: Also, I am speaking also -- my
24 comments are addressed to both 13.a. and to 13.b. so this
25 will just be one time.

1 I was at the reception last night, and there were
2 -- it was very inspiring, as I am sure you all agree. There
3 were two things that really struck me, that two different
4 people said. One was that local government really needs the
5 leadership of the Coastal Commission, and another is that one
6 of the hard things that the Coastal Commission had to say
7 when they first took over, facing the threat of subdivision
8 on coastal ag lands, they had to say -- to a lot of people
9 that weren't happy to hear it -- you bought a farm, you own a
10 farm.

11 And, I am here today, even though I live in Marin
12 County, because this is a statewide crisis, and I am really
13 not -- I don't think it is exaggerating to say it is a
14 crisis. It started, the swelling has begun, it hasn't
15 reached its peak, and hopefully the Coastal Commission acts,
16 and if local governments follow your leadership, we can
17 address this, before it does reach its peak.

18 Thirty years ago, as you know, subdivision was the
19 problem. Now, the problem really is, instead of one
20 developer buying 100s of 1000s of acres of land, and putting
21 100s of 1000s of houses on it, proposing that, now we have
22 wealthy individuals buying 100s of 1000s of acres of land to
23 put one dream house, or sometimes a second or third dream
24 house on it.

25 The key issue here is that ag land, especially on

1 the coast, with the protections we have, is different from
2 residentially zoned land, and we have to treat it that way.
3 We have to let people know that is the case.

4 And, as the applicant has said, we have to be
5 clear. We want to keep land in agriculture, and I think the
6 easement proposal that the staff has given you is an
7 excellent one, and we want to limit house size, and the
8 purpose for limiting house size is, as you have heard, to
9 limit speculation, and in Marin County, large parcels of ag
10 lands are going on the market, you know, one or two a month.
11 It is just mind boggling, and they are being bought up.

12 And, we have had one or two of the proposals come
13 before the planning commission and the board, but a lot of
14 others are lining up, and we will be here before you, if we
15 don't deal with them at the county level, and given the
16 experience we have had, we won't deal with them properly at
17 the county level.

18 We need to limit speculation. We need to maintain
19 ag viability, and we need -- and we haven't been hearing
20 about this, but we really want to maintain the nature of our
21 rural communities.

22 Part of the problem -- one of things we really
23 fear, out in Marin, is aspenization. That comes about when
24 towns become increasingly dominated by weekend residents,
25 when more and more -- or I should say the community, becomes

1 dominated, not just towns. When towns become dominated, and
2 the community becomes dominated by tourists' serving
3 facilities, when there is no real rural industry, and
4 basically, apart from people who work from home, and serve
5 other people who work from home, the industry where we live
6 is agriculture, and there are a lot of spin-off industries
7 that depend on it.

8 And, lastly, the problem we face with that is that
9 we get people working at low levels, in tourist facilities
10 that cannot afford to live where they work, and you get
11 Aspen, and we don't want that to happen.

12 One of the problems, I think, is that we have
13 really strong LCP protections, but in some cases they are so
14 vague that buyers, should they bother to try to find out what
15 zoning limitations there are on their land, convince
16 themselves that no problem, sure it is incidental to
17 agriculture, or it is accessory, you know, and the house size
18 is reasonable. But, all of these land words are so vague.

19 We really need to be clear to people, and to let
20 them know what is happening. We have taken to writing
21 letters to estate agents, whenever a market -- a property
22 comes on the market to try to alert the potential buyers that
23 they can't just do anything they want, but we find that these
24 people tend to be very wealthy, tend to be very accomplished,
25 really used to getting their own way, and more than willing

1 to spend a lot of money on lawyers, and the result is that
2 county officials are overwhelmed and intimidated, and they
3 are not supporting the LCP.

4 We find that the clustering requirement is being
5 compromised. We now have a concept in Marin of loose
6 clustering -- whatever that is.

7 The visual resource protection is being
8 compromised, the agricultural -- the requirement for
9 agriculture to be the dominant use of the land is being
10 compromised.

11 I think what we need to do, and what I hope you
12 will do, is enforce the LCP, give leadership to local
13 governments, and make it clear what enforcement entails.

14 The easement proposition, I think, is kind of a no
15 brainer. People seem to be willing to accept that, and I
16 really urge you to accept that, your staff's recommendation
17 on that score.

18 CHAIR CALDWELL: Ms. Caufield.

19 MS. CAUFIELD: Yes.

20 CHAIR CALDWELL: Your time is up.

21 MR. CAUFIELD: Oh, is it?

22 CHAIR CALDWELL: Can you sum up?

23 MS. CAUFIELD: I will.

24 I will say the house limit size is very important.
25 We need a clear house limit. If this is not the time to

1 adopt a statewide house limit, and it clearly is not, you
2 still have the responsibility and right to limit house size
3 to a level that is compatible with the agricultural use under
4 the LCP, and I hope that you will do that.

5 Thank you.

6 CHAIR CALDWELL: Thank you.

7 John Gamper, then Mark Massara.

8 COMMISSIONER REILLY: John Gamper already spoke.

9 CHAIR CALDWELL: Oh, thank you, of course he did.

10 Mark Massara.

11 He was speaking under a different name, though.

12 MR. MASSARA: Madam Chair, Commissioners, I am
13 Mark Massara with the Sierra Club Coastal Programs.

14 We are strongly in support of your staff's well
15 reasoned analysis, and urge that you approve the project, but
16 only if you include staff's recommendations regarding the
17 special conditions.

18 If you wish to protect rural agricultural regions
19 that are left along the coastal zone in this state, you must
20 adopt building envelope house size and agricultural
21 protection restrictions.

22 The applicant has objected to staff's recommend-
23 ation regarding a 10,000-square foot building envelope, yet
24 that is your commonly used envelope for ESHA parcels, and the
25 rationale when it comes to protecting agricultural prime ag

1 soils, are equally as strong, and your responsibilities with
2 respect to ag parcels are equally as strong in the Coastal
3 Act.

4 The applicant also objects to the house size, but
5 his attack on staff's historical analysis rings hollow and
6 self serving. After all, if you were to look at his
7 suggestion, and take only the most recent largest houses in
8 the neighborhood, including the monstrosity that appears to
9 be under construction next door, as your guide, the very
10 homes that have given rise to this problem would then be the
11 homes that you are using as precedent to allow more monster
12 homes.

13 Which brings us to the comments of the supervisor,
14 the supervisor urges you to simply rubber stamp the proposal
15 and to delete any restrictions whatsoever, while at the same
16 time telling you that he is very concerned about these
17 monster homes. The point is that if you just stick you heads
18 in the sand, as the supervisor requests, you will be
19 establishing the precedent for monster homes in the future,
20 and then you won't need an LCP amendment, because you will
21 already have them dotting the landscape.

22 The point is, that these are farms. There are
23 still plenty of places along the coast in which you can
24 purchase, and/or build monster homes, and we see them all of
25 the time, in Rancho Santa Fe, in Montecito, in Malibu, those

1 monster homes are all over the place.

2 The problem here is not protecting mansions, it is
3 protecting agricultural lands. And, there are agricultural
4 lands at Gaviota, at San Mateo, and on the north coast that
5 are at threat from these monster homes.

6 And, you can quibble around the margins of these
7 restrictions, but the fact remains, is that as your staff has
8 shown, the only real way to protect these rural regions, and
9 these agricultural lands, are to adopt restrictions on
10 building envelopes, house size, and agricultural protections.

11 And, with that, I would urge that you approve the
12 project, including the staff's special recommendations.

13 CHAIR CALDWELL: Thank you.

14 Ron Sturgeon, then Sue Digre.

15 MR. STURGEON: Ron Sturgeon, I live in San
16 Gregorio, and I disagree with the previous speaker, speaking
17 for the Sierra Club, in that the only way to protect
18 agricultural land, for its agricultural values, is with an
19 agricultural easement.

20 I also would like to say that the Commission has
21 previously looked at the LCP in relationship to both monster
22 homes, and has found that the LCP of San Mateo County
23 condones monster homes. And, I think that Commissioner Wan
24 will recall the monster home that was built on the Cascade
25 Ranch, 15,000-square foot home, or larger, and it was built

1 -- it came before the Coastal Commission on appeal, and was
2 found to be in compliance with the Local Coastal Plan. This
3 house was also built on land, agricultural land, that was
4 encumbered by an agricultural easement, held by the State of
5 California, and did not preclude this kind of monster
6 development.

7 I would also like for you to think about the
8 difficulty of enforcing the requirement to farm. It would be
9 nice to just be able to write into a conservation easement
10 that this has to be farmed, but that is kind of like asking
11 -- or, let's say that I have an easement to walk across a
12 piece of property, and there is an agreement that there is an
13 easement that exists, is equivalent to asking -- and not only
14 giving me the right to walk, but demanding that I walk across
15 that easement.

16 It is difficult -- it is generally considered
17 impossible to enforce an affirmative requirement in a
18 conservation easement. It is generally restricted to
19 enforcing prohibitions.

20 Thank you.

21 CHAIR CALDWELL: Thank you, sir.

22 Sue Digre -- I am afraid I may be mispronouncing
23 your name.

24 MS. DIGRE: It is Digre.

25 CHAIR CALDWELL: Thank you, Digre, and then Robert

1 Mitton is after you.

2 MS. DIGRE: Yes, I applaud staff. I think they
3 have a good understanding of the *Coastal Act*. And, if I can,
4 I agree totally with many of the statements made so far, and
5 I would like to extrapolate something different, but to say
6 the *Coastal Act* has made us all stewards of the *Coastal Act*,
7 and that was a statewide election. That is what the people
8 do.

9 So, what do the people of California think we are
10 doing as we sit here on any coastal issue, and it is so
11 gratifying that the state has a Coastal Commission, so that
12 the spirit of the law -- we can't prescribe every little
13 thing, because that is impossible. It would be like telling
14 you how to breathe, which muscles to move. So, the *Coastal*
15 *Act*, itself, is the framework.

16 And, my reading of the *Coastal Act* -- and I have
17 certainly done it because I campaigned for the *Coastal Act*.
18 I also know the Local Coastal Plans of my city, as I now live
19 in the City of Pacifica, which is a coastal town. I am also
20 an elected official there, and ran on our environment is our
21 economy, which I would like to address.

22 And, what we face here, on our coastal area is an
23 economy, and the economy could be destitute if we are not
24 really careful how we deal with these things.

25 For one thing, I have heard the two represent-

1 atives from Governor Schwarzenegger office come to the Sam
2 Ysido meetings, and both of them said that the economy of
3 California, and the economy of the north bay area, and the
4 economy of the coast, is tourism. Now, I appreciate what the
5 other person said about tourism, because the other economy
6 that is going to make our state strong is agriculture.

7 And, if you cover over land you are not going to
8 get it back. And, if you keep it there, you can use it.

9 So, what I am saying is that the economy of our
10 state, and the economy of our coast, is dependent upon a
11 strict adherence of the *Coastal Act*.

12 The other issue is, in the State of California,
13 whether we like it or not -- and I have lived through a brown
14 out, which means that you not can't wash your car, or water
15 your lawn, the water faucet is turned off from city. You
16 cannot get a drop out. So, if you don't put enough kettles
17 out there, too bad for your hand washing, too bad for your
18 cooking, that is the way it is. This is a drought state,
19 nobody will argue with that.

20 The Colorado River supplies water to this state.
21 Who do we think we are, if we think that those states around
22 there are not -- as they are progressing -- going to say to
23 us, "Enough, already."

24 Water is essential to our life. We must protect
25 our water, and huge homes are, I think, no brainers when it

1 comes to too much use of water, and too much covering of
2 land.

3 So, I appeal to you, from the economy and the
4 safety of our citizens of the State of California, we must
5 preserve fresh water, we must preserve vegetation, we must
6 preserve an economy which will be based -- as the Governor's
7 office experts have said -- tourism, and as we know,
8 agriculture. And, without agriculture, we are going to
9 depend on other countries for food -- excuse me, I don't
10 think so, don't want to go that route.

11 What kind of jobs are we going to have? we are
12 already out sourcing everything under the sun. Let's not out
13 source our food. Let us not rely on, you know, importing
14 water.

15 So, a strict adherence to the *Coastal Act*, the
16 spirit of the *Coastal Act*, which is to preserve and protect
17 the assets, the environmental assets, that is part, and the
18 other part of the *Coastal Act* that I remember was that you
19 are to be strong, strong adherence to the neighborhood,
20 preference given to low-income and moderate income.
21 Preference given on the coast to low income and moderate
22 income.

23 CHAIR CALDWELL: Ms. Digre, can you --

24 MS. DIGRE: So, please protect us all.

25 CHAIR CALDWELL: -- can you sum up?

1 MS. DIGRE: I am finished.

2 CHAIR CALDWELL: Okay, thank you.

3 Robert Mitton, and then Melissa Hippard.

4 MR. MITTON: Thank you, Madam Chairman, and
5 Commissioners, my name is Robert Mitton. I come to you
6 representing the San Mateo County Association of Realtors,
7 Board of Directors. They represent about 3000 members, and
8 have represented the rights of homeowners and landowners for
9 over 100 years.

10 I also am a coast side and local resident, and I
11 live approximately 2 miles away from this gentleman, and I
12 own PAD land, so I have a very vested interest in all of what
13 is going on today.

14 I speak, not only on this issue, but of the
15 following issue, as well, my comments apply there.

16 While San Mateo County Association of Realtors
17 finds many things in the staff recommendation to object to, I
18 will limit my comments to one point, that being, the house
19 size issue.

20 I applaud the Polacek's in going well beyond the
21 call, in terms of their planning on their property, and I ask
22 that you reject the staff recommendation on house size limit,
23 for a variety of reasons.

24 I think Supervisor Gordon stated it fairly
25 concisely, the county has considered this -- and he is a

1 politician, and I am not -- so I can say that we resoundingly
2 -- despite Ms. Chamberlain's reference -- I believe it was
3 resoundingly rejected, and he was nice enough to say they
4 referred it back to staff. I don't believe it will ever
5 coming back. It is much like tabling a bill in Congress.

6 There was no finding, ever, to say that the house
7 size had anything to do with the ability to ag, or
8 effectively to produce agriculture.

9 In the staff report, they use 2500-square feet.
10 It is an average. Why we are limiting this house to an
11 average, from my algebra days, maximums and averages were
12 different things. If we want to look at average, then, there
13 are many houses that are above 2500-square feet, and so they
14 are well within the ranges that were considered in the staff
15 report.

16 But, in effect, the most chilling thing about this
17 is that it effectively usurps the powers of the local govern-
18 ment to plan, to zone, and police in their own vicinity and
19 municipality. And, what you are doing is, essentially,
20 taking away the powers of the local government throughout
21 California to do that, and putting it in this body.

22 And, I believe that planning is a local issue,
23 please leave it that way.

24 CHAIR CALDWELL: Melissa Hippard, and then Hal
25 Feeney.

1 MR. BENNETT: My name is Gordon Bennett. I am not
2 Melissa Hippard, but she had to leave, and she gave me
3 something to read for her, so with your permission I would
4 like to do that.

5 CHAIR CALDWELL: Can you spell out your last name,
6 please.

7 MR. BENNETT: Bennett, B-e-n-n-e-t-t.

8 CHAIR CALDWELL: Thank you.

9 MR. BENNETT: "My name is Melissa Hippard. I am
10 the director" --

11 [Response]

12 Sorry, about that, I am just reading it.

13 "I am the director of the Loma Prieta Chapter
14 of the Sierra Club. Our chapter membership
15 resides in San Mateo, Santa Clara, and
16 San Benito Counties, all 24,000 of whom
17 enjoy our coastal resources. I strong urge
18 the Commission to vote 'Yes' on the staff
19 recommendations for the Waddell and Polacek
20 projects. The *Coastal Act* is the will of
21 the people of California, and your job is
22 to insure that our state's coastal resources
23 are protected for future generation. The
24 long term viability of agriculture on the
25 California coast absolutely requires the

1 maintenance of conditions conducive to such
2 activities. Now is the time to take a
3 strong stand, and hold the line against the
4 conversion of coastal agricultural lands
5 into private estates that provide no community
6 benefit, and have the effect of reducing
7 viable agricultural land for production."

8 Thank you, very much.

9 CHAIR CALDWELL: Thank you.

10 Hal Feeney, then David Weinseff.

11 UNIDENTIFIED SPEAKER: Weinseff cedes his time in
12 the Waddell --

13 CHAIR CALDWELL: Well, he has indicated 3.a. and
14 3.b., so it is up to him, if he doesn't want to speak on
15 that.

16 MR. WEINSEFF: Madam Chair, David Weinseff cedes
17 his time to Catherine Caulfield.

18 CHAIR CALDWELL: To whom?

19 MR. WEINSEFF: Catherine Caufield.

20 CHAIR CALDWELL: Thank you.

21 Gordon Bennett.

22 COMMISSIONER WAN: He already spoke.

23 COMMISSIONER SECORD: He's back again. Does he
24 get another bite?

25 COMMISSIONER WAN: No, he doesn't.

1 CHAIR CALDWELL: Mr. Bennett, you have your own
2 testimony to provide at this time?

3 MR. BENNETT: I do.

4 COMMISSIONER WAN: Well, we don't let them have --

5 CHAIR CALDWELL: Well, go ahead. We will give you
6 two minutes.

7 MR. BENNETT: Why not three?

8 CHAIR CALDWELL: Well, because normally if someone
9 has left the room, they really don't have the opportunity to
10 provide testimony, and I thought you were just doing it on
11 her behalf.

12 But, go ahead, let's hear you out.

13 MR. BENNETT: Okay, my name is Gordon Bennett, and
14 I am the chair of the Marin group of the Sierra Club. And,
15 we have these problems in Marin County, just like many
16 coastal counties do.

17 On the other hand, I just finished building my own
18 house, and I have a lot of sympathy for Mr. Polacek having
19 just gone through this process, myself; however, there is one
20 big difference. I built my house on residentially zoned
21 land, and he is trying to build his on agriculturally zoned
22 land, and therein lies the difference, and it is a huge
23 difference.

24 Statements were made that this is not a big
25 problem. I disagree with that. In Marin County we have a

1 whole bunch of these things that are in the pipeline,
2 including one recent one for 52,000-square feet of develop-
3 ment on an abandoned dairy farm. So, these are projects that
4 are beating the door down. There is quite a bit of them.

5 And, I look at this as the, more or less, the
6 tragedy of the commons. Each one, each individual rancher
7 would like to maximize their real estate property value. The
8 problem is that if everybody does it, it destroys the system,
9 and that is what we are concerned about.

10 In Marin, the cost of MALT easement -- MALT is the
11 Marin Agricultural Land Trust -- has gone through the roof.
12 You can see a chart that MALT has and the chart shows an even
13 cost for their conservation easements, and then the last 10
14 properties that have been sold have a much higher cost. If
15 you look at each of those properties, each of those
16 properties has a monster home proposed on it, so there is a
17 definite cause and effect here.

18 So, I do want to take issue with Supervisor
19 Gordon. You have a letter from the Community for Green
20 Foothills. This issue has been discussed. It hasn't been
21 acted upon. And, as these individual parcels come up, they
22 do set a precedent, and that precedent becomes a precedent
23 for further development. We want to close the door on these
24 things now.

25 So, I urge you, just from the point of community

1 character alone, to hold the line at 2500, which is well
2 within the community character of the existing buildings in
3 the San Mateo coastline, and let's not close the door after
4 the horses have left.

5 Thank you.

6 CHAIR CALDWELL: Thank you, sir.

7 Phyllis Faber.

8 MS. FABER: My name is Phyllis Faber, and I am a
9 former Coastal Commissioner from the early, early Commission,
10 and a founder of the Marin Agricultural Land Trust.

11 I am really happy to be here today, and hear such
12 a lively and serious discussion of agriculture. It is heart
13 warming to hear so much support for the continuation of
14 agriculture, so much support for the coastal plan.

15 And, I have a little memento for you. This is the
16 document that was taken up to Sacramento -- well, it really
17 isn't -- is Peter here? where did he go? It is the document
18 that was for the lay public, for the coastal plan that went
19 to Sacramento back in 1975, so I'll give it to you, Meg, so
20 you all can enjoy looking at it. But, anyway, in it there is
21 very strong support for agriculture.

22 I support staff recommendations for these two
23 projects today. I think the size of the house is not,
24 probably, just right. I think that that needs to be dealt
25 with. I agree that it should come through the LCP.

1 I think there should be a national land use
2 policy, a national agricultural policy. There is not such a
3 policy. Ed Thompson gave you the numbers, so in the State of
4 California, the best ag protection comes through the Coastal
5 Commission and you have all done a wonderful job over many
6 years.

7 Changing the use of land from genuine, hardworking
8 agriculturists to people who can afford to buy more expensive
9 land to build these huge houses, changes the nature of
10 agriculture. It is no long the culture of hardworking farm
11 families, and that is a culture, and once it is gone, it is
12 gone. You can look at the town of Nicasio in Marin County,
13 and that is what happened there. The people who were wealthy
14 bought the land for horses for other purposes, and it is no
15 longer agriculture in any sense of the word.

16 And, I would like to just tell you a little bit
17 about the Marin story, as I think it is interesting and
18 useful. Back in the 60s, there was something like 150 dairy
19 farms. By the 1970s, it was down to about 70. Agriculture
20 was on its way out. There was no -- there seemed to be no
21 hope, and farm families were not investing in their land.
22 They were not building new barns. They were not building
23 fences. Their children were leaving the farms. It seemed
24 pretty hopeless.

25 At that time, the Coastal Act required each county

1 to create a coastal plan, and for Marin, there was support
2 for creating the Marin Agriculture Land Trust. Ellen Strauss
3 and I had the idea, and the county supported it, and it
4 worked.

5 And, the difference that it made -- and I think it
6 is relevant to San Mateo -- is that it -- what we were
7 looking for, and the reason for creating that, was trying to
8 create a kind of certainty, and the ranchers sit back and
9 watch what is happening, and if they look -- they can look at
10 their land in two ways. They can look at it as their
11 retirement for the future, or they can look at it for the
12 future of their family as a farm. And, in Marin, the support
13 of the county, the presence of the Local Coastal Plan, and
14 the presence of MALT that over the years has protected -- has
15 easements on over a third of the ag land, it has created that
16 kind of certainty, and the result is an amazing resurgence of
17 active, exciting agriculture.

18 We have never said how the land should be used,
19 only that it should stay as agricultural land, and as the
20 result, we have all kinds of new and innovative types of
21 agriculture. The farmer markets are flourishing. The
22 products from these farms are going around the country. It
23 really is very exciting.

24 So, I will sum up -- because I can see time -- so,
25 keep going. Do a good job with agriculture, because it is

1 well worth it, and it is in the plan.

2 CHAIR CALDWELL: Thank you for bringing the
3 brochure.

4 MS. FABER: You're welcome.

5 CHAIR CALDWELL: Mr. Polacek, do you want to give
6 a brief rebuttal. You have taken 16 minutes, already, so.

7 Mr. Book.

8 MR. BOOK: Thank you.

9 CHAIR CALDWELL: Two minutes.

10 MR. BOOK: Two minutes is fine.

11 I am Norm Book, Carmel Callin Law Firm, [sic.]
12 representing the applicants.

13 A number of comments have been made, but I think
14 there are two central thrusts here, opposition. First,
15 having to do with the fact that these types of projects, if
16 you approve them, are going to cause land values to soar.

17 What was not pointed out in the staff report, and
18 I think is critical, is that if this is approved subject to
19 the conditions you are imposing, those conditions are going
20 to have a huge effect on the value of the land.

21 I have been in real estate practice for over 25
22 years, and I have never seen a restriction on a residential
23 property that creates an affirmative obligation to farm.
24 That is a huge encumbrance on property. My clients are
25 willing to accept that in principle.

1 And, the second one is, that in addition to the
2 right to farm restriction, there has been added an indemnity,
3 which Mr. Kern characterizes as strengthening what had been
4 there before -- it goes a long ways beyond that. It is an
5 affirmative obligation, a contractual obligation to, not only
6 not for the Polacek's not to make a claim against their
7 neighbors, but to indemnify them against any third party
8 claim.

9 Thirdly, there is a permanent restriction against
10 any other development.

11 So, you put those three restrictions together, I
12 think any concern about land values soaring is really a
13 fantasy. The speakers who have spoken, and saying they are
14 experiencing this in other areas, as far as I know, they have
15 not -- have yet to create an affirmative obligation to farm.
16 That is what is being proposed here, and that is a huge
17 restriction, and these are going to be recorded restrictions.

18 So, I feel, as soon as the market place ascertains
19 that these properties are being encumbered by these
20 restrictions, buyers of these properties will be far and few
21 between that will be willing to undertake these obligations.

22 As far as the other point that was made, that this
23 type of project is going to diminish agriculture, as Mike
24 Polacek has pointed out, by the agricultural land plan that
25 these people are willing to bring to this property, which is

1 a new creative approach to what is very marginal farmland --
2 very little of this land is prime land -- plus their
3 affirmative obligation to farm, I think that we have
4 responded to both of those concerns.

5 So, I would ask you, after four years, to please
6 allow this project to go forward.

7 CHAIR CALDWELL: Thank you, sir.

8 What is the pleasure of the Commission? I think we
9 should take a break, and then have staff respond, and move
10 into our deliberations.

11 And, again, members of the public, please do not
12 approach any of the Commissioners on this matter. We are in
13 the middle of the public hearing, and that won't be
14 permissible, thank you.

15 [Recess]

16 CHAIR CALDWELL: I believe we have a quorum in the
17 room, so then we will call the meeting back to order.

18 EXECUTIVE DIRECTOR DOUGLAS: Yes, Madam Chair, as
19 Mr. Lester comes forward, just a couple of points I would
20 like to make.

21 You know, we understand the applicant's expression
22 of their needs, and their wants, relative to what they wish
23 to do with the property, and the house. I just want to
24 remind the Commission that you have dealt with issues of
25 individual applicant's wants and desires for 30 years -- you

1 and your predecessors. And, I think the Commission has
2 learned over the years that you need to make the decisions
3 based on the policies and the use, and not who the applicant
4 is, or what their particular needs are, or wants are,
5 relative to size of a home, and their personal situation,
6 which is no negative reflection on the applicant, but it is
7 just the way that land use decisions need to be made, looking
8 at the uses.

9 And, then the second point I want to make, is
10 relative to the question of whether or not this Commission
11 should wait until the county acts on an LCP amendment. The
12 way that the *Coastal Act* is structured, and set up -- as you
13 know -- the Commission has an ongoing responsibility to look
14 at issues as they are evolving along the coast, look at the
15 application of *Coastal Act* and LCP policies, and when you
16 look at this particular policy, in the context of protecting
17 agricultural lands, there is the responsibility of the
18 Commission to make that interpretation. It is your call.
19 You have gotten your staff's recommendation, then you have to
20 make the judgment.

21 But, it is not necessary, and it shouldn't be
22 necessary, if you agree that there is a merging issue and
23 problem relative to protection of agricultural lands, you can
24 make a case-by-case decision, and the county can proceed with
25 its amendment of the LCP. And, often you do provide guidance

1 to local government in their evolving LCP update discussions,
2 and it is, from our perspective, we don't know when an LCP
3 amendment is going to come forward to address this issue, and
4 then it may come at a point where it is too late, if in fact,
5 in the meantime, decisions have been made to allow large
6 homes that do compromise the viability of agricultural uses.

7 So, there is no doubt in our mind that you not
8 only have the authority, but you do have the responsibility
9 to make an interpretation relative to protecting ag lands.
10 And, you can do so here without violating the *Coastal Act*, or
11 the spirit of the *Coastal Act*.

12 With that, let me turn it over to Charles.

13 DISTRICT DIRECTOR LESTER: Thank you, and before I
14 am asking Mr. Kern to make some more specific comments, I
15 just wanted to, again, apologize for the first round of
16 interpretation of that *Williamson Act* amendment, the Laird
17 bill. We did get it wrong. I don't know if it was
18 exuberance so much as haste in getting the report out.

19 And, again, the intent of that bill, as we under-
20 stand it now, was to address a trend of nonagricultural
21 development on agricultural *Williamson Act* lands, and the
22 perception that the penalties that were currently in effect
23 were not meaningful to stem that tide. The 2500-square foot
24 limit was not, specifically, a house size limit, was not
25 intended to establish a house size limit, as opposed to a

1 trigger for an amount of square footage, beyond which a more
2 egregious violation might be determined.

3 However, that, also, had to work in conjunction
4 with the development not being consistent with the existing
5 contract, so it is possible, under this amendment, that you
6 could have a house larger than 2500-square feet, if that
7 house was consistent with the underlying *Williamson Act*
8 contract.

9 So, having said that, we talked extensively with
10 the staff at Assemblyman Laird's office, as well as the
11 Department of Conservation, and they are making an effort to
12 address the trend of nonagricultural development, by setting
13 some point, beyond which development that isn't consistent
14 with agriculture or the contract, might trigger higher
15 penalties. That is the 2500-square foot number, and that is
16 addressed in the addendum.

17 The second thing I wanted to just highlight, was
18 the larger policy context or basis for the square footage
19 recommendation, and that, again -- as you have heard in some
20 of the testimony -- does go back to the early days of the
21 coastal plan, and in fact, in the agriculture section of the
22 coastal plan, there was a policy, basic policy, set out to
23 protect agriculture and its economic viability, and that
24 included a section discussing the need to assure land
25 valuation consistent with maintenance of agricultural uses.

1 And, we recognize that the agricultural economic
2 issues are complex, and that there are market issues that are
3 more explicitly raised in this issue that we don't normally
4 raise directly in applications, but that coastal plan policy
5 did discuss the need to do this, because the economic future
6 of much coastal agricultural land is threatened by many
7 factors, including high tax and utilities assessments, and
8 that there was a need, therefore, for new programs to offset
9 current practices, whereby agricultural land is priced at
10 nonagricultural uses by the private market.

11 In other words there was an explicit concern for
12 the role that nonagricultural development, or public utility
13 extensions, and other types of non-ag development would have
14 on the value of land, the market value of land, and how
15 private markets might value land at nonagricultural rates,
16 and therefore there was the need for things like the
17 *Williamson Act*. There is discussion about tax relief
18 measures, and other economic measures to address that
19 valuation problem.

20 Those coastal plan policies found direct
21 translation into Section 30241 of the *Coastal Act*, which
22 talks specifically about the issue of minimizing conflicts
23 between agriculture and other development through, among
24 other things, addressing the role that public service
25 extensions in nonagricultural development might have on

1 assessment costs, i.e. the role that those types of things
2 might play in bumping up the market valuation of agricultural
3 land and how that might play a role in determining whether or
4 not agriculture can continue viably in an economic context.

5 Section 32041.5, which is the policy in the
6 Coastal Act that gives us the direction to determine
7 viability, explicitly, tells us to look at that question by
8 excluding land costs, again, in recognition that this problem
9 of the market valuation of land is a factor that needs to be
10 looked at, in deciding whether or not ag is viable or not.

11 So, I just wanted to set that context, again, and
12 those policies, themselves, are then translated into this San
13 Mateo LCP, as Mr. Kern presented, originally.

14 COASTAL STAFF ANALYST KERN: Thank you, I wanted
15 to respond on a number of points that were raised during the
16 testimony.

17 First, I think it was Mr. Gamper, from the
18 California Farm Bureau Federation, during his testimony, I
19 think one of his remarks addressed the definition in the
20 *Williamson Act*, or how the *Williamson Act* considers uses that
21 are incidental to agricultural use. And, stated that we had
22 mischaracterized the way that that is understood under the
23 *Williamson Act*, and I have to respectfully disagree. The
24 citation that we provided in the staff report is directly
25 from the Department of Conservation's fact sheet that they

1 provide on their web site, addressing the Laird bill 1492.

2 And, it states:

3 "What does incidental to agricultural use of
4 land really mean? A use is incidental when
5 it is required for or is part of the
6 agricultural use, and is valued in line
7 with the expected return of the agriculture
8 on the parcel."

9 And, that was the statement that we included in
10 our staff report, and our source.

11 Next, there was a statement during the applicant's
12 testimony that we had not justified, under the LCP require-
13 ments, the 10,000-square foot building envelope limitation,
14 and I think that is, extensively, addressed in both the staff
15 report, and in the addendum, but specifically, sections of
16 the LCP, including *Zoning Code Section 6355.a.1* require --
17 I'll just read it:

18 "That you minimize the encroachment of
19 all nonagricultural development on
20 agricultural lands."

21 We think, in order to make the finding, that you
22 have minimized encroachment, you have to limit the non-
23 agricultural development on this parcel to a specified
24 envelope. We chose 10,000-square feet, and we considered
25 what the size of the envelope should be. We arrived at

1 10,000- square feet, ultimately, on a couple of grounds --
2 and as is discussed in our findings -- 10,000-square feet is
3 the larger size of the parcel sizes allowable under the
4 residential zoning districts. There are 5,000- and
5 10,000-square foot minimum lot sizes in this county's *Zoning*
6 *Code* in the residential districts.

7 We reasoned that by choosing the larger of the
8 allowable residential lot sizes, you should be able to
9 accommodate a reasonable residential use, a nonagricultural
10 use on this agricultural parcel.

11 We also found it informative that the Commission
12 establish a 10,000-square foot limit for development on
13 parcels with ESHAs under the Malibu LCP, and found that that
14 was a good balance between the need to minimize encroachment
15 into environmentally sensitive habitat areas and the need to
16 provide a residential use in an area where homes are
17 typically larger than in most places in the coastal zone.
18 And, that was the basis that we selected 10,000-square feet.

19 The applicant also stated in his testimony that we
20 were incorrect in our characterization of the amount of area
21 that the proposed development would take out of agricultural
22 production, stating that it was, roughly, a quarter acre,
23 about 11,000-square feet, but he qualified that by saying
24 that that didn't include landscaping.

25 We believe that landscaped areas, and all areas

1 that would be out of commercial agricultural production, have
2 to be included within the area that is considered to be
3 encroaching onto agricultural lands, and that we, therefore,
4 included that, and that is where we came up with our
5 approximately 2-acre figure. And, I will qualify that that
6 is an approximation, based on the plans that were submitted
7 by the applicant, and our best calculations. But, we don't
8 agree that the project, as proposed, limits encroachment onto
9 agricultural lands to a quarter acre.

10 That said one-quarter acre is just a hair over
11 10,000-square feet, and on those grounds we think, and again,
12 the applicant ought to be able to fit a reasonable resident-
13 ial development within that size development envelope.

14 Also, related to the development envelope
15 condition, we realize that in our original staff report, we
16 had pushed the development envelope too far to the corner
17 where we would be encroaching into that farmed wetland area.
18 And, as I addressed in my original presentation, the addendum
19 adjusts that condition to provide a 50-foot buffer from that
20 wetland, and not to encroach into the agricultural ditch
21 easements, and that is the green box that we are pointing to
22 on the screen.

23 We think that by limiting the development to a
24 10,000-square foot envelope, and shifting it as close as you
25 can to that wetland, respecting the required wetland buffer,

1 and respecting the location of the existing ditch easement,
2 we can best meet the requirement to minimize encroachment
3 onto agricultural lands.

4 There was, also, a remark by one of the persons
5 who testified about the concern that more land is being lost
6 to agricultural production as a consequence of acquisition
7 for conservation purposes by POST, then to development, and
8 in the addendum, page 8, we did cite the AFT study that was
9 conducted, you know, on this issue in San Mateo County, and
10 one of the things that that study did -- and that study was
11 looking specifically at what is the state of agriculture in
12 San Mateo County, and what are the challenges to agriculture
13 in the county, and -- I'm having a hard time finding my
14 addendum right now.

15 But, what it, essentially, said was that while
16 this is a common perception of many farmers in the county,
17 AFT, according to their data -- well, here, thank you.
18 I'll read you the quote:

19 "While some farmers blame public and private
20 conservation organizations, for reducing
21 the amount of rental land, the problem is
22 more likely driven by new development than
23 open space protection."

24 And, those were based on their analysis of U.S.
25 Census Agriculture data.

1 With respect to the affirmative requirement in the
2 easement, I want to touch on that a bit, because we did do
3 quite a bit of work to explore that as a possibility, and as
4 I mentioned in my original testimony, the Marin County has
5 just recently taken an action to impose an easement similar
6 to the one that we are recommending you impose, on a very
7 similar project, with an affirmative clause, and we actually
8 worked very closely with county planning staff in discussing
9 strategies on that.

10 The model easement that both we and Marin County
11 used, in part, to base our analysis, was provided by
12 California Farm Link, and California Farm Link, developed
13 their model -- which they are providing to land trusts
14 throughout the state -- is based on existing easements that
15 are in affect today. One of those is in the coastal zone in
16 Goleta.

17 And, that model easement does, in addition to
18 providing the affirmative requirement, also addresses the
19 enforcement requirements of the easements, because there are
20 additional challenges to enforcing an affirmative clause, and
21 we would contemplate incorporating some of the kinds of
22 measures that they are recommending, but we didn't specify
23 those in the permit condition, because we think it would be
24 best to work out those final details with the grantee of the
25 easement, as opposed to prescribing them now in a condition.

1 We want to allow some flexibility to work with the grantee,
2 while we do recognize that enforcement would be an additional
3 burden for that kind of an easement.

4 Finally, I wanted to get back to what, obviously,
5 is the most controversial part of this recommendation, the
6 house size, and on what we really based our recommendation.

7 Ultimately, we believe that establishing a
8 particular house size, choosing a number, whether it is 2500-
9 square feet, or 2200-square feet, or 3000-square feet, is a
10 policy call that the Commission has to make, and they have to
11 make that being mindful of the need to balance the require-
12 ment in this LCP to protect the viability of agricultural
13 lands with the need to provide the land owners with a livable
14 residence.

15 And, staff did discuss at length what would be the
16 best method to derive a number that strikes that balance,
17 that wouldn't be arbitrary, that would be based on some real
18 data. And, we thought that the best way of doing that would
19 be to look at what is typical, what do people live in,
20 typically, in the rural area in the county, and that is when
21 we went to the county to get the data. We believe it is
22 complete. We went through it, and cross-checked that against
23 both ours and theirs permit data bases, and that is where we
24 came up with the median, and average numbers that we cite.

25 But, in addition to that, I wanted to note that

1 although we do go back to, you know, the 19th century in our
2 data, home sizes have varied over that entire period, and
3 some of the homes, back in the early part of the 20th
4 century, were much larger than the average, and so by
5 including those older data, we didn't skew the average, or
6 the median down, and as noted in the staff report -- and this
7 came, again, from the county planning staff when they were
8 considering a house size limit a few years ago -- that house
9 sizes have increased, or the size of new homes, rather, has
10 increased in the recent past.

11 In 1993, according to the county planning
12 department, the median was 2,484-square feet for new homes
13 being approved by the county in that year.

14 And, in 1998, it was 4,926-square feet, so they
15 had witnessed a doubling, essentially, of house size from
16 1993 to 1998 in the new homes that they were permitting.
17 This was really, where the county began to observe that there
18 is a real trend, an upward trend, in house size in their
19 rural coastal zone.

20 We also looked at the national data of new homes.
21 In 2004, the national median new home size is ranged --
22 depending on which data you use -- 2100 to 2200-square feet.
23 It was based on all of these data -- and we gathered all that
24 we could -- that we selected 2500-square feet as what we
25 think is a reasonable house size that would achieve that

1 balance that we are seeking.

2 But, there are other ways of looking at the
3 numbers that we came up with, and we knew that this would be,
4 you know, the most difficult decision that would have to be
5 made by the Commission, with respect to these projects, and
6 wanted to provide you with the tools to discuss this, and to
7 think about this.

8 So, on page 31 of your staff report, where we kind
9 of present a table of these data, we also showed you what I
10 think it is 75 percent of the existing homes are 3000-square
11 feet, or less. And, that is a number that you might find to
12 be relevant in this discussion, and might have a look at
13 that, I think, was it 88 percent, or less, for 4,000-square
14 feet, and of the existing residences they are less than
15 5,000-square feet.

16 And, unless you have questions, I'll conclude.

17 CHAIR CALDWELL: I believe Commissioner Secord has
18 a question, and then I have a suggestion for how we might
19 organize our discussion.

20 COMMISSIONER SECORD: Thank you, Madam Chair.

21 What I am seeking here is some justification in
22 the *Coastal Act* for the limitation in house size. Now, Mr.
23 Douglas talked about the wants and the needs of the
24 applicant. A number of speakers talked about the replacement
25 of agriculture with housing. *Section 30241* of the *Coastal*

1 Act was described, which tell us, basically, that agriculture
2 is more important housing, and I acknowledge all of that.

3 What I am trying to understand is what is the
4 basis for the selection of a house size. Now, I can under-
5 stand a building envelope, but I cannot get to a house size,
6 a rational basis for house size, out of the Coastal Act from
7 anything I have heard here today.

8 So, I would appreciate a little clarification on
9 that, beyond what you have just said, and I am not disregard-
10 ing what you have said in the last 10 minutes.

11 Thank you, very much.

12 DISTRICT DIRECTOR LESTER: Well, I will try, but
13 stop me if I am just repeating myself.

14 On page 21 of the staff report, we cite 30241
15 which among other things requires that conflicts between
16 agricultural and urban land uses be minimized through a
17 number of different techniques.

18 Section D says that by -- sorry, Section E:
19 "Do this by assuring that public service and
20 facility expansions into nonagricultural
21 development do not impair agricultural
22 viability either through increased assessment
23 costs, or degraded air and water quality."

24 As I mentioned about the coastal plan, that is a
25 specific reference to the idea that if you extend public

1 services out into a rural area, or you allow other types of
2 nonagricultural development in a rural area, on agricultural
3 lands, that development is likely to lead to increased
4 assessment valuations of that land.

5 So, in the case of utilities, we are more familiar
6 with that, if you run a pipeline, you might end up having
7 assessments on parcels that will lead to higher tax assess-
8 ments and run up the holding costs of that land. Those
9 holding costs are part of the equation that an agricultural
10 operator would use, in making ends meet, part of the cost
11 that they have to pay on an annual basis.

12 Similarly, nonagricultural development, in this
13 case residential development, leads to tax assessments, and
14 in the addendum we have a more specific discussion on how
15 those tax assessments are directly related to the valuation
16 of the property, that valuation is, in part, a function of
17 the residential development, including the size of that
18 development and the improvements.

19 So, again, there is a specific reference to be
20 concerned with the role that assessment costs of land play in
21 that economic equation of whether or not agricultural land is
22 viable, and house size directly relates to assessment costs.
23 That is, I think, is the core derivation of concern.

24 That language that I quoted from the *Coastal Act*
25 is reiterated in the LCP, both in the policies and in the

1 ordinances.

2 COMMISSIONER SECORD: But, that is all, rather,
3 tangential. It is not specific, and it just strikes me that
4 the local decision should be made locally, and I would hope
5 that the board of supervisors would grapple with this issue.

6 But, that is to be done in the future, and I was
7 looking for some sort of a basis in the Coastal Act.

8 And, Ralph has his hand up.

9 CHIEF COUNSEL FAUST: If I might, through the
10 Chair.

11 Commissioner Secord, the one thing I wanted to add
12 on this that I think is important for your determination
13 today, is that there are several policies -- and Dr. Lester
14 has quoted some of them -- in the agricultural provisions of
15 the Coastal Act Section 30241, Section 30242, and so on.

16 Here, however, we are also dealing with an LCP,
17 and the LCP, as Dr. Lester indicates, incorporates some of
18 that language, and in some other ways elaborates on that
19 language, and some of that is quoted in the first full
20 paragraph on page 32, where some of the standards that are
21 contained in the LCP are quoted.

22 The particular thing I wanted to emphasize, now, I
23 hope in partial response to your question, but also,
24 generally, for the Commission, is the importance of
25 distinguishing between the kind of a policy outlook, or

1 overview you would take if you were considering an LCP
2 policy, or an amendment to the existing LCP, and were
3 establishing a single policy for a broad area, as compared to
4 what you are doing here today, which is looking at a
5 certified LCP, but applying those policies to a particular
6 fact in a particular development proposal on a particular
7 parcel.

8 You are making a case-by-case decision today, and
9 so you need to take these general policies, but then look at
10 what is being actually proposed on this site? what is the
11 nature of the site? how can these general policies -- as
12 Commissioner Secord has properly characterized them -- be
13 applied on this particular site, in this particular
14 circumstance, how best to do that?

15 And, I think, as Mr. Kern indicated a moment ago,
16 with example of a relation to house size, staff has, because
17 they have to suggest something, suggested a number. That is
18 not, necessarily, a magic number. There is nothing specific
19 about that particular number that makes it the perfect
20 solution here. Rather, the situation is to look at these
21 policies, look at the development proposal, look at the site,
22 and say, "What best meets the overall policies that you are
23 trying to achieve and implement here?"

24 EXECUTIVE DIRECTOR DOUGLAS: Right, there is
25 another example, along the same lines.

1 And, that is, the policy in the Coastal Act that
2 directs the Commission to protect lower cost visitor
3 accommodations. The Commission wrestled with that for many
4 years, including trying to put restrictions on how much could
5 be charged for overnight rooms, and at the end of many, many
6 years of experience, you came to the conclusion -- or your
7 predecessor came to the conclusion that you really couldn't
8 limit, or achieve that policy through those kinds of
9 restrictions, that the best way to do that is the type of
10 use, the size of the use that you were going to permit, and
11 that, in fact, was the way to carry out that particular
12 policy.

13 So, it is a judgment here, in terms of how do you
14 best protect the agricultural viability of this --

15 COMMISSIONER SECORD: And, as to that building
16 envelope limitation, strikes me as sensible. Beyond that, it
17 has lost its sense. The thread has kind of unraveled for me,
18 after the building envelope size.

19 Thank you very much, Madam Chair, I don't mean to
20 belabor this.

21 CHAIR CALDWELL: Commissioner Baird.

22 COMMISSIONER BAIRD: I am just trying to get my
23 arms around the day here, and I think when Peter started, I
24 think I heard him say -- and I think this is the belief of
25 the staff and so forth, in making this recommendation -- this

1 is one of the most important things that has come before the
2 California Coastal Commission in years, with regard to this
3 issue, and what that said to me is that this is -- I don't
4 see this as a case-by-case thing here.

5 I think, if the Commission is going to make a
6 determination here, I don't see the kind of surgical analysis
7 that I would expect to see for this parcel, versus the other
8 one that is coming up today. I don't think we are talking
9 about a case-by-case thing. I think we are suddenly talking
10 about setting a pretty major standard.

11 And, what is troubling is that it is not in the
12 Local Coastal Program, as I went through this. The Laird
13 thing we have talked a lot about the Laird bill and the mis-
14 interpretation of that.

15 And, then, I am confused with the Department of
16 Conservation, who have relayed to me that their standard is,
17 that under the *Williamson Act*, any resident must be related
18 to, as opposed to required for, agriculture and they have
19 told me that that determination is to be made by the local
20 government, under the *Williamson Act*, contract, and that that
21 is the way that the process works.

22 So, I just want to kind of frame this whole thing.
23 I mean, whatever happens today, I absolutely don't think is a
24 case-by-case kind of thing. I think this is a pretty
25 important move, and when somebody comes up with that 2500-

1 square foot determination, that is probably going to stick a
2 little bit.

3 So, at the moment, I still don't see how that
4 number was really arrived at.

5 EXECUTIVE DIRECTOR DOUGLAS: Well, and I might
6 just point out that if you decide to go along with what the
7 applicant is proposing, you are also making a precedential
8 decision, so these are case-by-case determinations, and it is
9 an important policy.

10 And, from my perspective, what I said as to why
11 this is so important, is how do you protect viable
12 agricultural uses, and that is your call.

13 CHAIR CALDWELL: All right, I think it is clear we
14 have three issues outstanding, in terms of disagreement
15 between the Coastal Commission staff, and the applicant: one
16 is the house size; second is the building envelope; and third
17 is relocation of the building envelope, so if we could take
18 those three issues and discuss them in a meaningful way,
19 perhaps knocking off the easiest ones, which would be the
20 building envelope, and, then the location and house size,

21 And, I am open to other suggestions. We seem to
22 already be in the house size discussion.

23 COMMISSIONER POTTER: I would just suggest that
24 there might be one fourth topic, and that is the
25 determination of ag liability.

1 I mean, if we are going to set precedent, here
2 today, ag viability is the underlying issue for me. I mean,
3 if we are going to say that we are going to continue some
4 sort of ag use, concurrent with residential, who on our staff
5 is the ag viability determinator? I mean, we have a
6 geologist, we have a biologist, do we have a rancher or a
7 farmer, a Cal-Poly grad, somebody who is capable of making
8 that determination, because ranching and farming are two, you
9 know, very distinct and difficult operations, and I think we
10 are coming dangerously close to, actually, regulating ag.

11 You know, there might be some viable ag use on
12 this property, but not on this property alone. Ag works in
13 large parcels. Unless they are going to have to set up some
14 little roadside stand, and Mrs. Polacek is going to be
15 selling the tomatoes and the cucumbers, I don't think that
16 this property can stand alone, viably as an ag project.

17 And, then there are sorts of related issues in and
18 around the operations of ag on that property, what kind of
19 pesticide use is going to be used? what slope stability
20 issues are out there? are we going to specify specific crops
21 because they don't need pesticides? will we say it has to be
22 all organic?

23 You know, I happen to have been on the -- what is
24 the next one, the Wagner, the -- Item 13.b. I was on that
25 site, and it has, you know, ranching going on with cattle

1 there, and there were a couple of things that I didn't find
2 too terribly appealing about that operation concurrent with
3 residential. The property was fairly heavily mined with
4 these cow patties, happen to be the breeding season when I
5 was there, and I don't want my children watching the, you
6 know, the bovine porn that was going on while I was there.
7 It was very active, and kind of rowdy, so I think those kinds
8 of things need to be taken into consideration.

9 EXECUTIVE DIRECTOR DOUGLAS: We are not proposing
10 to regulate that.

11 CHAIR CALDWELL: No.

12 COMMISSIONER POTTER: I would hope we weren't.

13 Yes, but I do think it is an issue. I mean, who
14 is qualified to make that determination on our staff.

15 CHAIR CALDWELL: Commissioner Reilly.

16 EXECUTIVE DIRECTOR DOUGLAS: And, I might --

17 COMMISSIONER POTTER: He has a little spread.

18 CHIEF COUNSEL FAUST: Madam Chair.

19 CHAIR CALDWELL: Yes.

20 CHIEF COUNSEL FAUST: I feel the necessity, given
21 Commissioner Potter's last comment, to make a couple of
22 additional comments.

23 One is, this is not in a legal sense, whatever the
24 individual Commissioners may think about the decisions you
25 are facing, and future decisions, this is not legally a

1 precedential decision. You are not taking any action under
 2 the Administrative Procedure Act to designate this a
 3 precedent. It is not binding on any future Commission, and
 4 by the nature of it being a case-by-case determination, it
 5 must be based upon the particular facts of this particular
 6 development proposal on this particular parcel, which are
 7 necessarily different from the item which follows today, and
 8 from other hypothetical future items that are going to come.
 9 You must make these decisions based on the individual facts
 10 of the individual case.

11 The second thing I want to emphasize, in relation
 12 to Commissioner Potter's concerns about the particulars of
 13 agricultural viability, and agricultural operations, and how
 14 you make your decision, is that those are all factors that
 15 you need to take into account as you are wrestling with the
 16 particulars of the proposed development.

17 And, you are the decision makers, with whatever
 18 expertise you bring, ultimately, you need to decide, based
 19 upon substantial evidence in the record before you, what
 20 development you are going to allow on this particular
 21 proposal, in relation to what the applicant is asking.

22 And, you can ask staff, you can ask the applicant
 23 you can weigh the testimony, but ultimately, it is a
 24 substantial evidence determination to make a decision on t
 25 particular proposal.

1
2 COMMISSIONER POTTER: Then, I would just ask, why
3 is it the biggest decision before this Commission in decades?

4 EXECUTIVE DIRECTOR DOUGLAS: In terms of your
5 first question -- and I'll get to the second one in a moment
6 -- your staff does the job that it always does. We analyze,
7 and that is what our expertise is, is analytical work, that
8 we try to make the connection between the policy, and the
9 recommendation, applying the law to the facts.

10 So, we have talked to people who are expert at
11 agricultural uses. We have made the best judgment that we
12 can, and we do base the recommendation that we've made here
13 on that analysis, and that evidence that we have gathered.

14 Relative to the importance, and why this is so
15 important, and I agree it is a case-by-case decision, but
16 there is no question, when you make a decision, and the
17 protection of agricultural land in agricultural uses in the
18 coastal zone, is the issue that is on the table, that the
19 decision that you make will be used in the future, and held
20 up to you in the future for either justifying support, or
21 opposition to a project in the future.

22 It is the fact that we have decided that because
23 of the changed circumstances, and what we are seeing, in
24 terms of a trend in development, that we have brought this to
25 you with this kind of drawing the line, in terms of
protecting agricultural uses, through these various means,

1 that we are saying this is why it is so important.

2 So, in that sense, it is one of the most important
3 decisions that you have had before you to make.

4 COMMISSIONER POTTER: I would just say, when we
5 had a debate regarding views from the ocean as being views
6 that we should protect, what we did was go back and buried in
7 the findings on certain projects, were the fact that staff
8 had mentioned in the findings that the views from the ocean
9 were important, and that is how all of a sudden we had a
10 policy on views from the ocean being as something we need to
11 protect.

12 So, I am not compelled that the decisions that we
13 make here do not set precedent, and then ultimately become
14 policy.

15 CHAIR CALDWELL: Just to clarify, this land is
16 zoned planned agricultural district. Right now, they are not
17 seeking a rezoning. There is no question about what the
18 regulatory context is for this land. So, I just wanted to
19 make that clear.

20 Commissioner Reilly.

21 CHAIR REILLY: Thank you, Madam Chair.

22 In Sonoma County, where I come from, we have got
23 about one million acres total, and over 700,000 of those
24 acres are in active agriculture, timber, range land,
25 vineyards, row crops, what have you, other livestock

1 operations.

2 The entirety of the coastal agricultural lands are
3 in my district, along with the majority of the remaining
4 agricultural lands in Sonoma County, so this is an issue that
5 comes up pretty regularly in my life, in terms of how you
6 support ag and keep it viable.

7 I also have frequent conversations with Supervisor
8 Steve Kinsey, who is my counterpart in west Marin, and you
9 know, we discuss the recent action that they have taken to
10 establish a pro-active agricultural easement that requires
11 continued farming, and offsets the trend of the mansions
12 going on, basically, ag land, and then nothing being done
13 with that ag land afterwards, because there is no interest in
14 doing that. And, that really is an issue.

15 We are seeing, I think, more and more, two
16 different models of ownership of ag land on the coast. One,
17 is the model where farmers live on the land, and they are
18 able to make it, based on what they can grow there, with some
19 other help, and maybe a part-time job somewhere else for one
20 of the spouses, but, you know, one way or the other to be
21 able to make it.

22 The other model, I think, we are seeing more
23 frequently are people that are desirous of living in the
24 area, don't have a particular farming background, and the
25 challenge in that situation, to me, is when people like that

1 buy property -- you aren't going to be able to stop them from
2 buying property, because it is desirable -- how do you keep
3 that property in productive agriculture?

4 I think staff has done a couple of things here
5 that move us miles down the road towards accomplishing that,
6 and the first is adopting this proactive ag easement of
7 saying, if you don't want to farm it yourself, then you have
8 an obligation to get other people, or make it available for
9 other people to farm it, and keep it in productive
10 agriculture. That is a huge step forward for us, in terms of
11 dealing with this problem.

12 The other thing that I support is the concept of
13 creating this envelope, this 10,000-square foot envelope
14 which does two things. One, it clusters development on the
15 land for the farm house, or whatever residential development
16 is there, and everything else, in a way that is protective, I
17 think, of maintaining the maximum amount of farm land for
18 productive agriculture.

19 And, really, a combination of those two things, I
20 think, are things that we have not done before in this area,
21 and are major strides forward in terms of insuring the
22 viability of that. And, I think that as was mentioned to us
23 earlier, that the Commission taking those actions, in these
24 cases -- if we end up doing it in both of them -- is going to
25 send a message to market, in terms of what can or can't be

1 done, in these agricultural parcels out in this area.

2 Let me step back, for a second, and say in this
3 particular case, the real culprit here, and the thing that I
4 deal with in my district, and other people representing rural
5 areas deal with as well, is this whole crazy idea in Calif-
6 ornia about administrative certificates of compliance. You
7 know, the state legislature, and the state law under the
8 *Subdivision Map Act* allow people to come in with old deeds
9 that pre-date any land use planning, anything else, dating
10 back to 1893, if you please, and to establish legal parcels
11 that totally violate all of the general plans, LCP plans,
12 everything else that people have put into place to protect ag
13 land.

14 And, that is, in my area, we probably have 400 new
15 developments a year in the rural areas, and over 200 of them
16 are from administrative certificates of compliance, where
17 people have gone back and gotten these old maps and come in,
18 and parcelized some of their ag land, and create parcels that
19 then they have an entitlement on.

20 That is what happened in this case, this 18-acre
21 parcel was part of a much larger ranch that had only the one
22 development, entitlement, and when it got parceled off -- and
23 people have criticized the county for doing that, and we
24 fought it in court. We don't have a choice, under the law in
25 the *Subdivision Map Act* about doing that. We are required to

1 do it, even though it trumps our general plan.

2 And, I know the Commission has maintained the
3 position, staff has maintained the position, that those
4 should not be allowed, conditional certificates of
5 compliance, should not be allowed unless they meet all LCP
6 requirements. That has not been court tested. But, what has
7 been court tested is whether general plans can stand up to
8 these, and with general plans, the courts have ruled that
9 these certificates trump the general plan, in terms of land
10 use planning. So, I don't know what is going to happen when
11 we test that against LCPs, but I am not too hopeful about it.

12 So, that is really the problem we've got here. We
13 have got a parcel that was formerly part of a much larger ag
14 parcel that no longer is, and so the viability and the
15 ability to support a family off of it, all of those things
16 that go with the zoning for ag parcels, really has been
17 affected greatly by the fact that this has been broken off of
18 a much larger ranch area, and I think we have to take that
19 into account, as we look through this.

20 And, in terms of the house size issue, staff has
21 said a number of times now that this is a policy decision for
22 the Commission, and I guess part of my concern about that is
23 process as much as product, because to me, when we've looked
24 at major policy decisions there has been a venting process,
25 there has been the opportunity, either at the local level, or

1 more focused opportunity at our Commission level, to have a
2 broader discussion of those broad policy issues, rather than
3 just having it come up, as the applicant said, in the last
4 two-week period, you know, and be before the Commission.

5 I remember Polacek was before us within the past
6 six months. There was no mention of this issue, even though
7 staff says they have been talking about it, house size limits
8 was not part of the discussion we had the last time this
9 particular application was before us.

10 So, I don't know how long it has been in the mill,
11 and I also don't know why staff didn't consider, at least --
12 if it was a major concern -- going back to the county and
13 asking them to reenergize their process, and to pull this out
14 of the planning department, or to give it a higher priority,
15 and to approach the issue that way, rather than bringing it
16 to us as a single application issue, or a two-application
17 issue, to be able to make that determination.

18 You know, the history of this Commission's
19 permitting is that we haven't made house size determinations
20 on these ag properties. We don't have a basis for it. We
21 don't have a criteria for it. We have never done it before,
22 and I am not sure that we have a basis now.

23 The formula where the average becomes the maximum
24 doesn't work for me, particularly. The kind of notion that
25 we are beginning to see that one size fits all, regardless of

1 property size, I am not sure that is exactly where we want to
2 be with this, not differentiating between types of ag
3 properties, creates some heartburn for me. So, I am not
4 feeling prepared, frankly, on the house size limit to really
5 be able to come up with a number for this particular
6 application, or for staff, at this point.

7 I would really like to see us go back and formally
8 urge the county to bring that back through a local process,
9 have dialogue with them, participate in that, encourage them
10 to do that, assist them to do it in some ways, but I don't
11 feel prepared to take that issue on today.

12 I think the other things that we are doing will
13 significantly affect, significantly affect, both market and
14 some of the other concerns we've had about the impacts from
15 these large houses on ag properties.

16 I would like to thank staff for those things.
17 CHAIR CALDWELL: Commissioner Wan.

18 COMMISSIONER WAN: I'll just touch very briefly
19 the development envelope, and say that I believe that is
20 relatively simple one, in the sense that it is very clear
21 that a development envelope will at least limit the amount
22 of ag land that is actually converted, and the 10,000-squa
23 foot number isn't picked out of the air. It is something
24 that we do elsewhere, and if we are doing it for ESHA,
25 ought to be doing it for the protection of ag lands, a

1 conversions of ag lands. So, I strongly support that.
2

3 On the question of the house size, I agree there
4 is no magic number, and I am not sure what that limit ought
5 to be, but what I am concerned about is that failure to put
6 some kind of reducing the houses sizes here, and failure to
7 put some kind of limit on it, whether it is 2500-square feet
8 or not is going to, in affect, prejudice the local LCP
9 process, because by the time they get through that process,
10 if you have sufficient numbers of 4,000, 5,000, 6,000-square
11 foot homes, then you, effectively have set that as the basis
12 for what the house size and the house limit is going to be.

13 And, there is no question in my mind, after
14 listening to all of this discussion, that the larger the
15 house size is, the greater it is going to affect the value of
the property, and therefore the greater it is going to affect
the tax assessment, and what is going to result in the cost
of farming, and it will have an impact on farming.

I am prepared to support the 2500-square foot
house limit right now, unless somebody can come up with
something that they think is better, whether it 3,000 or
4,000. The reason I am concerned about going to something
more than 2500-square foot, is that at least staff has laid
out some reasoning behind that particular limit, and I don't
have any reasoning for going to something larger.

And, I do believe that setting some kind of limit

1 is very important. It sends an important message to the
2 county, if you really are concerned about this, you need to
3 get your process going. If you don't do this -- as the
4 gentleman who is a realtor and said he didn't think they
5 would ever bring it up again -- if you don't set some kind of
6 limit, you are basically telling them they don't ever have to
7 deal with this issue. And, as I said, if you set the limit
8 -- or if you deal with this particular one, and say that it
9 can be a lot larger, you are, basically, setting that as the
10 precedent.

11 And, I might add, that while yes, we have to look
12 at each case, individually, on a case-by-case basis -- and
13 that is something that you do here -- we also have to look at
14 cumulative impacts. And, the fact is that that is one of the
15 things that concerns me, and I think that is one of the
16 underlying concerns here is the cumulative impacts of these
17 kinds of development, and how they affect the viability of
18 agriculture on our coast.

19 CHAIR CALDWELL: Commissioner Iseman.

20 COMMISSIONER ISEMAN: I was trying to -- rather
21 identified with the Commissioner Reilly's comments. My
22 is one of growing up in farmland, and I go back and see
23 has happened to family farms in Nebraska, and agriculture
24 threatened all over this nation.

25 And, I would suggest that it isn't just the

1 that houses, big houses are desirable in this area, that is
2 going to challenge the viability of agriculture. It is the
3 people who make it in agriculture today inherited a farm, and
4 basically don't have any obligation to any debt, and they
5 enjoy living there, and they work their hearts out, and
6 sometimes they don't make it. So, by taking off, if we could
7 just erase all of the houses, it is not going to make
8 agriculture safe on the coast.

9 But, I think what we have done is something that,
10 in a way, sometimes we don't know when we have already won.
11 I think we have won a battle here, by this suggestion of the
12 envelope, which is quite remarkable, and I think I heard
13 someone say that the people are allowed to farm there at no
14 cost at all. Now, that is, to me, a remarkable thing, in
15 terms of agriculture. Then the capital investment may make
16 sense.

17 Someone talked about the Aspenization, and in my
18 town it is a gentrification, of a town of old hippies, and
19 now here we are listening to people in Aspen talk about
20 affordable housing for their lawyers, and that is true. We
21 are not alone in these problems, but I don't see the nexus on
22 limiting the house size, and solving the problem.

23 And, someone said, if you don't want weekend
24 residents, then build smaller houses. I think if you want
25 people to live there, you have to be able to accommodate the

1 family's needs.

2 And, there is a whole generation that have trouble
3 in living in houses that are bigger than anything I have ever
4 lived in, but that is if -- my feeling is, if we keep inside
5 of the envelope, and it is a stealth house, when the City of
6 Carmel came in and they talked about volumetrics, and
7 volumetrics means that you can create a house of the same
8 square footage, using very careful architectural design and
9 make it look smaller. So, numbers are not as important to me
10 as the percentage of coverage of the land, and the issue of
11 having the house disappear.

12 And, I don't think that we can affect agriculture
13 by limiting the house, square footage of a house.

14 CHAIR CALDWELL: Commissioner Potter.

15 COMMISSIONER POTTER: Well, I agree with
16 Commissioner Reilly and Commissioner Iseman. An average is
17 nothing more than an average. There is no real rationale for
18 it. It is just math.

19 You know, there is a lot of, in my mind,
20 biological freaks that are over 6-feet tall, fortunately,
21 there are some guys that are 5 and under, and that skews the
22 average, but somehow 5'8" seems to be the average. That
23 doesn't mean that being 5'6" is bad, and you are ineffective,
24 and you shouldn't exist. So, I am against averaging.

25 CHAIR CALDWELL: But, in your case --

1 COMMISSIONER POTTER: I don't like it at all.

2 But, there is no nexus between saying 2500-foot is
3 the size of a house that works for ag operations, and ag
4 preservation, and so I think that is a debate for another
5 day, with actual data that relates to ag viability, ag
6 operations, and what is the reason why 2500 feet is right for
7 that operation, and that preservation of what we believe to
8 be a valuable industry, and a valuable resource.

9 CHAIR CALDWELL: Other comments?

10 Commissioner Peters.

11 [MOTION]

12 COMMISSIONER PETERS: Just to move it along, I am
13 going to move that the Commission approve Coastal Development
14 Permit No. A-2-SMC-04-002 pursuant to the staff
15 recommendation, and staff recommends a "Yes" vote.

16 CHAIR CALDWELL: And, that is pursuant to the
17 staff recommendation in the addendum?

18 COMMISSIONER PETERS: Yes.

19 CHAIR CALDWELL: Okay, is there a "second"?

20 COMMISSIONER SHALLENBERGER: Second.

21 CHAIR CALDWELL: Okay, moved by Commissioner
22 Peters, seconded by Commissioner Shallenberger, to approve
23 this Coastal Development Permit pursuant --

24 COMMISSIONER PETERS: Speak to the motion?

25 CHAIR CALDWELL: -- to the staff recommendation.

1 Yes, Commissioner Peters.

2 COMMISSIONER PETERS: I think I agree with the
3 comments I have heard before.

4 I do believe that the appropriate way to deal with
5 this is through the building envelope, which is the way we
6 have done it in the past. I agree with that condition.

7 But, I would support an amending motion to delete
8 1.B..

9 COMMISSIONER SECORD: Madam Chair.

10 CHAIR CALDWELL: Yes, Commissioner Secord -- or
11 Commissioner Shallenberger, did you want to speak to the
12 motion?

13 COMMISSIONER SHALLENBERGER: No.

14 CHAIR CALDWELL: Okay.

15 Commissioner Secord.

16 [MOTION]

17 COMMISSIONER SECORD: I would like to offer up
18 that precise amending motion, the motion that Commissioner
19 Peters made, but removing from it B.1.b. which is that
20 section relative to house size, and the building -- potential
21 building area on page 5 of the staff report, not the
22 amendment -- or the addendum.

23 COMMISSIONER POTTER: That is 1.B. not 1.A.

24 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair, if I may
25 suggest --

1 COMMISSIONER SECORD: Is there a B.1.b. which is
2 related to house size?

3 COMMISSIONER POTTER: One, b.

4 EXECUTIVE DIRECTOR DOUGLAS: My suggestion would
5 be that you take them one at a time --

6 COMMISSIONER SECORD: All right, sir.

7 EXECUTIVE DIRECTOR DOUGLAS: -- and that would be
8 the house size. So your motion would eliminate the
9 restriction on the size of the house.

10 COMMISSIONER SECORD: If that is your suggestion,
11 I would, probably, would do well to follow it.

12 CHAIR CALDWELL: Yes, in fact, that was one of my
13 original suggestions, but no one seemed to want to follow
14 that one, so -- I have been keeping a chart, however, and I
15 do know that we have a clear consensus on the building
16 envelope, so I am heartened to see that.

17 Discussion on the house size, do you have a
18 "second" on that motion?

19 COMMISSIONER PETERS: Second.

20 CHAIR CALDWELL: Okay, moved by Commissioner
21 Secord, seconded by Commissioner Peters, to remove the
22 limitation on the house size, and that is contained in -- I
23 am looking at so many different documents -- 1.B.

24 DISTRICT DIRECTOR LESTER: It is Condition 1.B.

25 \\\

1 CHAIR CALDWELL: Yes.

2 COMMISSIONER SECORD: Well, B is a special
3 condition. And, then 1 is revised plans, and then there is
4 B, so I would say it is B.1.b.

5 CHAIR CALDWELL: It is B.1.b. exactly, Special
6 Condition 1.B.

7 Discussion on this -- let me offer my two cents, a
8 number of you have already spoken about the house size.

9 I think staff has made a very convincing argument,
10 that there clearly is some connection between house size and
11 assessment value, and assessment value is clearly implicated
12 as an important factor in dealing with ag lands. It is
13 mentioned in the LCP. It is mentioned in the Coastal Act.
14 So, I do see that there is a nexus here.

15 The question is what the appropriate house size
16 is, and as I consider staff's analysis, where, essentially,
17 they looked at, well, what is typical of the area right now,
18 because one can't do anything about assessments as they stand
19 today. The concern is about assessments increasing in the
20 future, and actually encouraging eradication of these lands
21 as being used as agricultural lands.

22 And, I am not sure that 2500 is the appropriate
23 number, either, and it is clear that nationwide there is a
24 trend towards slightly larger homes, and I think that every-
25 ///

1 one has seen that in their own jurisdiction.

2 So, when I look, I actually find these percentage
3 numbers on page 31 of the original staff report pretty
4 compelling, and I would have no problem imposing the 88
5 percent of residences limitation to 4,000-square feet, which
6 to me provides a great deal of room for a family of a number
7 of different sizes, to be accommodated.

8 ***

9 So, you know, I think that staff has done a very
10 thorough job here, and just imposing a building envelope of
11 10,000-square feet doesn't meet the concerns of the Coastal
12 Act and the Local Coastal Plan, that refers very explicitly
13 to increasing assessment costs, and refers also to the
14 necessary infrastructure to serve these ag lands, all of
15 which have an impact on the continued viability of
16 agriculture in these regions.

17 So, I actually would support a limitation of
18 4,000-square feet.

19 COMMISSIONER WAN: Am I correct, however, if the
20 motion passes, this motion does not have a replacement
21 number? It simply eliminates any size restriction on the
22 house.

23 CHIEF COUNSEL FAUST: It would be approved per the
24 applicant's submittal.

25 COMMISSIONER WAN: Right.

1 CHAIR CALDWELL: Any other discussion.

2 Commissioner Potter.

3 COMMISSIONER POTTER: I would just add that I,
4 again, I agree with Commissioner Reilly, that the placement
5 of an ag easement is good policy. I think that accomplishes
6 what we are trying to do in the world of ag preservation.

7 But, I would say that the maintenance of ag on
8 site, or ranching on site, is probably not a property added
9 value. It is probably a detriment, especially on the Waddell
10 site, based on what I saw there.

11 I think that we have to take in the fact that
12 there is a slight decrease in land value. I am not saying
13 that the house isn't worth a lot where it is built, because
14 of its beauty and its vistas, because it is designed in its
15 vistas, but I don't -- I am not overwhelmed by the fact that
16 because you have ag operations that that escalates as quickly
17 as if you had a site that was just dedicated open space, and
18 had flora and fauna abounding without the impacts of ag
19 operations.

20 CHAIR CALDWELL: Commissioner Shallenberger.

21 COMMISSIONER SHALLENBERGER: Yeah, I am not sure I
22 understand what was just said.

23 I mean, what we are trying to do is to maintain
24 the value of the land so that it is viable for the ag, and
25 not to drive it up.

1 COMMISSIONER POTTER: And, in clarification, the
2 cows passing by my bedroom window in the early morning hours,
3 doing whatever cows do, is probably not something that
4 everybody is attracted to.

5 The same thing can be said for having the farming
6 operations commencing at sunrise, and miscellaneous
7 cultivation issues going on, trucks coming and going, and the
8 presence of actually a working element next to your house.

9 That is what I have in Carmel Valley, which is a
10 relatively affluent residential district. I have some people
11 who bought houses right adjacent to ag fields. I have two
12 constituents on a regular basis, complaining about workers
13 showing up sunrise, and being there close to sunset to either
14 irrigate or apply some form of pesticide, and they are not
15 happy with that. So, that is, you know, that is a decrease
16 in your values, because of this semi-commercial operations
17 next to your residence.

18 CHAIR CALDWELL: Commissioner Shallenberger.

19 COMMISSIONER SHALLENBERGER: Yes, well, I think
20 the issue before us, on this particular project, is what can
21 we do to maintain -- to be sure that the property values are
22 consistent with viable agriculture.

23 And, so I actually had a procedural question. If
24 we were to vote on the motion before us now, there is no
25 option, is that right, to come back and put a limitation, but

1 a greater limitation, as you propose on the size of the
2 house?

3 COMMISSIONER POTTER: I think there is.

4 CHAIR CALDWELL: Oh, there is.

5 COMMISSIONER POTTER: I think it is just an
6 argument for another day.

7 CHAIR CALDWELL: No, no, no.

8 CHIEF COUNSEL FAUST: No, another --

9 COMMISSIONER POTTER: We can make another amending
10 motion, sure.

11 COMMISSIONER WAN: An amending motion.

12 CHIEF COUNSEL FAUST: This simply would eliminate
13 one of the sub-conditions. It does not prevent another
14 amending motion from occurring.

15 COMMISSIONER SHALLENBERGER: To add a sub-
16 condition back in? okay.

17 CHAIR CALDWELL: Right.

18 EXECUTIVE DIRECTOR DOUGLAS: With a different
19 square footage.

20 CHAIR CALDWELL: Right, any further?

21 Commissioner Wright.

22 COMMISSIONER WRIGHT: I just want to weigh in,
23 this being my first meeting, and kind of the new kid on the
24 block.

25 But, I would contend that the Commission is taking

1 some very significant steps, if we move forward with a
2 permanent ag easement. I think that that does a lot towards
3 accomplishing the goal.

4 And, as Commissioner Reilly said, to cluster
5 development, I think, does an excellent job.

6 I would contend that we are better served without
7 a size, an average size, or even a stated size on the house
8 limits. If you look at the design of the project that is
9 before us, compared to the property that is next door that he
10 showed in the view, I contend that we have a much better use,
11 and I don't know the size of the other piece of property, but
12 you have the profile of a house that is very respectful of
13 the land, and it also accommodates our interest in having
14 viable agriculture.

15 So, I think there is merit on not having a size
16 stated, but to deal with those on a case-by-case basis.

17 CHAIR CALDWELL: Any other discussion on this
18 motion?

19 [No Response]

20 Okay, we have a motion before us to remove Special
21 Condition 1.B. which imposes house size limitation of 2500-
22 square feet on the residence.

23 COMMISSIONER SECORD: And, I recommend a "Yes"
24 vote.

25 CHAIR CALDWELL: And, they are recommending a

1 "Yes" vote.

2 Can we have a roll call, please.

3 SECRETARY GOEHLER: Commissioner Iseman?

4 COMMISSIONER ISEMAN: Yes.

5 SECRETARY GOEHLER: Commissioner Haddad?

6 COMMISSIONER HADDAD: Yes.

7 SECRETARY GOEHLER: Commissioner Kruer?

8 Commissioner Wright?

9 COMMISSIONER WRIGHT: Yes.

10 SECRETARY GOEHLER: Commissioner Peters?

11 COMMISSIONER PETERS: Yes.

12 SECRETARY GOEHLER: Commissioner Potter?

13 COMMISSIONER POTTER: Aye.

14 SECRETARY GOEHLER: Commissioner Reilly?

15 CHAIR REILLY: Yes.

16 SECRETARY GOEHLER: Commissioner Secord?

17 COMMISSIONER SECORD: Yes.

18 SECRETARY GOEHLER: Commissioner Shallenberger?

19 COMMISSIONER SHALLENBERGER: No.

20 SECRETARY GOEHLER: Commissioner Wan?

21 COMMISSIONER WAN: No.

22 SECRETARY GOEHLER: Chairman Caldwell?

23 CHAIR CALDWELL: No.

24 SECRETARY GOEHLER: Seven, three.

25 CHAIR CALDWELL: Okay, the condition is removed.

1 Is there another amending --

2 [MOTION]

3 COMMISSIONER SECORD: Madam Chair, I would like to
4 add another amending motion, and then I would like to speak
5 to it, if I may.

6 I move that the residential development envelope
7 of 10,000-square feet, referred to in B.1.a. be placed on the
8 potential building area depicted on Exhibit 10. This would
9 be in the initial staff report, page 5, and then if I get a
10 "second" I would like to discuss it.

11 COMMISSIONER WRIGHT: Second.

12 COMMISSIONER SECORD: Madam Chair.

13 CHAIR CALDWELL: Yeah, you need to explain exactly
14 what your --

15 COMMISSIONER SECORD: What I really wanted to do
16 was to say something like this, that the residential building
17 envelope of 10,000 feet, in my judgment, does the effected
18 thing, which is to limit the house area, and the applicant
19 has gone way beyond what they had to do, with respect to some
20 of the studies they have done, and the requirement to farm
21 the property, and their willingness to cooperate along those
22 lines.

23 Therefore, I would like to give back to them their
24 ability to put the building envelope where they choose to do
25 that, so their creative architect can cause their dream to be

1 realized.

2 CHAIR CALDWELL: So --

3 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair.

4 CHAIR CALDWELL: Yes.

5 EXECUTIVE DIRECTOR DOUGLAS: I believe what
6 Commissioner Secord is seeking to do is to eliminate the
7 condition that would require relocation --

8 CHAIR CALDWELL: That is right.

9 COMMISSIONER SECORD: Yes, sir.

10 EXECUTIVE DIRECTOR DOUGLAS: -- of the footprint.

11 COMMISSIONER SECORD: Yes, sir, that is correct.

12 EXECUTIVE DIRECTOR DOUGLAS: So, right, so then --

13 CHAIR CALDWELL: The relocation referred to in
14 Special Condition 1.A. It is also -- there are references to
15 Exhibit 2 and other special conditions.

16 EXECUTIVE DIRECTOR DOUGLAS: Right, and we under-
17 stand the motion, and if it passes --

18 CHAIR CALDWELL: You would have to make the
19 appropriate --

20 EXECUTIVE DIRECTOR DOUGLAS: -- and we make the --

21 CHAIR CALDWELL: -- changes.

22 EXECUTIVE DIRECTOR DOUGLAS: -- adjustments
23 accordingly.

24 CHAIR CALDWELL: Okay.

25 EXECUTIVE DIRECTOR DOUGLAS: So, this would be

1 relative to the relocation of the envelope, whatever that
2 ends up being, eliminating the requirement to relocate it.

3 COMMISSIONER SECORD: That's right.

4 CHIEF COUNSEL FAUST: Again, it would be as per
5 the applicant's submittal.

6 CHAIR CALDWELL: Exactly.

7 EXECUTIVE DIRECTOR DOUGLAS: That's right.

8 CHAIR CALDWELL: So, we have a motion on the table
9 from Commissioner Secord, seconded --

10 CHAIR REILLY: Madam Chair, I would just say the
11 applicant's submittal, if the applicant fits within a 10,000-
12 square foot envelope.

13 COMMISSIONER SECORD: Right.

14 EXECUTIVE DIRECTOR DOUGLAS: Correct, that is
15 correct.

16 CHAIR CALDWELL: Seconded by Commissioner Shall-
17 enberger.

18 COMMISSIONER WRIGHT: I did.

19 CHAIR CALDWELL: Oh, Wright, thank you. I
20 wondered about that.

21 COMMISSIONER WRIGHT: A bunch of these hands.

22 CHAIR CALDWELL: To eliminate the requirement for
23 the relocation of the building envelope, and to allow for
24 location of the building envelope as submitted by the
25 applicant. They are seeking a "Yes" vote.

1 Any further discussion?

2 Commission Wan.

3 COMMISSIONER WAN: Yeah, here is my concern.

4 I am looking at this. I can't, obviously, see the
5 complete applicant's envelope on there because it is covered
6 up, and I don't know if you have anything that shows the
7 applicant's envelope and location, versus where you have the
8 location?

9 COMMISSIONER POTTER: The other one -- there it
10 is.

11 COMMISSIONER WAN: Yeah, that is -- it is pretty
12 good.

13 Here is my concern, the biggest concern here, we
14 are dealing with the conversion of ag lands, and it looks to
15 me like the applicant's location has a much longer driveway,
16 and it is not clustered near the road; whereas staff's
17 proposal is down, much closer to the roadway.

18 And, I think that is something that is important,
19 one, in terms of the distance of the road, okay, and two, in
20 terms of the whole concept of clustering. You need to be
21 near the infrastructure, which in this case is the road,
22 existing road over there, and I don't know why you would want
23 to put that unit further from the road, so I cannot support
24 it for that reason.

25 CHAIR CALDWELL: Commissioner Iseman.

1 COMMISSIONER ISEMAN: I think this design wasn't
2 just a question of esthetics, but there are real
3 environmental benefits from the home as it is currently
4 designed, and its location was carefully selected by the
5 architect for the protection of the wind, and the sun, and so
6 forth, so I would hesitate to try to do something as
7 significant as locating a house on a huge piece of land when
8 this has been studied so long by so many people, so I am not
9 supportive of the move.

10 CHAIR CALDWELL: Commissioner Shallenberger.

11 COMMISSIONER SHALLENBERGER: Yeah, I just have to
12 say that it is not, in my mind, a defensible reason to have
13 to go back to what the project applicant wants, just because
14 they have given a lot, and were are getting a lot.

15 I mean, we need to base our decisions in the
16 *Coastal Act* and protecting coastal resources, and in this
17 case, protecting agriculture as much as we can. So, I think
18 that the staff addendum does lay out the reasons why it
19 should be relocated. I lays them out based in the *Coastal*
20 *Act* and not in some arbitrary -- we each come half way to
21 reach a compromise here.

22 So, I think, unless somebody has an argument why
23 the *Coastal Act* is -- and the policies in that -- are more
24 closely fulfilled by keeping it in its current place, I think
25 we have no choice, based on the *Coastal Act*, then to accept

1 the staff's recommendation, as outlined in the addendum.

2 Thank you.

3 CHAIR CALDWELL: Commissioner Wright.

4 COMMISSIONER WRIGHT: It is my understanding that
5 in addition to the environmental benefits of the house being
6 backed up to the wind row, the eucalyptus grove, if they
7 place the house in the lowest grade of soil, and so in fact
8 it actually does, in my opinion, by keeping it where the
9 applicant submitted protects the higher grade of ag land.

10 If we move it where staff is recommending, it is
11 into a higher grade of soils.

12 CHAIR CALDWELL: Commissioner Wan has a question
13 for staff regarding that comment.

14 COMMISSIONER WAN: Staff, do you want to address
15 that issue?

16 DISTRICT DIRECTOR LESTER: Yes, the applicant did
17 submit a report that suggested the soils in their location
18 were the lower quality soils. We didn't find that report
19 compelling, in terms of the overall valuation of soils on the
20 property, concluding that the entire parcel was prime, and
21 that there wasn't a significant difference there to justify
22 one location over the other, but rather, in order to minimize
23 encroachment, as required by the LCP, we thought we ought to
24 move as close to the road as possible.

25 COMMISSIONER WAN: So, you analysis, and I would

1 like to remind everybody that our staff does do a lot a
2 analysis, that your analysis, actually, indicates that that
3 is not the case.

4 CHAIR CALDWELL: Commissioner Secord.

5 COMMISSIONER SECORD: Well, the Commission, of
6 course, has the opportunity, if they feel that way, to oppose
7 the motion.

8 The reason for making it was basically because the
9 location of the home in the applicant's preferred location
10 made more sense from an environmental perspective, with
11 respect to the wind, and the windbreak that is there, and it,
12 marginally, has got a longer driveway, or some such thing,
13 but I would respectfully request a "Yes" vote on the
14 amendment -- on the motion.

15 CHAIR CALDWELL: Any further discussion?

16 COMMISSIONER POTTER: Yes, I asked a moment ago to
17 be heard.

18 CHAIR CALDWELL: I thought you were just making
19 eyes at me.

20 COMMISSIONER POTTER: Yes, we'll do that later
21 tonight.

22 I think one of the other issues was to try to keep
23 the development a significant distance away from any wetland
24 impacts in that area, and that was combined with the soils,
25 which was already mentioned. One of the reasons for the

1 selection was to try to keep the development out of the
2 general area of the wetland.

3 CHAIR CALDWELL: Okay, we have an amending motion
4 to allow for the location of the building envelope as
5 submitted by the applicant. They are seeking a "Yes" vote.

6 May we have a roll call, please.

7 SECRETARY GOEHLER: Commissioner Peters?

8 COMMISSIONER PETERS: No.

9 SECRETARY GOEHLER: Commissioner Potter?

10 COMMISSIONER POTTER: Aye.

11 SECRETARY GOEHLER: Commissioner Reilly?

12 CHAIR REILLY: Yes.

13 SECRETARY GOEHLER: Commissioner Secord?

14 COMMISSIONER SECORD: Yes.

15 SECRETARY GOEHLER: Commissioner Shallenberger?

16 COMMISSIONER SHALLENBERGER: No.

17 SECRETARY GOEHLER: Commissioner Wan?

18 COMMISSIONER WAN: No.

19 SECRETARY GOEHLER: Commissioner Iseman?

20 COMMISSIONER ISEMAN: Yes.

21 SECRETARY GOEHLER: Commissioner Haddad?

22 COMMISSIONER HADDAD: Yes.

23 SECRETARY GOEHLER: Commissioner Wright?

24 COMMISSIONER WRIGHT: Yes.

25 SECRETARY GOEHLER: Chairman Caldwell?

1 CHAIR CALDWELL: No.

2 SECRETARY GOEHLER: Six, four.

3 CHAIR CALDWELL: The next issue, I think we --

4 COMMISSIONER SECORD: Then we need to go back to
5 the main motion.

6 CHAIR CALDWELL: -- we can go to the main motion
7 now, yes.

8 COMMISSIONER SECORD: We have disposed of all of
9 the little appurtenances.

10 CHAIR CALDWELL: Yes, and I suppose it is not even
11 worth while to offer an alternative square footage here.

12 So, let's go to the main motion --

13 Would you like to make a motion?

14 [MOTION]

15 COMMISSIONER WAN: All right, I will make that
16 motion. I move that the Commission impose a 4,000-square --
17 that is what you wanted?

18 CHAIR CALDWELL: Um-huh.

19 COMMISSIONER WAN: A 4,000-square foot size
20 limitation on the development.

21 COMMISSIONER SHALLENBERGER: Second.

22 CHAIR CALDWELL: Any discussion of this motion.

23 COMMISSIONER POTTER: I would just like to ask for
24 the rationale for why 4,000 works better, or it works at all,
25 or even addresses the issue of, you know, ag preservation, ag

1 operations and ag viability.

2 CHAIR CALDWELL: Well, if you had been listening
3 earlier when I gave that explanation, then you would know.

4 COMMISSIONER POTTER: Did you make the motion,
5 Madam Chair.

6 CHAIR CALDWELL: I did not --

7 COMMISSIONER POTTER: Then I would ask the maker
8 --

9 CHAIR CALDWELL: -- but, I made a heartfelt --

10 COMMISSIONER WAN: I will respond, and basically
11 say that I did listen to what the Chair said, and that I do
12 believe that there is a nexus, and the nexus here is the
13 impact of the assessed valuation upon -- the size of the home
14 on the assessed valuation, and therefore on the assessments
15 that will be reflected and the costs to ag lands.

16 COMMISSIONER POTTER: And, that works better than
17 3500 or 4200.

18 CHAIR REILLY: Madam Chair.

19 CHAIR CALDWELL: Yes, Commissioner Reilly.

20 CHAIR REILLY: Just to ask what is included in the
21 4,000 and what is excluded?

22 CHAIR CALDWELL: Well, that is an excellent
23 question. I would include everything in the 4,000 that staff
24 included in the 2500.

25 COMMISSIONER WAN: That is what I was about to

1 say.

2 DISTRICT DIRECTOR LESTER: Madam Chair.

3 CHAIR REILLY: The heated area of the living
4 space? is that what we are talking about?

5 CHAIR CALDWELL: Um-huh.

6 COMMISSIONER POTTER: Excluding the driveway?

7 DISTRICT DIRECTOR LESTER: That is correct. That
8 would be --

9 COMMISSIONER WAN: Excluding the driveway.

10 DISTRICT DIRECTOR LESTER: -- habitable internal
11 floor area.

12 COMMISSIONER WAN: It excludes the driveway,
13 doesn't it, generally speaking?

14 COMMISSIONER REILLY: It wouldn't include garages,
15 garden sheds, any of those things.

16 DISTRICT DIRECTOR LESTER: No.

17 CHAIR REILLY: Just wanted to be clear on that.

18 CHAIR CALDWELL: Thank you, and I think the one
19 thing that Commissioner Wan did not repeat --

20 CHAIR REILLY: How about an attached greenhouse?

21 EXECUTIVE DIRECTOR DOUGLAS: As long as it is
22 within the building envelope, as long as it is within the
23 envelope.

24 The limitation on square footage, as I understand
25 it in the motion, would be to living space.

1 CHAIR CALDWELL: Yes.

2 COMMISSIONER WAN: Living space, that is correct.

3 EXECUTIVE DIRECTOR DOUGLAS: Living space, right.

4 COMMISSIONER WAN: Okay.

5 COMMISSIONER POTTER: So, this does constitute a
6 redesign, to knock off 974-square feet of the residence, I
7 believe, because that is what the heated area is.

8 CHAIR CALDWELL: Yeah, something, roughly the size
9 of a two-car garage.

10 That is the motion --

11 COMMISSIONER POTTER: A two-car garage is 400-
12 square feet.

13 CHAIR CALDWELL: Well, not if it is a Hummer.
14 Commissioner Baird.

15 COMMISSIONER POTTER: Which you own.

16 CHAIR CALDWELL: No.

17 COMMISSIONER BAIRD: I do want to go back to what
18 I started out this discussion on, and so here if you go
19 4,000-square feet, and if this, indeed, is a case-by-case
20 analysis, I just hope that in consideration of this -- of
21 course, I am a no-voting member -- but, I mean, what does
22 that mean in terms of your case-by-case analysis for the next
23 item up here, or future ones, because I am still a bit
24 unclear up here as to what this is really based on.

25 CHAIR CALDWELL: Well, I am basing it on staff's

1 analysis, and their very logical suggestion that we look to
2 the typical house size in San Mateo County in the coastal
3 region, and use that as our guide.

4 Because, the primary concern here is -- well, one
5 of the major concerns is the ramping up of the land values
6 that, essentially, pave the way for the non-viability of
7 agricultural use in this area, and the Local Coastal Plan,
8 and the Coastal Act, both refer to assessed values as being a
9 critical component of that, decreasing the viability of ag
10 lands.

11 So, that is what I am basing it on, and when I
12 look at the numbers, 88 percent of the residences in the area
13 are 4,000-square feet, or less, and I think that is a typical
14 house size.

15 CHAIR REILLY: Madam Chair.

16 CHAIR CALDWELL: Yes.

17 CHAIR REILLY: The difficulty I am having with
18 this is if we are really going case-by-case, and I have to
19 base the square footage limit on the economic viability of 18
20 acres of ag land, I am not seeing the connection.

21 CHAIR CALDWELL: I can understand that, and I
22 respect that.

23 Commissioner Secord.

24 COMMISSIONER SECORD: The problem that that theory
25 has, inherently, in it is that the building costs are going

1 to be in the vicinity of \$400 a square foot, times 4,000-
2 square feet, say, as \$1.6 million, approximately, just for
3 the construction of the house, not the appurtenances, and
4 therefore the assessment is going to go up substantially
5 whether that house is 4,000-square feet, or 3,600, or some
6 other thing.

7 The assessment of that -- the property value of
8 that property, with that house on it, is going to go up, and
9 there is nothing that this Commission can do about it.

10 The coastal staff is trying, it seems to me, to
11 reverse inflation one property at a time, and it is a noble
12 effort, but I don't think it is going to work.

13 CHAIR CALDWELL: Commissioner Wan.

14 COMMISSIONER WAN: Just a comment.

15 You just made the argument as to why I voted for
16 the 2500-square foot limit, but.

17 COMMISSIONER POTTER: Call for the question.

18 CHAIR CALDWELL: I am not sure any further
19 discussion will really help us here, so let me call for the
20 question.

21 Can we have a roll call vote on this. The motion
22 is to limit the square footage of the habitable heated areas
23 to 4,000-square feet, and the mover and seconder are seeking
24 a "Yes" vote.

25 SECRETARY GOEHLER: Commissioner Potter?

1 COMMISSIONER POTTER: Yes.
2 SECRETARY GOEHLER: Commissioner Reilly?
3 CHAIR REILLY: No.
4 SECRETARY GOEHLER: Commissioner Secord?
5 COMMISSIONER SECORD: No.
6 SECRETARY GOEHLER: Commissioner Shallenberger?
7 COMMISSIONER SHALLENBERGER: Yes.
8 COMMISSIONER POTTER: I think -- I wanted a "No"
9 also, sorry.
10 CHAIR CALDWELL: I thought that was a moment of
11 chivalry.
12 COMMISSIONER POTTER: No, it is just the matter of
13 the hour.
14 SECRETARY GOEHLER: Commissioner Shallenberger.
15 COMMISSIONER SHALLENBERGER: No.
16 COMMISSIONER WAN: No, you had better --
17 COMMISSIONER SHALLENBERGER: I mean, yes.
18 SECRETARY GOEHLER: Commissioner Wan?
19 COMMISSIONER WAN: Yes.
20 SECRETARY GOEHLER: Commissioner Iseman?
21 COMMISSIONER POTTER: I am not even a blonde.
22 EXECUTIVE DIRECTOR DOUGLAS: That was sweet.
23 CHIEF COUNSEL FAUST: Madam Chair, may I suggest
24 that you begin the roll call over.
25 CHAIR CALDWELL: I think so.

1 Let's start from the top, if you don't mind, Ms.
2 Goehler.

3 COMMISSIONER WAN: The maker of the motion is
4 asking for a "Yes" vote, which would limit the house size to
5 4,000-square feet, so to clarify what it is you are voting
6 on.

7 CHAIR CALDWELL: I thought I just said that, thank
8 you.

9 SECRETARY GOEHLER: Commissioner Potter?

10 COMMISSIONER POTTER: No.

11 SECRETARY GOEHLER: Commissioner Reilly?

12 CHAIR REILLY: No.

13 SECRETARY GOEHLER: Commissioner Secord?

14 COMMISSIONER SECORD: No.

15 SECRETARY GOEHLER: Commissioner Shallenberger?

16 COMMISSIONER SHALLENBERGER: Yes.

17 SECRETARY GOEHLER: Commissioner Wan?

18 COMMISSIONER WAN: Yes.

19 SECRETARY GOEHLER: Commissioner Iseman?

20 COMMISSIONER ISEMAN: No.

21 SECRETARY GOEHLER: Commissioner Haddad?

22 COMMISSIONER HADDAD: No.

23 SECRETARY GOEHLER: Commissioner Wright?

24 COMMISSIONER WRIGHT: No.

25 SECRETARY GOEHLER: Commissioner Peters?

1 COMMISSIONER PETERS: No.

2 SECRETARY GOEHLER: Chairman Caldwell?

3 CHAIR CALDWELL: Yes.

4 SECRETARY GOEHLER: Three, seven.

5 CHAIR CALDWELL: Okay, batting a thousand here.

6 All right, I think we are ready for the main

7 motion.

8 COMMISSIONER WAN: Yes.

9 CHAIR CALDWELL: Okay, so as the main motion
10 stands, with the amendments, it is to approve the Coastal
11 Development Permit with no limitation on the house size, but
12 rather to accept the house size as submitted by the
13 applicant.

14 Further to accept the location of the residential
15 structure as proposed by the applicant, and in all other
16 respects to accept the staff recommendations.

17 CHAIR REILLY: Madam Chair.

18 CHAIR CALDWELL: Yes.

19 CHAIR REILLY: In terms of the house size proposed
20 by the applicant, my understanding is they were proposing a
21 development of some 11,000-plus square feet, and we have
22 limited that to 10,000-square foot, I believe.

23 CHAIR CALDWELL: The building envelope is limited
24 to 10,000-square feet --

25 CHAIR REILLY: Yes.

1 CHAIR CALDWELL: -- yes, that is part of the staff
2 recommendation.

3 Any further clarification on the motion?

4 [No Response]

5 All right, and the mover and seconder are seeking
6 a "Yes" vote.

7 Can you call the roll, please.

8 SECRETARY GOEHLER: Commissioner Reilly?

9 CHAIR REILLY: Yes.

10 SECRETARY GOEHLER: Commissioner Secord?

11 COMMISSIONER SECORD: Yes.

12 SECRETARY GOEHLER: Commissioner Shallenberger?

13 COMMISSIONER SHALLENBERGER: Yes.

14 SECRETARY GOEHLER: Commissioner Wan?

15 COMMISSIONER WAN: No.

16 SECRETARY GOEHLER: Commissioner Iseman?

17 COMMISSIONER ISEMAN: Yes.

18 SECRETARY GOEHLER: Commissioner Haddad?

19 COMMISSIONER HADDAD: Yes.

20 SECRETARY GOEHLER: Commissioner Wright?

21 COMMISSIONER WRIGHT: Yes.

22 SECRETARY GOEHLER: Commissioner Peters?

23 COMMISSIONER PETERS: Yes.

24 SECRETARY GOEHLER: Commissioner Potter?

25 COMMISSIONER POTTER: Aye.

1 SECRETARY GOEHLER: Chairman Caldwell?

2 CHAIR CALDWELL: No.

3 SECRETARY GOEHLER: Eight, two.

4 CHAIR CALDWELL: Okay.

5 [Housekeeping Item Taken Up]

6 CHAIR CALDWELL: So, the action of the Commission
7 was to approve this Coastal Development Permit, just to make
8 it clear --

9 EXECUTIVE DIRECTOR DOUGLAS: Right.

10 CHAIR CALDWELL: -- with the amendments that were
11 made to the primary motion.

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14 [Whereupon the hearing concluded at 5:35 p.m.]

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