

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION
455 Market Street, Suite 300
San Francisco, CA 94105
ATTN: Legal Division

STATE OF CALIFORNIA OFFICIAL BUSINESS
**Document entitled to free recordation
Pursuant to Government Code §27383**

CDP: CDP A-2-SMC-99-066 (Lee & Moser)
[Instrument # 2002-069771]
APNs: 089-230-220

CERTIFICATE OF ACCEPTANCE
IRREVOCABLE OFFER TO DEDICATE OPEN SPACE EASEMENT
AND DECLARATION OF RESTRICTIONS

This is to certify that the COUNTY OF SAN MATEO, a political subdivision of the State of California, hereby accepts the “Irrevocable Offer to Dedicate Opens Space Easement and Declaration of Restrictions” executed by DAVID LEE and CHERYL L. MOSER, and signed by David Lee, on March 28th, 2002 and recorded on April 10, 2002 as Instrument Number 2002-069771 of the Official Records in the Office of the Recorder of San Mateo County, attached hereto as Exhibit A and incorporated herein by reference, on the date hereof, pursuant to authority conferred by resolution of the San Mateo County Board of Supervisors adopted on March 28, 2023, and Grantee consents to recordation hereof by its duly authorized officer.

Dated: _____

SAN MATEO COUNTY

By: _____

Supervisor Dave Pine,
President of the San Mateo County
Board of Supervisors

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION
OF ACCEPTANCE OF
CERTIFICATE OF ACCEPTANCE
IRREVOCABLE OFFER TO DEDICATE OPEN SPACE EASEMENT
AND DECLARATION OF RESTRICTIONS

This is to acknowledge that the COUNTY OF SAN MATEO, a political subdivision of the State of California (“Grantee”), is acceptable to the Executive Director of the California Coastal Commission to be Grantee under the “Irrevocable Offer to Dedicate Open Space Easement and Declaration of Restrictions” executed by DAVID LEE and CHERYL L. MOSER, and signed by David Lee, on March 28th, 2002, and recorded on April 10, 2002 as Instrument Number 2002-069771 of the Official Records in the Office of the Recorder of San Mateo County.

Dated: _____

CALIFORNIA COASTAL COMMISSION

Louise Warren, Chief Counsel

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

1 RECORDING REQUESTED BY:

2 WHEN RECORDED MAIL TO:
3 California Coastal Commission
4 45 Fremont St., Suite 2000
5 San Francisco, CA 94105-2219
6 Attn: Legal Division



7 IRREVOCABLE OFFER TO DEDICATE OPEN SPACE EASEMENT

8 AND

9 DECLARATION OF RESTRICTIONS

10 THIS IRREVOCABLE OFFER TO DEDICATE OPEN SPACE EASEMENT AND

11 DECLARATION OF RESTRICTIONS (hereinafter referred to as the "Offer") is made

12 this 28th day of March, 2002, by DAVID LEE and CHERYL L. MOSER,
13 (hereinafter referred to as the "Grantor").

14 I. WHEREAS, Grantor is the legal owner of a fee interest of certain real property
15 located in the County of San Mateo, State of California, legally described as set forth in attached
16 EXHIBIT A hereby incorporated by reference (hereinafter referred to as the "Property"); and

17 II. WHEREAS, all of the Property is located within the coastal zone as defined in §
18 30103 of the California Public Resources Code (hereinafter referred to as the "California Coastal
19 Act of 1976"); and

20 III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the
21 "Act") creates the California Coastal Commission (hereinafter referred to as the "Commission")
22 and requires that any coastal development permit approved by the Commission must be
23 consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public
24 Resources Code; and
25
26
27
28

Handwritten initials/signature

1 IV. WHEREAS, pursuant to the Act, Grantor applied to the Commission for a permit
2 to undertake development as defined in the Act on the Property; and

3 V. WHEREAS, on August 9, 2001, the Commission acting on behalf of the State of
4 California, and pursuant to the Act, granted coastal development permit number A-2-SMC-99-
5 066, (hereinafter referred to as the "Permit") in accordance with the provisions of the Notice of
6 Intent to Issue Permit dated August 21, 2001, attached hereto as EXHIBIT B; and Staff
7 Recommendation and Findings, attached hereto as EXHIBIT B-1, both hereby incorporated by
8 reference, subject to the following condition (hereinafter referred to as the "Condition"):
9

10 **6. Conservation Easement**

11 **A.** No development, as defined in San Mateo County LCP Policy 1.2, or grazing, diversion or
12 impoundment for irrigation or other agricultural activities shall occur in the sag pond or the
13 surrounding area within 300 feet of the upland limit of riparian vegetation associated with the
14 sag pond as generally depicted in Figure 29 except for:

15 (1) Removal of vegetation for fire safety as required in writing by the California Department
16 of Forestry and Fire Protection or removal of invasive non-native plant species included on
17 the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.

18 (2) Habitat management activities in accordance with an approved Habitat Conservation
19 Plan.

20 **B. *Prior to issuance of the coastal development permit,*** the applicant shall execute and record a
21 document, in a form and content acceptable to the Executive Director, irrevocably offering to
22 dedicate to a public agency or private association approved by the Executive Director an
23 open space and conservation easement for the purpose of habitat conservation. Such
24 easement shall include the sag pond and all areas within 300 feet of the upland limit of
25 riparian vegetation associated with the sag pond, as generally depicted in Figure 18. The
26 recorded document shall include legal descriptions of both the applicant's entire parcel and
27 the easement area. The recorded document shall also reflect that development in the
28 easement area is restricted as set forth in this permit condition.

C. The offer shall be recorded free of prior liens and encumbrances that 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.

VI. WHEREAS, the Commission has placed the Condition on the Permit 1) to
preserve the open space and resource values present on the property and so as to prevent the



1 adverse direct and cumulative effects on coastal resources which could occur if the Property
2 were not restricted in accordance therewith and 2) because in the absence of the protections
3 provided by the Condition the finding required by Public Resources Code § 30604(a) that the
4 proposed development is in conformity with the provisions of Chapter 3 of the Act could not be
5 made; and

6
7 VII. WHEREAS, Grantor has elected to comply with the Condition and execute this
8 Offer so as to enable Grantor to undertake the development authorized by the Permit.

9 NOW AND THEREFORE, in consideration of the granting of the Permit to the Grantor
10 by the Commission, the Grantor hereby irrevocably offers to dedicate to the People of the State
11 of California, an easement in gross and in perpetuity over a portion of the Property to be
12 dedicated as follows:

13
14 1. DESCRIPTION. The easement offered hereby affects that portion of the Property
15 including the sag pond and all areas within 300 feet of the upland limit of riparian vegetation
16 associated with the sag pond, and as specifically described in EXHIBIT C, attached hereto and
17 incorporated herein by reference (hereinafter referenced as the "Protected Land").

18
19 2. PURPOSE. The easement is for the purpose of preserving the light, air, view and
20 scenic qualities over and upon the Protected Land.

21 3. DURATION, ACCEPTANCE AND TRANSFERABILITY. This irrevocable
22 offer of dedication shall be binding upon the owner and the heirs, assigns, or successors in
23 interest to the Property described above for a period of 21 years. This Offer may be accepted by
24 any agency of the State of California, political subdivision, or a private association acceptable to
25 the Executive Director of the Commission (hereinafter referred to as the "Grantee"). Such
26 acceptance shall be effectuated by recordation by the Grantee of an acceptance of this Offer in
27 the form attached hereto as EXHIBIT E. Upon such recordation of acceptance, this Offer and
28



1 terms, conditions, and restrictions shall have the effect of a grant of open space and scenic
2 easement in gross and perpetuity for light, air, view, preservation of scenic qualities over the
3 Protected Land that shall run with the land and be binding on the heirs, assigns, and successors
4 of the Grantor. After acceptance, this easement may be transferred to, and held by, any entity
5 which qualifies as a Grantee under the criteria hereinabove stated. Acceptance of the Offer is
6 subject to a covenant which runs with the land, providing that the Grantee may not abandon the
7 easement until such time as Grantee effectively transfers said easement to an entity which
8 qualifies as a Grantee under the criteria hereinabove stated.
9

10 4. USE OF PROPERTY. Upon recordation of this Offer and thereafter in perpetuity
11 the use of the Protected Land shall be limited to natural open space for habitat protection, private
12 recreation, and resource conservation uses. No development as defined in San Mateo County
13 LCP Policy 1.2, attached hereto as EXHIBIT D and incorporated herein by reference, including
14 but not limited to removal of trees and other major or native vegetation, grading, paving,
15 installation of structures such as signs, buildings, etc., or grazing, diversion or impoundment for
16 irrigation or other agricultural activities shall occur or be allowed on the Protected Land with the
17 exception of the following subject to applicable governmental regulatory requirements;
18

19 (a) removal of vegetation for fire safety as required in writing by the California
20 Department of Forestry and Fire Protection;

21 (b) removal of invasive non-native plant species included on the most recent
22 Exotic Pest Plant list prepared by the California Exotic Pest Plan Council; and
23

24 (c) habitat management activities in accordance with an approved Habitat
25 Conservation Plan.
26

27 5. RIGHT OF ENTRY. The Commission, any Grantee accepting this offer, or their
28 respective agents may enter onto the Property at times reasonably acceptable to the Grantor to



ascertain whether the use restrictions set forth above are being observed.

6. BENEFIT AND BURDEN. This Offer shall run with and burden the Property and all obligation, terms, conditions, and restrictions, hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and Grantee, whether voluntary or involuntary.

7. REMEDIES. Any act, conveyance, contract, or authorization by the Grantor whether written or oral which uses or would cause to be used or would permit use of the protected land contrary to the terms of this offer will be deemed a violation and a breach hereof. The Grantor, any Grantee accepting this Offer and any offeree of this Offer may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of the Offer and easement and their respective interest in the property. In the event of a breach, any forbearance on the part of any such party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

8. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessments levied or assessed against the Property. It is intended that this irrevocable offer and the use restrictions contained herein shall constitute enforceable restrictions within the meaning of a) Article XIII, § 8 of the California Constitution; and b) § 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, the Offer, easement and restrictions shall be deemed to constitute a servitude upon and burden to the Property within the meaning of § 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

9. MAINTENANCE. The Grantee shall not be obligated to maintain, improve, or otherwise expend any funds in connection with the property or any interest or easement created



1 by this Offer. All costs and expenses for such maintenance, improvement, use or possession,
2 except for costs incurred by Grantee for monitoring compliance with the terms of this easement,
3 shall be borne by the Grantor.

4 10. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted
5 upon the express condition that the Grantee, its agencies, departments, officers, agents, and
6 employees are to be free from all liability and claim for damages by reason of any injury to any
7 person or persons, including Grantor, or property of any kind whatsoever and to whomsoever
8 belonging, including Grantor, from any cause or causes whatsoever, except matters arising out of
9 the sole negligence of the Grantee, while in, upon, or in any way connected with the Property,
10 Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its
11 agencies, departments, officers, agents and employees from all liability, loss, costs, and
12 obligations on account of or arising out of such injuries or losses however occurring. The
13 Grantee shall have no right of control over, nor duties and responsibilities with respect to the
14 Property which would subject the Grantee to any liability occurring on the land by virtue of the
15 fact that the right of the Grantee to enter the land is strictly limited to presenting uses
16 inconsistent with the interest granted and does not include the right to enter the land for the
17 purposes of correcting any dangerous condition as defined by California Government Code §
18 830.
19
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6

11. SEVERABILITY. If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 28th day of March, 2002, at Menlo Park, California.

David R. Lee
DAVID LEE

[Signature]
CHERYL L. MOSER

STATE OF California

COUNTY OF San Mateo

On 3/28/02, before me, Teresa Feiock, a Notary Public personally appeared David R. Lee, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Signature]



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11. SEVERABILITY. If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 28th day of March, 2002, at San Francisco, California.

DAVID LEE

Cheryl L Moser
CHERYL L. MOSER
aka Cheryl H. Moser

STATE OF California

COUNTY OF San Francisco

On March 28, 2002, before me, Hank Roberts, a Notary Public personally appeared Cheryl H. Moser, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Hank Roberts



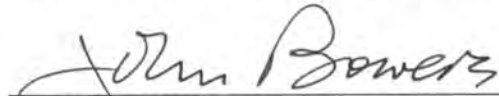
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1 This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the
2 undersigned officer on behalf of the California Coastal Commission pursuant to authority
3 conferred by the California Coastal Commission when it granted Coastal Development Permit
4 No. A-2-SMC-99-066, on August 9, 2001, and the California Coastal Commission consents to
5 recordation thereof by its duly authorized officer.

6
7 Dated: March 20, 2002

8
9 CALIFORNIA COASTAL COMMISSION

10 

11 JOHN BOWERS, Staff Counsel

12
13 STATE OF CALIFORNIA

14 COUNTY OF SAN FRANCISCO

15
16 On March 20, 2002, before me, Patricia Sexton, a Notary Public,
17 personally appeared John Bowers, personally known to me (or proved to me
18 on the basis of satisfactory evidence) to be the permits n (s) whose Name(s) is/are subscribed to
19 within the instrument and acknowledged to me that he/she/they executed the same in
20 his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the
21 person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

22
23
24 WITNESS my hand and official seal.

25
26 Signature Patricia Sexton

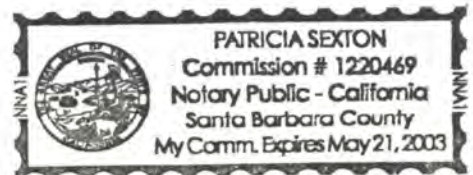


EXHIBIT A

The land referred to in this Report is situated in the County of San Mateo, in the unincorporated area, State of California, and is described as follows:

PARCEL ONE:

BEGINNING at a point on the Northeasterly line of the Cabrillo Highway as established by that certain 2,131 acre parcel described as "First" in that certain Final Order of Condemnation dated June 4, 1957 and recorded June 4, 1957 in Book 3228 of Official Records at Page 319 (File No. 55899-P), Records of San Mateo County, California, said point being distant thereon South 35° 07' 57" East 1057.52 feet from the intersection thereof with the Northwesterly boundary line of lands conveyed to Isaac C. Steele by Deed recorded September 4, 1871 in Book 13 of Deeds at Page 41, Records of San Mateo County, California, said point of beginning also being the most Southerly corner of lands conveyed to the County of San Mateo by that certain Deed recorded on August 10, 1967 in Book 5347 of Official Records at Page 334 (File No. 71270-AA), Records of San Mateo County, California; running thence from said point of beginning along the Southeasterly line of said last mentioned lands the following courses and distances: North 89° 58' 30" East 97.12 feet, North 52° 40' East 153.73 feet, North 41° 08' 30" East 372.64 feet, North 47° 04' 40" East 258.79 feet, North 28° 49' 30" East 219.04 feet, North 39° 22' 30" East 145.94 feet, North 47° 27' East 329.51 feet, North 46° 14' East 171.21 feet, North 42° 50' East 107.35 feet, North 32° 51' East 90.92 feet and North 69° 20' East 81.40 feet to the Southwesterly boundary of that certain 14.498 acre tract conveyed by Deed from Frederick N. Steele and Chloe R. Steele to Issac C. Steele (the younger) dated September 10, 1904 and recorded June 24, 1905 in Book 117 of Deeds at Page 226, Records of San Mateo County, California; thence along said Southwesterly boundary (using the azimuth as contained in survey compiled by Charles E. Randlett (Registered Civil Engineer No. 6145) dated November, 1967 and being Job No. 5618) South 13° 32' East 96.29 feet to the most Southerly corner of said last mentioned lands conveyed to Isaac C. Steele; thence running along the Southeasterly line of said last mentioned lands, following approximately the line of an old board fence, North 79° 03' East 332.64 feet; North 75° 48' East 325.38 feet; North 71° 30' East 143.88 feet and North 57° 06' East 448.14 feet to a stake set on a bluff on the Easterly boundary of the Rancho Punta del Ano Nuevo, being the most Easterly corner of said 14.498 acre tract so conveyed to Issaac C. Steele (the younger); thence following and along the said Rancho boundary, South 26° 06' 58" East 1321 feet, more or less, to a stake being the most Easterly corner of that certain 400 acre tract conveyed by Deed from Mrs. H. E. Steele to Fred N. Steele, dated March 27, 1896 and recorded May 7, 1896 in Book 71 of Deeds at Page 596, Records of San Mateo County, California, being also the most Northerly corner of that certain 400 acre tract conveyed by Deed from Mrs. H. E. Steele to George H. Steele, dated March 27, 1896 and recorded May 7, 1896 in Book 71 of Deeds at Page 598, Records of San Mateo County, California; thence leaving said Rancho boundary and following along the common boundary between the two parcels so conveyed to Fred N. Steele and George H. Steele, respectively, South 63° 32' 18" West 2937 feet, more or less, to the Northeasterly line of said Cabrillo Highway as described above; running thence Northwesterly along said Northeasterly line of Cabrillo Highway, on the arc of a curve to the left having a radius of 7560 feet, a central angle of 0° 11' 47" an arc distance of 25.91 feet, more or less, (called 0° 07' 30" with an arc

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distance of 16.50 feet in the above mentioned Deed to State) to a point distant North 54° 52' 03" East 60 feet from Engineer's Station 102+15.24 on the "A-3" line of the Department of Public Works Survey for the State Highway in San Mateo County between Cypress Creek and 0.8 of a mile North of New Years Creek, Road IV-SM-56-A; thence North 35° 07' 57" West 923.63 feet to the point of beginning.

PARCEL TWO:

All oil, oil rights, minerals, mineral rights, natural gas rights and other hydrocarbons by whatsoever name known, that may be within or under that portion of that certain parcel described as "Second" in that certain Final Order of Condemnation dated June 4, 1957, a certified copy of which was recorded June 4, 1957 in Book 3228 of Official Records at Page 319, (File No. 55899-P), Records of San Mateo County, California, which lies adjacent to Parcel One above described. Together with the perpetual right of drilling, mining, exploring and operating therefor and removing same from said land.

PARCEL THREE:

A non-exclusive easement for ingress and egress upon the maintained roads and routes customarily used for the purpose of operating, repainting and maintaining the Waddell Reservoir and its appurtenant valves, fittings, pipeline, pumps, and conduit and for the further purpose of regulating the withdrawal of water from Green Oaks Creek and diversion pond at a point of diversion of Green Oaks Creek as described in Application No. 17568 and Permit No. 12352 and Application No. 17573 and Permit No. 12356 issued by the Water Rights Board of the State of California. Said Waddell Reservoir being approximately 650 feet long and 200 feet wide in size, the center of which is situated 750 feet, more or less, Easterly of the State Highway #1 and 625 feet, more or less, Southerly of Green Oaks Creek, and point of diversion being described as follows:

BEGINNING at a point on the Northeasterly boundary line of State Highway No. 1 distant thereon South 35° 07' 57" East 969.39 feet from the intersection thereof with the Northwesterly boundary line of lands conveyed to Isaac C. Steele by Deed recorded September 4, 1871 in Book 13 of Deeds at Page 41, Records of San Mateo County, California; thence from said point of beginning North 57° 12' East 259.59 feet to the centerline of Green Oaks Creek; thence following the said center line Northerly 825 feet, more or less, to a station which is the point of diversion.

Said right of ingress and egress upon the maintained roads and routes to be limited to the existing roads and routes lying within the following described parcel:

BEGINNING at a point on the Northeasterly boundary line of State Highway No. 1 distant thereon South 35° 07' 57" East 969.39 feet from the intersection thereof with the Northwesterly boundary line of lands conveyed to Isaac C. Steele by Deed recorded September 4, 1871 in Book 13 of Deeds at Page 41, Records of San Mateo County, California; thence from said point of beginning North 57° 12' East 259.59 feet to the center line of Green Oaks Creek; thence following said center



line Northerly 825 feet, more or less, to a station which is the point of diversion; thence leaving said center line of Green Oaks Creek Southeasterly in a direct line, 375 feet, more or less to the Southeasterly boundary of the lands conveyed to the County of San Mateo by Deed recorded August 10, 1967 in Volume 5347 of Official Records at Page 334 (File No. 71270-AA), said last mentioned direct line being a line which, if prolonged, would intersect a point which is the intersection of a line lying Northeasterly 900 feet at right angles from the Northeasterly line of State Highway No. 1, and a line lying Northwesterly 400 feet at right angles from the Southeasterly line of the Catherine Steele Ranch; thence along the Southeasterly line of the above mentioned lands of the County of San Mateo South 47° 04' 40" West 240 feet, more or less, to an angle point therein; thence continuing along said Southeasterly line, South 41° 08' 30" West 372.64 feet; South 52° 40' West 153.73 feet and South 89° 58' 30" West 97.12 feet to the Northeasterly line of State Highway No. 1; thence Northwesterly along said last mentioned line 88.13 feet to the point of beginning.

TOGETHER WITH a 1/3 interest in the above referred to Application No. 17568 and Permit No. 12352 and Application No. 17573 and Permit No. 12356.

PARCEL FOUR:

All rights of grantors as set forth in Agreement entered into by and between Catherine B. Steele, Worden W. Steele, Betty May Steele and Gregoire Land Co., Inc., dated December 7, 1965 and recorded December 9, 1965 in Volume 5077 of Official Records at Page 206 (File No. 18804-Z), Records of San Mateo County, California, as apportioned to the above described Parcel One as a part of Parcel "C" of said Agreement.

A.P.N. 089-230-220

J.P.N. 089-023-230-22A

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CALIFORNIA COASTAL COMMISSION

North Central Coast Area Office
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
(415) 904-5260

Date: August 21, 2001
Permit Application No.: A-2-SMC-99-066
Page: 1 of 13

**EXHIBIT B****NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **August 9, 2001**, the California Coastal Commission approved Coastal Development Permit No. **A-2-SMC-99-066**, requested by **DAVID LEE** subject to the attached conditions, for development consisting of: **Construction of a two-story, 6,000-square-foot single-family residence with attached four-car garage, 700-square-foot detached accessory building, 6,000-square-foot pond, lap pool, driveway, and installation of a septic system and water pipeline on a 84.49-acre lot.** More specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone in **2050 Cabrillo Highway (between State Highway One and the Santa Cruz Border, next to Año Nuevo State Reserve), Pescadero (San Mateo County) 089-230-220.**

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NOTICE OF INTENT TO ISSUE PERMITS
(Upon satisfaction of special conditions)


Date: August 21, 2001

Permit Application No.: A-2-SMC-99-066

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. **A-2-SMC-99-066**, please contact the Coastal Program Analyst identified below.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: **Chris L. Kern** 
North Central Coast District
Supervisor
Date: August 21, 2001

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

_____ Date

_____ Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: August 21, 2001

Permit Application No.: A-2-SMC-99-066

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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 of 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.

SPECIAL CONDITIONS:

NOTE: IF THE SPECIAL CONDITIONS REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS) FROM THE SAN FRANCISCO OFFICE, AFTER YOU HAVE SIGNED AND RETURNED THE DUPLICATE COPY OF THIS FORM. WHEN YOU RECEIVE THE DOCUMENTS, IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE LEGAL DEPARTMENT AT (415) 904-5200.

Staff Note

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 1999-00296; see Exhibit 1). To the extent such San Mateo County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-2-SMC-99-066, the applicant will be responsible for obtaining permit amendments to resolve any such conflicts.

1. Future Development Deed Restriction

- A. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that the permit is only for the development authorized herein as described in the coastal development

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permit. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply on APN 089-230-220. Accordingly, any future improvements, including, but not limited to, construction of fences, gates, additions, or outbuildings that might otherwise be exempt under Zoning Code Section 6328.5, as well as repair and maintenance identified as requiring a permit under Zoning Code Section 6328.5, will require an amendment to this permit or will require an additional coastal development permit from San Mateo County.

- B. The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Submittal of Revised Plans

- A. *Prior to issuance of the coastal development permit*, the applicant shall submit, for the review and approval of the Executive Director, revised project plans in satisfaction of the following requirements:

- (1) The residence, accessory building, underground garage, driveway, and dog fencing shall be located within the triangularly-shaped area, abutting the eastern property boundary, between the California red-legged frog movement corridors as generally depicted in Figure 29.
- (2) Construction of the artificial pond is prohibited.
- (3) Fencing shall be installed around the perimeter of the designated building site and around the upland limit of the 300-foot buffer around the sag pond. The fencing shall be designed and maintained to prevent entry into sensitive habitat areas by dogs or people, but to allow free movement of frogs and snakes.
- (4) No development shall occur within 100 feet of the swale identified in Figure 29.
- (5) Access to the site shall be from the shortest, most direct route from the existing shared roadway behind the residence so that it is not visible. The driveway shall be no wider than 12 feet, and no shoulders shall be included.
- (6) No development, including but not limited to installation of water and septic lines, shall be sited within 300 feet of the upland limit of the sag pond as generally depicted in Figure 29 or within the 300-foot-wide California red-legged frog dispersal corridors as generally depicted in Figure 29.
- (7) Upon completion, all approved structures shall be screened 100 percent from views from Highway 1 and Año Nuevo State Reserve primarily by existing vegetation and landforms and through the construction of berms and native scrub vegetation as necessary. The revised plans shall be submitted with evidence, such as photo simulations, representative staking, or architectural renderings, that demonstrate conformity with this requirement.

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- (8) Berms shall be designed to appear part of the existing topography and shall be no higher than 12 feet from the existing (pre-development) grade. No gaps in the berm(s) are permitted that would allow structures to be visible from Highway 1 or Año Nuevo State Reserve.
- (9) All structures, as measured from the existing (pre-development) grade at the westernmost point of the building footprint to the peak of the roof shall be no higher than 18 feet.
- (10) A 300-foot-wide California red-legged frog dispersal corridor shall be designated between the sag pond and each of the two ponds located to the east of the project site as generally depicted in Figure 29.
- B. The permittee 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- C. Prior to occupancy of the residence authorized herein, the permittee shall submit evidence, for the review and approval of the Executive Director, in consultation with the California Department of Parks and Recreation, sufficient to demonstrate that no portion of any structure on the property is visible from Highway 1 or from Año Nuevo State Reserve. Said review shall be completed within a reasonable period of time, but unless there are unusual circumstances, no later than 10 working days after the date it is received in the Commission's offices during normal working hours.
- D. Maintenance of Screening
1. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that for the life of the development authorized herein, all required vegetative and landform screening shall be maintained to ensure that no portion of any structure on the site shall be visible from Highway 1 or from Año Nuevo State Reserve.
 2. The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
 3. Landscaping. *Prior to issuance of the coastal development permit*, the applicant shall submit a landscaping plan for the review and approval of the Executive Director. The landscaping plan shall be prepared by a qualified professional with expertise in the field of landscaping with native plants, such as a landscape architect. The plan shall demonstrate the following:
 - A. All vegetation planted on the site shall consist of native, drought-tolerant plants. The plan shall specify plant species and mature heights of all trees and shrubs.

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- B. The location of all existing trees and shrubs on the property that will serve as landscape screening for the proposed structures. No existing vegetation on the site outside the building envelope or driveway shall be removed, except as provided for in the approved landscaping plan. Vegetation removal shall be limited to: 1) that which must be removed for fire safety as required in writing by the California Department of Forestry and Fire Protection; 2) clearing required for maintenance of permitted roads and trails and around permitted fences and structures; and 3) removal of invasive non-native plant species included on the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council. Any existing trees or vegetation providing screening, which do not survive must be replaced on a one-to-one or higher ratio for the life of the project. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-2-SMC-99-066.
- C. The permittee 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required

4. Exterior Materials and Lighting Deed Restriction

- A. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that all exterior materials and lighting for the life of the project shall be as unobtrusive as possible. Exterior materials, including roofs and windows, shall be non-reflective to minimize glare. Exterior lighting shall be unobtrusive, and limited to the minimum necessary for safety, shall be low wattage, non-reflective, shielded, and have a directional cast downward. All lighting, exterior and interior, must be placed, designed and shielded so that only the intended area is illuminated and off-site glare is fully controlled. Screening, fixture selection, and placement shall be such that no fixed direct light sources will be noticed by motorists on Highway 1.
- B. The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Sensitive Habitat

- A. Grading, installation of the water line, and foundation work shall not occur between November 1 and May 1 but shall be conducted between May 2 and October 31 to minimize potential impacts to San Francisco garter snakes and California red-legged frogs.
- B. *Prior to commencement of construction*, the applicant shall submit construct a four-foot high plywood exclusion fence around the work areas to prevent California red-legged frogs and San Francisco garter snakes from entering the area.

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- C. Two days prior to construction of the exclusion fence, the applicant shall survey the building site and construction access route for California red-legged frogs and San Francisco garter snakes. The surveys shall be conducted by a qualified biologist in accordance with USFWS and CDFG protocol (USFWS 1997).
- D. Grading is prohibited at any time that either species is present in the construction area. A qualified biological monitor experienced with the San Francisco garter snake and California red-legged frog shall be present at the site during all grading activities. The biological monitor shall have the authority to halt all construction activities as necessary to protect habitat and individual animals. The monitoring shall be conducted in accordance with USFWS and CDFG protocol (USFWS 1997). The biological monitor shall complete daily monitoring reports that indicate the date and time of work, weather conditions, the monitoring biologist's name, project activity/progress, and any sensitive species observed. These reports shall be compiled and submitted to the Executive Director upon completion of grading work.
- E. No grading or construction activities shall occur within 600 feet of nesting loggerhead shrikes or raptors. Where grading occurs between May 2 and September 30 or construction takes place between March 1 and September 30, a qualified biologist shall survey: (1) the coastal scrub habitat within 0.25 miles of each work area to determine if loggerhead shrikes or northern harriers are nesting in the scrub habitat and; (2) the mixed evergreen forest and oak woodland habitats within 0.25 miles of each work area to determine if other special status raptor species (e.g. Coopers hawk, sharp-shinned hawk) are nesting there. The surveys shall be conducted within 30 days prior to grading or construction and shall be submitted for review and approval of the Executive Director. If active nests are found, no grading or construction work shall occur within 600 feet of the nests until all young have fledged.

6. Conservation Easement

- A. No development, as defined in San Mateo County LCP Policy 1.2, or grazing, diversion or impoundment for irrigation or other agricultural activities shall occur in the sag pond or the surrounding area within 300 feet of the upland limit of riparian vegetation associated with the sag pond as generally depicted in Figure 29 except for:
 - (1) Removal of vegetation for fire safety as required in writing by the California Department of Forestry and Fire Protection or removal of invasive non-native plant species included on the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.
 - (2) Habitat management activities in accordance with an approved Habitat Conservation Plan.
- B. *Prior to issuance of the coastal development permit*, the applicant shall 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 open space and conservation easement for the purpose of habitat conservation. Such easement shall include the sag pond and all areas within 300 feet of the upland limit of

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riparian vegetation associated with the sag pond, as generally depicted in Figure 18. The recorded document shall include legal descriptions of both the applicant's 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.

- C. The offer shall be recorded free of prior liens and encumbrances that 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.

7. Open Space Deed Restriction

- A. No development, as defined in LCP Policy 1.2, shall occur within the dispersal corridors as generally depicted on Figure 29, except the following:

- (1) Removal of vegetation for fire safety as required in writing by the California Department of Forestry and Fire Protection or removal of invasive non-native plant species including removal of eucalyptus debris and saplings and those plants identified in the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.
- (2) Habitat management activities in accordance with an approved Habitat Conservation Plan.
- (3) Consistent with Special Condition 5, installation of waterline beneath the portion of the dispersal corridor encompassing the road.

- B. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. Construction Period Erosion Control Plan

- A. **Erosion Control Plan**

Prior to issuance of the coastal development permit, the applicant shall provide, for the review and approval of the Executive Director, an Erosion Control Plan to reduce erosion and retain sediment on-site during construction. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, and apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters. The

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Erosion Control Plan shall incorporate Best Management Practices (BMPs) as specified below.

(1) Erosion & Sediment Source Control

- (a) Sequence construction to install sediment-capturing devices first, followed by runoff control measures and runoff conveyances. Land clearing activities should only commence after the minimization and capture elements are in place.
- (b) Time the clearing and grading activities to avoid the rainy season (November 1 through May 1).
- (c) Minimize the area of bare soil exposed at one time (phased grading).
- (d) Clear only areas essential for construction.
- (e) Within five days of clearing or inactivity in construction, stabilize bare soils through either non-vegetative BMPs, such as mulching or vegetative erosion control methods such as seeding with native or non-invasive species. Vegetative erosion control shall be established within two weeks of seeding/planting.
- (f) Construction entrances should be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
- (g) Control wind-born dust through site watering and/or the installation of wind barriers such as hay bales. Site watering shall be monitored to prevent runoff.
- (h) Place stockpiled soil and/or other construction-related material a minimum of 200 feet from any drainages. Stockpiled soils shall be covered with tarps at all times of the year.
- (i) Excess fill shall not be disposed of in the Coastal Zone unless authorized through either an amendment to this coastal development permit or a new coastal development permit.

(2) Runoff Control and Conveyance

- (a) Intercept runoff above disturbed slopes and convey it to a permanent channel by using earth dikes, perimeter dikes or swales, or diversions.
- (b) Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy.

(3) Sediment-capturing Devices

- (a) Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. This barrier could consist of filter fabric, straw bales, gravel, or sand bags.
- (b) Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps/basins shall be cleaned out when 50 percent full (by volume).
- (c) Use silt fence and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence should be 0.5 acre or less per 100 feet of fence. Silt fences should be inspected regularly and sediment removed when it

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reaches one-third the fence height. Vegetated filter strips should have relatively flat slopes and be vegetated with erosion-resistant species.

(4) Chemical Control

- (a) Store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials properly.
- (b) Establish fuel and vehicle maintenance staging areas located at least 100 feet from all drainage courses, and design these areas to control runoff.
- (c) Develop and implement spill prevention and control measures.
- (d) Provide sanitary facilities for construction workers.
- (e) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Washout from concrete trucks should be disposed of at a location not subject to runoff and more than 100 feet away from a drainage course, open ditch, or surface water.
- (f) Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
- (g) Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of four to six inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.

B. Erosion Control Monitoring and Maintenance

- (1) Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs provided in satisfaction of the approved Erosion Control Plan. Major observations to be made during inspections shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed.
- (2) Authorized representatives of the Coastal Commission and/or San Mateo County shall be allowed property entry as needed to conduct on-site inspections throughout the construction period.
- (3) Sediment traps/basins shall be cleaned out at any time when 50 percent full (by volume).
- (4) Sediment shall be removed from silt fences at any time when it reaches one-third the fence height.
- (5) All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.

C. The applicants shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan.

D. The permittee shall undertake development in accordance with the final Erosion Control Plan approved by the Executive Director. No proposed changes to the approved final Erosion Control Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

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9. Post-Construction Stormwater Pollution Prevention

A. Stormwater Pollution Prevention Plan

- (1) *Prior to issuance of the coastal development permit*, the applicant shall submit to the Executive Director for review and written approval, a Stormwater Pollution Prevention Plan with final drainage and runoff control measures, including supporting calculations. The plan shall demonstrate that runoff from the project shall be prevented from entering the swale and downstream wetland or any other riparian or wetland area. The plan shall detail specific measures to reduce runoff such as vegetative buffers, grassy swales, and pop-up drainage emitters. For the life of the project, runoff from all roofs, decks, and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off the site. Splashguards shall be installed at the base of all downspouts. 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 stormwater leaving the developed site after completion of construction. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. The plan shall incorporate structural, flow-based, post-construction BMPs (or suites of BMPs) designed to treat or filter stormwater runoff from the project site for each storm event, up to and including the 85th percentile, 1-hour storm event, with an appropriate safety factor, prior to the runoff's entry into any stormwater conveyance systems or surface water bodies and shall assure that runoff will be conveyed offsite in a non-erosive manner.
- (2) The stormwater pollution prevention plan shall incorporate the BMPs described below:
 - (a) Native, drought-tolerant vegetation shall be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
 - (b) Throughout the project site, where irrigation is necessary, the system must be designed with efficient technology. At a minimum, all irrigation systems shall have flow sensors and master valves installed on the mainline pipe to ensure system shutdown in the case of pipe breakage. Irrigation master systems shall have an automatic irrigation controller to ensure efficient water distribution. Automatic irrigation controllers shall be easily adjustable so that site watering will be appropriate for daily site weather conditions. Automatic irrigation controllers shall have rain shutoff devices in order to prevent unnecessary operation on rainy days.

B. Stormwater Pollution Prevention Maintenance and Monitoring

- (1) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following:

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- (a) All structural BMPs shall be inspected prior to the start of the wet season (no later than October 15th), after the first storm of the wet season, and monthly thereafter until April 30th.
- (b) All BMP traps/separators and/or filters shall be cleaned prior to the onset of the wet season and no later than October 15th each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
- (c) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicants or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and BMPs and restoration of the eroded area. If repairs or restoration are necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

- (2) The permittees shall conduct an annual inspection of the condition and operational status of all structural BMPs provided in satisfaction of the approved stormwater pollution prevention plan. The results of each annual inspection shall be reported to the Executive Director in writing by no later than June 30th of each year following the completion of construction for three years. Major observations to be made during inspections and reported shall include: locations of discharges of sediment or other pollutants from the site, BMPs that are in need of maintenance, BMPs that are not performing, failing to operate, or inadequate, and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the San Mateo County shall be allowed property entry as needed to conduct on-site inspections of the detention basin and other structural BMPs.
- (3) Non-routine maintenance activities that are expensive but infrequent shall be performed as needed based on the results of the monitoring inspections described above.

C. The permittee shall undertake development in accordance with the final Stormwater Pollution Prevention Maintenance and Monitoring Plan approved by the Executive Director. No proposed changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Grading

- A. *Prior to issuance of the coastal development permit*, the applicant shall submit a final proposed grading plan for review and approval by the Executive Director. Said plan shall conform to the requirements of Special Conditions 2, 5, and 8 above.
- B. The permittee 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

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coastal development permit unless the Executive Director determines that no amendment is legally required.

11. Helicopter or Other Aircraft Deed Restriction

- A. *Prior to issuance of the coastal development permit*, and as indicated in the proposed project description, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, which states that there will be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit.
- B. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

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CALIFORNIA COASTAL COMMISSION

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

EXHIBIT B-1



Filed: December 16, 1999
 Substantial Issue: February 16, 2001
 Staff: JAS/CLK-SF
 Staff Report: July 25, 2001
 Hearing Date: August 9, 2001
 Commission Action: Approved 11-0

ADOPTED FINDINGS

APPEAL NO.: A-2-SMC-99-066

APPLICANT: David Lee

AGENT: Stan Field

LOCAL GOVERNMENT: San Mateo County

LOCAL DECISION: Approval with Conditions

PROJECT LOCATION: 2050 Cabrillo Highway, in the unincorporated Pescadero area of San Mateo County, APN 089-230-220.

PROJECT DESCRIPTION: Construction of a two-story, 6,000-square-foot single-family residence with attached four-car garage, 700-square-foot detached accessory building, 6,000-square-foot pond, lap pool, and driveway, and installation of a septic system and water pipeline on a 84.49-acre lot.

APPELLANTS: Commissioners Sara Wan and Christina Desser, California Coastal Commission

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

STAFF RECOMMENDATION: Approval with Conditions

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APPENDIX

Appendix A: Substantive File Documents

Appendix B: Referenced Policies

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3 Assessors Parcel Map

4 Plot Plan

5 Faults

6 Soil and Agricultural Capability

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8 Site Plan

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15 Alternative Building Site Locations

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18 Biological Constraints According to Applicant

19 Geological Constraints According to Applicant

20 Composite Constraints According to Applicant

21 Visual Constraints According to Applicant

22 Viewshed for Site 2 and Site 4 from Highway 1 and Año Nuevo

23 Camera Positions

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- 26 Jurisdictional Wetland Delineation
- 27 Site 4 Constraints
- 28 Pond Locations
- 29 Sensitive Habitat

LIST OF EXHIBITS

- Exhibit
- 1 San Mateo County's Conditions of Approval
 - 2 Commission Notification of Appeal
 - 3 Letter from USFWS Regarding Lee Project
 - 4 Letter from Applicant's Forester
 - 5 Density Credits

LIST OF CORRESPONDENCE

- August 28, 1999 Letter from Ronald Schafer, California Department of Parks and Recreation to San Mateo County Planning Division
- September 21, 1999 Letter from Damon DiDonato, Project Planner, San Mateo County to Ronald Schafer, California Department of Parks and Recreation
- September 2, 1999 Letter from Lennie Roberts, Committee for Green Foothills to Damon DiDonato, Project Planner, San Mateo County
- September 21, 1999 Letter from Damon DiDonato, Project Planner, San Mateo County to Lennie Roberts, Committee for Green Foothills
- September 14, 1999 Letter from Brian L. Hinman to Stan Field
- September 15, 1999 Letter from Stephanie Jennings and Paul Pfluke
- September 16, 1999 Letter from The Bolings to Stan Field
- September 20, 1999 Letter from Jon Kosek, to Stan Field
- January 2000 Letter from Rosalind Carol
- January 9, 2000 Letter from Alan DeMartini to the Coastal Commission
- January 10, 2000 Letter from Peter J. Metropulos to the Coastal Commission
- January 12, 2000 Letter from Robin Winslow Smith, Sequoia Audubon Society to the Coastal Commission
- January 13, 2000 Letter from Rusty Areias, California Department of Parks and Recreation to Peter Douglas, Executive Director, Coastal Commission
- January 20, 2000 Letter from Karen Maki to Sara Wan, Coastal Commission
- February 1, 2000 Letter from Anna Neal to Sara Wan, Coastal Commission
- August 3, 2000 Letter from George Carman to Coastal Commission

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EXECUTIVE SUMMARY

Prior Commission Action

On January 14, 2000, the Commission opened a hearing on the substantial issue determination for the appeal. The Commission continued the hearing, suspending final action on the appeal pending discussions between the applicant and staff. In addition, on January 27, 2000, the applicant waived their right for a hearing to be set within 49 days of the filing of the appeal in order to develop and provide additional material for consideration prior to Commission action on the appeal. The appeal was scheduled to be heard by the Commission on August 9, 2000. The applicant postponed this hearing pending further discussions between the applicant and staff.

On February 16, 2001 the Commission found that the appeals submitted of the local government's action on this proposed project raised a substantial issue with respect to the grounds on which they were filed. The Commission postponed the de novo portion of the appeal hearing to a future meeting at the request of the applicant. This staff report represents the staff's recommendation to the Commission for action on the proposed project. The standard of review for the proposed project is the San Mateo County Local Coastal Program.

Summary of Staff Recommendation

The project site is located on an 84-acre parcel adjacent to the inland side of Highway 1 near Año Nuevo State Reserve in Southern San Mateo County. This is a highly scenic area with little existing development visible from the State Reserve or the highway. The site contains environmentally sensitive habitat areas (ESHA), including habitat suitable for the federally listed San Francisco garter snake and California red-legged frog. The proposed development is a 6,000-square-foot, 26-foot-high single family residence with a 700-square-foot detached accessory building, swimming pool and a 6,000-square-foot artificial pond.

The staff recommends that the Commission approve the coastal development permit for the proposed project with conditions. The recommended conditions restrict future development of the property to provide long-term protection of environmentally sensitive habitat areas and prohibit development in specified portions of the site. The staff also recommends elimination of the proposed artificial pond to avoid potentially significant adverse impacts to San Francisco garter snakes and California red-legged frogs. The recommended conditions also limit the height of the proposed residence to 18 feet and impose restrictions on landscaping, design, and lighting to minimize the visual impacts of the development.

The Motion to adopt the Staff Recommendation of Approval is found in Section 1.0.

1.0 STAFF RECOMMENDATION

The staff recommends approval of Coastal Development Permit Application No. A-2-SMC-99-066 with conditions.

Motion

I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-99-066 pursuant to the staff recommendation.

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Staff Recommendation of Approval

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified San Mateo County LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

1.1 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 of 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.

1.2 Special Conditions

Staff Note

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 1999-00296; see Exhibit 1). To the extent such San Mateo County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-2-SMC-99-066, the applicant will be responsible for obtaining permit amendments to resolve any such conflicts.

1. Future Development Deed Restriction

- A. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that the

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permit is only for the development authorized herein as described in the coastal development permit. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply on APN 089-230-220. Accordingly, any future improvements, including, but not limited to, construction of fences, gates, additions, or outbuildings that might otherwise be exempt under Zoning Code Section 6328.5, as well as repair and maintenance identified as requiring a permit under Zoning Code Section 6328.5, will require an amendment to this permit or will require an additional coastal development permit from San Mateo County.

- B. The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Submittal of Revised Plans

- A. *Prior to issuance of the coastal development permit*, the applicant shall submit, for the review and approval of the Executive Director, revised project plans in satisfaction of the following requirements:

- (1) The residence, accessory building, underground garage, driveway, and dog fencing shall be located within the triangularly-shaped area, abutting the eastern property boundary, between the California red-legged frog movement corridors as generally depicted in Figure 29.
- (2) Construction of the artificial pond is prohibited.
- (3) Fencing shall be installed around the perimeter of the designated building site and around the upland limit of the 300-foot buffer around the sag pond. The fencing shall be designed and maintained to prevent entry into sensitive habitat areas by dogs or people, but to allow free movement of frogs and snakes.
- (4) No development shall occur within 100 feet of the swale identified in Figure 29.
- (5) Access to the site shall be from the shortest, most direct route from the existing shared roadway behind the residence so that it is not visible. The driveway shall be no wider than 12 feet, and no shoulders shall be included.
- (6) No development, including but not limited to installation of water and septic lines, shall be sited within 300 feet of the upland limit of the sag pond as generally depicted in Figure 29 or within the 300-foot-wide California red-legged frog dispersal corridors as generally depicted in Figure 29.
- (7) Upon completion, all approved structures shall be screened 100 percent from views from Highway 1 and Año Nuevo State Reserve primarily by existing vegetation and landforms and through the construction of berms and native scrub vegetation as necessary. The revised plans shall be submitted with evidence, such as photo simulations, representative staking, or architectural renderings, that demonstrate conformity with this requirement.
- (8) Berms shall be designed to appear part of the existing topography and shall be no higher than 12 feet from the existing (pre-development) grade. No gaps in the berm(s) are

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permitted that would allow structures to be visible from Highway 1 or Año Nuevo State Reserve.

(9) All structures, as measured from the existing (pre-development) grade at the westernmost point of the building footprint to the peak of the roof shall be no higher than 18 feet.

(10) A 300-foot-wide California red-legged frog dispersal corridor shall be designated between the sag pond and each of the two ponds located to the east of the project site as generally depicted in Figure 29.

- B. The permittee 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- C. Prior to occupancy of the residence authorized herein, the permittee shall submit evidence, for the review and approval of the Executive Director, in consultation with the California Department of Parks and Recreation, sufficient to demonstrate that no portion of any structure on the property is visible from Highway 1 or from Año Nuevo State Reserve. Said review shall be completed within a reasonable period of time, but unless there are unusual circumstances, no later than 10 working days after the date it is received in the Commission's offices during normal working hours.
- D. Maintenance of Screening
1. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that for the life of the development authorized herein, all required vegetative and landform screening shall be maintained to ensure that no portion of any structure on the site shall be visible from Highway 1 or from Año Nuevo State Reserve.
 2. The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
 3. **Landscaping.** *Prior to issuance of the coastal development permit*, the applicant shall submit a landscaping plan for the review and approval of the Executive Director. The landscaping plan shall be prepared by a qualified professional with expertise in the field of landscaping with native plants, such as a landscape architect. The plan shall demonstrate the following:
 - A. All vegetation planted on the site shall consist of native, drought-tolerant plants. The plan shall specify plant species and mature heights of all trees and shrubs.
 - B. The location of all existing trees and shrubs on the property that will serve as landscape screening for the proposed structures. No existing vegetation on the site outside the building envelope or driveway shall be removed, except as provided for in the approved landscaping plan. Vegetation removal shall be limited to: 1) that which must be removed for fire safety as required in writing by the California Department of Forestry and Fire Protection; 2) clearing

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required for maintenance of permitted roads and trails and around permitted fences and structures; and 3) removal of invasive non-native plant species included on the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council. Any existing trees or vegetation providing screening, which do not survive must be replaced on a one-to-one or higher ratio for the life of the project. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-2-SMC-99-066.

- C. The permittee 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required

4. Exterior Materials and Lighting Deed Restriction

- A. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that all exterior materials and lighting for the life of the project shall be as unobtrusive as possible. Exterior materials, including roofs and windows, shall be non-reflective to minimize glare. Exterior lighting shall be unobtrusive, and limited to the minimum necessary for safety, shall be low wattage, non-reflective, shielded, and have a directional cast downward. All lighting, exterior and interior, must be placed, designed and shielded so that only the intended area is illuminated and off-site glare is fully controlled. Screening, fixture selection, and placement shall be such that no fixed direct light sources will be noticed by motorists on Highway 1.
- B. The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Sensitive Habitat

- A. Grading, installation of the water line, and foundation work shall not occur between November 1 and May 1 but shall be conducted between May 2 and October 31 to minimize potential impacts to San Francisco garter snakes and California red-legged frogs.
- B. *Prior to commencement of construction*, the applicant shall submit construct a four-foot high plywood exclusion fence around the work areas to prevent California red-legged frogs and San Francisco garter snakes from entering the area.
- C. Two days prior to construction of the exclusion fence, the applicant shall survey the building site and construction access route for California red-legged frogs and San Francisco garter snakes. The surveys shall be conducted by a qualified biologist in accordance with USFWS and CDFG protocol (USFWS 1997).
- D. Grading is prohibited at any time that either species is present in the construction area. A qualified biological monitor experienced with the San Francisco garter snake and California red-legged frog shall be present at the site during all grading activities. The biological monitor shall have the authority to halt all construction activities as necessary to protect habitat and individual animals. The monitoring shall be conducted in accordance with

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USFWS and CDFG protocol (USFWS 1997). The biological monitor shall complete daily monitoring reports that indicate the date and time of work, weather conditions, the monitoring biologist's name, project activity/progress, and any sensitive species observed. These reports shall be compiled and submitted to the Executive Director upon completion of grading work.

- E. No grading or construction activities shall occur within 600 feet of nesting loggerhead shrikes or raptors. Where grading occurs between May 2 and September 30 or construction takes place between March 1 and September 30, a qualified biologist shall survey: (1) the coastal scrub habitat within 0.25 miles of each work area to determine if loggerhead shrikes or northern harriers are nesting in the scrub habitat and; (2) the mixed evergreen forest and oak woodland habitats within 0.25 miles of each work area to determine if other special status raptor species (e.g. Coopers hawk, sharp-shinned hawk) are nesting there. The surveys shall be conducted within 30 days prior to grading or construction and shall be submitted for review and approval of the Executive Director. If active nests are found, no grading or construction work shall occur within 600 feet of the nests until all young have fledged.

6. Conservation Easement

- A. No development, as defined in San Mateo County LCP Policy 1.2, or grazing, diversion or impoundment for irrigation or other agricultural activities shall occur in the sag pond or the surrounding area within 300 feet of the upland limit of riparian vegetation associated with the sag pond as generally depicted in Figure 29 except for:

- (1) Removal of vegetation for fire safety as required in writing by the California Department of Forestry and Fire Protection or removal of invasive non-native plant species included on the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.
- (2) Habitat management activities in accordance with an approved Habitat Conservation Plan.

- B. *Prior to issuance of the coastal development permit*, the applicant shall 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 open space and conservation easement for the purpose of habitat conservation. Such easement shall include the sag pond and all areas within 300 feet of the upland limit of riparian vegetation associated with the sag pond, as generally depicted in Figure 18. The recorded document shall include legal descriptions of both the applicant's 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.

- C. The offer shall be recorded free of prior liens and encumbrances that 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.

7. Open Space Deed Restriction

- A. No development, as defined in LCP Policy 1.2, shall occur within the dispersal corridors as generally depicted on Figure 29, except the following:

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- (1) Removal of vegetation for fire safety as required in writing by the California Department of Forestry and Fire Protection or removal of invasive non-native plant species including removal of eucalyptus debris and saplings and those plants identified in the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.
- (2) Habitat management activities in accordance with an approved Habitat Conservation Plan.
- (3) Consistent with Special Condition 5, installation of waterline beneath the portion of the dispersal corridor encompassing the road.

B. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. Construction Period Erosion Control Plan

A. Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall provide, for the review and approval of the Executive Director, an Erosion Control Plan to reduce erosion and retain sediment on-site during construction. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, and apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters. The Erosion Control Plan shall incorporate Best Management Practices (BMPs) as specified below.

(1) Erosion & Sediment Source Control

- (a) Sequence construction to install sediment-capturing devices first, followed by runoff control measures and runoff conveyances. Land clearing activities should only commence after the minimization and capture elements are in place.
- (b) Time the clearing and grading activities to avoid the rainy season (November 1 through May 1).
- (c) Minimize the area of bare soil exposed at one time (phased grading).
- (d) Clear only areas essential for construction.
- (e) Within five days of clearing or inactivity in construction, stabilize bare soils through either non-vegetative BMPs, such as mulching or vegetative erosion control methods such as seeding with native or non-invasive species. Vegetative erosion control shall be established within two weeks of seeding/planting.

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- (f) Construction entrances should be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
 - (g) Control wind-born dust through site watering and/or the installation of wind barriers such as hay bales. Site watering shall be monitored to prevent runoff.
 - (h) Place stockpiled soil and/or other construction-related material a minimum of 200 feet from any drainages. Stockpiled soils shall be covered with tarps at all times of the year.
 - (i) Excess fill shall not be disposed of in the Coastal Zone unless authorized through either an amendment to this coastal development permit or a new coastal development permit.
- (2) Runoff Control and Conveyance
- (a) Intercept runoff above disturbed slopes and convey it to a permanent channel by using earth dikes, perimeter dikes or swales, or diversions.
 - (b) Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy.
- (3) Sediment-capturing Devices
- (a) Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. This barrier could consist of filter fabric, straw bales, gravel, or sand bags.
 - (b) Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps/basins shall be cleaned out when 50 percent full (by volume).
 - (c) Use silt fence and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence should be 0.5 acre or less per 100 feet of fence. Silt fences should be inspected regularly and sediment removed when it reaches one-third the fence height. Vegetated filter strips should have relatively flat slopes and be vegetated with erosion-resistant species.
- (4) Chemical Control
- (a) Store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials properly.
 - (b) Establish fuel and vehicle maintenance staging areas located at least 100 feet from all drainage courses, and design these areas to control runoff.
 - (c) Develop and implement spill prevention and control measures.
 - (d) Provide sanitary facilities for construction workers.
 - (e) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Washout from concrete trucks should be disposed of at a location not subject to runoff and more than 100 feet away from a drainage course, open ditch, or surface water.
 - (f) Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
 - (g) Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of four to six inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.

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B. Erosion Control Monitoring and Maintenance

- (1) Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs provided in satisfaction of the approved Erosion Control Plan. Major observations to be made during inspections shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed.
- (2) Authorized representatives of the Coastal Commission and/or San Mateo County shall be allowed property entry as needed to conduct on-site inspections throughout the construction period.
- (3) Sediment traps/basins shall be cleaned out at any time when 50 percent full (by volume).
- (4) Sediment shall be removed from silt fences at any time when it reaches one-third the fence height.
- (5) All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.

C. The applicants shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan.

D. The permittee shall undertake development in accordance with the final Erosion Control Plan approved by the Executive Director. No proposed changes to the approved final Erosion Control Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Post-Construction Stormwater Pollution Prevention

A. Stormwater Pollution Prevention Plan

- (1) *Prior to issuance of the coastal development permit*, the applicant shall submit to the Executive Director for review and written approval, a Stormwater Pollution Prevention Plan with final drainage and runoff control measures, including supporting calculations. The plan shall demonstrate that runoff from the project shall be prevented from entering the swale and downstream wetland or any other riparian or wetland area. The plan shall detail specific measures to reduce runoff such as vegetative buffers, grassy swales, and pop-up drainage emitters. For the life of the project, runoff from all roofs, decks, and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off the site. Splashguards shall be installed at the base of all downspouts. 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 stormwater leaving the developed site after completion of construction. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. The plan shall incorporate structural, flow-based, post-construction BMPs (or suites of BMPs) designed to treat or filter stormwater runoff from the project site for each storm event, up to and including the 85th percentile, 1-hour storm event, with an appropriate safety factor, prior to the runoff's entry into any stormwater conveyance systems or surface water bodies and shall assure that runoff will be conveyed offsite in a non-erosive manner.

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- (2) The stormwater pollution prevention plan shall incorporate the BMPs described below:
 - (a) Native, drought-tolerant vegetation shall be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.
 - (b) Throughout the project site, where irrigation is necessary, the system must be designed with efficient technology. At a minimum, all irrigation systems shall have flow sensors and master valves installed on the mainline pipe to ensure system shutdown in the case of pipe breakage. Irrigation master systems shall have an automatic irrigation controller to ensure efficient water distribution. Automatic irrigation controllers shall be easily adjustable so that site watering will be appropriate for daily site weather conditions. Automatic irrigation controllers shall have rain shutoff devices in order to prevent unnecessary operation on rainy days.

B. Stormwater Pollution Prevention Maintenance and Monitoring

- (1) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following:
 - (a) All structural BMPs shall be inspected prior to the start of the wet season (no later than October 15th), after the first storm of the wet season, and monthly thereafter until April 30th.
 - (b) All BMP traps/separators and/or filters shall be cleaned prior to the onset of the wet season and no later than October 15th each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.
 - (c) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicants or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and BMPs and restoration of the eroded area. If repairs or restoration are necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- (2) The permittees shall conduct an annual inspection of the condition and operational status of all structural BMPs provided in satisfaction of the approved stormwater pollution prevention plan. The results of each annual inspection shall be reported to the Executive Director in writing by no later than June 30th of each year following the completion of construction for three years. Major observations to be made during inspections and reported shall include: locations of discharges of sediment or other pollutants from the site, BMPs that are in need of maintenance, BMPs that are not performing, failing to operate, or inadequate, and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the San Mateo County shall be allowed property entry as needed to conduct on-site inspections of the detention basin and other structural BMPs.
- (3) Non-routine maintenance activities that are expensive but infrequent shall be performed as needed based on the results of the monitoring inspections described above.

- C. The permittee shall undertake development in accordance with the final Stormwater Pollution Prevention Maintenance and Monitoring Plan approved by the Executive Director.

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No proposed changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Grading

- A. *Prior to issuance of the coastal development permit*, the applicant shall submit a final proposed grading plan for review and approval by the Executive Director. Said plan shall conform to the requirements of Special Conditions 2, 5, and 8 above.
- B. The permittee 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 legally required.

11. Helicopter or Other Aircraft Deed Restriction

- A. *Prior to issuance of the coastal development permit*, and as indicated in the proposed project description, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, which states that there will be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit.
- B. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

2.1 Project Location and Site Description

The proposed project is located inland of Highway 1, about ten miles south of Pescadero, in the unincorporated portion of San Mateo County, California (Figure 1). The proposed building site is on the top of a southwest-facing hill overlooking Año Nuevo State Reserve (Figure 2). The Assessor's Parcel Number is 089-230-220 as shown on Figure 3. The property is rectangular, approximately 1,000 feet in width along the front and rear property lines and 3,000 feet in length along the side property lines.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The proposed single-family dwelling complies with the PAD zoning of the lands within the coastal zone, which allows one density credit or one residential unit on the property. The proposed development conforms with the height limits and setback requirements for the PAD zoning district. A single-family residence is allowed within the PAD with the issuance of a Planned Agricultural Permit. The substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations) address protection of

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agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The elevation of the parcel ranges from approximately 160 feet above mean sea level (msl) along Highway 1 in the western portion of the parcel and 390 feet above msl in the eastern portion of the site along the boundary with Santa Cruz County. The property has flat to gradual slopes of approximately 10 percent on most of the parcel with a gradual uphill grade to the east, and steeper slopes of approximately 25 percent along a ravine that crosses the lot (see Figure 4). The proposed building site is on a flat terrace between 380 and 390 feet above msl.

The parcel is within the central region of the Coast Ranges Geomorphic Province, and is underlain by marine and continental sedimentary rock units that have been deposited, folded, faulted, and uplifted to form the Santa Cruz Mountains (Romig Consulting Engineers 1999). The active San Gregorio Fault crosses the parcel and lies parallel to and approximately 800 feet from Highway 1. The Alquist-Priola Special Studies Zone boundary extends approximately 250 feet south of the fault and approximately 600 feet north of the fault (Figure 5). The parcel is within an active seismic area and may be subject to strong ground shaking. The site also is located within an ancient landslide complex approximately 4,000 feet in length and 1,500 feet in width. Romig Consulting Engineers (1999) did not observe any indications of any recent activity of the slide, and concluded that the landslide movement has ceased, and would be unlikely to recur. The potential for liquefaction at the site is low (Romig Consulting Engineers 1999). The Commission's staff geologist has reviewed the Romig report and concurs with these conclusions.

Soils at the site are primarily Santa Lucia loam, with Lockwood loam soils in the western portion of the parcel between Highway 1 and the pond, and Dublin clay soils in the ravine (Figure 6). Most of the Santa Lucia soils pose slight to moderate erosion potential, with those in the southeastern portion of the lot posing moderate to high erosion potential. The erosion hazard of the Lockwood and Dublin soils is slight (US Department of Agriculture 1961). The 14 acres in which the Lockwood soils are found are considered prime agricultural soils. In addition, as historic grazing land and land which has the potential to be used for grazing in the future, these soils would be considered "lands suitable for agriculture" under the definition in LUP Policy 5.3, which includes "lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting."

The parcel includes diverse habitat types (Figure 29). Currently, a majority of the property is annual grassland with scattered shrubs and tree saplings due to earlier use of the site for agricultural activities. Riparian wetland, pond, and coastal scrub vegetation are found in the depressions. Eucalyptus forest borders the northern and eastern property boundaries and mixed stands of Monterey pine and Douglas fir border the southern boundary. These habitats support many plant and wildlife species, including some special status species. Special status wildlife species that occur in nearby habitat include San Francisco garter snake, a federally- and state listed species; California red-legged frog, a federally-listed threatened species; and western pond turtle, a federal species of concern. One California red-legged frog was observed in the pond on the western portion of the property. A yellow warbler, a California Species of Special Concern, was also observed in the willows adjacent to the pond (Thomas Reid Associates 1999). Monarch butterflies, which are included in California Department of Fish and Game's Special Animals list, have been recorded within the Monterey pine grove just off the southeastern edge of the

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property. The eucalyptus and Monterey pine woodland on the property provide potential roosting habitat for this species. The native Monterey pine, itself, is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. The Año Nuevo stand, estimated to have once covered about 18,000 acres, has been reduced to approximately 1,500 to 2,000 acres (Staub, staff communication).

An archaeological survey of the northeastern portion of the parcel and along a proposed water pipeline was conducted by a professional archaeologist in June and July of 1999, as recommended by the California Historical Resources Information Center at Sonoma State University. No prehistoric cultural materials or historic materials were found. Two locations for trenching could not be surveyed because of dense vegetation (on the west side of the sag pond and through the swale in the northern portion of the property), and the consultant recommended that a professional archaeologist be present to monitor the unsurveyed areas if excavation begins (San Mateo County 1999a).

2.2 Project Description

The project as originally proposed and approved by the County consisted of construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached guest house, 7,500 square-foot pond, lap pool, gazebo with a spa, and driveway, plus installation of a septic system and water pipeline on a legal 84.49-acre lot.

Since the project was initially approved by San Mateo County and appealed to the Commission, the applicant has made changes to the project. Coastal Commission staff discussed with the applicant that one of the primary objectives in making the project consistent with the LCP would be to site it in the least visible location on the 84.48-acre parcel, consistent with all other LCP policies, and reduce the size and height of the house so that its visual impact is minimized. In response to this and other scenic resources policies, the applicant revised his proposed project and reviewed alternative sites (see Figure 15) suggested by the Coastal Commission staff. For instance, the primary building mass has been moved 255 feet to the southeast and the bedroom wings have been placed behind the living room, thereby reducing the frontage of the main portion of the house from 140 feet to 90 feet. The colonnade between the main portion of the house and the accessory building has been eliminated and the accessory building has been placed behind the main house. The height of the house from ground level has been lowered from 36 feet to 26 feet by placing 10 feet of the house underground. The house would still be located at the top of the property at approximately 380 to 390 feet above msl.

The applicant corrected the calculations for the ground floor area, which is proposed to be 4,500 square feet. Thus, the proposed residence is 6,000 square feet rather than 6,500 square feet as approved by the County (Field 2000a). The accessory building has been enlarged to 700 square feet from 600 square feet. The patio adjacent to the accessory building has been removed, reducing the patios to 4,000 square feet. To accommodate construction of a berm to screen the development from public view, the artificial pond has been reduced from 7,500 square feet to 6,000 square feet. The applicant has deleted the originally proposed 10,000 square-foot cultivated garden and gazebo. Table 1 shows the area of disturbance for the proposed project.

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Table 1. Area of Disturbance for the Proposed Project

Type of Disturbance	Square Feet
Residence Living Space	4,500*
Accessory building	700*
Garage	800 ¹
Septic System	820
Pool	160
Patios	4,000*
Decks	780
Pond	6,000*
Walkway	1,000
Driveway	3,200*
TOTAL	21,960

Source: Field 2001a and 2001b.

*These numbers have been corrected or revised for the de novo review as explained above in the text.

¹The garage is a total of 1,500 square feet. Because 700 feet of it would be below the accessory building, only the additional 800 feet is included as disturbance.

The proposed garage, utilities, lap pool, patios, and decks, which comprise an additional 7,240 square feet of floor space, are not included in the 6,000 square feet of living space. The living space includes two floors, a 4,500 square foot ground floor and a 1,500 square foot second floor. The second floor is not included in Table 1 below because it would not involve any additional disturbance beyond that required for the first floor. Similarly, the 800 square-foot utilities area is not included in the area of disturbance because it would be located underground the patio. As noted in Table 1, 700 square feet of the garage is not included as disturbance because it would be beneath the 700-square-foot accessory building. The proposed pond and walkway comprise another 7,000 square feet of developed area. The driveway would be 200 feet long, 16 feet wide (12 feet wide with two-foot shoulders on either side), for a total of 3,200 square feet. The gross disturbed area would be 21,960 square feet.

The proposed residence will be 36 feet high as measured from the finished grade. However, the applicant proposes to excavate the building site to lower the grade beneath the residence by 10 feet, and to use the excavated material to construct the screening berm. Thus, at its highest elevation from natural grade, the house would be approximately 26 feet in height (Figure 12). A water line and septic system are proposed on-site, and an existing well,¹ as shown in Figure 13, would be used. Well A does not have adequate capacity to meet fire regulations (Stan Field, staff communication). An approximately 2,800-foot long water line would connect from a well pump at the base of the parcel near Highway 1 to a well at the top of the parcel. Another water line, approximately 20 feet long would connect from the well at the top of the site to the house. Access to the site is provided by an existing private access road from Highway 1 that serves several properties on the hill. A 200-foot long driveway would be extended from the shared road to the proposed house. The proposed residence and accessory building have siding and roof materials that are colored to match the eucalyptus trees and are a modern design.

¹ An application to drill an agricultural well on the parcel was filed on July 1997 (File No. CDP 97-0015). A well permit was issued from County Environmental Health Division (Permit Number 13016) in November 1997. The well was certified at 15 gallons per minute. In May 1998 the County approved an application to convert the agricultural well to a domestic well (File No. CDP 97-0071).



The 6,000 square foot landscape pond feature would be located adjacent to the house between the house and the berm. The pond would be concrete-lined and less than 18 inches deep. Native vegetation would be used within and around the pond. Aquatic vegetation would be planted within the pond feature and upland vegetation around the outside. The pond would not have a lip that would trap amphibians within the pond if they enter it. Water for the pond would come from groundwater. The pond water would be recirculated and filtered to reduce the potential for algal growth. No chemicals would be used in treating the pond water. The pond would have a drain system so that the water can be drained once a year for cleaning. The draining would assist with controlling the occurrence of any bullfrogs in the pond. The pond would not be stocked with fish.

The applicant has also revised the project to plant a row of Monterey cypresses on the lower southeasterly ridge of the property to partially screen the development from Highway 1. There is no specific planting plan and the size of the plantings when installed has not been determined, but some possibilities are described in the arborist's report (Fong 2000a). Under ideal or good growing conditions the cypress would grow approximately 3.5 feet per year (Fong 2000a).

The applicant also proposes to construct a berm and lower the height above natural grade of the residence by ten feet through excavation (Figures 16 and 17). A berm would be placed immediately in front of and to the northeast of the residence and reflecting pond. The southeastern portion of the house would remain exposed to allow a view corridor from the house. The berm would be a maximum of 20 feet in height over a short distance and would taper off to merge with the existing topography. The berm would be approximately 230 feet long and would be constructed from soil excavated for the house and pond (6,000 to 7,000 cubic yards of cut). The berm would be planted with native grassland species and coyote brush (Field 2001b). The berm would screen the house (except for the southeastern view corridor area) from Highway 1, but to screen the house from the dunes at Año Nuevo six to eight foot high vegetation would be necessary. The soil removed from the house site and used for creation of the berm would lower the ground level at the house site to 366 feet after grading (Figure 17).

In addition to the changes described above, the applicant also amended the project description to indicate that there would be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit.

2.3 Sensitive Habitats

The Commission approves the permit application because the proposed project, as conditioned, will avoid significant adverse impacts to sensitive habitats.

2.3.1 Issue Summary

The site includes habitat suitable for the San Francisco garter snake and the California red-legged frog, as well as habitat for other sensitive species, wetlands, and riparian areas. The applicant proposes to locate development adjacent to sensitive habitat in a manner inconsistent with the habitat protection policies of the LCP. The staff therefore recommends special conditions requiring the applicant to eliminate the proposed artificial pond as well as other measures necessary to avoid significant adverse impacts to sensitive habitat areas.

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2.3.2 Standard of Review

Chapter 7 of the LCP contains policies that are very protective of sensitive habitats. In general, these LCP policies define and protect sensitive habitats, allowing only a limited type and amount of development in or near these areas. The full text of LCP policies discussed in this section are cited in Appendix B.

LUP Policy 7.1 defines sensitive habitats, which “include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.” LUP Policy 7.3 provides development standards for projects within or adjacent to sensitive habitats. The uses permitted in sensitive habitat are listed in LUP Policy 7.4. LUP Policy 7.5 describes appropriate permit conditions to protect such areas from adverse impacts.

LUP Policies 7.7 through 7.13 address riparian corridors and their buffer zones and LCP Policies 7.14 through 7.19 address wetlands and their buffer zones.

LUP Policies 7.32 through 7.36 address designation of habitats, permitted uses, permit conditions, and preservation of critical habitats that apply to likely rare and endangered species on the site. LUP policies 7.34 and 7.36 require that a qualified biologist prepare a report that discusses the natural and physical requirements of all endangered species on the property. LCP policy 7.36 specifically protects San Francisco garter snake habitat, including “migration” or movement corridors.

2.3.3 Discussion

Introduction

Much of the project site is sensitive habitat (Figure 18). The applicant has conducted a number of surveys and consulted with specialists in various biological fields that have documented the presence of habitat for listed species and other special status species and wetlands on the property (Thomas Reid and Associates 2000a, 2000b, and 2000c, Fong 2000a and 2000b, Staub 2000 and 2001, Dayton 2000, McGinnis 2000). The sag pond in the southwestern portion of the site, its riparian fringe, and the entire grassland-scrub savanna, which covers most of the center portion of the site, is considered critical habitat for the San Francisco garter snake and California red-legged frog under the Federal Endangered Species Act (USFWS 2001, McGinnis 2000). On site visits with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), representatives from both agencies concurred with this assessment of habitat. USFWS has also written a letter addressing its position on the possible effects of the proposed project on the San Francisco garter snake and California red-legged frog (Exhibit 3). Wetlands on the site include the sag pond, another smaller pond in the northern portion of the site, and two swales with riparian and coastal scrub vegetation. The sag pond was probably formed by seismic activity in the distant past (at least 2,000 years) rather than damming of drainage ravines as was done to create many other ponds in the vicinity. It is a particularly important wetland feature because it provides critical habitat for one of the oldest San Francisco garter snake and California red-legged frog populations in the area (McGinnis 2000). A California red-legged frog was observed during a survey at the sag pond (Thomas Reid Associates 1999).

Monterey pine forest is located along the eastern property boundary. The applicant's forester also observed seven mature Monterey pines (six-inch or greater diameter breast height [dbh]) in the

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eucalyptus grove in the northeastern corner of the site (see Exhibit 4). An additional 36 Monterey pine saplings (dbh of less than six inches) were observed in the eucalyptus grove and in the adjacent grassland (Staub 2001). One Monarch butterfly, which is included in California Department of Fish and Game's Special Animals list, was observed in the willows at the entrance to the property near Highway 1 (Dayton 2000). Monarchs were also observed in eucalyptus trees on the northern boundary of the site (Thomas Reid Associates 2000a). The Monarch's winter roosting sites, including eucalyptus groves, are considered sensitive habitat. The grove in the northern portion of the site does not provide such habitat due to its exposure to wind (Dayton 2000)

In addition, the property provides potential habitat for several other special status species. A yellow warbler was observed in the willows adjacent to the sag pond. No other special status species besides the California red-legged frog, Monarch butterfly, and yellow warbler were observed at the property. No special status plant species are expected to be found in the grassland areas where the proposed and alternative development sites are located. Sensitive species observed at the site or likely to use habitat at the site are listed below:

Common Name	Scientific Name	Federal Status	State Status	Presence at Site
California red-legged frog	<i>Rana aurora draytonii</i>	Threatened	Special Concern Species	Confirmed
San Francisco garter snake	<i>Thamnophis sirtalis tetrataenia</i>	Endangered	Endangered	Likely
Western pond turtle	<i>Clemys marmorata</i>	Species of Special Concern	Special Concern Species	Likely
Yellow warbler	<i>Dendroica petechia</i>	None	Special Concern Species	Confirmed
Loggerhead shrike (nesting)	<i>Lanius ludovicianus</i>	Species of Special Concern	Special Concern Species	Likely
Cooper's hawk (nesting)	<i>Accipiter cooperi</i>	None	Special Concern Species	Likely
Sharp-shinned hawk (nesting)	<i>Accipiter striatus</i>	None	Special Concern Species	Likely
Northern harrier (nesting)	<i>Circus cyaneus</i>	None	Special Concern Species	Likely
Monarch butterfly (winter roosting)	<i>Danaus plexipus</i>	None	None	Confirmed

Source: CDFG 2001; Dayton 2000; Thomas Reid Associates 1999, 2000a.

Any portion of the site that provides habitat for the special status species listed above is considered sensitive habitat in accordance with LUP Policy 7.1, which defines sensitive habitat, among additional factors, as "habitats containing or supporting 'rare and endangered' species as defined by the State Fish and Game Commission. In particular, the areas considered critical habitat for the San Francisco garter snake and the red-legged frog are sensitive habitat. The sensitive habitats map for the LCP indicates that rare, endangered, or unique reptiles and amphibians and plants have been found near the Lee property. LUP Policy 7.36 includes the riparian and wetland habitats as well as migration corridors of the San Francisco garter snake as

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sensitive habitat. The wetlands and riparian areas are also categorically defined in the LCP as sensitive habitats (LUP Policies 7.1, 7.7, 7.8, 7.14, and 7.15).

Monterey Pine Forest

Monterey pine is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. The Año Nuevo stand, estimated to have once covered about 18,000 acres, has been reduced to approximately 1,500 to 2,000 acres (Staub, staff communication). Native Monterey pine found near the San Mateo-San Cruz County line is considered a unique species under LUP Policy 7.48, and habitat for unique species is considered sensitive habitat under LUP Policy 7.1. Therefore, the Monterey pine forest on the site is also considered sensitive habitat in accordance with LUP Policy 7.1.

California red-legged frogs and San Francisco Garter Snakes

Background

California red-legged frogs have been extirpated or nearly extirpated from over 70 percent of their former range and are federally listed as threatened. Habitat loss, competition with and direct predation by exotic species, such as bullfrogs, and fragmentation of habitat due to encroachment of development are the primary causes for the decline of this species throughout its range. The remaining populations are primarily in central coastal California and are found in aquatic areas that support substantial riparian and aquatic vegetation and lack non-native predators. Habitat for red-legged frogs is typically deep-water pools with fringes of dense, emergent vegetation or dense shrubby vegetation, such as cattails and willows. Frogs hibernate in small mammal burrows, leaf litter, or other moist sites in or near (within a few hundred feet of) riparian areas (USFWS 1994, USFWS 1996, cited in NatureServe 2000). According to the final rule designating critical habitat for the red-legged frog, the project site is within critical habitat Unit 14, San Mateo-Northern Santa Cruz Unit (50 CFR Part 17, March 13, 2001). This rule provides guidance on the physical and biological features that are considered essential to the conservation of the species, as cited below:

In summary, the primary constituent elements consist of three components. At a minimum, this will include two (or more) suitable breeding locations, a permanent water source, associated uplands surrounding these water bodies up to 90 m (300 ft) from the water's edge, all within 2 km (1.25) miles of one another and connected by barrier-free dispersal habitat that is at least 90 m (300 ft) in width. When these elements are all present, all other suitable aquatic habitat with 2 km (1.25 mi.), and free of dispersal barriers, is also considered critical habitat.

The sag pond provides critical habitat for California red-legged frogs. During a field survey on July 16, 1999, one adult red-legged frog was observed on the edge of the pond and another was heard calling from the willows near the pond. This pond provides important breeding habitat for the frog (Thomas Reid Associates 1999). McGinnis (2000) describes the importance of this pond and adjacent habitat:

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Indeed, if the assumption that the project site pond is actually an old sag pond, the SFGS [San Francisco garter snake] and CRF [California red-legged frog] population at this site may be one of the oldest in the area. My 1989 life history study of the SFGS for the California Department of Fish and Game (CDFG) was conducted at two sag ponds on a ranch near La Honda, CA. These were chosen because sediment core samples analyzed at Stanford University revealed that these ponds were at least 2,000 years old. I and CDFG herpetologist John Brode felt the SFGSs at this site would best represent the entire current population, and this may also be true for the project pond site.

In addition, red-legged frogs have been observed at three nearby ponds. The first pond is on the Hinman property approximately .5 mile to the northeast the sag pond on the Lee property. The second pond is on the Pfluke property (farm pond), approximately 1,000 feet north of the Hinman pond, and again approximately .5 mile from the sag pond. The third pond is approximately 550 feet to the north of the sag pond (Figure 19). Another pond in Año Nuevo Creek, which is 1,500 feet southwest of the Hinman pond, may provide habitat for red-legged frogs, but the species has not been observed there. Furthermore, there is an in-stream pond approximately 1,500 feet to the southwest of the Hinman pond in Año Nuevo Creek; no red-legged frogs have been identified there, but this may provide habitat as well. The land between the triad of ponds where frog have been observed (sag pond, Hinman pond, and farm pond) and which contains no structures between the ponds or dispersal barriers, provides exactly the dispersal habitat that is considered critical habitat by USFWS in its final rule. According to the final rule designating critical habitat for the red-legged frog:

Frogs will make long-distance straight-line, point-to point movements, rather than using corridors for moving between habitats.

Dispersing adult frogs in northern Santa Cruz County traveled distances from 0.4 km (0.25 mi) to more than 3.2 km (2 mi) without apparent regard to topography, vegetation type, or riparian corridors.

When lines are drawn between the ponds with a minimum width of 300 feet, most of the Lee property northeast of the sag pond is considered critical habitat (Figure 29). Research on terrestrial movements of California red-legged frogs in Santa Cruz County support this description of the straight-line path between aquatic habitats. Researchers observed that most radio-tagged individuals moved in approximately straight lines between destinations. Maximum distances recorded for radio-tagged California red-legged frogs through various upland habitats were approximately 5,580 feet through grass/scrub rangeland, 2,950 feet through coniferous forest, and 1,640 feet through agricultural land. The distances of 2,400 and 2,550 between the sag pond and Hinman and farm ponds, respectively, across primarily grass/scrub rangeland are well within this range. Although eucalyptus groves that are within the straight-line paths were not specifically included in this study, Commission staff spoke with two of the researchers and they both agreed that eucalyptus groves of 135 feet to 390 feet in width would not present a barrier to frog movement (Norman Scott, staff communication; John Bulger, staff communication). These researchers also agreed that the increase in elevation from the sag pond to the other ponds of 210 to 220 feet would also not present a problem for frog movement. Two of the frogs in the Santa Cruz study traveled over 590 feet with a 77 percent elevation gain. One frog traveled in a straight line over 9,187 feet that included over 2,000 feet upward and downward in elevation by crossing topographic contours over five drainages (Bulger, Scott, and Seymour, unpublished).



The proposed house site is located outside of the straight-line dispersal corridors between the ponds. Although frogs may wander into the area where the house is proposed if the house were not present, avoiding the proposed house should not present a problem for frogs (Norman Scott, staff communication).

San Francisco garter snakes are federally and state listed as endangered. The San Francisco garter snake's preferred habitat is densely vegetated ponds near open hillsides where it can sun itself, feed, and find cover in rodent burrows. The species is extremely shy, difficult to locate and capture, and quick to flee to water when disturbed. On the coast, the snake hibernates during winter in rodent burrows, and may spend the majority of the day during the active season in the same burrows. San Francisco garter snakes have been found up to 590 feet away from water in rodent burrows on dry, grassy hillsides (NatureServe 2000). McGinnis (2000) recorded, in 1988, one adult male traveling over a ridgeline between two sag ponds that were approximately 1,320 feet apart.

California red-legged frogs are an essential prey species to the San Francisco garter snake, and the snakes have not been found in areas where red-legged frogs are absent. In addition, newborn and juvenile San Francisco garter snakes depend heavily on Pacific tree frogs. Adult snakes may also feed on juvenile bullfrogs. The decline of this species is due principally to habitat loss, the loss of red-legged frog, illegal collection, and the introduction of bullfrogs. Adult bullfrogs prey on both San Francisco garter snakes and California red-legged frogs.

As described above, the habitats for San Francisco garter snakes and red-legged frogs overlap. The sag pond provides critical habitat for the San Francisco garter snake as well as red-legged frog. According to McGinnis (2000) "regular use of upland grassland/scrub habitats had also been documented for the SFGS." McGinnis (2000) concludes with regard to habitat at the Lee property:

When all of the preceding facts and biologically based assumptions are applied to the project site, the pond, its riparian fringe, and the entire upland grassland-scrub savannah area qualifies as critical habitat for both the SFGS and the CRF. [Emphasis added]. In addition, the seasonal wetland swale through this portion of the site may very well serve as a primary movement pathway for both snakes and frogs which occasionally wander to and from CRF ponds on properties immediately north of this site.

In a subsequent letter, Dr. McGinnis (2001) qualified his conclusion in so far as it related to habitat where the house is proposed to be sited:

This site is situated approximately 2,000 feet from the sag pond and would never conceivably be used by either species from that site for hibernation or estivation. The only situation whereby I could envision burrows anywhere near the preferred house site being used is one in which either species is engaged in the very infrequent activity of random wandering... Such a scenario would have a wandering CRF or SFGS proceeding along the most logical movement course, the intermittent drainage approximately 600 feet west of the house site.

This statement misses two important points. While the proposed house site is approximately 2,000 feet from the sag pond, it is also only about 650 feet from the Hinman pond to the southeast and 860 feet from the farm pond to the northwest, where red-legged frogs have been observed. In addition, the research on radio-tagged red-legged frogs in Santa Cruz County

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indicates that "Riparian corridors were neither essential nor preferred as dispersal routes." (Bulger, Scott, and Seymour, unpublished). In a letter to David Lee, USFWS states that the proposed house site, which is outside the straight-line paths between ponds,

has few rodent burrows or rodent runways that garter snakes could use as retreat sites on a regular basis. However, the Lee house site is separated from the sag pond only by grassland. Unlike the Blank house, there is no unsuitable habitat that creates a barrier to prevent garter snakes and red-legged frogs from entering either the construction site or house site once the house is built. [Emphasis added] Therefore, garter snakes and red-legged frogs could occasionally use these grasslands when moving from one aquatic feature to another.

Commission staff, including the Commission Ecologist, had several extensive discussions with biologists from USFWS and CDFG regarding whether or not to consider the proposed house site as a sensitive habitat area. They do not consider the house site a sensitive habitat area because it would be used relatively infrequently by the endangered and threatened species and the house would not block movement routes of these frogs and snakes. Accordingly, Commission finds the house site, Site 2, proposed by the applicant is not considered a sensitive habitat area under the certified LCP because it is not critical habitat for the California red-legged frog or the San Francisco garter snake. It is, however, located adjacent to sensitive habitat areas for California red-legged frogs and San Francisco garter snake.

Impacts and Consistency with Applicable LCP Policies

LUP Policy 7.1 defines sensitive habitat, which includes, among other areas, habitat for "rare and endangered species," riparian corridors, and wetlands. As described above, most of the parcel is sensitive habitat. The wetlands, riparian areas, and upland dispersal corridors are critical habitat for San Francisco garter snake and red-legged frog. The Monterey pine forest is also sensitive habitat. One of the few areas that is not sensitive habitat is where the house is proposed (Figure 29).

Although the house site is not directly in sensitive habitat, it is closely adjacent to sensitive habitat. LUP Policy 7.3a prohibits any land use or development that would have a significant adverse impact on sensitive habitat areas. Furthermore, LUP Policy 7.3b requires that development in areas adjacent to sensitive habitat to be sited and designed to avoid impacts that could significantly degrade the sensitive habitats, and that all uses be compatible with maintaining the biologic productivity of the habitats. Thus, the proposed development must be sited and designed to avoid significant impacts to these adjacent sensitive habitat areas.

The proposed artificial pond would result in impacts that could significantly degrade sensitive habitat for San Francisco garter snakes and California red-legged frogs, and therefore, would be inconsistent with LUP Policy 7.3. These species may be attracted to the artificial pond created adjacent to the house. Although the applicant has designed the pond to lessen the potential impact of the artificial pond on the listed frogs and snakes, the pond is still an attractive nuisance for these species. The USFWS letter regarding the proposed project (Exhibit 3) summarizes concerns regarding the pond:

As there is only grassland between the sag pond and the house site, the Service believes that the creation of an artificial pond next the house will create an "attractive nuisance," by attracting red-legged frogs away from breeding ponds

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in the area. If they attempt to use it as a breeding site, the shallow depth of the pool may prevent egg masses from maturing into tadpoles, and/or provide the tadpoles the safety from predators inherent in a deeper natural pond. In addition, the artificial pond will also attract Pacific treefrogs (Hyla regilla). The red-legged frog and Pacific treefrog are primary prey items for garter snakes. The presence of these two frog species will likely attract garter snakes to the artificial pond. The Service is concerned that the close proximity of the artificial pond to the house will be detrimental to garter snakes and red-legged frogs. The presence of nighttime lighting may make it easier for predators such as raccoons to catch red-legged frogs or garter snakes. If house cats are present, they can easily prey upon both garter snakes and red-legged frogs during the day and at night. To reduce the likelihood of take as described above, the Service recommends that the artificial pond be removed from the proposed project. [Emphasis added.]

The impacts to California red-legged frogs and San Francisco garter snake cannot be adequately addressed through pond design. Even if the pond were reduced in size it would still attract frogs and snakes and result in similar impacts. Fencing or walls to exclude the frogs and snakes can have detrimental effects on frogs and snakes. For example, the barrier can provide an area for predators to prey on "trapped" individuals or frogs may desiccate when stopped by the barrier. Radio-tagged frogs were presumed to be eaten by predators and found desiccated along the base of an enclosure fence around sewage percolation ponds in a study in San Luis Obispo (Rathbun, Scott, and Murphey 1997). Although the pond would not be located in sensitive habitat it would be adjacent to sensitive habitat, and would result in impacts that would significantly degrade the adjacent sensitive habitat area inconsistent with LUP Policy 7.3. Therefore, Special Condition 2A(1) prohibits construction of the proposed artificial pond.

In addition, impacts of the proposed residential development adjacent to sensitive habitat could result from noise, lights, pets, use of herbicides and pesticides, and general activity that may disturb frogs and snakes and/or lead directly to injury and mortality (e.g., predation from pets).

The existing unpaved access road, now used exclusively to serve the existing Boling residence to the southeast, bisects the movement route of California red-legged frogs and San Francisco garter snakes between the Hinman and Lee ponds (Figure 28). Any increase in vehicular traffic along both the access road and driveway, would potentially cause frog and snake mortality. The current edition of the Trip Generation Handbook by the Institute of Transportation Engineers (1997) estimates that a single-family detached dwelling generates an average of 10 trips per day on weekdays and Saturdays, with nine trips per day on Sundays. The handbook is based on data from studies varying widely in terms of dwelling unit size, price, and location, and ranges from five to 22 average trips on weekdays. In addition, the handbook states that within this group, single-family units that were larger and further away from the corresponding central business district generated a higher number of trips than units that are smaller and closer to the central business district. Based on these data it is reasonable to expect that the proposed large residential development in a remote location (approximately 12 miles from the Pescadero town center) would generate more vehicular trips than the average of ten trips per day of an average single-family dwelling. Thus, the impacts of the proposed development to the listed frogs and snakes due to traffic would be greater than that of a smaller, less remote house.

To address post-construction impacts on San Francisco garter snakes and California red-legged frogs associated with dogs being kept on the property, Special Conditions 2A(3) requires that



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dogs be kept in a fenced area adjacent to the house, and requires the applicant to construct a fence around the perimeter of the sag pond conservation easement area. This condition reduces the potential for dogs to capture and kill listed species, dig up burrows, and other forms of harassment throughout the property.

The San Francisco garter snake hibernates between November 1 and May 1. During this period, hibernating snakes are difficult to detect and are vulnerable to injury or mortality from grading and other earth-disturbing activities. Therefore, Special Condition 5A prohibits grading during this hibernating period to prevent harm to snakes. Special Condition 5B requires the applicant to construct an exclusion fence around the construction site to prevent frogs and snakes from entering the area. During the active period, any snakes that are present in the construction area can be detected by a trained monitor and construction halted if necessary to avoid impacts. Therefore, Special Condition 5C requires that two days prior to grading, surveys shall be conducted for San Francisco garter snake as well as California red-legged frogs to ensure that neither the frogs nor the snakes are present during grading activities. Special Condition 5D requires that a biological monitor be present throughout grading and construction activities and requires the monitor to halt construction activities if San Francisco garter snakes and California red-legged frogs are detected. These measures are necessary to ensure that the proposed development will not result in significant adverse impacts to these protected species consistent with LUP Policy 7.3a.

To reduce impacts associated with the driveway, Special Condition 2A(5) requires that the driveway to the proposed residence and accessory building be from the shortest, most direct route from the existing shared roadway and that it be no wider than 12 feet. Although the driveway is not proposed to be located within the identified frog or snake habitat areas, it would be located adjacent to sensitive habitat areas in which the sensitive species are known to move long distances. Thus, it is possible that these species may be harmed by traffic on the driveway. A shorter, smaller driveway reduces the potential for frogs and snakes to be killed or harmed by vehicles consistent with LUP Policy 7.3b.

To protect sensitive habitat from adverse changes in plant species composition, Special Condition 3A requires that all vegetation planted on the site shall consist of native drought-tolerant plants. For example, invasive, non-native plant species could spread to wetland areas, choking out native vegetation, and thereby degrade pond and wetland habitat for San Francisco garter snakes and California red-legged frogs inconsistent with LUP Policy 7.3.

LUP Policy 7.4 permits only resource-dependent uses in sensitive habitats, and residential development is not considered a resource-dependent use. LUP Policy 7.33 describes very limited types of uses that are permitted in habitats of rare and endangered species, and does not include residential development, as cited below:

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

As discussed above, the sag pond and a 300-foot-wide upland habitat area surrounding the pond provide critical habitat for rare and endangered species and are therefore classified under LUP Policies 7.1 and 7.32 as sensitive habitat. The applicant proposes to install a 2,800-foot-long



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water line to the residence from a well located at the bottom of the slope near the highway by trenching through the northwestern portion of the sag pond. Installation of the water line as proposed is governed by LUP Policies 7.3, 7.4, 7.33, 7.36, and 7.44, which strictly limit the types of development permissible in sensitive habitat areas. Pursuant to these policies of the LCP, only resource-dependent uses that do not result in significant disruption to the habitat may be located within any of the sensitive habitat areas identified on the project site, including the California red-legged frog dispersal corridors. The water line would be inconsistent with LUP Policy 7.16 because it is not a permitted use in wetlands. Although pipes that result in fill for incidental public service purposes are allowed to be buried in wetlands, the proposed private water line would not result in fill for incidental public service purposes and is therefore not allowable pursuant to LUP Policy 7.16. Therefore, Special Condition 2A(6) prohibits installation of the water line within any of the sensitive habitat areas identified on the site (Figure 29), including the wetlands and riparian areas, except as discussed below, beneath the portion of the dispersal corridor encompassing the road.

The applicant has indicated to Commission staff that the water line may be re-sited within the alignment of the existing access road to avoid impacting the sag pond and other sensitive habitat on the site. The access road traverses the dispersal corridor between the sag pond and the pond located to the northeast of the site. The Fish and Wildlife Service does not consider this existing road to be a barrier to frog dispersal because it carries a low volume of traffic. Thus, frogs are expected to cross the road when moving between ponds. Once installed, the underground water line would not affect the movement of frogs. However, if the pipe is installed during the time that frog dispersal is occurring, significant adverse impacts to the frog are probable. Movement of California red-legged frogs between aquatic habitats does not occur as a regular migration but rather episodically. The frogs disperse during wet periods when the population is high in a particular habitat area. During such times, the frogs may move up to two kilometers to populate other aquatic habitats (CITE). The frogs do not typically make these long-distance movements during dry periods. Therefore, Special Condition 5 specifies that the water line shall be installed during the dry season to avoid adverse impacts to the frogs. Therefore, as conditioned, the proposed water line would not conflict with the sensitive habitat protection policies of the LCP.

Any future development or agricultural activities such as grazing or cultivation in or adjacent to the sag pond would cause significant adverse impacts to critical San Francisco garter snake and California red-legged frog habitat. To fully protect habitat for San Francisco garter snake and California red-legged frog, the sag pond and surrounding critical habitat area must be managed by an agency or organization with expertise in managing habitats for these species. For example, the pond may require temporary draining to remove bullfrogs or other predators. The composition and density of associated vegetation would need to be managed to encourage breeding by California red-legged frogs. This kind of long-term habitat conservation cannot be entrusted to individual property owners who lack the knowledge and expertise required for the task. Management of critically important habitat such as this must be carried out by either a public agency or private organization with experience and expertise in habitat conservation and management. Therefore, Special Condition 6 requires that the applicant record and offer to dedicate a conservation easement. The easement includes the sag pond and associated wetland and riparian vegetation and a 300 foot buffer area from the outer edge of the vegetation, as

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shown in Figure 29. Only by imposing Special Condition 6 can the Commission find that the proposed development is consistent with the requirements of LCP Policy 7.3 to protect sensitive habitat areas on the parcel.

Much of the land in the vicinity of the Lee property is owned and managed by public agencies or is protected under conservation easements. The areas west and north of the site are owned by State Parks as part of Año Nuevo State Reserve and Año Nuevo State Park. Big Basin Redwoods State Park is to the south and east. The State Coastal Conservancy owns the Cascade Ranch to the north and holds a natural resource and agricultural easement over the K&S Ranch, which was formerly part of Cascade Ranch. These areas are managed for protection of special status species, as well as for recreation and agricultural production. The applicant's biologist (McGinnis 2000, 2001) recommends placement of a conservation easement over the sag pond and warns of "dire consequences" for the San Francisco garter snake and California red-legged frog if an easement is not placed over the sag pond. In his review of grazing practices on nearby properties, he describes the adverse effect of cattle grazing on pond habitat. In 1980, habitat at White House Road Pond was destroyed through removal of shoreline and emergent vegetation by cattle. This pond was subsequently protected under a conservation easement and has been restored to once again provide habitat for the San Francisco garter snake and California red-legged frog. At Lake Elizabeth, management by State Parks has resulted in removal of cattle and restoration of the shoreline vegetation. In contrast, Coppock Pond has not been managed to assure its water source and is now a dense tule wetland, providing little or no habitat for the San Francisco garter snake and California red-legged frog. The conservation easement area required in Special Condition 6 will be part of the larger effort by public agencies to manage and protect the remaining San Francisco garter snake and California red-legged frog habitat in the southern San Mateo coast.

The easement required in Special Condition 6 raises an issue under an LCP policy regarding conversion of agricultural land. The sag pond and buffer are within prime agricultural land and lands suitable for agriculture. Special Condition 6 requires protection of the sag pond, riparian vegetation, and 300 feet of buffer from the riparian vegetation for habitat conservation and would prohibit future agricultural activities on this portion of the project site. Pursuant to LCP Policy 5.8a(1) prime agricultural land may be converted to non-agricultural uses when no alternative site exists for the use. There is no alternative site to protecting the sag pond in place. Relocation of the pond would be incongruous with the goal of protecting this habitat and would be inconsistent with the LCP as well as state and federal laws. Therefore, the Commission finds that the proposed conservation easement is consistent with LCP Policy 5.8a regarding conversion of agricultural land.

As described above, in addition to the sag pond, associated wetland and riparian vegetation, and its buffer, uplands between the sag pond and ponds within 1.25 miles where movement is not inhibited by barriers are also considered critical habitat in accordance with the USFWS' final rule on California red-legged frog critical habitat. The final rule defines this area as at least 300 feet in width. Therefore, in accordance with LUP Policy 7.1, the 300-foot-wide California red-legged frog dispersal corridors are considered sensitive habitat and development in these corridors is restricted to resource dependent uses that do not have a significant adverse impact on the sensitive habitat areas. Because residential development is not a use that is dependent on the California red-legged frog dispersal corridors, Special Condition 7 requires the applicant to record an open space deed restriction over the corridors prohibiting development. As with the

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conservation easement area, development will be limited within the area governed by the restriction; however, unlike the conservation easement the applicant will retain ownership of the deed restriction area because it does not need to be managed by a public agency. Development prohibited under this condition includes, but is not limited to, structures, walls, fences that do not allow passage of frogs and snakes, and roads.

In accordance with Section 13250(b)(6) of Title 14 of the California Code of Regulations, Special Condition 1 requires that a coastal development permit or an amendment be obtained for all future improvements on the subject parcel that might otherwise be exempt from coastal permit requirements. Because of sensitive habitat, including San Francisco garter snake and California red-legged frog habitat, on the property, as well as visibility of the property from scenic roads and public viewpoints, improvements related to single-family dwellings and other development normally exempted under San Mateo Zoning Code Section 6328.5 require a coastal development permit or amendment. This condition will allow future improvements to be reviewed to ensure that the siting or implementation of a project will not have significant adverse impacts on the sensitive habitat or visual resources. The future development deed restriction applies only to improvements that meet the LCP definition of development contained in Zoning Code Section 6328.3(h). Therefore, minor maintenance projects, such as painting the exterior of buildings the same color as approved in the permit would not require a coastal development permit. The condition also requires a permit or permit amendment for repair and maintenance activities that are identified in Section 6328.5 as involving a risk of adverse environmental impacts.

The project site contains and is bordered by large stands of Monterey pine and eucalyptus trees and contains open grasslands and wetlands. As such, the site provides suitable habitat for raptors. The proposed development will not significantly impact this habitat because no trees are proposed to be removed and the developed area of the property is clustered within one building site leaving the remainder of the 84-acre lot in open space. However, grading and other construction activities and associated noise may adversely affect nesting birds. Sensitive species, such as loggerhead shrikes, Cooper's hawks, sharp-shinned hawks, and northern harriers, whose population levels are already of concern, may nest in the trees or dense shrubs on and adjacent to the parcel. Construction activities and noise may cause birds to abandon nests, reduce the number of broods they produce, or cause other behaviors that result in reducing population numbers. One study of hawks found that in areas where the birds were disturbed by humans, 60 percent of the nests failed, in comparison to only six percent in areas with minimal or no human disturbance (Wiley 1975, as cited in Department of Fish and Wildlife, no date). The recommended distance from nesting raptors varies from 50 feet to 1,600 feet. The distance for Cooper's hawk and sharp-shinned hawk ranges from 400 to 600 feet (Richardson and Miller 1997). Loggerhead shrike and Cooper's hawk breeds from March through August. Sharp-shinned hawk breeds from April through August. Northern harrier breeds April to September.

Special Condition 5E requires the applicant to undertake measures to avoid potential impacts to nesting birds on the site. The nesting period for the sensitive bird species that may nest at the site extends from March 1 through September 30. Therefore, in order to protect the species consistent with LUP Policies 7.1, 7.3, 7.4, and 7.5, Special Condition 5E requires the applicant to survey the area within 0.25 miles of the construction site for nesting birds within 30 days of construction during the nesting season. Construction is prohibited within 600 feet of active raptor and loggerhead shrike nests, in accordance with the literature recommendation for Cooper's hawk

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and sharp-shinned hawk. Recommended distances from loggerhead shrike nests were not found during a literature search.

2.3.4 Conclusion

In conclusion, the Commission finds that, as conditioned, the proposed development is consistent with the sensitive habitat protection policies of the LCP. As conditioned, the proposed development is sited to avoid any direct impacts to sensitive habitat and includes appropriate mitigation measures to avoid and minimize significant adverse impacts that could result from development adjacent to sensitive habitat areas on the site.

2.4 Visual Resources

The Commission finds that the proposed development, as conditioned, conforms to the LCP policies concerning the protection of the scenic qualities of the hills visible from a scenic highway and public viewpoints.

2.4.1 Issue Summary

The LCP presents two primary tests that address the conformity of the proposed development with the visual resource policies of the certified LCP. The first test addresses siting of development in scenic areas and where it is visible from public viewpoints. This first test is based on LUP Policy 8.5, which requires that new development be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserves the visual and open space qualities overall. The second test addresses the design of development to avoid or minimize impacts to visual resources. The second test requires that development be designed to be unobtrusive as possible and relate in size and shape to adjacent buildings or landforms.

Highway 1 is a State Scenic Road, as defined and designated in LUP Policies 8.28 and 8.29, and Año Nuevo State Reserve is designated as a reserve because of its "outstanding natural and scenic characteristics." The Lee property, which comprises 84.48 acres, includes two intermediate ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. However, in accordance with LUP Policy 8.5, because some of the less visible alternative sites are in sensitive habitat, they must be eliminated from consideration and the least visible site that is consistent with all other LCP requirements must be ascertained. The applicant conducted a constraints analysis and alternatives assessment to address LUP Policy 8.5.

The large, two-story design of the project does not conform to the requirement that the development in scenic areas shall be as unobtrusive as possible through design, siting, layout, size, height, and shape. The house is 90 feet across facing Highway 1 and Año Nuevo State Reserve, while the depth of the house is 70 feet at its widest. The surrounding area is agricultural in character and very sparsely developed. The closest visible developments are farmhouses and associated structures that are located at the base of hills. The proposed development is a very large residence with a modern design that does not relate in size or shape to adjacent buildings or landforms. Accordingly, the project as approved must include measures to minimize and avoid significant adverse visual impacts consistent with the provisions of the certified LCP.

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2.4.2 Standard of Review

Several of the policies of the LUP regarding visual resources are applicable to the proposed development. LUP Policy 8.5 requires that development be sited in the least visible location that is consistent with all other LCP requirements. LUP Policies 8.18a. and 8.20 require that the development be designed to avoid or minimize impacts to visual resources. LUP Policy 8.17a. requires that development be located and designed to conform with rather than change landforms. State scenic roads and corridors are defined and designated in LUP Policies 8.28 and 8.29. Development regulations along scenic corridors in rural areas are described in LUP Policy 8.31. LUP Policy 8.31a incorporates the policies of the Scenic Road Element of the County General Plan, of which the applicable policies are 4.46, 4.47, 4.48, and 4.58. General Plan Policy 4.46 authorizes the regulation of both the site and architectural design of structures in rural scenic corridors to protect the visual quality of those areas. General Plan Policy 4.58 also requires that development be located so that it does not obstruct views from scenic roads or disrupt the visual harmony of the landscape. As with LUP Policy 8.17a, landform alteration is discouraged in General Plan Policy 4.47. Similarly, General Plan Policy 4.48 contains language that is similar to LUP Policy 8.20 regarding size and scale of development.

2.4.3 Discussion

Test 1: Siting

Visibility of Project from Highway 1 and Año Nuevo Reserve

The proposed development would be located on the top of a southwest-facing hillside inland of Highway 1, overlooking Año Nuevo State Reserve, in the unincorporated Pescadero area of San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County. The California Department of Parks and Recreation's brochure for Año Nuevo State Reserve describes the reserve and vicinity as follows:

Fifty-five miles south of San Francisco and the Golden Gate, a low, rocky, windswept point juts out into the Pacific Ocean. The Spanish maritime explorer Sebastian Vizcaino named it for the day on which he sighted it in 1603 - Punta de Año Nuevo - New Year's Point.

Today, the point remains much as Vizcaino saw it from his passing ship - lonely, undeveloped, wild. Elephant seals, sea lions, and other marine mammals come ashore to rest, mate, and give birth in the sand dunes or on the beaches and offshore islands. It is a unique and unforgettable natural spectacle that hundreds of thousands of people come to witness each year. [Emphasis added]

State Reserves, such as Año Nuevo State Reserve, are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as "consisting of areas embracing outstanding natural and scenic characteristics of

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statewide significance” (California Department of Parks and Recreation 2000). Año Nuevo Point is also designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with higher visitation rates expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999).

Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with one of the most prominent locations being the top of the hill upon which the proposed development would be located. The parcel ranges in elevation from approximately 160 to 390 feet above mean sea level (msl). The proposed building site is located on a flat grassland terrace at the highest point of the property. Because of its proposed hilltop location, large size and two-story height, the proposed development would be visible to vehicles traveling south and north on Highway 1 and would be visible from trails in Año Nuevo State Reserve.

The proposed site is visible from the main public trail in the Reserve. It is also visible from the Outdoor Education road/trail coming in from Año Nuevo point. The point is approximately two miles from the proposed building site and the closest portion of Año Nuevo State Reserve is approximately a half-mile from the building site. Although the views from the reserve to the site are somewhat distant, the proposed development represents a significant alteration in the view because no other similar development is visible from these areas. With the exception of the Boling house, the Lee house would be a large non-agricultural residence visible from the reserve because it is sited at the top of a hill with a large clearing in front of it. Other adjacent residences are associated with farms and are hidden and/or sited at the base of the slope near Highway 1. According to California Department of Parks and Recreation, from the Reserve “visitors view pristine coastal mountains with no current intrusive visual impacts” (California Department of Parks and Recreation 2000).

Constraints Analysis

The applicant has provided an analysis of the project impacts and constraints. Additional analyses included biological assessments (Thomas Reid Associates 2000a and 2000c), wetland delineation (Thomas Reid Associates 2000b), geotechnical review (Romig Consulting Engineers 2000a and 2000b), arborist’s analysis (Fong 2000a and 2000b), assessment of Monterey pines by a forester (Staub 2000 and 2001), and analysis of LCP consistency (Boyd 2000). At the request of Commission staff, the applicant used these studies along with additional observations to create constraints maps of the entire site (Figures 20 through 22). Figure 23 was created after the alternatives analysis was conducted and demonstrates that much of the site is visible from public viewpoints. These constraints maps were created prior to the most recent revisions to the proposed project at Site 2. Therefore the layout of the house is now more compact and the driveway is shorter.

Alternatives Analysis

In response to the Commission’s appeal and to address LUP Policy 8.5, the applicant conducted an alternatives siting analysis. The locations of the alternative sites suggested by Commission staff and considered by the applicant are shown in Figure 15. The County-approved site is referred to as Site 1. **The applicant has indicated that Site 2 is the proposed project for purposes of the de novo review** (Lee 2000). Site 2 is 215 feet southeast of Site 1. Site 3 is

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located to the immediate southeast of Site 2. Site 3 would locate the development in the southeast corner of the parcel, where it would be more effectively screened by existing mature Monterey pine forest. Site 4 is on the south side of the property above the ravine. Site 5 is on the north side of the property. Site 6 is behind the first ridge on the south side of the parcel approximately 1,650 feet from Highway 1. Site 7 is in the eucalyptus grove in the northern corner of the parcel. Other sites may also be considered. Of the alternatives presented, Site 4 appears to be the least visible alternative. Because Site 2 is the applicant's proposed project location and Site 4 appears to be the least visible site, these two alternatives are analyzed in greater detail than the other alternatives.

After the appeal was filed the applicant provided visual simulations of the project from six locations along Highway 1 and from four locations in Año Nuevo State Reserve. These simulations show the development at six of the sites, although not all of the sites are shown from all of the camera angles. No simulations were performed for Site 6 because it was determined shortly after it was proposed that it would be in sensitive habitat, and therefore, warranted no further consideration. Site 4 is shown from camera positions B and D only because it is not visible from the other camera angles. In addition, it appears from the simulation for Site 4 that the development would not be visible from camera position D at Año Nuevo State Reserve. The proposed development at Site 4 would be visible from only one of the camera positions and Site 2 would be visible from all of the camera positions. Therefore, placing the development at Site 4 would make it far less visible than at Site 2. In addition, the simulations for Sites 1 and 2 were guided by the story poles placed at the site, while the others did not benefit from that level of accuracy. The initial simulations were for the design of the County-approved project. The applicant subsequently did additional simulations for the more compact house design of the proposed project at Site. The simulation at Site 2 shows the house colored to match the eucalyptus trees and the berm and vegetation screening in front of it (Figure 22). The subsequent simulation of the proposed project at Site 7 is not comparable to this simulation at Site 2 because it depicts the County-approved house design of the main portion of the house (note 6 windows on either side of the roof rather than 3), is colored brown rather than to match the eucalyptus, and does not include the berm or vegetation screening.

Applicant's Reasons for Eliminating All Sites Except Site 2

Site 1

Site 1 is the development site originally approved by San Mateo County at the top of the slope near the eastern property boundary. The Commission found that siting the proposed residence at this location raises a substantial issue concerning the LCP visual resource policies. Following the Commission determination of substantial issue, the applicant amended the project description to relocate the proposed residence to Site 2.

Site 2

The applicant contends that the proposed building site (Site 2) minimizes impacts on biological resources because it is not located within any of the sensitive habitat areas on the project site as discussed above. The applicant contends that Site 2 is the optimum site from a geologic and geotechnical engineering viewpoint (Thomas Reid Associates 2000a; Romig Consulting Engineers 2000a and 2000b). The San Gregorio fault is approximately 1,400 feet to the west of Site 2.

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Site 3

Site 3 is directly adjacent to an existing Monterey pine forest and contains a large number of Monterey pine saplings. The site appears to be suitable for regeneration of Monterey pine forest. The applicant rejects site 3 because development at Site 3 would require removal of Monterey pine saplings and reduce the area on the site available for regeneration of Monterey pine forest.

Site 4

Site 4 would be approximately 1,080 feet from the pond and 175 feet from the ravine mentioned above. The applicant contends that it would not be possible to "place a homesite on the Site 4 slope and respect the 100-foot wetlands buffer and a 75-foot setback from the existing Monterey pines" (Boyd 2000). A biologist for the applicant conducted a preliminary wetland assessment and identified four wetland areas (Thomas Reid Associates 2000a) as well as a jurisdictional wetland delineation (Thomas Reid Associates 2000b), as shown in Figure 26. According to a constraints map of Site 4 prepared by the applicant's geotechnical engineers, the house would be within the 100-foot buffer of a wetland and 75 feet of the Monterey pines (Figure 29).

The applicant has identified buffers around the Monterey pine forest and concludes that locating the development at Site 4 would impinge on this buffer. The applicant's agent states that "it would be impossible to construct the home without impacting the root zones and groundwater vital to the Monterey pines" (Boyd 2000). The forester concluded that to protect the natural regeneration of the Monterey pine populations, development should be 80 to 115 feet from the exiting mature forest perimeter (Staub 2000). In addition, the applicant states that Site 4 would need to be located 75 feet from Monterey pines for safety reasons: out of reach if they topple and to reduce fire hazards (Fong 2000b; Boyd 2000).

Site 4 is 2,400 feet from where the butterfly was seen in the willows near the entrance and approximately 100 feet from the Monterey pine forest. The eucalyptus trees on the northern boundary of the site where Monarchs were seen (Thomas Reid Associates 2000a) are approximately 1,000 feet from Site 4.

The applicant contends that Site 4 would not be feasible or would be inconsistent with LCP policies regarding geologic hazards. Site 4 is approximately 1,100 from the fault. The applicant's geotechnical engineers noted that soil slumping and shallow landsliding are actively occurring in the colluvial soils at Site 4. Grading and earthwork required to site the proposed house design at Site 4 would result in fill slopes as high as 40 feet to accommodate the house pad (Romig Consulting Engineers 2000b). Fills would have to be properly keyed and benched into the weathered rock below the hillside and the fills would have to be kept dry. A letter from the geotechnical engineers indicates that the subdrainage needed to build the fills could dewater the soils contributing ground water to the wetland areas. The letter also states that due to the fills and grading, erosion would occur, especially in the first few years after construction (Romig Consulting Engineers 2000b).

Site 5

The applicant's analysis rejects Site 5 because it is more visually prominent than Site 2 (Boyd 2000).

Site 6

The applicant rejects Site 6 because it would require the longest driveway (1,400 feet) of any of the sites and would cross the grassland that provides critical habitat for the San Francisco garter

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snake and the red-legged frog. This site is closer to the San Gregorio Fault than any of the other sites and is in a moderate to high geologic hazard zone.

Site 7

The applicant's analysis of Site 7 indicates that removal of the eucalyptus would require a 400 foot diameter area of exposed soil and disturbance that could result in erosion and siltation in adjacent sensitive habitat (swale) (Fong 2001). In addition, Site 7 is within the straight-line path for California red-legged frogs between the sag pond and the farm pond. The eucalyptus are not considered to present a barrier to movement of the frogs. Therefore, Site 7 is in sensitive habitat. In addition, the applicant's forester found Monterey pines within the eucalyptus grove and in the adjacent grassland.

Staff's Analysis of the Least Visible Site Consistent With All Other LCP Policies

Staff has reviewed the applicant's assessment of alternative sites and concurs with the determination that there are no less visible sites on the property other than proposed Site 2, that are consistent with all other LCP requirements. Of the alternative sites identified, only Sites 2 and 5 are located outside of sensitive habitat areas. Thus, development of these sites – sites 3, 4, 6 or 7, would be in conflict with LUP Policies 7.3 and 7.4. After several site visits and review of photo-simulations, topographic maps and site plans, staff agrees that development located at Site 5 would be more visually obtrusive than at Site 2. Therefore, consistent with LCP Policy 8.5, proposed Site 2 is the least visible site consistent with all other LCP requirements.

Test 2: Scale, Design, and Landform Alteration

Development Shall Be As Unobtrusive As Possible

Although the project is proposed to be located in the least visible site consistent with all other policies, the proposed development is inconsistent with LUP Policy 8.18a. and 8.31a because it is not designed to protect views from Highway 1 and Año Nuevo State Reserve, is not visually compatible with the character of the surrounding area, and would not be subordinate to the character of its setting.

LUP Policy 8.18a. requires development to blend with and be subordinate to the environment and the character of the area and be as **unobtrusive as possible** through, but not limited to, **siting, design, layout, size, height, shape**, materials, colors, access, and landscaping. LUP Policy 8.31a incorporates General Plan Policies 4.46 and 4.58. General Plan Policy 4.46 authorizes the regulation of both the site and architectural design of structures in rural scenic corridors to protect the visual quality of those areas. General Plan Policy 4.58 also requires development to be located so that it does not obstruct views from scenic roads or disrupt the visual harmony of the landscape.

The proposed residence will be 36 feet high as measured from the finished grade. However, the applicant proposes to excavate the building site to lower the grade beneath the residence by 10 feet, and to use the excavated material to construct the screening berm. Thus, the proposed development would be 26 feet high above natural grade and have a linear design that would present an approximately 90-foot-long façade to the coastal viewshed. The applicant proposes to screen the development from view by constructing a large berm directly in front of the residence. The berm would be 230 feet long and a maximum of 20 feet high. The berm would be planted with native grassland species and coyote brush (Field 2001b). The berm itself would screen the house (except for the southeastern view corridor area) from Highway 1, but not from the dunes at

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Año Nuevo. To screen the house from this location, the applicant proposes to plant six to eight foot high vegetation on top of the berm. Because of its location on a small flat area at the top of the hill it is not feasible to form the berm as a gradual, natural-appearing slope. As proposed, the berm would consist of a steeply sloped linear feature that would neither blend with nor be subordinate to the surrounding landforms. Thus, as proposed, the development is inconsistent with LUP Policies 8.18a and 8.31a.

The berm is proposed as a means to mitigate the adverse visual impacts of the development. However, as proposed the berm itself would also significantly degrade the scenic qualities of the site. Therefore, the proposed berm is not an adequate or effective mitigation measure. The height, length and position of the berm is determined by the height and scale of the residence that it is designed to screen. The massive scale and artificial design of the proposed berm is necessary because of the height and scale of the residence. Thus, the scale of the berm could be reduced by reducing the scale of the proposed residence. A smaller berm, or series of small berms could be designed to more closely resemble natural landforms. Such a design would more effectively mitigate the visual impacts of the development consistent with LUP Policies 8.18a and 8.31a.

Special Condition 2A requires that no portion of any structure be visible from Highway 1 or Año Nuevo State Reserve. Special Condition 2A(7) requires the use of existing vegetation, an earthen berm, and/or a combination of a berm and native scrub vegetation to screen the structures 100 percent from Highway 1 and Año Nuevo State Reserve. To reduce the potential for the berm looking unnatural and obtrusive, Special Condition 2A(8) limits the height of the berm to no higher than 12 feet. To allow a 12-foot berm with six to eight feet of scrub vegetation to screen the proposed residence completely, the highest portion of the house can be no higher than 18 feet from the natural grade. Therefore, Special Condition 2A(9) restricts the height of the house, measured from the natural ground level to the peak of the roof, to no higher than 18 feet.

This height limit is comparable to that required in the Community Open Space District zoning of the San Mateo County LCP (Section 6228), which allows only one-story buildings with a maximum height of 16 feet. Coastal Development Permit 85-80 for subdivision of a nearby parcel at Cascade Ranch, also inland of Highway 1, conditioned future development to minimize visibility from Highway 1 through landscape screening and earth berms and limited non-agricultural structures to 16 feet in height "unless additional height would not be substantially visible from Highway 1 and would not adversely affect the scenic qualities of the area." The proposed 26-foot high residence (actually 36-foot from base to peak of the roof, with 10 feet below grade) would be substantially visible from Highway 1 and would adversely affect the scenic qualities of the area. Restricting the height of the berms to 12 feet and the house to 18 feet is necessary to satisfy the requirements of LUP Policies 8.17, 8.18 and 8.31 that new development shall minimize alteration of natural landforms, blend with and be subordinate to the environment and character of the area, be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area.

2.4.4 Conclusion

The Commission finds that, as conditioned, the proposed development is sited where it is least visible from public areas consistent with all other policies of the LCP, is designed to minimize adverse impacts to the scenic qualities of the area and to minimize alteration of natural landforms consistent with the visual and scenic resource policies of the LCP.

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2.5 Water Quality/Polluted Runoff

The Commission approves the permit application because the proposed project, as conditioned, protects the quality and biological productivity of coastal waters from impacts associated with erosion and polluted runoff.

2.5.1 Issue Summary

Development is proposed approximately 600 feet uphill from a vegetated swale and is adjacent to other sensitive habitat (dispersal habitat for San Francisco garter snakes and California red-legged frogs). Special conditions to protect water quality in the swale address runoff and erosion control to ensure that the sensitive habitat is not adversely affected.

2.5.2 Standard of Review

The standard of review is LCP policy 7.3, which states:

7.3 Protection of Sensitive Habitats

- 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.*

Runoff from construction areas and developed areas may contain sediment and pollutants that may adversely affect water quality in sensitive habitats.

2.5.3 Discussion

A swale vegetated with scrub and riparian vegetation runs from the northern corner of the parcel and crosses the southern boundary approximately one-third of the way down from the southeastern corner (Figure 29). The swale connects to a wetland (Wetland 4 shown on Figure 26). The proposed residence and associated structures would be approximately 600 feet uphill from the swale. The swale as well as adjacent grasslands provide dispersal habitat for San Francisco garter snake and California red-legged frog, as discussed above in Section 2.3.

Due to the proximity of the development to the swale, water quality may be adversely affected. Grading and construction may increase soil erosion and sediments could be transported into the riparian area. The residence, other structures, and paved areas may increase local runoff due to the creation of impervious areas. This increased runoff will carry with it pollutants such as suspended solids, oil and grease, nutrients, and synthetic organic chemicals. An increase in the volume and/or velocity of water in the swale or wetland or an increase in sediment entering the area could damage the vegetation bordering these areas. This decrease in vegetation could result in changes, such as an increase in water temperature, which would adversely affect aquatic organisms downstream in the wetland or creek to which the swale connects. Pollutants would also adversely affect aquatic organisms. All of these impacts may adversely affect the biological productivity of the swale/wetland/riparian system.

Special Conditions 8, 9, and 10 ensure that the proposed development complies with LCP Policy 7.3 by reducing erosion and associated sediment loads, and reducing the amount of pollutants

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that enter sensitive habitats, such as riparian corridors and wetlands on the property. These conditions would therefore allow the proposed uses to be compatible with the maintenance of biologic productivity of the habitats. Special Condition 8 addresses water quality impacts that may occur during the construction period. It requires the applicant to submit plans for erosion control that show how the transport and discharge of sediment and pollutants from the site will be minimized, thereby reducing potential effects to biologic productivity. BMPs required by Special Condition 8A(4) reduce the potential for pollutants, such as oil and grease from construction vehicles, to enter the swale. Special Condition 8B requires monitoring and maintenance during the construction period. Special Condition 9 addresses post-construction drainage and runoff control. It requires submittal of a Stormwater Pollution and Prevention Plan to demonstrate how the volume and water quality of runoff from the development will be controlled. Special Condition 9B requires post-construction maintenance and monitoring to be included in the plan. Special Condition 10 requires submittal of a grading plan so that the Executive Director can review the plan to ensure that grading, and therefore sedimentation, is minimized and does not occur in sensitive habitats.

2.5.4 Conclusion

The Commission finds that, as conditioned, the proposed development is consistent with the sensitive habitat policy of the LCP through which water quality is protected. As conditioned, impacts associated with erosion and runoff have been minimized so as to prevent impacts that could significantly degrade sensitive habitats.

2.6 Development Review

Although the proposed development will likely use more water than a smaller residence, it is in conformance with LUP Policy 1.8.

2.6.1 Issue Summary

The proposed development has one density credit, thereby allowing the development of one single-family residence, as proposed.

2.6.2 Standard of Review

LUP Policy 1.8 requires the determination of density credits for new or expanded non-agricultural development. Essentially, one density credit allows the development of one single-family residential dwelling. LUP Policy 1.8c.(2)(a) states that "a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses)."

LUP Policy 1.23 and associated Table 1.4 define the number of developments that can occur in a year within particular watersheds. The purpose is to limit development in rural areas so that it does not overburden coastal resources or public services.

2.6.3 Discussion

San Mateo County determined that the Lee property qualified for 1.10 density credits, which is rounded to the nearest whole number, or one density credit (Exhibit 5). This means that on the entire parcel only one residence can be constructed. Smaller lot sizes and increased multi-family housing generally lower per capita water use (Department of Water Resources 2001). Conversely, larger dwellings, such as the one proposed, with large water features, such as the

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proposed 6,000-square-foot reflecting pond, are likely to use more water than the average household and more than the 315 gallons per day estimated per density credit. As an additional benefit, water use is reduced by Special Condition 2A(2), which eliminates the reflecting pond because of adverse impacts on sensitive habitat. However, the LCP does not define the size of the house and appurtenances allowable per density credit thereby not enabling any conditions to be included that address water use solely or directly. There is no provision of the LCP that requires additional density credits based on the scale of a single-family residential development.

2.6.4 Conclusion

Although the proposed development will likely use more water than a smaller residence, it is in conformance with LUP Policy 1.8.

2.7 California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which the activity may have on the environment.

The Commission incorporates its preceding findings on consistency of the proposed project with the San Mateo County LCP policies at this point as if set forth in full. These findings address and respond to public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts that the development may have on the environment. Therefore, the Commission finds that the proposed project has been conditioned to mitigate the identified impacts and can be found consistent with Coastal Act requirements to conform to CEQA.

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Appendix A Substantive File Documents

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Figures 1 through 29, Exhibits 1 through 5 and correspondence listed below, of the Adopted Staff Recommendation and Findings (Exhibit B-1) for CDP No. A-2-SMC-99-066 are on file and available for review at the Commission's north central coast district office, 45 Fremont St., Suite 2000, San Francisco, CA 94105.

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- 1 San Mateo County's Conditions of Approval
- 2 Commission Notification of Appeal
- 3 Letter from USFWS Regarding Lee Project
- 4 Letter from Applicant's Forester
- 5 Density Credits



LIST OF CORRESPONDENCE

August 28, 1999 Letter from Ronald Schafer, California Department of Parks and Recreation to San Mateo County Planning Division

September 21, 1999 Letter from Damon DiDonato, Project Planner, San Mateo County to Ronald Schafer, California Department of Parks and Recreation

September 2, 1999 Letter from Lennie Roberts, Committee for Green Foothills to Damon DiDonato, Project Planner, San Mateo County

September 21, 1999 Letter from Damon DiDonato, Project Planner, San Mateo County to Lennie Roberts, Committee for Green Foothills

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September 20, 1999 Letter from Jon Kosek, to Stan Field

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January 9, 2000 Letter from Alan DeMartini to the Coastal Commission

January 10, 2000 Letter from Peter J. Metropulos to the Coastal Commission

January 12, 2000 Letter from Robin Winslow Smith, Sequoia Audubon Society to the Coastal Commission

January 13, 2000 Letter from Rusty Areias, California Department of Parks and Recreation to Peter Douglas, Executive Director, Coastal Commission

January 20, 2000 Letter from Karen Maki to Sara Wan, Coastal Commission

February 1, 2000 Letter from Anna Neal to Sara Wan, Coastal Commission

August 3, 2000 Letter from George Carman to Coastal Commission

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EXHIBIT C

MOST NORTHERLY CORNER
OF R.O.S. BOOK 19 OF LLS,
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S49°24'30"W
2272'

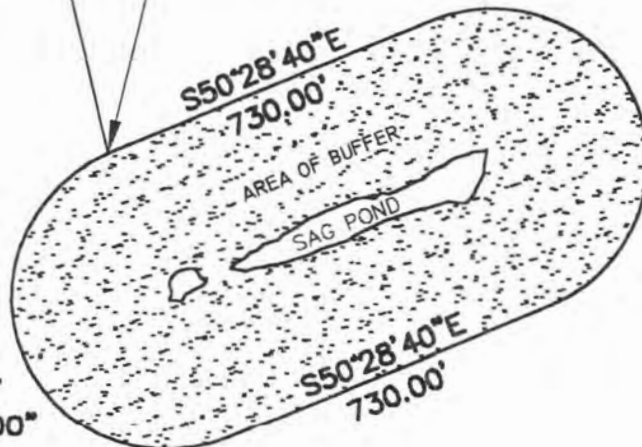
R.O.S.
BOOK 19, PAGE 45
S.M.C.R.



SCALE
1" = 400'



TRUE POINT
OF BEGINNING



R=325.00'
L=1021.02'
Δ=180°00'00"

R=325.00'
L=1021.02'
Δ=180°00'00"

SKETCH TO ACCOMPANY
LEGAL DESCRIPTION

STORRS LAND SURVEYING



2647 INTERNATIONAL BLVD., SUITE 853
OAKLAND, CA 94601
PHONE: (510) 532.3501
02-159EXHIBITD.DWG

EXHIBIT C

LEGAL DESCRIPTION
FOR:
EASEMENT PURPOSES

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF SAN MATEO BEING A PORTION OF THAT CERTAIN RECORD OF SURVEY RECORDED MARCH 24, 1999 IN BOOK 19 OF LLS MAPS, AT PAGE 45, SAN MATEO COUNTY RECORDS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY POINT OF THAT CERTAIN RECORD OF SURVEY RECORDED MARCH 24, 1999 IN BOOK 19 OF LLS MAPS AT PAGE 45, SAN MATEO COUNTY RECORDS; THENCE SOUTH 49°24'30" WEST, 2,272 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 50°28'40" EAST, 730 FEET; THENCE, ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 325 FEET, THROUGH A CENTRAL ANGLE OF 180°00'00", FOR A DISTANCE OF 1,021.02 FEET; THENCE NORTH 50°28'40" WEST, 730 FEET; THENCE, ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 325 FEET, THROUGH A CENTRAL ANGLE OF 180°00'00", FOR A DISTANCE OF 1,021.02 FEET, TO THE POINT OF BEGINNING OF THIS DESCRIPTION

NOTE: THE INTENT OF THIS EASEMENT IS TO PROVIDE A 300 FOOT "BUFFER" FOR RED LEGGED FROGS AROUND THE "SAG POND" THE PHYSICAL LOCATION OF THE POND SHOULD DEFINE THE LOCATION OF THE BUFFER.

THIS EASEMENT IS SHOWN ON THE ATTACHED EXHIBIT "D" AND BY REFERENCE MADE A PART HEREOF.



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EXHIBIT D

Policy 1.2 Definition of Development

As stated in Section 30106 of the Coastal Act, define development to mean:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any buildings, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

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RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, 20TH FLOOR
SAN FRANCISCO, CA 94105

EXHIBIT E
PERMIT NO: _____
ACCEPTANCE CERTIFICATE

CERTIFICATE OF ACCEPTANCE

This is to certify that _____ hereby accepts the
Offer to Dedicate executed by _____,
on _____, 20____, and recorded on _____, 20____, as
Instrument No. _____ in the Official Records of the Office of the
Recorder of _____ County.

DATED: _____

By: _____

For: _____

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a Notary Public
personally appeared _____, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

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ACKNOWLEDGMENT BY THE CALIFORNIA COASTAL COMMISSION
OF ACCEPTANCE OF OFFER TO DEDICATE

This is to certify that _____ is a public agency/private association acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offer to Dedicate executed by _____ on _____, and recorded on _____, in the office of the County Recorder of _____ County as Instrument No. _____.
Dated: _____

California Coastal Commission

STATE OF CALIFORNIA

COUNTY OF _____

On _____, before me, _____, a Notary Public personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

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