



# County of Santa Cruz

---

PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

TOM BURNS, DIRECTOR

Agenda Date: May 26, 2004

Planning Commission  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, Ca 95060

Subject: Appeal of Zoning Administrator Approval of Application 00-0143  
Proposed Single Family Dwelling and Accessory Structure  
APN: 040-081-06, 07, and 09  
Owner: S&P Carmichael Enterprise, Inc.

Members of the Commission:

The letter report address an appeal made to you by Kathryn H. Britton, on behalf of Nisene2Sea Open Space Alliance (hereafter Appellant).

## Appeal History and Summary Recommendation

The Appellant has filed an appeal to your Commission regarding the Zoning Administrator's March 19, 2004 decision to approve the proposed development on the Koch/Carmichael property. After careful consideration of the information submitted by Appellant (Attachment 1), staffs recommendation to your Commission is to uphold the Zoning Administrator's approval of the project.

## Project Description

The project before your Commission today has evolved significantly over time. The property owner was initially issued a Notice of Violation for grading on the site without a permit. The property owner informed the Planning Department that this work, consisting of approximately 310 cubic yards of grading, was intended to provide access for geotechnical testing necessary to develop plans for a single family dwelling. The Planning Department subsequently requested that grading plans to rectify the violation include details of the access road and building pads. Because the volume of this grading work exceeded 1,000 cubic yards, it was subject to review under the California Environmental Quality Act (CEQA). CEQA requires that "the whole of the action" be considered during the environmental review process. In this case, it was clear that the "project" included construction of a single family dwelling. The applicant was initially instructed to provide information relative to the single family dwelling, and this request ultimately led to the plans before your Commission.

The development proposed on the property includes construction of a single-family dwelling and garage, driveway, accessory building and water tank, which requires a grading permit to grade approximately 2,050 cubic yards of cut and approximately 2,300 cubic yards of fill. In addition, the grading permit for the project would recognize the grading of approximately 310 cubic yards of cut and fill that has already occurred, as well as remedial grading performed to mitigate erosion and improve drainage.

The property in question is 142 acres in size. Development on the property is constrained by steep slopes and the occurrence of sensitive habitat (coastal terrace prairie) on the flatter portions of the site. The attached Staff Report to the Zoning Administrator (Attachment 2) describes and analyzes the project and documents the efforts to site the development in order to minimize impacts related to these constraints.

### **Issues Raised by Appellant**

The Appellant's letter presents fifteen issues related to the project, as approved by the Zoning Administrator. The following discussion provides a summary of the issues raised by the Appellant, including response by staff.

#### County Written Analysis of Deficits in Application Ignored

The appellant asserts that the applicant has never provided the information required in the "incompleteness" letter prepared for the project by Planning Department staff.

This section of the appeal letter (page 4 of Attachment 1) does not refer to any specific requirements that remain unfulfilled. Staff believes that a proper "completeness" determination was made and that the materials submitted by the applicant and accepted by the Planning Department provided an adequate basis for evaluating the project and processing the application.

#### Negative Declaration Mitigations Exclude Important Public Review

The Appellant maintains that mitigations imposed by the Negative Declaration requiring subsequent plan submittals for review only by Planning Department staff does not allow for adequate public input, review, and comment.

All subsequent plans submitted for review and approval as part of the Building Permit application process must be in conformance with the project plans that were approved by the Zoning Administrator. The project plans were the subject of a hearing before the Zoning Administrator, and the public was able to provide input on those plans. Performance standards contained in the mitigation measures must be met and will provide the basis for future staff determinations regarding the adequacy of the submitted materials. Finally, development on the site must adhere to the standards contained within the ordinances that pertain to the project.

---

The appellant suggests that inadequate time has been allowed for public review of the staff reports and related materials prior to the Zoning Administrator public hearings.

The staff report and attachments are available online one week prior to the hearing. This is the same amount of time provided to the Zoning Administrator for review of agenda materials prior to the public hearing. In short, staff reports for this project were made available to the public on a timeframe consistent with the practices of the Planning Department.

#### State Agencies and County Park Issues Not Updated

Under this Issue the Appellant indicates that staff and the Zoning Administrator have used outdated or incomplete information regarding interest in the subject site for State Park expansion or some other use by County Parks, State Parks, and the Department of Fish

and Game.

A portion of the property has been designated as a potential future park site in the General Plan. As part of the Environmental Review process for the project, Barry Samuel, Director of Parks, Open Space, and Cultural Services reviewed the project proposal and determined that it did not trigger the park site review process. He has further stated that construction of the project would not interfere with a park-related use should the County elect to pursue such a use in the future.

Staff have, as recently as March of this year, been in contact with representatives of State Parks regarding interest in acquiring the site. We have been informed that there is no funding available for such a purchase and that this site does not rank high on their list of properties for acquisition. Perhaps most importantly, it should be noted that the Planning Department evaluates applications for development based upon the standards contained in locally adopted policies and ordinances. Possible future changes in ownership play no role in this evaluation process by the Department.

#### Procedures Related to No Access Strip Removal on Kamian Improper

The Appellant states that the Staff Report does not appropriately require that the Applicant to record a one-foot non-access easement along the terminus of Jennifer Drive to replace the non-access easement removed from the terminus of Kamian Way.

The appellant is correct. Staff has developed a recommended condition to implement this requirement, consistent with the direction of the Board of Supervisors (Attachment 3). We are recommending that you direct staff to include this condition in the project Conditions of Approval.

#### Impact Single Parcel Determination Not Considered

The Zoning Administrator, during the hearing in March 2003, recognized that several Assessor Parcel Numbers had been issued for the single parcel that was owned by the Applicant. This was not a new determination, but simply the recognition of the status of the property and its identifiers. The Appellant suggests that the fact that the property is larger than they perceived it to be initially somehow affects the project's environmental review, in that there might be more "flexibility" as to potential home sites, and septic system locations.

The County's Environmental Review has always recognized that the proposed project is located on "a very large tract of land" (the full 142-acre parcel) . Staff disagrees with the Appellant's assertion that the "larger property somehow provides potential building locations that would cause fewer environmental impacts. It is important to note that the County does not have the authority to designate the building site that will be used on any property if there is more than one site that meets code requirements and for which any environmental impact can be mitigated. The approved building site meets applicable County Code requirements for septic disposal standards, grading standards and access.

Application 00-0143 has required that staff create a balance between conflicting General Plan policies and ordinance provisions. General Plan policies require grading to be minimized, site disturbance to be minimized, and also prohibit structures on slopes steeper than 30 percent. There is a portion of the building, 600 square feet of space on the east side, which encroaches onto a slope steeper than 30 percent. That portion of the home is on a stepped foundation that minimizes excavation. Staff has carefully evaluated the relative impact of locating this portion of the house on a 30 percent slope against the alternative, which is moving the structure to the west, closer to the driveway. Relocating the structure to the west would create a significant increase in grading, including increasing the height and width of the retaining walls. On balance, staff has found that the 600 square foot section, with minimal grading, is a better alternative and that, in fact, no environmental impacts are created by allowing this minor encroachment.

In light of the foregoing information, staff lacks authority to require that an alternative building site be used and, as a result, there is no impact on the project or the review process if the property is one parcel or three.

#### Slope and/or Septic Information Used by County Incorrect

The Appellant states that, based upon a Bowman and Williams topographic map produced in 1997, the proposed driveway is located on slopes greater than 30 percent.

In a letter dated June 21, 2001, Bowman and Williams states that "The plan was prepared to explore the feasibility of two proposed driveway alignments to a future building site. Due to the client's budget constraints, the collection of field data points for the topography shown on the plan was on a very broad grid. The data was only intended to show that a more detailed survey was needed in the areas of proposed driveway construction." Thus the engineer states that more survey data points were necessary to accurately portray areas exceeding 30 percent slopes.

Follow-up surveying completed by two other civil engineers, Larry Palm and Roper Engineering, provides those additional survey points and indicates that the proposed driveway is located on slopes less than 30 percent. The Appellant refers to "the original building site at the top of the hill near the water tank". That location was revised, and the proposed building site that has been identified after a rigorous environmental analysis and three public hearings, is located mid-height on the south-facing slope on less steep terrain.

#### County Continues to Rely on Defective Biotic Information

The Appellant states that based upon their own independent biotic evaluation, the Applicant's biotic information and the review by the County's consultant are inadequate to analyze the biotic impacts on the site and protect habitat. Staff has reviewed the newer information referred to, and disagrees that it provides better data with which a more thorough environmental review may be accomplished.

The applicant's professional biotic consultant, Biotic Resources Group, has provided

detailed maps and data on the vegetation and habitat types on the property. This information has been critically reviewed by the County professional consulting biologist, William Davilla of Ecosystems West, and he has found it to be an accurate description of the resources on the site. The appellants have submitted an alternative vegetation map that is not signed or credited to a professional biologist and which is not supported by text. Mr. Davilla has reviewed this information as well.

The appellant's map differs from the one prepared by the Biotic Resources Group in several ways, but most materially in that all grassland has been mapped as "Coastal Terrace Prairie (CTP)". The Biotic Resources Group map distinguishes between grassland that supports a mix of native grasslands and other species that constitute a prairie, and degraded grassland that is largely or completely made up of non-native species that have invaded and displaced the native grass prairie. The distinction is important because disturbance in a grassland that is not a native prairie does not have environmental impact, whereas displacement of native CTP does require mitigation. Mr. Davilla has reviewed the biotic information submitted by the Appellants, he is familiar with the site, and did not find any information that causes the original work of the applicant's consultant to be considered inaccurate or misleading.

The project will disturb small portions of CTP, particularly where the proposed driveway will increase the width of the existing road through the lower portion of the property. This was documented during the Environmental Review of the project and an appropriate mitigation measure was required. The specified mitigation is the design and implementation of a management plan that, over time, will favor the native species in the degraded areas. After re-review of all the data, staff and the County's biotic consultant continue to believe that with appropriate mitigation, the proposed project will result in an overall benefit to the grassland habitat through implementation of the required coastal terrace prairie management plan.

The Appellant also states in Issue 9 that the "Nisene2Sea's survey information shows that the oaks on the Property have not been properly identified, located or mapped by the Applicant, and that most of the oaks on the subject property are the rare Shreve Oak (*Quercus parvula* var. *shrevii*) and not the Coastal Live Oak (*Quercus agrifolia*) as stated by the Applicant's expert."

Regardless of claims regarding the classification of the oak trees, neither Shreve Oak nor Coastal Live Oak (*Quercus agrifolia*) are protected through federal, State, or local regulations, therefore mitigation is not warranted.

#### Wildlife Study Missing

The Appellant indicates that a wildlife study should have been completed during the Environmental Review for the proposed project.

Mapped information pertaining to the property does not support the need for wildlife surveys beyond that conducted for the federally listed Ohlone tiger beetle. The applicant's consultant, Dr. Richard A. Arnold, of Entomological Consulting Services, Ltd., conducted a

survey and site analysis of the subject property for Olhone tiger beetles and determined that "construction of your proposed single-family residence, driveway, and other improvements will not adversely impact the beetle or its habitat and no mitigation is necessary to alleviate impacts."

#### Adequate Protections for Habitat Ignored

The issues raised under this heading in the letter submitted by the Appellant have been addressed previously in this staff report.

#### Critical Public Safety Related Requirements Missing

The Appellant suggests that critical public safety issues have not been addressed. The discussion focuses on fire protection issues, primarily related to access. Also discussed is the need for review and approval of the proposed project by the appropriate Fire Protection District.

The proposed project was reviewed by both the California Department of Forestry and Fire Protection and by the Central Fire Protection District. Both agencies are familiar with the subject property, and both have had the opportunity to request any additional information or to apply additional conditions they believed were necessary. Both agencies have approved this discretionary phase of the project and have applied only the standard single-family dwelling fire-safety conditions. In response to the appellants concern that the fire agencies could require additional widening or grading as part of the Building Permit process staff notes that the proposed road width meets fire agency requirements for drive ways serving on single family dwelling.

#### Road Location and Related Reaquirements Are Not Sufficient

The Appellant addresses the issue of access roadways and trails. The Appellant states that the Applicant should access the proposed building site from property owned by State Parks along Mesa Grande Road. Other comments suggest specific conditions be made relative to the Kamian Way access location.

The County cannot force the Applicant to obtain new access rights from the State. Any public road adjacent to private property, and not specifically restricted for access, is available as an access point to that property. The Applicant has responded to the request of the Zoning Administrator to exchange access rights from Jennifer Drive to Karnian Way (with Board approval) in order to reduce the length of the access driveway and associated impacts.

None of the suggested additional conditions relating to noise and aesthetic considerations for the drive way were required by the Zoning Administrator during the lengthy public hearing process, as there has been no credible evidence provided pointing to the need for such additional requirements.

### Continued Public Access and Related Traffic Concerns Not-Considered

The Appellant raises concerns regarding long-term use of the subject property as an access route to Nisene Marks State Park and also as pedestrian access and egress from the residential subdivision east of the property. Public access through the subject property is a private matter between the property owner and the individuals that desire access through the property. The County has no legal basis to require the property owner to provide public access through the property. The courts are the appropriate venue for perfecting claims regarding prescriptive rights to access trails located on the property.

Additionally a concern is raised about increased traffic and parking on nearby public streets due to this possible loss of access. There is no evidence that the construction of a single family dwelling will create significant traffic impacts and change parking patterns in off site neighborhoods.

### House Appearance Must Minimize Visual Impact

The Appellant suggests that a condition be added requiring the proposed home to be painted in dark, natural colors. In the original staff report the project was conditioned to have dark, natural colors to blend with the site conditions.

The Zoning Administrator changed this condition during the public hearing to eliminate the word "dark" because the term is subjective and the current surrounding site colors are not "dark." In response to concerns about the exterior color, it would be possible to further define the acceptable range of colors so that the desired outcome, a structure that is less obvious in the landscape, is achieved. Staff has developed a recommended condition (Attachment 3) for inclusion in the project Conditions of Approval.

### **Conclusion and Recommendations**

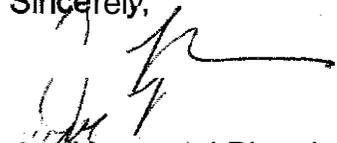
The limitations on the site, steep slopes, sensitive biotic resources, and septic constraints, have resulted in revisions to the project, including relocation of the house and the location of the driveway. The Initial Study was revised, based on comments received by the public and was recirculated to the public. The Initial Study and proposed mitigations were reviewed following subsequent changes to the project to ensure that the type and severity of impacts addressed were still relevant.

Information submitted by the Appellants was reviewed by both staff and appropriate subject area experts, and was not found to require a change in the environmental analysis or determination. The Zoning Administrator appropriately determined that the Preliminary Grading Review and related Negative Declaration comply with State Law and the County General Plan and Code requirements. It is recommended, based upon the analysis performed by the Planning Department and the foregoing discussion, that your Commission uphold the Zoning Administrator's determination on application 00-0143.

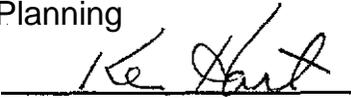
It is therefore RECOMMENDED, that your Commission uphold the Zoning Administrator's decision approving Application 00-0143 and direct the Planning Department to include, as

Conditions of Approval, the language contained in Attachment 3 to this staff report.

Sincerely,



Joseph J. Hart  
Environmental Planning  
Environment  
Reviewed By:



Ken Hart  
Principal Planner, Environmental Planning

Attachments:

1. Nisene2Sea letter of appeal, dated March **31, 2004**
2. Zoning Administrator staff report and action
3. Proposed revisions to Conditions of Approval

**STAFF REPORT TO THE PLANNING COMMISSION**

APPLICATION NO. 00-0143  
APN: 040-081-06, 07, 09

**ATTACHMENT 1**



3757 Vienna Drive, Aptos, CA 95003  
Telephone: (831) 688-7724  
Fax: (831) 688-1316

March 31, 2004

Planning Commission  
Santa Cruz County Planning Department  
County of Santa Cruz  
701 Ocean Street, Room 400  
Santa Cruz, CA 95060-4023

2004 APR 1 12 56 PM  
2004 MAR 31 12 56 PM

**RE:** Appeal of Zoning Administrator Decision/ March 19, 2004 Hearing  
Application No. 00-0143: Proposal to construct a single-family dwelling, driveway, garage(s). (here after referred to as the "Project").  
Applicant: Steven Graves  
Owners: S&P Carmichael Enterprises, Inc. and Men-Chy Properties (here after referred to as the "Owners/Developers")  
Property: Single 142-Acre Parcel with 3 APN(S) 040-081-06, 07, and 09 (here after referred to as the "Property")

To Members of the Planning Commission:

We hereby appeal the decision made by the Zoning Administrator on March 19, 2004 concerning the above referenced Application No. 00-0143 (previously "No. 00-0143 and 40237S" and "No. 03-0171") (hereafter the "Application") with regard to the above referenced Project on the Property.

This information is submitted by Nisene 2 Sea, a community group whose mission is preservation of the Nisene 2 Sea Corridor connecting New Brighton State Beach via Cabrillo College Lands to The Forest of Nisene Marks State Park, on behalf of its Executive Committee, its supporters, nearby property owners, and all other members of the public whose interests are impacted by the proposed Project.

Importance of the Property:

Historically, the Property has been used, and continues to be heavily used by the public (including Cabrillo students, County residents, and tourists) as a primary western access route into The Forest of Nisene Marks State Park, for access to and from Cabrillo College and between the surrounding neighborhoods, and for a variety of other recreational purposes. For many decades, the prior owners of the Property never limited the public's use of the Property. In 1998, the Property was purchased by the two San Jose real estate development corporations, the Owners/Developers referenced above.

This Property forms a critical "missing link" in a corridor of public lands and trails in mid-Santa Cruz County extending from the summit of the Santa Cruz Mountains through The Forest of Nisene Marks State Park to the beaches and the Coastal Rail-trail/Marine Sanctuary trail on

Page 2 of 15  
March 31, 2004  
Planning Commission  
701 Ocean Street, Santa Cruz, CA 95060  
Appeal Letter: Zoning Administrator Decision Concerning Application No. 00-0 143

the Union Pacific right of way in New Brighton State Beach. The Property's value as public open space is not hypothetical; it has been and continues to be heavily used by the public and its value as public open space has been confirmed by County and State agencies. The Property's value as parkland was confirmed by The California Department of Parks and Recreation who determined that the Property would be an appropriate addition to The Forest of Nisene Marks State Park. State Park acquisition of the Property is also supported in the recently approved Nisene Marks General Plan. This Property has also been identified as an appropriate location for a County park in both the Santa Cruz County General Plan and Zoning ordinances.

The significance of the biotic resources on the Property is supported by the fact that the County mandated the completion of an Environmental Review prior to any development since the Property contains significant, sensitive biotic resources including Coastal Prairie Terrace Grasslands and a diverse array of native plants, especially on the flatter areas of the Property including all areas proposed for the Project. In addition, the California Department of Fish and Game's interest in the Property as a potential acquisition is based upon the existence of this rare, sensitive, Coastal Prairie Terrace Grassland habitat, the Property's 40+ acres of Aptos Creek watershed, and its significance as a wildlife corridor (1/2 of the boundaries of the Property adjoin State owned land including the 23,000 acre The Forest of Nisene Marks State Park and include the wooded riparian corridors of Aptos Creek, Borregas Gulch, and Tannery Gulch). The Cabrillo College Horticulture Department, State Parks, and the community are aware of the Value of this Property as a "living classroom" as it directly adjoins Cabrillo College's new Environmental Horticulture Center and Botanic Gardens and is covered with 3 important coastal habitats including, in addition to the Coastal Prairie Grassland, Oak Woodland, and Redwood Forest habitats along with more than 150 identified species of native plants. The Forest of Nisene Marks State Park General Plan also confirms the value of possible collaborative educational opportunities between State Parks and Cabrillo College that would be facilitated by public ownership of the Property.

Before we set out the basis for this Appeal, we want to emphasize that we are aware that the current Owners/Developers are permitted to build one house on their Property. Nisene 2 Sea's efforts, including this Appeal, are intended to assure that any home and road on the Property will be sited in the most appropriate location on the 142 acres and that any development activities on the Property permitted by the County take into consideration all valid constraints imposed by the nature of the land itself, its extensive sensitive biotic habits, the concerns of the public and impacted neighbors, and all constraints imposed by State and County laws, regulations and ordinances including, without limitation, the California Environmental Quality Act.

#### **Information to be Included with this Appeal**

In addition this letter and all presentations and submissions at the Planning Commission Public Hearing, please consider the transcripts of the March, 2003, December 19, 2003, and March 19, 2004 Zoning Administrator Hearings and all Santa Cruz County Environmental Health, Public Works, and Planning Departments' files related to the above referenced Application No. 00-0143 and the earlier related Applications for the same Project ("No. 00-0143

Page 3 of 15

March 31, 2004

Planning Commission

701 Ocean Street, Santa Cruz, CA 95060

Appeal Letter: Zoning Administrator Decision Concerning Application No. 00-0143

and 40237S" and "No. 03-0171"). Please also consider the December 15, 2003 letter submitted by Nisene 2 Sea at the December 19, 2003 Zoning Administrator hearing with all its exhibits (hereafter the "December 2003 Letter"), the December 29, 2003 Appeal Letter submitted by Nisene 2 Sea (the "December 2004 Appeal Letter") and the March 18, 2004 letter submitted by Nisene 2 Sea at the March 19, 2004 Zoning Administrator hearing with all its exhibits (hereafter the "March 2004 Letter") along with all presentations and submissions made by Nisene 2 Sea, nearby property owners, and the public associated with the Project and/or presented at these hearings.

Also include and review the following exhibits to the December 2003 Letter and supplemental information provided or presented 'at the December hearing including: (a) information concerning State Park's Porter Fallon Easement which impacts the Project area (Exhibits D, E, F, and G); (b) 2003 biotic surveys of the Project area and flatter portions of the Property completed in April and June, 2003 by Randy Morgan (a well known biotic resource expert) and the associated map of these biotic resources mapping of the Project Area along with associated plant identification information (Exhibits B and C); (c) the submission of Katharine Cunningham provided at the March 2003 hearing; (d) the presentations of Dr. Bruce Jaffe at the March and December 2003 hearings concerning the slopes in the Project area and other related grading and septic matters; (e) the presentations and documentation provided by Beth McCanlies concerning the grasslands on the Property; and (f) all comments and submissions made by the homeowners that are impacted by the proposed road location.

In addition, please consider all comments concerning all of the above referenced information and comments previously submitted on behalf of Nisene 2 Sea with regard to the Applications and the Project Environmental Review included therewith and all associated submissions and records related to activities on the above referenced lands owned by the Owners/Developers" who jointly own the entire 143-acre Property.

We also request that all prior correspondence from our attorney, Jonathan Wittwer, and from our organization, Nisene 2 Sea, regarding the past and proposed activities on the Property be considered along with our organization's comments concerning the above Application and associated Project Environmental Review. These documents and submissions include, without limitation:

- (a) Jonathan's Wittwer's October 20, 1999 and June 5, 2000 letters and the Exhibits attached to all such correspondence;
- (b) The written comments submitted by Nisene 2 Sea concerning the above referenced Application on November 19, 2002 and the related documents provided by Dr. Grey Hayes, an expert on the biotic resources and coastal prairie terrace grasslands, (hereafter, the "2002 Comments");
- (c) The written comments submitted by Nisene 2 Sea concerning the above referenced Application on February 11, 2003 (hereafter, the "2003 Comments");

March 31, 2004

Planning Commission

701 Ocean Street, Santa Cruz, CA 95060

Appeal Letter: Zoning Administrator Decision Concerning Application No. 00-0143

(d) The oral presentation with associated documentation presented at the Zoning Administrator Hearing in March, 2003, by Nisene 2 Sea 's representatives (Kathryn Britton, John Campbell, Bruce Jaffe, Laurel Nakanishi, and John Campbell) a summary of which is included in the County files; and

(e) Any additional comments or written documentation presented on Nisene 2 Sea's behalf and/or by the owners of homes that adjoin or are close to the Property in writing or orally at the Zoning Administrator Hearings in March and December 2003, all of which are incorporated by reference in our submission.

In addition to requesting inclusion of all hearing transcripts, testimony, and submissions and all County records concerning the above referenced Property and the Project, please incorporate into the Administrative Record the following information that is related to the above referenced matter:

(a) 'The Environmental Impact Report for the Cabrillo Woods Development' on the subject property dated 1981 and the associated Appendices including, without limitation, 'Geotechnical Investigation; Koch Property, Santa Cruz, California' dated August, 1978 by Earth Systems Consultants and Biotic and Wildlife Survey Information. Copies of these documents are in the Planning Department library and/or archives; and

(b) Historical and contemporary aerial photographic data and maps of the subject property and surrounding areas, including, without limitation, The Forest of Nisene Marks State Park, New Brighton State Beach, Seacliff State Beach, and Cabrillo College, that are available in County records and archives, the Planning Department, Tax Assessors Office, Public Works Department, County Map Room and Environmental Health Department.

### ISSUES

1. County Written Analysis of Deficits in Application Ignored. The Owner/Developers have been working on the same Project since 2001 (home on the hill, accessory building, road/driveway, and water tank). In the summer of 2003, the County formally served the Owner/Developers with a Notice of Incomplete Application concerning a new Application for their Project which only included 2 minor adjustments to the previous Application (the home height was increased a few feet and size of accessory structure was enlarged by a about 200 hundred square feet). After receiving and appealing the Notice of Incomplete Application, the Owner/Developers withdrew the new Application and the County reinstated their old Application for the same Project. Notwithstanding the County's formal identification of the numerous deficits in the Application noted in writing by Planner Randall Adams and County Environmental Coordinator, Robin Bolster in the Notice of Incomplete Application, the County ignored the problems planning staff identified even though the same deficits applied to the reinstated Application. In other words, the Project remains the same and the current Application has the Same deficits as those identified in writing by the County Planning Department. The Owner/Developers should not be able circumvent the deficits in their Application by withdrawing one Application and reinstating their earlier Application for essentially the same project and thee

County Planning Department should not then ignore the material deficiencies in both Applications that they have formally identified in writing. The subject Notice of Incomplete Application is incorporated herein and made part of the Administrative Record related to this Application.

2. Negative Declaration Mitigations Exclude Important Public Review. The proposed Mitigations require that the Owners/Developers later submit various plans concerning the Project that will only be subject to County staff review. This approach eliminates any opportunity for public scrutiny concerning key components of habitat preservation and management, disturbance envelopes, road alignment, and grading activities. As a result, meaningful public comment and review of significant Project requirements and criteria will be eliminated.

3. Substantive Changes in Project Not Addressed Effectively. The Project has materially changed since the initial applications were filed in 2001. In addition to changes in road location and exit, septic system location, house location, driveway routes, future development plans, the Property involved is now a 142-acre parcel rather than 3 separate smaller parcels. These changes have not been addressed effectively by the County in their Environmental Review and Staff Reports. The County review and assessment process is out of sync with the substantive changes in the Project. Environmental reviews are not updated, State Clearing House requests are out-of-date; maps are contradictory, and errors by County have been inadvertently introduced. In addition, the Developer's biotic information was collected in 2000 and early 2001 and has never been updated. The County must use and the Developer must provide appropriately updated information and documentation before the Application can be approved,

4. County Process Interferes with Effective Public Review. The ability of the public to address their concerns effectively about the proposed Project has been complicated by the fact that for each Zoning Administrator Hearing (Spring 2003, December 2003, and March 2004), the Staff Report, and Negative Declaration with Mitigations have been substantively changed by the County within a week of each hearing. No guidance about the changes and revisions made by the County has been provided to the public. Each revised Staff Report for each of the 3 hearings has only been available for review about 5 business days before each hearing, making effective public participation and comment concerning this important Property very difficult, and in fact, nearly impossible.

5. State Agencies and County Park Issues Not Updated.

5.1 State Park and Recreation. The Staff Report continues to state that the County has contacted State Parks to determine if State Parks has any interest in acquiring the Property or plans to expand Nisene Marks State Park and that State Parks indicated that does not plan on acquiring the Property and made no comment on this particular Project. This response was based on State Clearinghouse information that was collected in 2000 but is not accurate at this time. The County has failed to update its Staff Report and its decisions accordingly. New facts that should have been considered by the County include the fact that: (a) The acquisition of the Property is now supported in The Nisene Marks General Plan which was finalized in the

summer of 2003; (b) State Parks in Sacramento has recently formally evaluated possible acquisition of the Property and determined that the 142 acre Property is an appropriate addition to The Forest of Nisene Marks State Park; and (c) information concerning the an easement (Porter-Fallon Easement) associated with State Park lands that extends through the Property from Cabrillo College to Nisene Marks is now available.

**5.2 County Parks and Recreation.** The Staff Report also fails to address the fact that the Property is zoned for a County Park and has not provided updated information from Santa Cruz County Parks and Recreation. County Parks and Recreation has not evaluated the Project after the County Planning has determined that the entire Project is on one 142 acre parcel and is not merely a driveway on a 54 acre parcel with "-D" zoning and to a the home and associated out buildings on a separate parcel that does not have such zoning..

**5.3 State Fish and Game.** The Staff Report also fails to address potential acquisition by the Department of Fish and Game who, with the assistance of The Trust for Public Land, is currently in the process of initiating a Land Acquisition Evaluation, a pre-requisite for obtaining State acquisition funding for purchase the Property. This is relevant since the Owner/Developers while seeking County approval for their Project have also initiated discussions with The Trust for Public Land about the possibility of selling most, if not all, of the Property to the public.

**6. Procedures Related to No Access Strip Removal On Kamian Improper.** The County Public Works Department and the Owner/Developers recently negotiated privately with the County requesting the removal of the "No Access Strip" at the end of Kamian Drive as it enters the subject Property. In closed session, The Santa Cruz County Board of Supervisors conditionally approved removal of the "No Access Strip" at Kamian provided that this "No Access Strip" is moved to the Jennifer Drive access to the Property. Although the Staff Report affirms the road exit via Kamian Drive, it fails to require the installation of a "No Access Strip" on Jennifer Drive as directed by the Board of Supervisors and does not mention the Board of Supervisor action. In addition, the procedure used by the Board of Supervisors may have been improper in that it was accomplished in a closed session rather than in open session with the opportunity for public input.

**7. Impact Single Parcel Determination Not Considered.** Very recently (March 2003) the County determined that the Property is legally one 142-acre parcel with three APN's and not three different parcels (the "Single Parcel Determination"). The County's Environmental Review and earlier work on the Application was handled as if the Property was 3 parcels with the home location on a steep 74-acre parcel with very limited useable acreage. The Single Parcel Determination has a significant impact on the Application and the Project and this change has not been addressed in County's Environmental Review, Negative Declarations, and Mitigations; Staff Report, or permit conditions.

**7.1 Impact of Single Parcel on Home Location Not Addressed.**

(a) The Single Parcel determination is significant as the proposed home is now on a very large tract of land with much more flexibility as to potential home sites since the

March 31, 2004

Planning Commission

701 Ocean Street, Santa Cruz, CA 95060

Appeal Letter: Zoning Administrator Decision Concerning Application No. 00-0143

proposed home site no longer is contained on just one parcel (formerly APN "09") with very limited building and septic locations. The County has not integrated this determination into its requirements including, without limitation, the location of the Project.

(b) Since purchasing the Property in 1998, the Owner/Developers have continuously stated, with full knowledge of septic assessments and issues, that they plan to build at least 10 to 15 upscale homes on the flatter portions of the Property (see Developer quotes in Metro Santa Cruz on April 10, 2000, and Santa Cruz Sentinel articles dated April 10, 2001, and October 5, 2003 which are hereby incorporated herein and made part of the Administrative Record for this matter). The Owner/Developers cannot not now argue that there are no other building locations on the Property and the County cannot conclude that since there are currently no other development applications pending that the Owner/Developers (2 real estate development corporations) and that the Owner/Developers are not planning future development on the Property and that there are no other building locations on the Property.

(c) Notwithstanding the Owner/Developers' allegations, County Environmental Health will permit pumping "up" to a home septic system (in contradiction to the Zoning Administrator's statements at recent hearings). The County has not asked the Owner/Developers to move the home location downhill citing that the County mandate about not "pumping up" establishes that the location high on the hill selected by the

---

---

Nisene 2 Sea and others have provided extensive information about the grasslands with associated plants and the oak woodlands on the 142 acres over the last several years, the County and the Zoning Administrator have continued to ignore this information, relying only on the information provided by the Owner/Developers' expert that was gathered in late 2000 and early 2001. The County must start with good, accurate, detailed biotic information and data before it can decide on appropriate mitigations and develop sound habitat management plans related to this Property.

**7.3 Combined Impact One Parcel/House Location/ Biotic Reauirements Not Addressed.** Placement of the house and outbuilding in locations that will degrade and/or destroy sensitive habitats violate the County General Plan Policies 5.1.6 and 5.1.7. Substantiated biotic information provided to the County and in the record clearly establishes that excellent quality Coastal Prairie Terrace Grasslands exist in most Project area (except in areas previously destroyed by the Owner/Developers prior illegal grading in 1999 and re-seeding with non-native grasses); this sensitive habitat will be destroyed and "down-slope" sensitive habitat will be reduced and degraded by the current proposed place of the home and driveways. The County continues both to ignore this information and to fail to require that the Owner/Developers provide better, more accurate information. Now that the County has established that the proposed home is to be sited on a 142 acre parcel and not just the area described as the "09" parcel, there are many other areas on the remainder of the property that could provide alternate home locations with much reduced impact on the sensitive biotic habitat that flourishes on the south facing slopes of the hill where the Owner/Developers have proposed to build their home. The County has not considered or required that the Developer's explore other alternative locations that have less impact on the sensitive habitat.

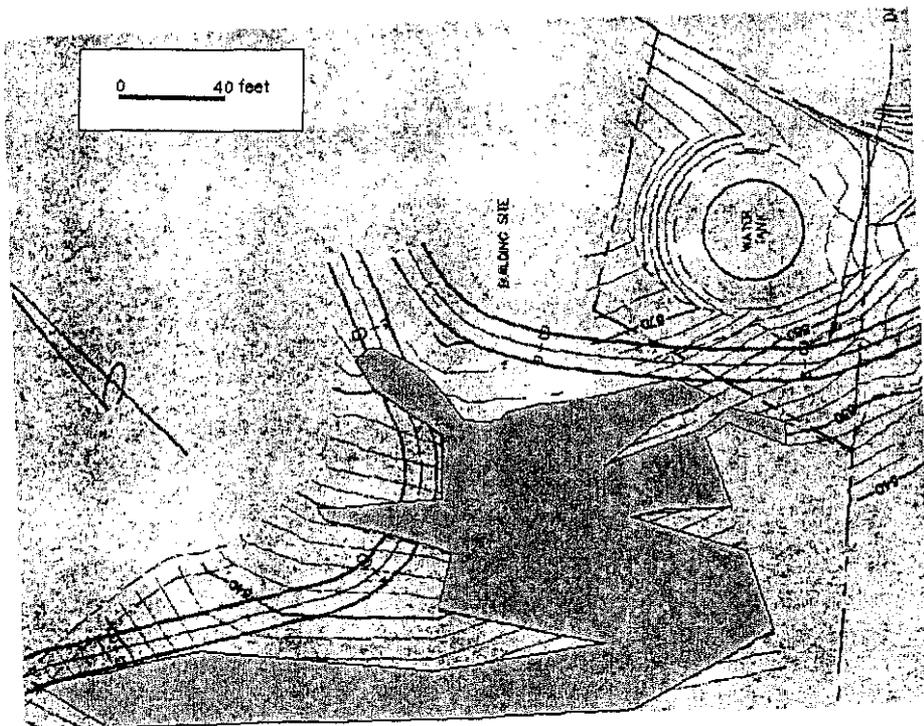
**7.4 Impact of One 142-Acre Parcel on Prior 3-Parcel Zoning Not Addressed.** The County has determined that the subject 142 acre Property is one legal parcel with 3 APNs each of which has different zoning designations and has required that the Owner/Developers merge the 3 APNs into one parcel with one tax designation, they have failed to address the related zoning problems. The County has ignored the fact that the 15 acre "07" parcel that adjoins Cabrillo College lands is zoned "public facilities" and has provided no guidance on resolution of the "-D Zoning on the 54 acre "06" parcel that includes a County Park designation that is specifically described in the Santa Cruz County General Plan and the Zoning ordinances. The "-D" Zoning for a County Park and the zoning on the "07" parcel must be addressed by the County following all the appropriate procedures. Actions must be taken by the County that preserves the public park zoning designation on the Property.

**8. Slope andlor Septic Information Used by County Incorrect.**

**8.1 Basis for Home Location Faulty.** The transcript of the December 19, 2003 Zoning Administrator hearing will show that the County now agrees that the proposed home location and associated grading and driveway is on and/or crosses slopes that were (prior to the illegal grading) or remain in excess of 30% and that the proposed locations for home, driveways and accessory building are location in sensitive habitat. Notwithstanding this determination, the Zoning Administrator approved of the home, grading, and driveway locations based on the following: (1) the home site location can't be moved down the hill to less sloping areas because

the Owner/Developers can not be required to pump up to the septic system location to be used for the proposed home; and (2) even though sensitive biotic habitat is impacted by the Project, there are no other home sites on the 142 acre property;

(a) **Facts Show Slopes in Excess of 30% in Project Area.** Accurate pre-grading slope information developed in the 1997-1998 timeframe for the Owners/Developers by Bowman and Williams documents the fact that significant areas of the pre-graded slopes were 30% or more and that such areas are in areas proposed for the home site and driveways. The most compelling evidence that the home and driveway are located on slopes that, before alteration by grading, were greater than 30% is shown on a map made in 1997 (see below). This map shows results from an accurate topographic survey conducted to evaluate slopes for location of a driveway leading the original building site at the top of the hill near the water tank. The scale of the map, 1"=40', is large indicating that there was considerable survey information. Areas of greater than 30% grade are delineated on the map as irregular shapes, indicating that there was data to support grades greater than 30%. This information and maps were legally provided by Nisene 2 Sea and used by the County because it was discovered by subpoena by Nisene 2 Sea, in association with a Writ of Mandate filed against the Owners/Developers and the County.



Map showing slopes on APN 040-081-09 in 1997 before grading by Carmichael. Areas shaded gray are slopes greater than 30%.

(b) County Permits "Pumping Up" to Septic System. The County prefers gravity fed septic systems but does not have a prohibition against "pumping up" to a septic system location when other County requirements intervene. The slope constraints and the impact on Coastal Prairie Grasslands, a sensitive habitat, provide a sufficient basis for requiring that the Owner/Developers build their home "down-hill" from the septic location.

(c) General Plan Policies Require Relocation. Section 6.3.1 (Slope Restrictions) of the Santa Cruz County General Plan Policy "Prohibits structures in discretionary projects on slopes in excess of 30 percent" and Section 6.3.9 of this General Plan Policy (Site Design to Minimize Grading) states that "Access roadways and driveways shall not cross slopes greater than 30 percent". Information and maps that is currently in the Administrative Record for this Project demonstrates that the County cannot permit structures on the hillside location proposed in the Application. Exceptions possibly can be made if there are no other home site locations on the 142 acres.

(d) Discussion. The Owner/Developers must be required to establish with certainty that there are no other home sites in order for the Application approval to include findings based on a single-site assertion. The County and the Owner/Developer's expert only provided limited evidence that they had performed some research concerning areas on the flatter portions of the Property and stated, in his opinion, that there are no other possible locations for "standard" septic systems on the entire 142 acres, including the 60 or so reasonably flat acres adjoining the Vienna Woods and Thousand Oaks tracts. There was no other information provided to support the "no other home location on the 142 acres" determination used by the County as the basis for the County's approval of the location of the home on the steep hillside location. On the other hand, the Owner/Developers, with full knowledge of the potential septic percolation problems throughout the 142 acres, have always stated in articles, interviews, and in person (most recently in an October, 2003 Sentinel article) that they intend to build 10 to 15 home on the flatter portions of the 142 acre Property. The Owner/Developers' own statements directly contradict the County's determination that there are no other home locations on the Property. At the December, 2003 hearing, the Zoning Administrator acknowledged that he commonly has to deal with a property owners attempts to place a home locations at the high point on land in the County as he has been asked to do in this instance where an owner attempts to maximize the view. The Owner/Developers are fully aware that the only high point on the Property with the best ocean view is the area currently proposed for the home site and driveways and further that this location is an area with slopes in excess of 30 percent. The slope limitations coupled with the impact on the sensitive habitat mandate, at a minimum, that the County require either that the Owner/Developers' home location be either moved downhill or that another home site in the 142 acres is located. The County must require that the Owner/Developers establish, with certainty, that their proposed home site is the only possible home location on the 142-acre Property and that the County prohibits pumping up to any septic system under all circumstances before the proposed home and driveway location is approved...

**9. County Continues to Rely on Defective Biotic Information.**

9.1 Most of the County's decisions concerning the Application are affected by the nature and extent of sensitive habitats on the Property and the County's decisions concerning many if not most of the grading activities are directly linked to the biotic mapping of the Project area. Therefore, the biotic data and information used by the County must be accurate or the decisions, recommendations, and mitigation requirements imposed by the County will be faulty.

9.2 The County's Environmental Review is based upon the Owner/Developers' survey information collected by Kathy Lyons in 2000 and very early in 2001, at a time that the County's own expert states was not the time of year when the grasses and other plant species could be properly identified. This Environmental Review has not been changed or amended since it was first prepared by the County nor have the Owner/Developers updated the information, notwithstanding the later submissions of detailed biotic information and surveys made by a variety of experts including Dr. Gray Hayes and Randall Morgan, that highlight, in great detail, the significant deficiencies and errors in the biotic information used by the County, including that used to determine the nature and extent of the Coastal Prairie Grasslands on the Property and impacted by the Project. In addition, the County has failed to take into consideration that the Owners/Developers also removed a substantial number of oaks in 1998 from the areas when they illegally graded the Project area.

9.3 The fact that there are significant material contradictions between the survey completed in early 2001 by the Owners/Developers and surveys completed for the same Property by Randy Morgan in 1980 and 2000 and in again April and June 2003 (all currently in the Project files) and by Dr. Gray Hayes in 2002 are critically important, especially with regard to the extent and location of the Coastal Prairie Terrace Grasslands and the nature, character, and extent of the Oaks Woodlands. This survey information and the habitat/vegetation map that is provided with Nisene 2 Sea's December 2003 Letter contains information and maps that clearly show that most of the Project area is covered with excellent quality Coastal Prairie Terrace Grassland along with a wide variety of the normally expected associated native plant species. Even in areas somewhat overgrown with invasive Broom, *Baccharis sp.* or non-native grasses, significant native grassland seedbeds remain. Further, Nisene 2 Sea's survey information shows that the oaks on the Property have not been properly identified, located, or mapped by the Owners/Developers and that most of the oaks on the Property are the rare Shreve Oak (*Quercus parvula* var. *shrevii*) and not *Quercus agrifolia* as stated by the Developer's expert.

9.4 Any previous County decisions that are based on or involved biotic information should be set aside until the Owners/Developers carefully survey the entire Project area and the remaining flatter areas/grasslands on the remaining areas of the 142-acre parcel at a time of Year when all native plants and grasses can be properly identified. This survey must include documentation of the grasses and seedbeds under the new areas of invasive broom and include identification of associated native plants and percentages of native grasses in areas mixed with non-native species. If the survey information is detailed and accurate, the County can develop meaningful findings, mitigation requirements, and habitat management requirements and plans that are designed to actually preserve the expanses of sensitive

grassland habitats on the Property and fairly compensate for any destruction of grasslands by Owner/Developers occurring in the Project area.

**10. Wildlife Study Missing.** A wildlife study should have been part of the Environmental Study and the County has never been included. The Owner/Developers have not even been required to provide this information nor has any wildlife related determinations been provided by the County. A wildlife study should be included as part of the Environmental Review as the Property does act as an important wildlife corridor and habitat for a large variety of birds including California Quail. In addition, although no Ohlone Tiger Beetles (a federally protected endangered species were found on the Property, there is ample evidence, and more will be provided prior to any hearing on this Appeal that will show that the Property contains significant suitable habitat for this beetle that would provide additional habitat for the species in the future as its range spreads from other locations in Santa Cruz County.

**11. Adequate Protections for Habitat Ignored.**

**11.1 Protections for Coastal Prairie Grasslands on Property are Inadequate.** As provided in Section C of the General Plan Policy 5.1.7 in order to protect the sensitive habitat on this 142-acre Property, the County is required to take appropriate steps to protect the sensitive habitat on the Property, both within and outside the Project area and has not done so. The sensitive habitat, Coastal Prairie Grasslands, covers the Project area and most of the flatter acreage of the remainder of the Property. The County has continued to rely exclusively on the limited, and arguably defective, biotic survey data that was provided by the Owner/Developers several years ago pertaining only to the Project area, notwithstanding the provision of detailed survey information collected by experts with special knowledge the sensitive grassland habitats that has been provided by Nisene 2 Sea. Determination of the harm cause to the sensitive habitat by the Project and the structuring of appropriate limitations and effective mitigations require that the County start with detailed and accurate biotic survey information. The County has taken no steps to obtain such information or require that the Owner/Developers provide such information.

**11.2 Effective Mitigations for Destruction of Coastal Prairie Grassland in Project Area Missing.** The proposed Project will destroy acreage of sensitive habitat in the Project area but without accurate, detailed survey information, the harm cannot be quantified and appropriate habitat mitigation requirements cannot be developed. Accurate survey information about the sensitive habitat on the Property outside of the Project area will permit the County to develop meaningful mitigation measures pertaining to the habitat outside the Project area that can compensate for the harm caused to the sensitive habitat within the Project area. This biotic information has not been provided to the County and the County has not required that the Owner/Developers provide survey information about the biotic resources on areas outside the Project area.

**12. Critical Public Safety Related Requirements Missing.**

**12.1 Fire Protection Requirements Inadequate.** The County agrees that the Project is in an area of critically high fire danger because of the heavily forested, 23,000 acre State Park,

surrounding oak woodlands, and the expansive grasslands, brush, and woodlands on the Property. This is especially significant since the Property borders high density housing tracts with more than 200 homes at the end of dead-end roads. The narrow roads to these housing tracts are up steep wooded canyons that can be easily blocked by even minor obstructions. Notwithstanding these facts, the County has not included any public safety related requirements as conditions of approval of the Application and Project. These public safety issues must be addressed in advance of any approval of the Project and the County should require, at a minimum, that the Owner/Developers:

- (a) Keep all existing dirt pathways on the 142 acres between Cabrillo and between the neighborhoods cleared sufficiently to permit the travel of fire trucks in the event of a wildfire and for use as resident emergency exit routes (These existing pathways are visible on aerial photos of the Property);
- (b) Mow a fire-break on the Property along the boundaries between the Property and the adjoining housing tracts;
- (c) Use only crash-gates at property access points at Cabrillo, Kamian, Mesa Grande, Haas, Jennifer, and Hudson Lane that permit easy emergency fire truck access;
- (d) Remove the over-growth of French Broom and other invasive, non-native shrubs (which provide a significant fuel source) from the Coastal Prairie grasslands on the flatter part of the entire 142 acres adjoining the high density neighborhoods.

**12.2. Fire Protection Pre-approvals of Road Design Not Documented.** All fire requirements concerning road specifications should be formally approved by the Central Fire District in advance of approval of the Application to assure that the plan for the road does not change in any material way subsequent to approval of the Application. Without a site review there is a good possibility that the Fire District may require such things as a wider road with greater carrying capacity or a different driveway configuration near the home site that could result in substantially more grading or a road configuration that is different from originally approved. This consequence can be avoided by requiring early, on-site, review of the road and site plans by the Fire District. The County has not provided any documentation that this review has been completed and that the requirements have been incorporated into the required permit conditions.

**13. Road Location and Related Requirements Are Not Sufficient.**

**13.1 Alternative Exits Not Addressed.** The home site is located on a single 142-acre parcel at a location selected over 5 years ago by the Owner/Developers. Alternate driveway locations exist on this expansive acreage. Driveway exit onto Mesa Grande is the best alternative. Mesa Grande is a paved road within a few hundred feet of the home site that travels a short distance over State Park property and exits directly onto Danube Drive, a public street. A driveway exit onto Mesa Grand will shorten the proposed driveway/exit road by at least 1,000 feet and will minimize the impact on the surrounding neighborhood homes, the sensitive grassland habitats, and the oak woodlands. The Owners/Developers have known how to obtain the rights to use

Mesa Grande since they purchased the Property in 1998, but have chosen not to work on obtaining these exit rights. They are now stating that an exit onto Mesa Grande Road is not feasible because of the time delays and the County is accepting this excuse has approved a driveway route that exits onto Kamian Drive. The Owners/Developers should not be excused at this point from being required to use the exit route with the least impact on the community and habitats given that they have had more than 5 years to obtain the needed approvals.

**13.2 Conditions for Kamian Exit Missing.** If the decision to route the driveway exit via Kamian Drive is approved and the "No Access Strip" issue is resolved, requirements should be added that assure that the road: (a) is screened with, native oaks and shrubs in any area where it is visible from the nearby homes; (b) is not lighted; (c) is paved with sound reducing pavement; and (d) if gated, that only "crash gates" are used to permit easy emergency access to the Property.

**14. Continued Public Access and Related Traffic Concerns Not-Considered.**

**14.1. Trails Will Be Blocked.** Development of the Property will entirely block trails that are and have been heavily used by the public for more than 40 years to access The Forest of Nisene Marks State Park from Cabrillo College lands and other nearby areas. The trail that provides the only western winter access into most inland areas of The Forest of Nisene Marks State Park passes directly through the center of the proposed building site and there are not alternate trail routes available. In addition, without a County decision otherwise, the Owner/Developers can fence their Property and block all trails and access routes through the Property. Without these trails, the only pedestrian/non-motorized vehicular exit from the Vienna Woods tract of nearly 200 homes (most with several young children) is down a dangerous, narrow path at the edge of Vienna Drive, a narrow, very heavily traveled road without a shoulder at the edge of a ravine. The County continues to ignore the impact of the loss of access routes on the surrounding neighbors.

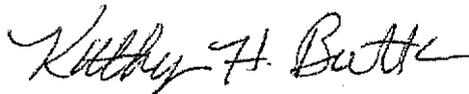
**14.2 Traffic and Parking will Increase.** The Project will divert the pedestrian and vehicular traffic of the State Park users (that usually park at Cabrillo College) into the adjoining neighborhoods and private roadways (Vienna Drive, Hudson Lane, Haas Drive extension, and Mesa Grande). Other than the entrance road to Nisene Marks in Aptos Village, access to the western side State Park and winter western access to the interior areas of this park has always been through the Property. This diversion will cause a substantial increase in traffic on Vienna Drive and create parking problems in the impacted neighborhoods. The County has failed to address these concerns in their decisions concerning the proposed Project.

**15. House Appearance Must Minimize Visual Impact.** The proposed home is large, Mediterranean styled, and planned to stretch across the upper areas of a hillside that is close to and in plain view of the 200 homes in nearby neighborhoods and the Cabrillo College facilities. The State Park boundary is within several hundred feet of the proposed home location. Although the County is requiring non-reflective windows and natural colors, upon the Owner/Developers' request, it eliminated the requirement for "dark" natural colors that would reduce the visual impact of this home. Dark, natural colors for exterior of the home and roof that minimize the visual impact and cause the home to blend into the colors of the surrounding

redwood forest and oak woodlands should continue to be a requirement. The visual impact of the proposed home on the neighborhood homeowners and the State Park must be taken into consideration.

**16. Conclusions.** Any decision of the Planning Commission should assure that County determinations are factually based, comply with the County General Plan, all applicable laws, ordinances, and policies, including, without limitation, the California Environmental Quality Act, and should include decisions that carefully balance the interests of the Owners/Developers with the preservation and restoration of critical biotic resources and the interests and concerns of the State and the public.

Sincerely



Kathryn H. Britton  
Executive Committee Member  
Nisene 2 Sea

cc: Ellen Pirie, Supervisor 2<sup>nd</sup> District  
Assembly Representative, John Laird

**STAFF REPORT TO THE PLANNING COMMISSION**

APPLICATION NO. 00-0143  
APN: 040-081-06, 07, 09

**ATTACHMENT 2**



**COUNTY OF SANTA CRUZ  
Planning Department**

**RESIDENTIAL DEVELOPMENT PERMIT  
GRADING PERMIT**

Owner S & P Carmichael Enterprises  
Address No Situs

Permit Number 00-0143  
Parcel Number(s) 040-081-06, -07, -09

**PROJECT DESCRIPTION AND LOCATION**

Permit to: 1) construct a single-family dwelling and garage, accessory building, driveway, and water tank, which requires a grading permit to grade approximately 2,050 cubic yards of cut and approximately 2,300 cubic yards of fill; 2) recognize the grading of approximately 310 yards of earth that has already occurred; and 3) recognize remedial grading that was done to mitigate erosion and to improve drainage. The project will ultimately result in the development of a driveway from the dead-end of Kamian Street to graded building sites for a proposed house and garage, accessory building, and water tank. Work will occur on a single parcel with three APNs 040-081-06, -07, and -09.

**SUBJECT TO ATTACHED CONDITIONS.**

Approval Date: 3/19/04

Effective Date: 4/2/04

Exp. Date (if not exercised): 4/2/06

Coastal Appeal Exp. Date: N/A

Denied by: \_\_\_\_\_

Denial Date: \_\_\_\_\_

\_\_\_\_\_ This project requires a Coastal Zone Permit which is **not** appealable to the California Coastal Commission. It may be appealed to the Planning Commission. The appeal must be filed within 14 calendar days of action by the decision body.

\_\_\_\_\_ This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 14 calendar days of action by the decision body.

This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work.

A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit. **THIS PERMIT IS NOT A BUILDING PERMIT.**

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

*Steve Gray* \_\_\_\_\_ 3/19/04  
Signature of Owner/Agent Date

\_\_\_\_\_  
Staff Planner Date

Distribution: Applicant File Clerical

**STAFF REPORT TO THE ZONING ADMINISTRATOR**

**APPLICATION NO.:** 00-0143                      **APN:** 040-081-06,07, and 09  
**APPLICANT:** S and P Carmichael Enterprises, Inc. et al  
**OWNER:** S and P Carmichael Enterprises, Inc. et al

**PROJECT DESCRIPTION:** Preliminary Grading Review of

- 1. Proposal to construct a single-family dwelling and garage, driveway, accessory building and water tank, which requires a grading permit to grade approximately 2,050 cubic yards of cut and approximately 2,300 cubic yards of fill;
- 2. To recognize the grading of approximately 310 cubic yards of cut and fill that has already occurred, and;
- 3. To recognize remedial grading performed to mitigate erosion and improve drainage.

The project will ultimately result in the development of a driveway beginning at the terminus of Kamian Street to graded building sites for a proposed house and garage, and accessory building.

**LOCATION:** Project is located on the vacant parcel at the dead-end of Jennifer Drive, approx. 200 feet west of the intersection of Kamian Street and Danube Drive, and the adjacent parcel to the north, approximately 1250 feet north of Soquel Drive in the Vienna Woods neighborhood of the Aptos Planning Area.

**PERMITS REQUIRED:** Grading

**ENVIRONMENTAL DETERMINATION:** Mitigated Negative Declaration

**COASTAL ZONE:** \_\_\_ Yes  No

**APPEALABLE TO CCC:** \_\_\_ Yes \_\_\_ No

**PARCEL INFORMATION**

<b>PARCEL SIZE:</b>	APN 040-081-09	74 acres
	APN 040-081-06	54 acres
	APN 040-081-07	15 acres

**EXISTING LAND USE:**

**PARCEL:** Vacant

**SURROUNDING:** Residential and Park

**PROJECT ACCESS:** Project access is from off Jennifer Drive.

**PLANNING AREA:** Aptos

**LAND USE DESIGNATION:** R-M, R-R, and PP (Mountain Residential, Rural Residential, and Proposed Park -Recreational)

**ZONING DISTRICT:** Residential Agriculture and Special Use (Single family Residential)

**SUPERVISORIAL DISTRICT:** 2<sup>nd</sup> District

**ENVIRONMENTAL INFORMATION**

- |                      |    |  |
|----------------------|----|--|
| a. Geologic Hazards  | a. | The proposed single family dwelling will be located on a hillside that has been studied by a geotechnical engineer and an engineering geologist who have determined that the slope to be stable, but potentially subject to erosion.   |
| b. Soils             | b. | The subject site is underlain by <b>soils</b> composed of Sandy Clay and Sandy Silt.   |
| c. Fire Hazard       | c. | Critical Fire  |
| d. Slopes            | d. | The properties have a significant variation in slope gradient. The majority of the roadway will be located on a flat portion of southerly lot (040-081-06). The roadway traverses a portion of a steeper slope on (040-081-09) the northerly property. The home will be located on this northerly property at the terminus of the driveway. The roadway and septic system will be located on slopes less than 30%. |
| e. Env. Sen. Habitat | e. | The project <b>is</b> located within an area of coastal prairie.   |
| f. Grading           | f. | The site has undergone approximately 310 cubic yards of previous grading. Development of the site will now require an additional 2,050 cubic yards of grading and the placing of less than 1,000 cubic yards of road base and pavement.  |
| g. Tree Removal      | g. | Two or three oak trees are proposed to be removed from the proposed building area.   |
| h. Scenic            | h. | Not a mapped resource (see staff report for details.)  |
| i. Drainage          | i. | The proposed home could alter local drainage patterns. Under current Code requirements all of the drainage must be retained on the site and/or dispersed into the same drainage areas at the same intensity as occurred prior to development.  |
| j. Traffic           | j. | N/A  |
| k. Roads             | k. | Existing roads are adequate.   |
| l. Parks             | l. | Parcel 040-081-06 is indicated to be a   |

potential future park site. State Parks has indicated that it is not interested in acquiring this property at this time.

- m. Sewer Availability
  - n. Water Availability
  - o. Archeology
- m. NIA
  - n. NIA
  - o. Archeological resources have been identified on a small area of the site. These resources are not in the vicinity of the unauthorized grading, proposed grading or building.

**SERVICES INFORMATION**

Inside Urban/Rural Services Line: Yes X No  
Water Supply: private well  
Sewage Disposal: Individual Sewage Disposal System  
Fire District: Central Fire District

**PROJECT REFERRAL**

The proposed preliminary grading application for the Carmichael Residence was referred to the Zoning Administrator by the Planning Director based upon the level of public interest, project's history of unauthorized grading along a ridgeline, and because of the project's potential to affect important resources. Consequently, the project requires a more extensive review based upon the relationship between the correction of the unauthorized grading, site resources and the related General Plan Policies. The allowance for this referral is found in Santa Cruz County Code Section 18.10.124 (b), which states in part:

**"Referral to Next Level:** At the discretion of the approving body, any permit approval or appeal of any approval may be referred to the next higher level if, in the opinion of the approving body, the project merits more extensive review. .."

The project will therefore require a public hearing and approval of the Mitigated Negative Declaration by the Zoning Administrator

**DETAILED PROJECT DESCRIPTION AND HISTORY**

Application 00-0143 proposes the grading of an access roadway to a building site (see Initial Study Attachment 2) and grading to accommodate a proposed single-family dwelling, garage/accessory building, and Fire Department turnarounds. The total volume of earthwork will be approximately 2,360 cubic yards of cut and less than 2,610 cubic yards of fill. Previously, there was approximately 225 yards of grading completed in 1998, and 85 cubic yards of grading completed in 1999. All proposed grading will occur on slopes of less than 30%. Two retaining walls, both of which are less than 10 feet in height, will be constructed north of the home.

Approximate break down of excavation is as follows in cubic yards of earth moved:

Stripings	550
Excavation Lower Driveway	480
Excavation Upper Driveway	440
Residence and Turnaround	580
December 1998 grading	225
October 13, 1999 grading	85
Total Excavation of	2360

The break down of fill is as follows:

Lower Driveway	920
Upper Driveway	300
Residence	80
Previous Fill	310
Asphaltic Concrete and Base Rock (less than)	1000

Total Fill 2610

Note: Approximately 550 yards of strippings and 110 yards of earth material will be either accommodated through shrinkage or trucked from the site.

The proposed driveway starts at the end of Kamian Street and traverses north on the relatively flat portion of the property for about 1,250 feet, before traversing a hill. The Initial Study examined an alternative alignment from Jennifer Drive that was significantly longer than the one now proposed from Kamian Street. The Kamian Street alternative alignment follows an existing disturbed access pathway, and will require less site disturbance. It will connect with an existing disturbed pathway and then join the originally proposed access roadway near the halfway point to the proposed building site. Beyond this juncture an accessory building is proposed to be located immediately west of the access roadway at the base of the hill. The access roadway would ascend the slope with one switchback, to access a proposed building pad approximately two thirds of the way up the slope. A Fire Department turn-around is proposed just above the home, and would require the construction of retaining walls and some excavation. Views of the walls and the excavation will be obscured by the home. Therefore these portions of the project will not be visible from a public view. From the residence and turn-around, an access pathway would continue to ascend the ridge to the knoll top, where a water tank site is proposed. This final stretch of the proposed graded area would correct previous, un-permitted grading. The access road to the tank site will be required to be maintained as an unpaved access pathway.

Note: The Environmental Coordinator has examined the proposed access from Kamian Street and has determined that this alternative has less of an impact than the originally

proposed access from Jennifer Drive. Therefore the Initial Study does not need to be modified and re-reviewed.

## **PROJECT SETTING / HISTORY.**

The subject property consists of three adjacent parcels (040-081-06, 07 and 09) that are located between a developed subdivision on the east, undeveloped land on the west, and Nisene Marks State Park on the north. A grading permit application was initially submitted which applied for the recognition of the grading that occurred in 1998, and related emergency erosion control of approximately 310 cubic yards of grading. However, during the County review process it was determined that a single-family dwelling was also part of the proposed project. Therefore, the project description was revised to include the proposed single-family dwelling and accessory buildings. That revised project is the subject of this document.

The grading initially proposed in Application 00-0143 has been refined through the review process to comply with General Plan policies for the protection of ridge-tops and minimizing grading. To reduce the potential for disturbance of the ridge top, the home site was relocated below the ridge top to the proposed location. Furthermore, the Fire Department turnaround originally proposed at the base of the slope has now been eliminated to avoid Coastal Terrace Prairie. Additionally, the upper end of the access roadway will be an unpaved access pathway to the water tank, rather than a fully paved access road. Finally, locating the water tank amongst the trees will significantly reduce the water tanks visibility from the adjacent residential neighborhood.

The Zoning Administrator heard this project on March 21, 2003. In his review of the Project he noted that the home shown on the project plans would require a Height Exception and he requested that the applicant apply for the Exception and continued the hearing until an Exception could be processed. The applicant applied for an Exception, but later reconsidered and instead decided to reduce the height of the building. As a result of the application has reverted to only a grading permit.

The Zoning Administrator also continued the hearing for staff clarification concerning the projects compliance with Sensitive Habitat Provision, GP 5.1.6 and 5.1.7, Erosion Control GP 6.3.1 and 6.3.9, Fire Access GP 6.5.1 and Project Design 5.2.21 and 8.6.6. The Zoning Administrator also asked for an analysis of County Code Section 16.20.080 (c) (Approval Limitations), which include provisions for denial of an application for a grading approval if any one of a number of specific findings is made. These findings have been evaluated and are attached as Exhibit H. The Grading Findings indicate that the project can be approved as proposed.

The Zoning Administrator reviewed and approved the proposal for the driveway and home at the Zoning Administrator's Hearing on December 19<sup>th</sup> 2003.

Nisene2Sea appealed the Zoning Administrator's decision to the Planning Commission

on December 31, 2003 (see Exhibit J). One of the aspects of the Appeal was the indication that some of the people who had requested Notice of the Hearing did not receive Notice. All owners within 300 feet of the property and occupants within 100 feet were appropriately noticed. But there is no documentation of Notice to individuals on a separate list submitted by Nisene2Sea. Based upon this noticing error, the Planning Director directed that the Zoning Administrator re-hear this item (Exhibit K.)

#### ANALYSIS AND DISCUSSION:

##### Planning Constraints:

The project is affected by three major constraints: 1) sensitive habitat including Coastal Terrace Prairie/Mixed Grassland, 2) slopes near the proposed development greater than 30% and 3) ridge-top protection development policies.

**Sensitive Habitat:** During the initial review of this project two primary biotic issues were identified. First, Eco Systems' West (see Initial Study Attachment 3) identified the need to determine whether a special status species, the Ohlone Tiger Beetle, is present on the property, and secondly, the site has been identified by Biotic Resources Group (see Initial Study Attachment 4) as containing Coastal Terrace Prairie / Mixed Grasslands.

Protocol Surveys for the Ohlone Tiger Beetle were performed. (See Initial Study Attachment 5) The beetle was not identified during these surveys and Dr. Arnold concluded that the beetle was unlikely to occur on the property based upon these surveys and upon his personnel experience with similar environments.

Coastal Terrace Prairie / Mixed Grasslands are present on the property. The proposed building pads are located away from these mapped habitats (see Initial Study Attachment 6). However, a previously proposed Fire Department turn around along the toe of the slope below the proposed home would have crossed into this habitat. The applicant has contacted the Fire Department and has received assurance that the residential turn around at the rear of the proposed home site is adequate to meet Fire Department turn around regulations and the lower turn around has therefore been eliminated from the plan. With the elimination of the lower turn around, mitigation proposed by the Biotic Resources Group's April 18, 2001 letter (see Initial Study Attachment 6) adequately addresses the biotic issues. In this letter, the Biologist recommends removal of the invasive plant species and a land management practice that will promote the re-establishment of the Coastal Terrace Prairie and other native grasses.

In the Nisene2Sea Appeal the appellant submitted additional biotic information. The County's Biotic Consultant and County staff believe that the current mitigations remain applicable even with the new information.

## **Review of Public Comments:**

The public has expressed interest and concern about this project from the time of the initial unauthorized grading and throughout of the application process. During the Initial Study phase of this project many letters were received expressing similar concerns (EXHIBIT F (1)). Primary concerns raised in the letters include the project description (amount of grading and future land use), slope gradients, the visibility of the project, and APN 040-081-06's partial designation as a potential future park. The potential impacts of the project to surface water and groundwater, and the possible alternatives to the proposed project were also cited in these letters.

Project Description-Grading: The two major concerns expressed about the project description centered on the amount of grading proposed and also on the possibility of a future land use such as a subdivision or other intensified land use Carmichael property.

Several comments have indicated the belief that the proposed grading will significantly exceed estimated 2,360 cubic yards of cut and 2,610 cubic yards of fill indicated by the grading plans. County staff has reviewed these plans and has performed rough calculations for the proposed amount of grading that have confirmed the general scale of the engineer's estimates. Even though they are estimates, staff believes that they correctly represent the quantity of the proposed grading.

Furthermore, the proposed quantity of cut and fill are commensurate with similarly sized and sited single-family dwellings. The project has been conditioned so that the excess fill must be disposed of by hauling it to an approved disposal site.

Project Description - Subdivisions: Many of the responses that the County received to the Initial Study indicated a concern this project will precede a future, more intense land use.

County staff is not aware of any proposed subdivision for this property. Any proposed subdivision would require a subsequent application and CEQA review. A subdivision was proposed in the mid-1980's, but was abandoned by a previous property owner when initial contacts with the County indicated that a subdivision wouldn't be approved. Current zoning and General Plan requirements severely restrict the land use on the Carmichael property. Consequently, this property's most feasible and probable land uses is for a single-family home and related accessory buildings. By accepting the conditions to this permit, site development will be limited to the immediate area of the building, accessory building and the septic system.

Slope Gradients: Over the last four years the public has expressed a concern about development on slope gradients exceeding 30%. Several provisions within the General Plan and County Code restrict various land use on slopes steeper than 30% including both septic system disposal lines and roadways if an alternative location exists. Both Larry Palm PE, Bowman and Williams Engineering, Inc. and Roper Engineering have

examined this site and have determined that the proposed roadway and septic system will be located on slopes less than 30%. County staff has reviewed the plans and visited the site and has confirmed the engineers' conclusions.

Scenic Impacts: A local community organization, Nisene2Sea, has indicated that the project will be visible from Highway 1, a scenic highway. Staff has been unable to verify the home's visibility after having made several attempts to view it from different locations along the Highway. Even if the project is visible from the Highway, its visibility will be minimized by avoiding building along the ridge top and by requiring landscaping, use of dark earth-tone building colors and non-reflective roofs and windows that reduce the buildings' contrast with the surrounding terrain. These proposed conditions are intended to assure compliance with the County's General Plan's Objective 8.4 and 8.6.

Impact on the Adjacent Nisene Park: Many public comments expressed a concern that the proposed project will negatively impact the adjacent Nisene Park, and will restrict the current casual use of the property as access to the adjacent park. One letter expressed a concern that the applicant desired to fence the property to prevent public access.

Development of this property could eliminate the opportunity for it to be incorporated into Nisene Park. These concerns reflect the intent of General Plan Section Policy Section 7.8.4, which states

“ Recommend, encourage and support each of the following State park acquisitions;

(h) Nisene marks: Support proposed state park plans for the expansion of Nisene Marks State Park.”

County staff has contacted State Parks and has requested and received the help from Advanced Planning section to determine if the State Parks has any interest in acquiring the property or has plans to expand Nisene Marks State Park in this location. State Parks has indicated that it does not plan on acquiring this property at this time and has made no comment on this particular project.

Finally, County staff is not aware of a plan to restrict public access to this property. Even so, County Code and the General Plan allow the owners to fence their property and to take measures to restrict public use of their property. The owners may also voluntarily develop agreements with individuals, groups or the State and/or County to allow access to their property either formally or informally.

Biotic Issues: County staff has dealt with the issues surrounding sensitive species (see the Sensitive Habitat Section above.) Staff agrees that there is Coastal Prairie habitat on the property. The project has been redesigned to reduce the project's impact to this resource to a less-than-significant level. Staff has also required the avoidance of the Live Oak Woodland and the replacement of trees that will be removed for building the

home.

Ground and Surface Water Impacts: Several written comments have indicated concern that developing this property could modify the infiltration of drainage into the subsurface or redirect the surface drainage to different drainage basins. Urbanization does affect ground water and surface water, and a program has been developed in the County to require thorough review of grading projects in area of groundwater recharge and runoff. Specifically, the General Plan and County Code require that projects be designed to avoid decreases in the amount of infiltration of rainfall, or increased to the amount or intensity of runoff. Further, they require that projects be designed to avoid any re-direction of runoff from one drainage areas area to another. This project is conditioned to produce an engineered drainage plan that will be reviewed for these specific factors by both the Planning Department and the Drainage Section of the Public Works Department.

Easement Issues: Nisene2Sea has provided documentation of an easement that granted access to the Fallons' property through the Carmichael property in 1866 (see Exhibit L). This easement provided(s) access for both resource management and for other purposes for the Fallons, but did not specify a location for the easement on the Carmichael property. A portion of this easement on what is now Cabrillo College and State property has a defined location, which was designated on the survey map recorded with the County surveyor in Vol. 40 Page 33 of the County Surveyor's maps.

Topographic maps and aerial photographs help to determine the possible location of the Fallon easement on the Carmichael property. The 1915-1916 USGS topographic map submitted by the Nisene2Sea indicates that several access pathways traverse the Carmichael property, but none of these pathways cross through the proposed building site. The 1943 aerial photographs help to further clarify site conditions, at least during the 1940's. On this aerial photograph, the Fallon Easement pathway follows the recorded location of the road on what is now State and Cabrillo College property (Exhibit M). The pathway crosses what is now the Carmichael property to an old home site in the middle of the same property and then turns east as indicated in the 1915 topographic map. Another pathway follows the brow of the Gulch to the west, but the aerial photo shows no pathways that cross through the currently proposed building site. The 1965 aerial photos include the current subdivision in the vicinity of the property (Exhibit N). This photo shows the same pathways visible in the 1943 aerial photo, but the pathway along the Gulch north of the proposed home site appears less used and is encroached upon by vegetation. The 1965 aerial photo also clearly shows a new graded roadway connecting Kamian Street to the Fallon easement pathway.

For the purpose of this proposed home the question whether the Fallon easement still affects the Carmichael property is not as critical as the question of whether the Fallon easement affects the proposed building site. The topographic map and the aerial photographs all indicate that no historic roads or pathways cross through the proposed building site. The Fallon Easement and the pathway north of the proposed home site

may follow the one designated as a road on the 1915 topographic map, or it may follow an alternative path. In any case, the previously graded pathways (which could be the Fallon Easement) do not interfere with the proposed building site, and the proposed roadways will not significantly interfere with any possible location of Fallon Easement. Consequently, if the successors of Fallon easement, presumably the State of California, decide to pursue the development of an easement within the Carmichael property they may do so without being significantly affected by the proposed development.

Alternatives Analysis: Several of the most recent letters have expressed a desire for a of alternative roadway alignments and building locations. The current plan is a result of several years of County review and analysis. The County has required that the home site be moved from the ridge-top, and has required that the proposed access roadway be relocated so that the roadway has less impact on coastal prairie and oak woodland habitats. Staff has also worked with the applicant to determine if another shorter access road is possible which has resulted in the access being moved to Kamian Street from Jennifer Drive.

## **RECOMMENDATION**

As conditioned, the proposed project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan.

Staff recommends that the Zoning Administrator take the following actions:

1. Approve Application Number 00-0143, based on the attached conditions; and.
2. Approval of the attached Mitigated Negative Declaration,

## **EXHIBITS**

- A. Project plans
- B. Conditions
- C. CEQA determination Mitigated Negative Declaration/Initial Study
- D. Assessor's parcel map
- E. Zoning map
- F. Representative Comments & Correspondence
- G. Letter from Sanitarian indicating the limits of potential sewage disposal
- H. Grading Permit Findings
- I. Letter of Review of the project by Randal Adams
- J. Letter from Nisene2Sea dated December 30<sup>th</sup> 2003
- K. Letter from Planning Director requiring that the ZA re-hear 00-0143
- L. Easement documents submitted by Nisene2Sea as part of their appeal
- M. Aerial Photo 1943
- N. Aerial Photo 1965

SUPPLEMENTARY REPORTS AND INFORMATION REFERRED TO IN THIS REPORT ARE ON FILE AND AVAILABLE FOR VIEWING AT THE SANTA CRUZ COUNTY PLANNING DEPARTMENT, AND ARE HEREBY MADE A PART OF THE ADMINISTRATIVE RECORD FOR THE PROPOSED PROJECT.

Report Prepared By: Joe Hanna  
Santa Cruz County Planning Department  
701 Ocean Street, 4th Floor  
Santa Cruz CA 95060  
Phone Number: (831) 454-3175 (or, joseph.hanna@co.santa-  
ruz.ca.us )

Application #: 00-0143  
APN: 040-081-09,07, and 06  
Owner: S and P Carmichael Enterprises, Inc. et al

# Exhibit A





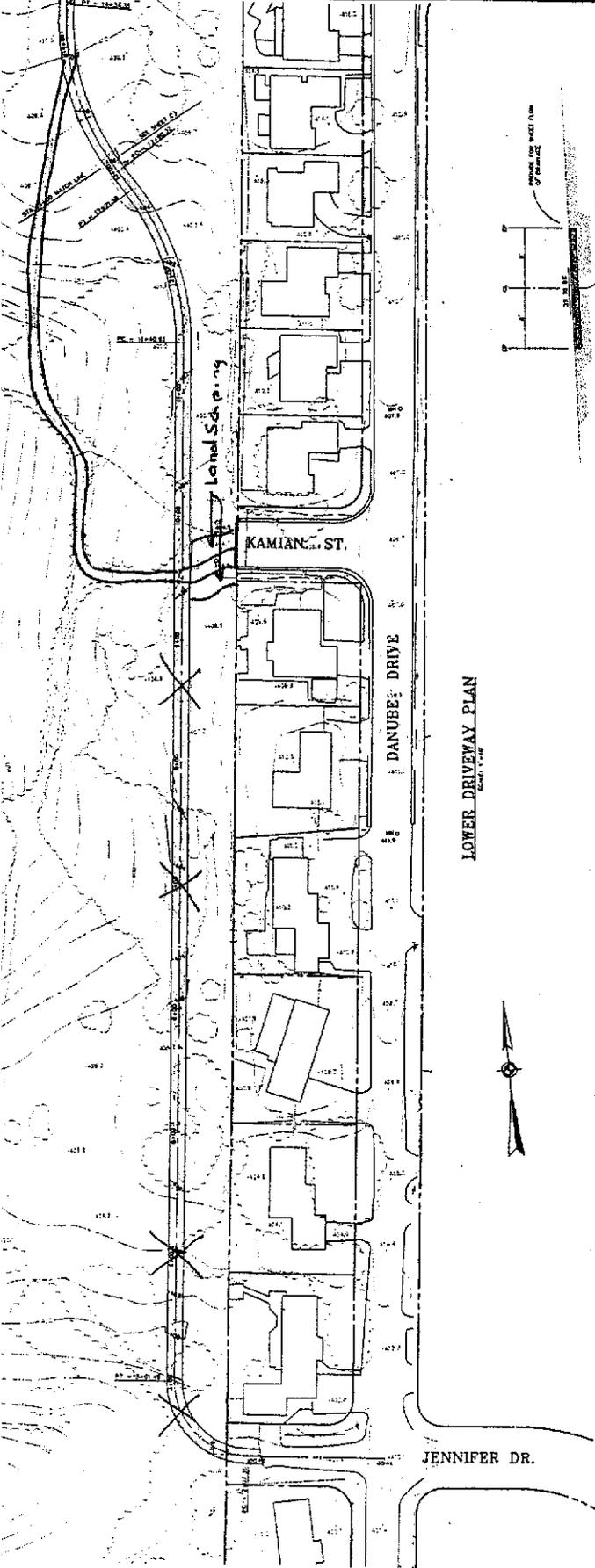
**ROPER ENGINEERING**  
 CIVIL ENGINEERING & LAND SURVEYING  
 444 AIRPORT BLVD., SUITE 206 WATSONVILLE, CA 95076  
 (831) 724-5300 PHONE (831) 724-5509 FAX rper@ropereng.com



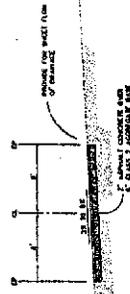
**NEW RESIDENCE FOR  
 STEPHEN & PHYLLIS CARMICHAEL**  
 APN 040-081-06 & 08  
 LOWER DRIVEWAY PLAN & PROFILE

DATE: AS NOTED  
 REVISIONS: 01  
 DRAWN BY: RUC/MLC  
 CHECKED BY: RUC/MLC  
 DATE: AUG. 27, 2003  
 PROJECT: NEW RES. FOR STEPHEN & PHYLLIS CARMICHAEL  
 SHEET NO.: 02022  
 TOTAL SHEETS: 02

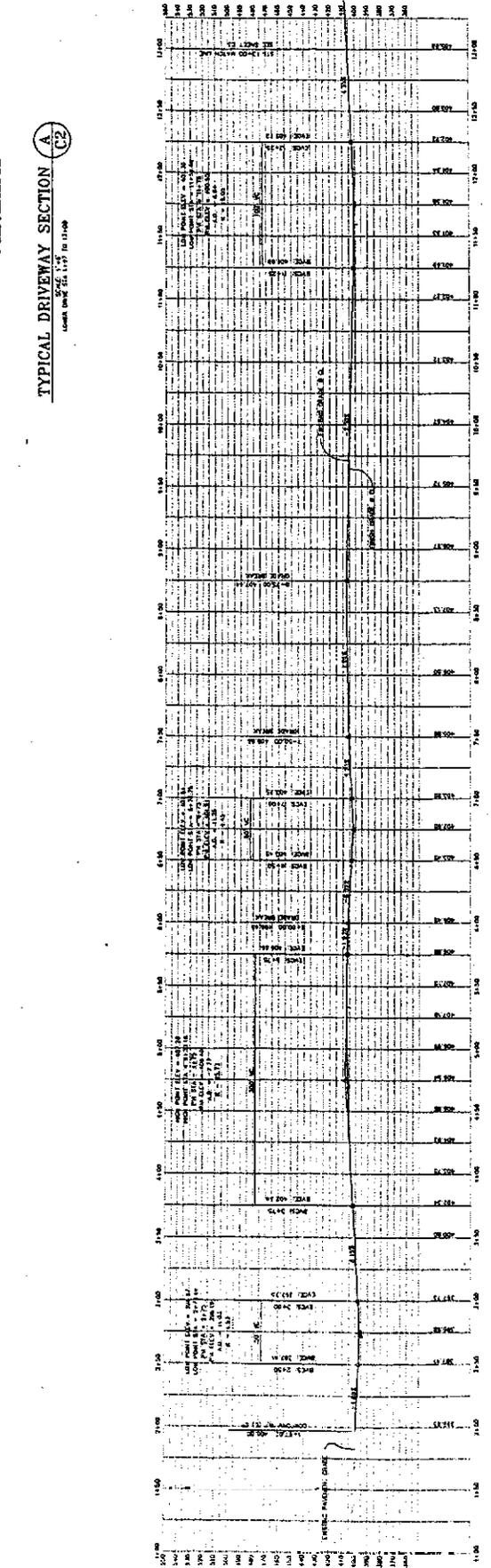
20



**LOWER DRIVEWAY PLAN**  
 SCALE: 1" = 10'



**TYPICAL DRIVEWAY SECTION**  
 SCALE: 1" = 10' HORIZ. 1" = 12" VERT.



**LOWER DRIVEWAY PROFILE**



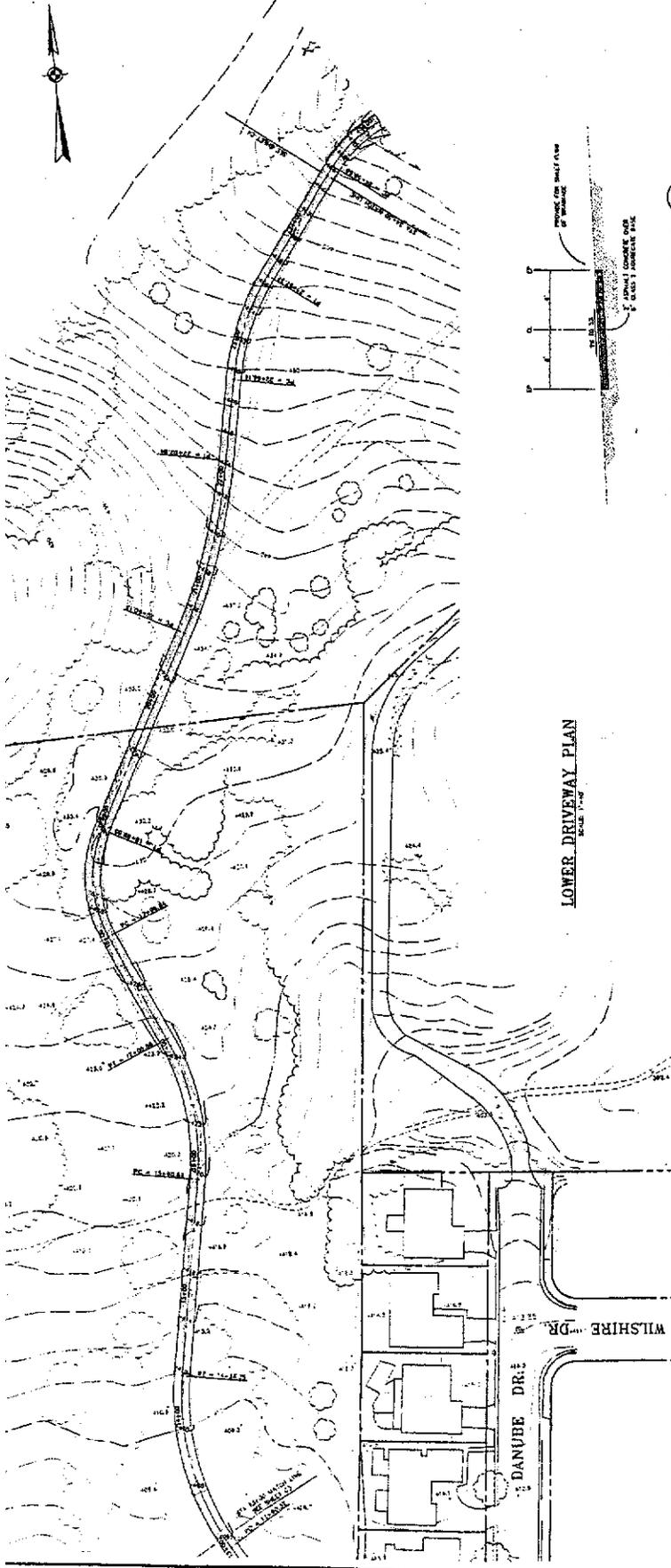
**ROBER ENGINEERING**  
 CIVIL ENGINEERING & LAND SURVEYING  
 444 AIRPORT BLVD., SUITE 206 WATSONVILLE, CA 95076  
 (831) 724-5300 PHONE (831) 724-5508 FAX jrober@roberengineering.com



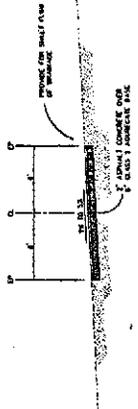
**NEW RESIDENCE FOR  
 STEPHEN & PHYLLIS CARMICHAEL**  
 APN 046-081-09 & 08  
**LOWER DRIVEWAY PLAN & PROFILE**

SHEET	AS NOTED
REVISION NO.	A
DATE	AUG. 27, 2003
BY	W. ROBER
CHECKED	J. ROBER
DATE	OCT. 15, 2003
SCALE	AS SHOWN

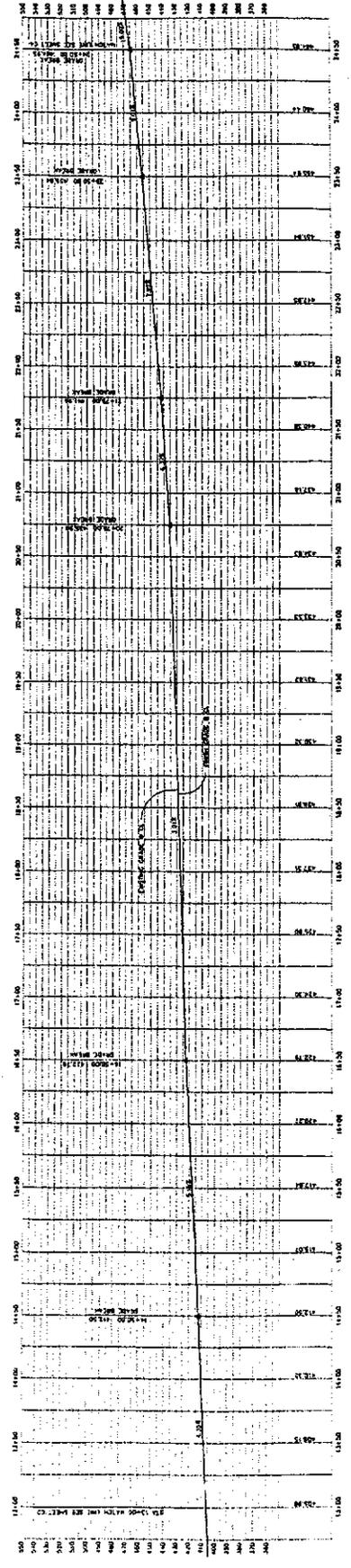
**C3**  
 SHEET 11 OF 11



**LOWER DRIVEWAY PLAN**  
 SCALE 1"=40'



**TYPICAL DRIVEWAY SECTION A**  
 LOWER DRIVEWAY MARKERS TO 31+00



**LOWER DRIVEWAY PROFILE**  
 SCALE 1"=40'



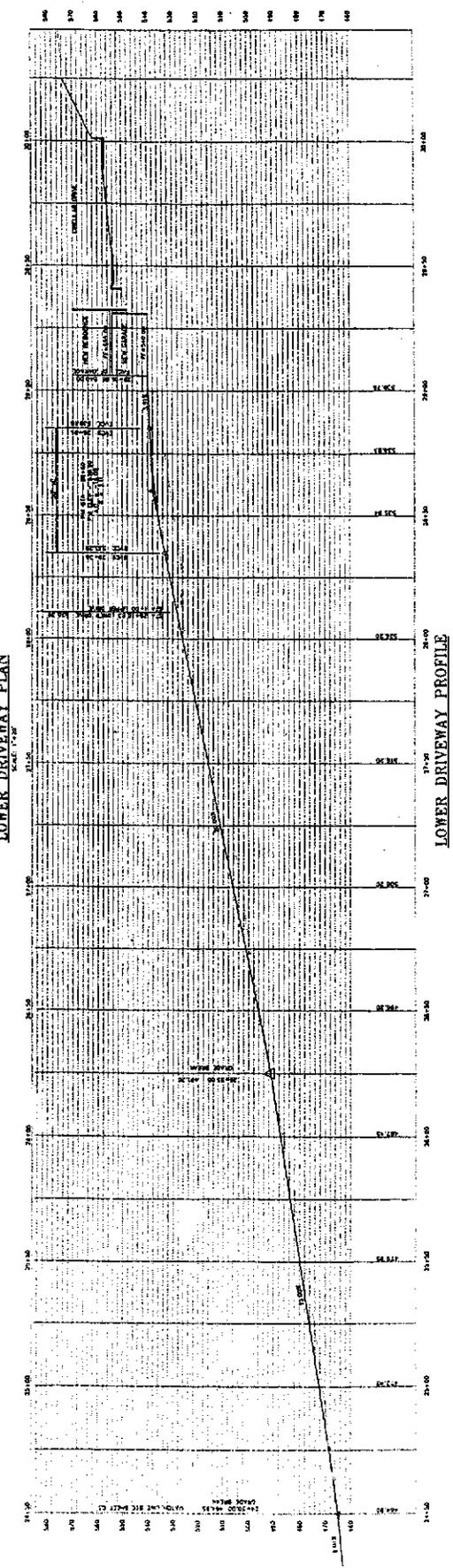
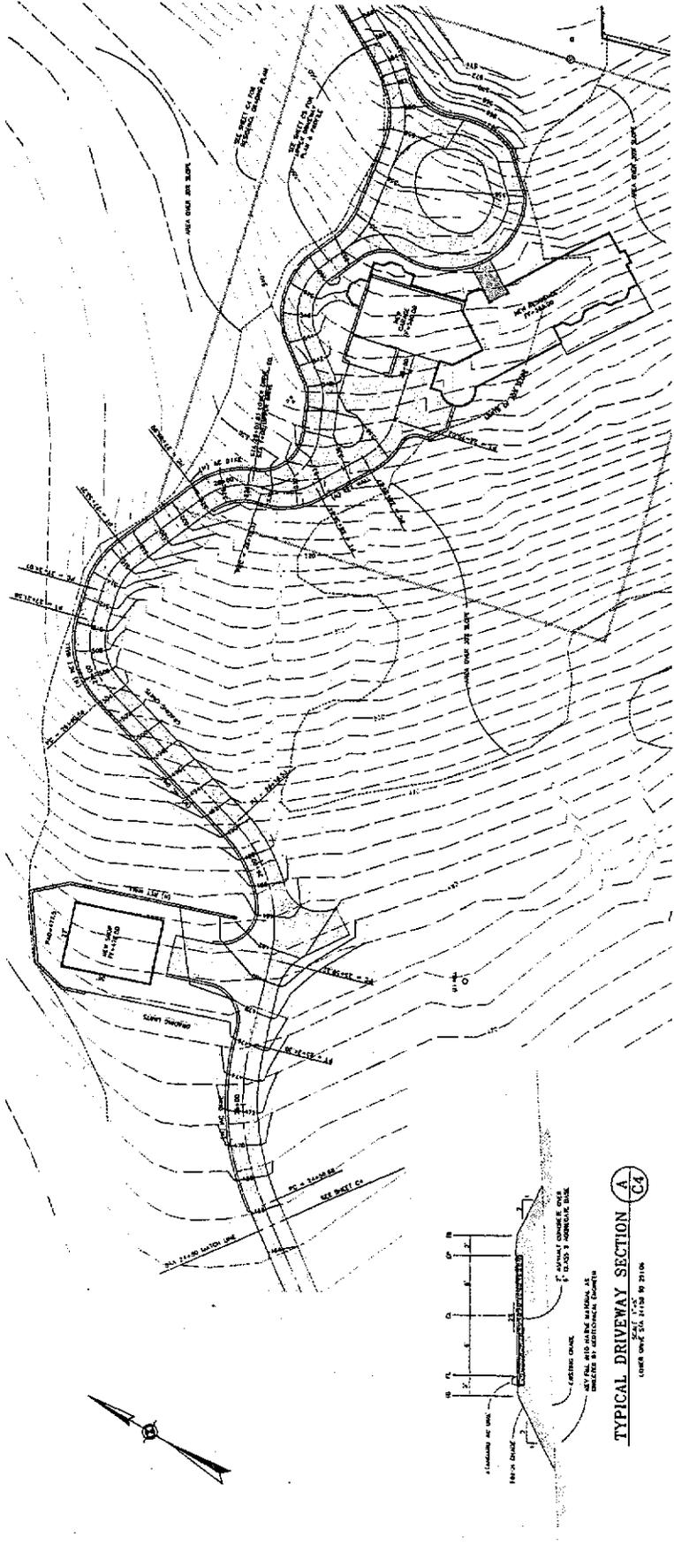
**ROPER ENGINEERING**  
 CIVIL ENGINEERING & LAND SURVEYING  
 444 AIRPORT BLVD. SUITE 208 WATSONVILLE, CA 95076  
 (831) 724-5300 PHONE (831) 724-5308 FAX info@roperengineering.com



**STEPHEN & PHYLLIS CARMICHAEL**  
 NEM RESIDENCE FOR  
 APN 040-081-06 & 09  
**LOWER DRIVEWAY PLAN & PROFILE**

SCALE AS NOTED  
 DRAWING NO. 10  
 SHEET NO. 10  
 DATE: AUG. 28, 2003  
 REVISION: OCT. 15, 2003  
 PER: [Signature]  
 DATE: [Signature]

**C4**





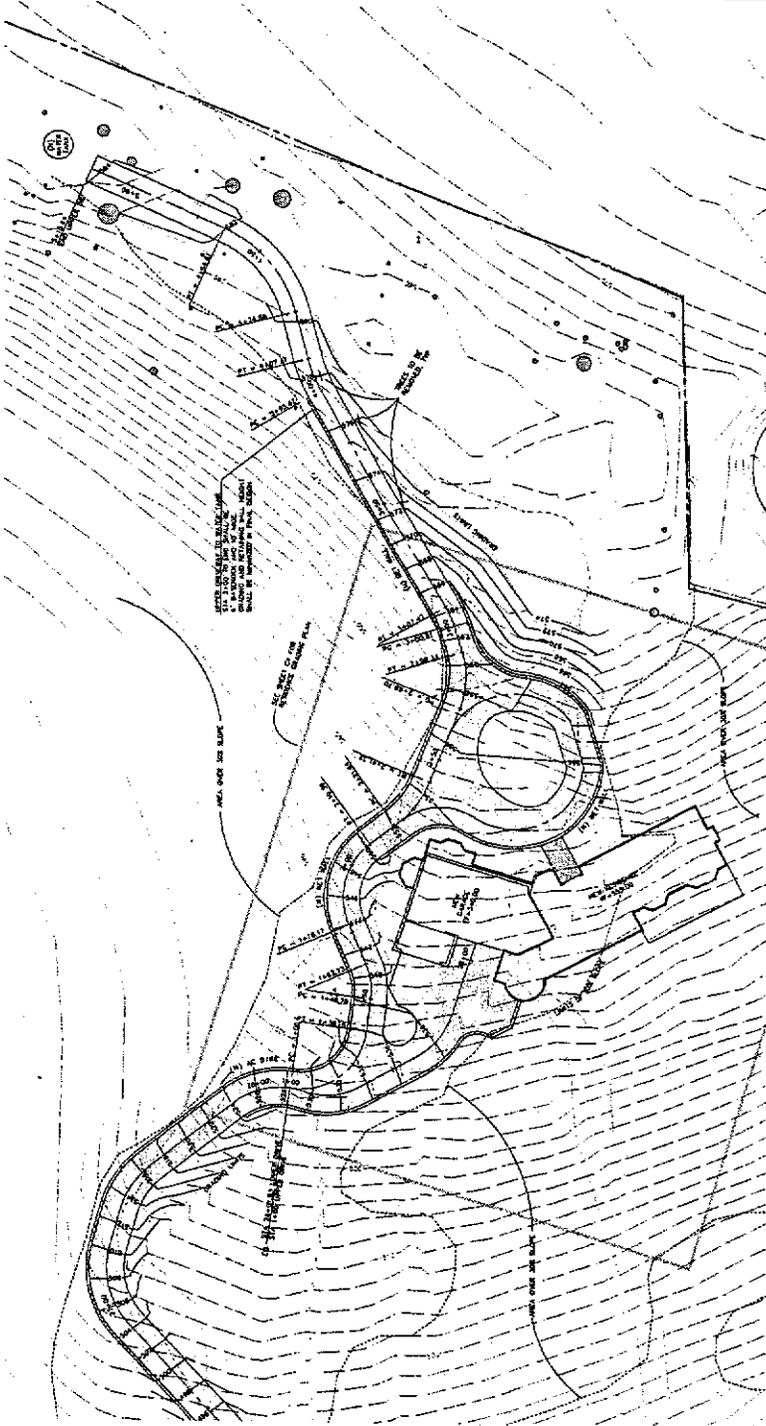
**ROPER ENGINEERING**  
 CIVIL ENGINEERING & LAND SURVEYING  
 444 AIRPORT BLVD., SUITE 208 WATSONVILLE, CA 95076  
 (951) 724-5500 PHONE (951) 724-5508 FAX info@roperengineering.com



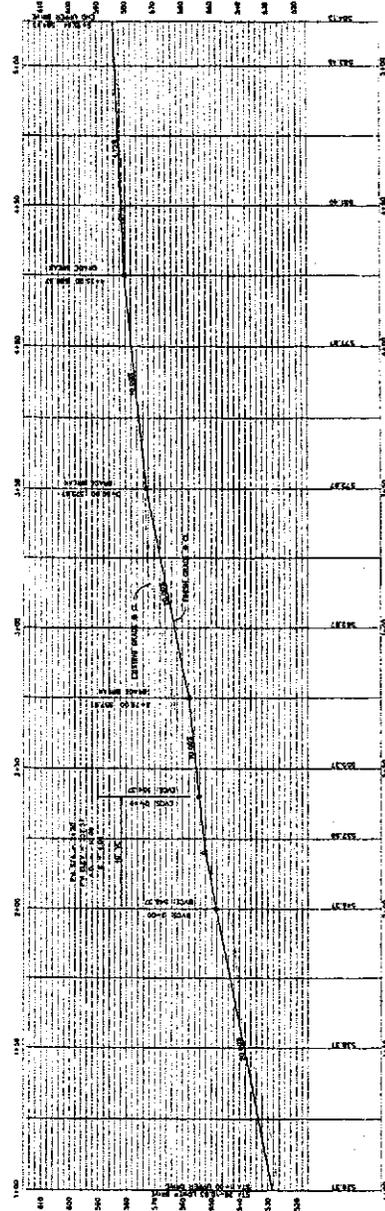
**NEW RESIDENCE FOR  
 STEPHEN & PHYLLIS CARMICHAEL**  
 APN 04D-081-06 & 09  
 UPPER DRIVEWAY PLAN & PROFILE

SCALE:	AS NOTED
REVISIONS TO:	A
DATE:	JUNE 27, 2003
APPROVED:	OCT 17, 2003
DATE:	
BY:	
PROJECT:	000002
SHEET:	

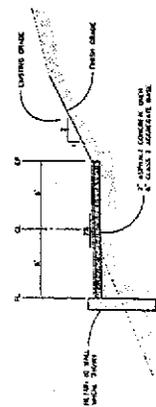
**C5**



**UPPER DRIVEWAY PLAN**  
SCALE 1/2"



**UPPER DRIVEWAY PROFILE**  
VERT. CURVE



**TYPICAL DRIVEWAY SECTION A**  
SCALE 1/2" = 1'-0"



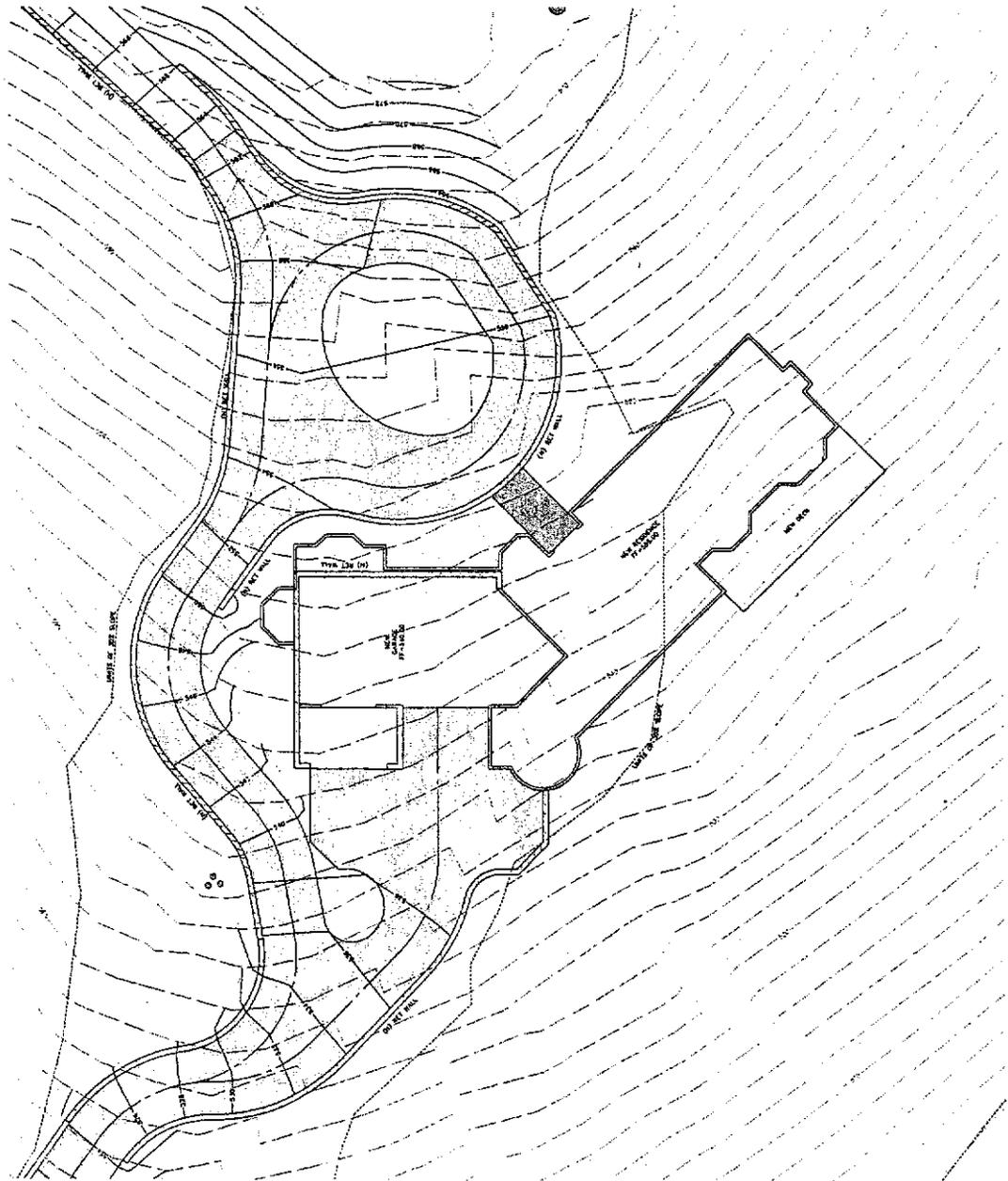
**ROPER ENGINEERING**  
 CIVIL ENGINEERING & LAND SURVEYING  
 144 AIRPORT BLVD. SUITE 206 WATSONVILLE, CA 95076  
 (831) 724-5300 PHONE (831) 724-5308 FAX jrl@roperengineering.com



**NEW RESIDENCE FOR**  
**STEPHEN & PHYLLIS CARMICHAEL**  
 APN 04D-081-06 & 09  
**RESIDENCE GRADING PLAN**

SCALE: AS NOTED  
 DRAWN BY: [illegible]  
 CHECKED BY: [illegible]  
 DATE: AUG. 27, 2003  
 REVISION: OCT. 15, 2003  
 JOB NO.: 030003  
 SHEET

**C6**



**RESIDENCE GRADING PLAN**  
 SHEET C6

# Exhibit B

## **CONDITIONS OF APPROVAL**

### Exhibit B:

- I. This permit authorizes grading associated with the construction of a Single Family Dwelling and related non habitable building. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
  - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
  - B. Obtain an approved Building Permit with grading authorization from the Santa Cruz County Building Official.
  - C. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
  - D. Comply with the Negative Declaration Mitigations:
    1. In order for the project to comply with policies regarding minimizing of grading and to minimize impacts to biotic resources and to views, prior to any permit being issued the applicant shall revise the grading plan as follows:
      - a. Eliminate the spur road that leaves the main driveway and leads south to a graded turnaround;
      - b. Eliminate the turnaround at that location;
      - c. Indicate that there will be minimal or no grading between the turnaround behind the home and the water tank on the hill above the home. The access way to the tank shall be maintained as unpaved track, no wider than ten feet, used only for the purpose of reaching the tank for maintenance;
      - d. Clearly indicate a disturbance envelope that corresponds with the above revisions.
    2. In order to reduce impacts on biotic resources to a less than significant level, prior to issuance of the grading permit the applicant shall do the following:
      - a. Submit a coastal terrace prairie habitat management and enhancement plan prepared by the project biologist for review and approval of County staff. The plan shall provide for the management of the native and mixed grasslands such that the native species are favored, and shall include non native removal, mowing or grazing regime and schedule, goals, monitoring proposal, and a map showing the areas to be managed;
      - b. The alignment of the proposed road from Wilshire Drive north shall be revised on the grading plan such that Oak Woodland is avoided. The proposed alignment shall be staked in the field, reviewed and accepted by the project planner;
      - c. Revise the grading plan to clearly indicate where excess fill will be placed. The fill may not be placed within sensitive habitat or within the

- d. dripline of any oak tree;
  - d. Show, on the building and/or grading plans, the location of replacement oak trees for the two that will be removed due to the construction of the residence. Replacements shall be the same species, minimum 15 gallons, and shall be planted at a ratio of 2:1.
  - e. Prior to the start of disturbance, the applicant shall place temporary fencing at the boundary of the disturbance envelope everywhere the proposed driveway crosses through or within 20 feet of sensitive habitat.
  - f. Prior to the start of any disturbance the applicant's engineering will be required to develop dust management plan that will apply adequate control practices to reduce and eliminate dust.
  - g. An engineered drainage plan must be submitted for County review prior to the issuance of the grading permit. This plan must show that all drainage continues to flow into the same drainage basins as it has in the past: that all drainage is disposed into appropriate dissipators to allow re-charge similar to that current pattern of re-charge and that the driveway doesn't impede existing runoff from the adjacent properties.
3. In order to reduce potential erosion to a less than significant level the applicant, prior to issuance of the grading permit, shall submit a detailed erosion control plan for review and approval by Planning staff. The plan shall include: A clearing and grading schedule that indicates no grading will occur between October 15 and April 15, clearly marked disturbance envelope, temporary driveway surfacing and construction entry stabilization, specifications for revegetation of bare areas, both temporary cover during construction and permanent planting details, and temporary and permanent drainage control including lined swales and erosion protection at the outlets of pipes.
- E. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days of the approval date on this permit.
  - F. Record with the County Assessor an Affidavit to retain APN's 040-081-06, -07, and -09 as one parcel. Once this request has been approved a copy of the approval must be submitted to planning staff.
  - G. Comply with the applicable zoning district requirements including maximum building height of 28 feet and all accessory building must be 1000 square feet or less (single or two story.) Any modification to these requirements will require an application for a separate permit, and an amendment to this permit
  - H. Pay all Code compliance costs to date.
- II. Prior to issuance of a Building Permit the applicant/owner shall:

- A.** Submit Final Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit A on file with the Planning Department. The final plans shall include the following additional information:
1. Identify finish of exterior materials and color of roof covering for Planning Department approval. Colors must be earth-tone building colors and non-reflective roofs and windows that reduces the buildings' contrast with the surrounding terrain
  2. Submit for review and approval a landscaping plan that indicates the location of the two new Oak Trees and provide landscaping that reduces the visual impact of the home. The plan must also show landscaping between Kamian Street and natural vegetation to hide traffic from nearby homes. Landscaping must include suitable native scrubs and trees that require little maintenance.
  3. Grading, drainage, and erosion control plans.
  4. Details showing compliance with fire department requirements.
- B.** Pay drainage fees to the County Department of Public Works. Drainage fees will be assessed on the net increase in impervious area.
- C.** Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
- D.** Meet all requirements and pay any applicable plan check fee of the Fire Protection District.
- E.** Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer along with the Geotechnical Plan review letter of the proposed building site
- F.** Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- G.** Complete and record a Declaration of Restriction to maintain the biotic habitat as indicated in the approved Coastal Terrace Habitat Management Plan on the subject property. **YOU MAY NOT ALTER THE WORDING OF THIS DECLARATION.** This declaration will be prepared by the Planning Department; an exhibit that reflects the approved Exhibit A for this project shall be attached to the Declaration to delineate the development envelope. This development envelope will be reviewed by County Staff

and must encompass all proposed development including accessory unit, the home, the septic system driveways and well all of which must be located entirely within this envelope. The declaration must indicate that domestic animals are prohibited excepted as allowed in the habitat plan and must also indicate that landscaping shall use characteristic native species with no invasive non-native species. Submit proof that this Declaration has been recorded in the Official Records of the County of Santa Cruz (Office of the County Recorder) within 30 days of the effective date of this permit.

H. Pay all applicable improvement fees based on one unit or the number of bedrooms.

111. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. All site improvements including landscaping and the finishes of the home shown on the final approved Building Permit plans shall be installed and maintained.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. The project must comply with all recommendations of the approved soils reports and approved biotic report. No further encroachment is allowed into the Coastal Prairie Habitat or Oak Woodland without written County approval.
- D. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

#### IV. MITIGATION MONITORING PROGRAM

The mitigation measures listed under this heading have been incorporated into the

conditions of approval for this project in order to mitigate or avoid significant effects on the environment. As required by Section 21081.6 of the California Public Resources Code, a monitoring and reporting program for the above mitigations is hereby adopted as a condition of approval for this project. This monitoring program is specifically described following each mitigation measure listed below. The purpose of this monitoring is to ensure compliance with the environmental mitigations during project implementation and operation. Failure to comply with the conditions of approval, including the terms of the adopted monitoring program, may result in permit revocation pursuant to Section 18.10.462 of the Santa Cruz County Code.

A. Mitigation Measure: Conditions I E I a, b, c, and d, and .2 c, b, and e

Monitorina Proaram: Planning staff will review the Grading Plan prior to the issuance of a grading or building permit for the parcel. In this review, the plans shall show the elimination of the spur road and turnaround, indicate that there will be little or no grading between the turnaround behind the home and water tank, and clearly indicate the disturbance envelope for all of the grading. Prior to the start of grading, the disturbance envelope must be fenced immediately adjacent to building envelope, and everywhere the proposed driveway crosses through or within 20 feet of sensitive habitat. Further, the remaining disturbed areas must all be flagged. This fencing and flagging must be inspected and approved by County Staff prior to the start of any site disturbance and must be maintained until the final grading permit inspection.

B. Mitigation Measure: Conditions 2.a

Monitorina Proaram: A copy of the proposed Coastal Terrace Habitat Management and Enhancement Plan must be submitted to the County for review and approval by the County's Biotic Consultant to assure compliance with this condition. This plan shall be recorded with the County's Records Office in a form approved by the County prior to grading or building permit issuance. Furthermore, the Coastal Terrace Habitat Management and Enhancement Plan must be implemented before final grading and building inspection. To confirm the implementation of the approved plan the project biologist shall submit a confirmation letter to County Planning and County staff prior to start of grading and prior to the final Building Permit inspection. The applicant and successor owners must maintain these habitats in perpetuity unless modified by amendment by the approving body.

C. Mitigation Measure: Conditions 2d

Monitorina Proaram: The location of the proposed replacement oak trees must be shown on the building and grading plans and must be planted and inspected by County Planning Department staff before final grading inspection.

D. Mitigation Measure: Condition 2 f

Monitorina Proaram: Planning staff must review and approve the applicants dust control plan prior to the start of grading. During the grading operation contractor

shall be responsible for implementing the plan, and County staff shall inspect the grading activities to assure that dust control is occurring.

**E. Mitigation Measure: Condition 2 g**

Monitorina Program: Planning and the Public Works Agency staff must review and approve the applicants' drainage plan prior to the issuances of the grading or building permits. Prior to final inspection the project registered civil engineer must submit a final review letter that indicates that all of the drainage and other improvements have been installed, and County Planning staff must inspect these improvements prior to final grading and building permit inspection.

**F. Mitigation Measure: Condition 3**

Monitorina Proaram: Planning staff must review and approve the applicant's erosion control plan prior to the issuance of the grading permit. During the grading operation contractor shall be responsible for implementing the plan, and all erosion control measures must be installed before October 15<sup>th</sup> of any year and maintained until April 15<sup>th</sup> of any year. The project engineering must inspect the property by October 1<sup>st</sup> of every year until the final Building Permit inspection and write a letter confirming the implementation of the erosion control measures. County staff shall inspect the grading before October 15<sup>th</sup> of every year until the Grading and Building Permits are finalized to assure that the erosion control plan has been implemented.

**V. Operational Conditions**

A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

VI. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within ~~sixty~~ (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
  - 1. COUNTY bears its own attorney's fees and costs; and
  - 2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.
- E. Within 30 days of the issuance of this development approval, the Development Approval Holder shall record in the office of the Santa Cruz County Recorder an agreement which incorporates the provisions of this condition, or this development approval shall become null and void.

---

**Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.**

**PLEASE NOTE: THIS PERMIT EXPIRES TWO YEARS FROM THE EFFECTIVE DATE UNLESS YOU OBTAIN THE REQUIRED PERMITS AND COMMENCE CONSTRUCTION.**

Approval Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

---

Don Bussey  
Deputy Zoning Administrator

Joe Hanna  
County Geologist

---

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

**Exhibit C**  
**CEQA Determination**  
**Initial Study**

NAME : Steven Graves and Associates for  
S and P Carmichael Enterprises, Inc. et al  
APPLICATION: 00-0143 and 40137S  
A.P.N: 040-081-09,06

### NEGATIVE DECLARATION MITIGATIONS

1. In order for the project to comply with policies regarding minimizing of grading and to minimize impacts to biotic resources and to views, prior to any permit being issued the applicant shall revise the grading plan as follows:
  - a. Eliminate the spur road that leaves the main driveway and leads south to a graded turnaround;
  - b. Eliminate the turnaround at that location;
  - c. Indicate that there will be ~~minimal of~~ no grading between the turnaround behind the home and the water tank on the hill above the home. The access way to the tank shall be maintained as an unpaved track, no wider than ten feet, ~~used only for the purpose of that~~ ~~than the minimum width necessary for a small vehicle to reaching~~ the tank for maintenance;
  - d. Clearly indicate a disturbance envelope that corresponds with the above revisions.
  
2. In order to reduce impacts on biotic resources to a less than significant level, prior to issuance of the grading permit the applicant shall do the following:
  - a. Submit a coastal terrace prairie habitat management and enhancement plan prepared by the project biologist for review and approval of County staff. The plan shall provide for the management of the native and mixed grasslands such that the native species are favored, and shall include non native removal, mowing or grazing regime and schedule, goals, monitoring proposal, and a map showing the areas to be managed;
  - b. The alignment of the proposed road from Wilshire Drive north shall be revised on the grading plan such that Oak Woodland is avoided to a greater degree than currently shown. The proposed alignment shall be staked in the field, reviewed and accepted by the project planner;
  - c. Revise the grading plan to clearly indicate where excess fill will be placed. The fill may not be placed within sensitive habitat or within the dripline of any oak tree;
  - d. Show, on the building and/or grading plans, the location of replacement oak trees for the two that will be removed. Replacements shall be the same species, minimum 15 gallons, and shall be planted at a ratio of 2:1.

Prior to the start of disturbance the applicant shall place temporary fencing at the boundary of the disturbance envelope everywhere the proposed driveway crosses through or within 20 feet of sensitive habitat.

3. In order to reduce potential erosion to a less than significant level the applicant, prior to issuance of the grading permit, shall submit a detailed erosion control plan for review and approval by Planning staff. The plan shall include: A clearing and grading schedule that indicates no grading will occur between October 15 and April 15, clearly marked disturbance envelope, temporary driveway surfacing and construction entry stabilization, specifications for revegetation of bare areas, both temporary cover during construction and permanent planting details, and temporary and permanent drainage control including lined swales and erosion protection at the outlets of pipes.



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 400, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
ALVIN JAMES, DIRECTOR

---

### NOTICE OF ENVIRONMENTAL REVIEW PERIOD

#### SANTA CRUZ COUNTY

APPLICANT: Stephen Graves & Assoc., for S & P Carmichael Enterprises Inc. et al

APPLICATION NO.: 00-0143 and 40237S

APN: 040-081-09 and 040-081-06

The Environmental Coordinator has reviewed the Initial Study for your application and made the following preliminary determination:

- Negative Declaration  
(Your project will not have a significant impact on the environment.)
- Mitigations will be attached to the Negative Declaration
- No mitigations will be attached.
- Environmental Impact Report  
(Your project may have a significant effect on the environment. An EIR must be prepared to address the potential impacts.)

As part of the environmental review process required by the California Environmental Quality Act (CEQA), this is your opportunity to respond to the preliminary determination before it is finalized. Please contact Paia Levine, Environmental Coordinator at (831) 454-3178, if you wish to comment on the preliminary determination. Written comments will be received until 5:00 p.m. on the last day of the review period.

Review Period Ends: February 12, 2003

Joe Hanna  
Staff Planner

Phone: (831) 454-3175

Date: January 17, 2003

## ENVIRONMENTAL REVIEW INITIAL STUDY

APPLICANT: **Stephen Graves and Associates**  
OWNER: **S&P Carmichael Enterprises Inc. et al**  
Application No: 00-0143 and 40237S  
Site Address: No situs

APN: 040-081-09,06  
Supervisorial District: Second

Location: Project is on the vacant parcel at the dead-end of Jennifer Drive, approx. 200 feet west of the intersection of Jennifer Drive and Danube Drive, and the adjacent parcel to the north, approx. 2000 feet north of Soquel Drive in the Vienna Woods neighborhood of the Aptos Planning Area.

### EXISTING SITE CONDITIONS

Parcel(s) Size: 74 acres, 52 acres  
Existing Land Use: vacant  
Vegetation: Oak Woodland / Grassland  
Approximate Slope:

APN 040-081-09: 0-15%( 30.) 16-30%(30.) 31-50% (10.) 51+%(4.) acres.

APN 040-081-06: 0-15%(15.) 16-30%(15.) 31-50% (10.) 51+%(12) acres

Nearby Watercourse: Tannery Gulch, Aptos Creek, Porters Gulch, Borregas Gulch  
Distance To: ¼ mile (or less)

Rock/Soil Type: Marine Terrace deposits, Purisima Fm. sandstone bedrock

### ENVIRONMENTAL RESOURCES AND CONSTRAINTS

Groundwater Supply: yes	Liquefaction: N/A
Water Supply Watershed: N/A	Fault Zone: N/A
Groundwater Resource: mapped	Scenic Corridor: N/A
Timber or Mineral: Timber	Historic: N/A
Agricultural Resource: N/A	Archaeology: mapped resource
Biologically Sensitive Habitat: resource present	Noise Constraint: N/A
Fire Hazard: Critical Fire	Electric Power Lines: N/A
Floodplain: N/A	Solar Access: N/A
Erosion: High Erosion Hazard	Solar Orientation: N/A
Landslide: N/A	Hazardous Materials: N/A

### SERVICES

Fire Protection: Central Fire Protection District  
Drainage District: N/A  
School District: PVUSD  
Water Supply: well

Project Access: Jennifer Drive

APPLICANT: Stephen Graves and Associates  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 402375

APN: 040-081-09,06

Sewage Disposal: Individual Sewage Disposal System

**PLANNING POLICIES**

Zone District: SU

Within USL: No

General Plan: Rural-Residential, Rural-Mountain, PP proposed park on Parcel 06

Special Designation: N/A

Coastal Zone: N/A

**PROJECT SUMMARY DESCRIPTION:**

**Project is divided into three parts:**

1. Proposal to construct a single-family dwelling, driveway and garage(s), which requires a grading permit to grade approximately 3500 cubic yards of material;
2. Proposal to recognize the grading of approximately 310 yards of earth that has already occurred, which was done in order to provide access to the building site for geotechnical exploration, and;
3. Proposal to recognize remedial grading that was done to mitigate erosion and improve drainage.

APPLICANT: Stephen Graves and Associates  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 40237S

APN: 040-081-09,06

2/24

60

**DETAILED PROJECT DESCRIPTION and HISTORY:**

Applications 00-0143 and 40237S propose the grading of an access roadway to a building site (see Attachment 2) and grading to accommodate a proposed single-family dwelling, garage/ accessory building, and turnarounds. The total volume of earthwork will be approximately 3,550 cubic yards. All grading will occur on slopes less than 30%. Two retaining walls, both of which are less than 6 feet in height, will be constructed north of the home.

**Approximate break down of excavation is as follows in cubic yards of earth moved:**

Upper, Lower and Fire Base Rock	675
Pavement	80
House /Circular Driveway	1550
Accessory Building Foundation	520
Leach Field Trenches	90
December 1998 grading	225
October 13, 1999 grading	a5
 Total Excavation of	 3550

**The break down of fill is as follows:**

Engineered Fill	120
<u>Building Pad Fill</u>	250
Spread Fill	<u>3180(minus shrinkage)</u>

(Note: Spread Fill will either be spread at less than 18" in a flat area that is not sensitive habitat, or removed from site to the dump and/or permitted site.)

Total Fill	3550 (approximate)
------------	--------------------

The driveway starts at the intersection of Jennifer and Danube Roads (see Attachment 2) and traverses north on the relatively flat portion of the property for about 2200 feet, before traversing a hill. An accessory building is proposed to be located immediately west of the access roadway at the base of the hill. The access climbs up the slope with one switch back, to access a building pad which is approximately two thirds of the way up the slope. A turn around is proposed up slope of the home, which will require the construction of retaining walls and a small excavation. Views of both the walls and the cut will be obscured by the home, and consequently these portions of the project will not be visible from a public view. From the residence and turnaround the driveway continues to traverse the ridge up to the knoll top, where a water tank site is proposed. This final stretch of the proposed grading corrects previous unpermitted grading. The access road to the tank site will be required to be maintained as an unpaved access pathway,

APPLICANT: Stephen Graves and Associates      APN: 040-081-09,06  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 40237S

3/24

61

## PROJECT SETTING / HISTORY:

The subject property consists of two adjacent parcels that are located between a developed subdivision on the east, undeveloped land on the west, and Nisene Marks State Park on the North. A grading permit application was initially submitted which applied *for* the recognition of the unauthorized grading that occurred in 1996, and related emergency erosion control of approximately 350 cubic yards of grading. However, during the County review process it was determined that a single-family dwelling was part of the proposed project. Therefore, the project description was revised to include the proposed single-family dwelling and accessory buildings and that revised project is the subject of this document.

The grading initially proposed in application 00-0143 has been refined through the review process to comply with General Plan policies on the protection of ridge-tops and minimizing grading. To reduce the potential for disruption of the ridge top the home was moved below the ridge top to a point approximately two thirds of the height of the Slope. Further, the Fire Department turn-around proposed at the base of the slope has now been eliminated to avoid Coastal Terrace Prairie. Additionally, the upper end of the access roadway will be an unpaved access pathway to the water tank rather than a fully paved access road. Finally, the water tank visibility from the adjacent residential neighborhood will be significantly reduced by placing the tank amongst the trees.

## ANALYSIS AND DISCUSSION:

### Planning Constraints:

The project is affected by three major constraints: sensitive habitat including Coastal Terrace Prairie and Mixed Grassland, slopes near the proposed development greater than 30% and ridge-top protection development policies.

Sensitive Habitat: During the initial review of this project two primary biotic issues were identified. First, Eco Systems' West (see Attachment 3) identified the need to determine whether a special status species, the Ohlone Tiger Beetle, is present on the property, and, second, the site has been identified by Biotic Resources Group (see Attachment 4) as containing Coastal Terrace Prairie / Mixed Grasslands.

Protocol Surveys for the Ohlone Tiger Beetle were performed. (See Attachment 5) The beetle was not identified during these surveys and Dr. Arnold concluded that the beetle was unlikely to occur on the property based upon these surveys and his personnel experience with similar properties.

APPLICANT: Stephen Graves and Associates  
OWNER: S&P Carrnichael Enterprises Inc. et al  
Application No. 00-0143 and 40237S

APN: 040-081-09,06

4/24

62

Coastal Terrace Prairie / Mixed Grasslands are present on the property. The proposed building pads are located away from these mapped habitats (see Attachment 6) but a previously proposed Fire Department turn around along the toe of the Slope below the proposed home would have crossed into this habitat. The applicant has contacted the Fire Department and has received assurance that the residential turn around at the rear of the proposed home site is adequate to meet Fire Department turn regulations and the lower turn around has therefore been eliminated from the plan. With the elimination of the lower most turn around, mitigation proposed by the Biotic Resources Group's April 18, 2001 (see Attachment 6) letter adequately addresses the biotic issues. In this letter, the Biologist recommends removal of the invasive species and land management practice that will promote the re-establishment of the Coastal Terrace Prairie and other native grasses.

Two oak trees will be removed as part of this project.

**Thirty-Percent Slopes:** There has been controversy about whether or not the proposed driveway, home and the unauthorized grading are on slopes over 30% gradient. This controversy is centered on a 1997 topographic map prepared by Bowman and Williams engineers and land surveyors that indicated several areas represented to be over thirty percent. To clarify this issue, Bowman and Williams (see Attachment 7) has written to the applicant to explain that the map was preliminary in nature and was not intended to represent actual slope gradients. Bowman and William's conclusions that the subject slopes do not exceed 30% have been confirmed by the project Civil Engineer, by County Planning staff and by the County's Environmental Health Services Officer who determined that the proposed septic system will be located in an area that is less than 30%. The current plans indicate that the proposed driveway will not cross slopes greater than 30%.

**Building Design:** General Plan Sections 8.6.5 and 8.6.6 apply to hillside developments. These policies are intended designed to "encourage design that addresses the neighborhood and community context" and to assure incorporation of "design elements that is appropriate to the surrounding uses and the type of land use planned for the area." The County and the applicant have worked together to resolve the concern that the home was proposed on a ridge. The current proposal shows the home constructed below the ridge-top and designed to comply with the General Plan. By relocating the home lower on the slope and placing the home at the front of the building pad the visual impact of the cut for the building pad is greatly reduced because the view is shielded by the home. Further, by moving the house down the slope, the length of the proposed driveway has been reduced, and the plan to pave the upper portion of the driveway was eliminated. Consequently, this upper portion of the drive way will be an unpaved pathway that, when landscaped, will have little visual impact.

APPLICANT: Stephen Graves and Associates  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 40237S

APN: 040-081-09,06

5/24

63

Significant Or Potentially Significant impact	Less Than Significant With Mitigation incorporation	Less Than Significant Impact	NO Impact
---	---	------------------------------------	--------------

## ENVIRONMENTAL REVIEW CHECKLIST

### A. Geology and Soils

Does the project have the potential to:

1. Expose people or structures to potential adverse effects, including the risk of material loss, injury, or death involving:

A. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or as identified by other substantial evidence? \_\_\_ X \_\_\_

The property is located away from known active faults. The closest potential fault rupture hazard is associated with the Zayante fault approximately 3 miles to the north.

B. Seismic ground shaking? \_\_\_ \_\_\_ X \_\_\_

Steven Raas, project Geotechnical Engineer, has investigated the site and has determined that the property is Subject to strong seismic shaking. The current Uniform Building Code has requirements for reducing the potential damage to a structure from strong seismic shaking to a less than significant level.

C. Seismic-related ground failure, including liquefaction? \_\_\_ \_\_\_ X \_\_\_

The geotechnical report concluded there is a low potential for impact seismically induced ground failure such as landsliding and ridge-top cracking to impact the development.

D. Landslides? \_\_\_ \_\_\_ X \_\_\_

Rogers E. Johnson has investigated the site and has determined that the closest landsliding is over 100 feet away from the proposed grading and building sites.

APPLICANT: Stephen Graves and Associates      APN: 040-081-09,08  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 40237S

6/24  
64

	Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
2. Subject people or improvements to damage from soil instability because of on- or off-site landslide, lateral spreading, to subsidence, liquefaction, or structural collapse?	—	—	—	<u>X</u>
3 Develop land with a slope exceeding 30%?	—	—	<u>X</u>	—

In 1999 unauthorized grading occurred within the proposed roadway alignment on the northern slope, and within the proposed septic system area. County Code 16.22.050 and General Plan Policy 6.3.9 prohibit the construction of new roads on slopes exceeding 30% and septic systems are prohibited on slopes 30% or greater. The project was reviewed to determine whether the 1999 grading occurred on slopes over 30%. Initial measurements with an inclinometer indicated that the slope was greater than 30% in one short stretch transversed by the access road. These measurements did not use accurate land surveying equipment, which can measure the slope gradient more accurately than an inclinometer. A topographic map prepared by Bowman and Williams Engineers in 1997 showed that several small areas did exceed 30% and this, along with the initial approximate slope measurements, contributed to confusion about the actual gradient. Bowman and Williams later clarified that their map was "only intended to show that a more detailed survey was needed in areas of proposed driveway construction" (see attachment 7).

Essentially, the Bowman and Williams map is preliminary in nature should not have been used to determine the slope of the hill. The slope should have been determined by accurate, on site survey performed for the specific purpose. Therefore, a new survey was completed by the project engineer Larry Palm, RCE, for the grading plan, which shows through surveyed cross-sections that the roadway can be constructed on the slope leading up to the building site without crossing a slope greater than 30%. Larry Palm confirmed in writing (see attachment 10) that the project will not be located on slopes greater than 30%.

4. Result in soil erosion or the substantial loss of topsoil?	—	—	<u>X</u>	—
---	---	---	----------	---

The proposed grading will occur on a hillside and if incorrectly performed could result in substantial erosion. The County Code 16.22 requires an erosion control plan for this development. A properly implemented plan will reduce the potential erosion to less than significant level. Erosion control procedures will include: containing drainage in enclosed conduits, metering drainage discharge so that the discharge does not cause

Significant or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
---	---	------------------------------------	--------------

erosion, avoiding concentrated flow over graded surfaces, and the covering of bare soils with vegetation and appropriate erosion control blankets.

- |  |   |   |     |   |
|--|---|---|-----|---|
| 5. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to property? | — | — | _X_ | — |
|--|---|---|-----|---|

The nearest surface soils have some potential for expansion. The soils engineer requires that these soils be removed from the building area or alternatively that a pier and grade beam foundation be used if the expansive soils are not removed.

- |   |   |   |   |     |
|---|---|---|---|-----|
| 6. Place sewage disposal systems in areas dependent upon soils incapable of adequately supporting the use of septic tanks, leach fields, or alternative waste water disposal systems? | — | — | — | _X_ |
|---|---|---|---|-----|

The Environmental Health Department has approved a Individual Sewage Disposal System on this property.

- |                                     |   |   |   |     |
|-------------------------------------|---|---|---|-----|
| 7. Result in Coastal cliff erosion? | — | — | — | _X_ |
|-------------------------------------|---|---|---|-----|

**B. Hydrology, Water Supply and Water Quality**

Does the project have the potential to . . .

- |   |   |   |   |     |
|---|---|---|---|-----|
| 1. Place development within a 100-year flood hazard area? | — | — | — | _X_ |
|---|---|---|---|-----|

A small part of the parcel extends into Tannery Gulch. This portion of the property is well away from the area that will be developed.

- |  |   |   |   |     |
|--|---|---|---|-----|
| 2. Place development within the floodway resulting in impedance or redirection of flood flows? | — | — | — | _X_ |
|--|---|---|---|-----|

	Significant Or Potentially Significant impact	Less Than Significant With Mitigation incorporation	Less Than Significant Impact	No Impact
3. Be inundated by a seiche or tsunami?	—	—	—	<u>X</u>
4. Deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit, or a significant contribution to an existing net deficit in available supply, or a significant lowering of the local groundwater table?	—	—	—	<u>X</u>

The proposed project is located on a slope where little drainage infiltrates due to rapid run-off. All runoff from new impermeable surfaces will be required to be retained and therefore there will be no loss of recharge.

5. Degrade a public or private water supply? (Including the contribution of urban contaminants, nutrient enrichments, or other agricultural <i>chemicals</i> or <i>seawater</i> intrusion).	—	—	—	<u>X</u>
---	---	---	---	----------

Drainage will be required to be filtered on site. There is ample space in which to accomplish this filtration.

6. Degrade septic system functioning?	—	—	—	<u>X</u>
7. Alter <i>the</i> existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which could result in flooding, erosion, or siltation on or off-site?	—	—	<u>X</u>	—

The project will create impermeable surface along the driveway and at the building sites. However, the physical characteristics of the site (size, shape and soil material) are such that retention of drainage on site is possible, and full review of drainage will be required by County Public Works.

- a Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems, or create

	Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
--	---	---	------------------------------------	--------------

additional source(s) of polluted runoff?                                      X  

There is no evidence indicating that any existing facility will receive added runoff from this project.

9. Contribute to flood levels or erosion in natural water courses by discharges of newly collected runoff?                                      X  

10. Otherwise substantially degrade water supply or quality?                                      X  

**C. Biological Resources**

Does the project have the potential to:

1. Have an adverse effect on any species identified as a candidate, sensitive, or special status species, in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, or U.S. Fish and Wildlife Service?                                      X  

Eco Systems' West identified the need for surveys to determine the presence/absence of a special status species, the Ohlone Tiger Beetle. Surveys were performed and the outcome was negative. (Attachments 4 and 5)

2. Have an adverse effect on a sensitive biotic community (riparian corridor, wetland, native grassland, special forests, intertidal zone, etc.)?                  X                      

The portion of the access road that transverses the flatter portion of the property between Jennifer Drive and Wilshire Drive was originally planned such that it followed the existing roadway and dirt trail. However, that alignment caused the loss of approximately 6300 square feet of Coastal Terrace Prairie, and therefore the road alignment was modified to avoid most of the sensitive habitat. The



Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
---	---	------------------------------------	--------------

resources (such as the Significant Tree Protection Ordinance, Sensitive Habitat Ordinance; provisions of the Design Review ordinance protecting trees with trunk sizes of 6 inch diameter or greater)?

\_ \_ \_ X

Two oak trees will be removed for the construction of the home. As a condition of the project these trees will be replaced with young oaks of the same species at a 2:1 ratio.

The current proposed driveway alignment is shown on Figure 1 of Attachment 6 as crossing through Coast Live Oak Woodland. However, site visits indicate that there is ample room for realigning such that no oak woodland will be disturbed. Further, by eliminating the lower turnaround and the instituting of an ongoing program to manage invasive non-native vegetation, the project will have an overall neutral or beneficial impact on native and mixed grassland.

7. Conflict with the provisions of an adopted Habitat Conservation Plan, Biotic Conservation Easement, or other approved local, regional, or state habitat conservation plan?

\_ \_ \_ X

**D. Energy and Natural Resources**

Does the project have the potential to:

1. Affect or be affected by land designated as "Timber Resources" by the General Plan?

\_ \_ \_ X

The parcel, 09, is mapped as Timber Reserve. The proposed home and related grading is located on the non-timber portion of the property, consistent with General Plan Policy 5.12.7, and is proposed to have only one single family dwelling with related accessory structures as required in General Plan Policy 5.12.2.

2. Affect or be affected by lands currently

	Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
--	---	---	------------------------------------	--------------

- |    |  |   |   |   |          |
|----|--|---|---|---|----------|
|    | utilized for agriculture, or designated in the General Plan for agricultural use?  | — | — | — | <u>X</u> |
| 3. | Encourage activities which result in the use of large amounts of fuel, water, or energy, or use of these in a wasteful manner?       | — | — | — | <u>X</u> |
| 4. | Have a substantial effect on the potential use, extraction, or depletion of a natural resource (i.e., minerals or energy resources)? | — | — | — | <u>X</u> |

A well exists of the property and will be used to serve only the proposed single-family dwelling.

**E. Visual Resources and Aesthetics**

Does the project have the potential to:

- |    |   |   |   |          |   |
|----|---|---|---|----------|---|
| 1. | Have an adverse effect on a scenic resource, including visual obstruction of that resource? | — | — | <u>X</u> | — |
|----|---|---|---|----------|---|

The only designated scenic corridor that could be impacted by the proposed grading is the Highway 1 corridor. Site visits to Highway 1 indicate that the site including the proposed home and tank site will not be visible from this corridor.

Overall, the current visual setting is an open terrace and oak studded hillside that is interrupted by single-family dwellings. The proposed new home will interrupt this view. However, the perspectives of the proposed home and the layout of the site has been designed to comply with the General Plan policies 8.6.5 and 8.6.6 to "encourage design that addresses the neighborhood and community context." and to assure incorporation of "design elements that is appropriate to the surrounding uses and the type of land use planned for the area." Specifically, the ridge top will be avoided in the development, the trees on the ridge will remain, the tank will be located so that it is screened by the trees, the access roadway above the home will not be paved, and the site will be landscaped. Further, the color of the buildings and the retaining walls will be

Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	NO Impact
---	---	------------------------------------	--------------

required to blend with those of the hillside, and non-reflective materials Will be required to be used in the glazing and roofing.

- |    |   |   |   |     |   |
|----|---|---|---|-----|---|
| 2. | Substantially damage scenic resources, within a designated scenic corridor or public viewshed area including, but not limited to, trees, rock outcroppings, and historic buildings? | — | — | _X_ | — |
|----|---|---|---|-----|---|

Tree removal will be limited to two mature oak trees. The home is not visible form Highway 1 and is not on the ridge top.

- |    |   |   |   |     |   |
|----|---|---|---|-----|---|
| 3. | Degrade the existing visual character or quality of the site and its surroundings, including substantial change in topography or ground surface relief features, and/or development on a ridgeline? | — | — | _X_ | — |
|----|---|---|---|-----|---|

The home has been moved below the ridgeline.

- |    |  |   |   |     |   |
|----|--|---|---|-----|---|
| 4. | Create a new source of light or glare which would adversely affect day or nighttime views in the area? | — | — | _X_ | — |
|----|--|---|---|-----|---|

The permit will include the a condition that lights be directed away from natural areas.

- |    |  |   |   |   |     |
|----|--|---|---|---|-----|
| 5. | Destroy, cover, or modify any unique geologic or physical feature? | — | — | — | _X_ |
|----|--|---|---|---|-----|

**F. Cultural Resource?**

Does the project have the potential to:

1. Cause an adverse change in the significance of a historical resource as defined in CEQA Guidelines 15064.5?
2. Cause an adverse change in the

APPLICANT: Stephen Graves and Associates      APN: 040-031-09,06  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 402378

14/24  
72

Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
---	---	------------------------------------	--------------

significance of an archaeological resource pursuant to CEQA Guidelines 15064.5?

\_ \_ \_  X

The site was surveyed by an archeologist in the 1980's as part of a previous proposed project and an area of archeological resources was identified. The current proposal does not disturb this area. See Attachment 10.

3. Disturb any human remains, including those interred outside of formal cemeteries?

\_ \_ \_  X

Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established Sections 16.40.040 and 16.42.100 shall be observed.

4. Directly or indirectly destroy a unique paleontological resource or site?

\_ \_ \_  X

**G. Hazards and Hazardous Materials**

Does the project have the potential to:

1. Create a significant hazard to the public or the environment as a result of the routine transport, storage, use, or disposal of hazardous materials, not including gasoline or other motor fuels?

\_ \_ \_  X

2. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

\_ \_ \_  X

	Significant Or Potentially Significant impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
3. Create a safety hazard for people residing or working in the project area as a result of dangers from aircraft using a public or private airport located within two miles of the project site?	—	—	—	<u>X</u>
4. Expose people to electromagnetic fields associated with electrical transmission lines?	—	—	—	<u>X</u>
5. Create a potential fire hazard?	—	—	—	<u>X</u>
6. Release bioengineered organisms or chemicals into the air outside of project buildings?	—	—	—	<u>X</u>

**H. Transportation/Traffic**

Does the project have the potential to:

1. Cause an increase in traffic which is substantial in relation to the existing traffic load and/or capacity of the street system (i.e., substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	—	—	—	<u>X</u>
The proposed project is one single-family dwelling, which will have minimal additional trips or effects on local traffic.				
2. Cause an increase in parking demand which cannot be accommodated by existing parking facilities?	—	—	—	<u>X</u>
3. Increase hazards to motorists, bicyclists, or pedestrians?	—	—	—	<u>X</u>

Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	NO Impact
---	---	------------------------------------	--------------

4. Exceed, either individually (the project alone) or cumulatively (the project combined with other development), a level of service standard established by the county congestion management agency for designated intersections, roads or highways?

—

I. Noise

Does the project have the potential to:

1. Generate a permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

—                      —                      —                        X  

2. Expose people to noise levels in excess of standards established in the General Plan, or applicable standards of other agencies?

—                      —                      —                        X  

3. Generate a temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

—                      —                        X                        —

The project will produce short-term increase in noise during construction, however this will be temporary, and will be limited to workdays between 8 am and 6 pm.

I. Air Quality

Does the project have the potential to:  
(Where available, the significance criteria established by the MBUAPCD may be relied upon to make the following determinations).

1. Violate any air quality standard or

APPLICANT: Stephen Graves and Associates                      APN: 040-081-09,06  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 40237S

Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	NO Impact
---	---	------------------------------------	--------------

contribute substantially to an existing or projected air quality violation?

—	—	_X_	—
---	---	-----	---

During grading and construction dust will develop along the access roadway especially before the base rock is place on the roadway's surface. To control the dust the applicant's engineering will be required to develop dust management plan that will apply adequate control practices to reduce and eliminate dust.

2. Conflict with or obstruct implementation of an adopted air quality plan?

—

3. Expose sensitive receptors to substantial pollutant concentrations?

—

—

—

\_X\_

4. Create objectionable odors affecting a substantial number of people?

—

—

—

\_X\_

K. Public Services and Utilities

Does the project have the potential to:

1. Result in the need for new or physically altered public facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

—

—

—

\_X\_

A. Fire protection?

—

—

—

\_X\_

B. Police protection?

—

—

—

\_X\_

C. Schools?

—

—

—

\_X\_

D. Parks or other recreational facilities?

—

—

—

\_X\_

Parcel 06 has a designation of park site "D". Barry C. Samuel, Director of Parks, Open Space and Cultural Services has reviewed the proposed project and has determined that the "project does not trigger the park sits review process"

	Significant Or Potentially Significant impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>E. Other public facilities; including the maintenance of roads?</b>	—	—	—	<u>X</u>
2. Result in the need for construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	—	—	—	<u>X</u>
3. Result in the need for construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	—	—	—	
4. Cause a violation of wastewater treatment standards of the Regional Water Quality Control Board?	—	—	—	<u>X</u>
5. Create a situation in which water supplies are inadequate to serve the project or provide fire protection?	—	—	—	<u>X</u>
6. Result in inadequate access for fire protection?	—	—	—	<u>X</u>
7. Make a significant contribution to a cumulative reduction of landfill capacity or ability to properly dispose of refuse?	—	—	—	<u>X</u>
8. Result in a breach of federal, state, and local statutes and regulations related to solid waste management?	—	—	—	<u>X</u>

**L. Land Use, Population, and Housing**

APPLICANT: Stephen Graves and Associates      APN: 040-081-09,06  
 OWNER: S&P Carmichael Enterprises inc. et al  
 Application No: 00-0143 and 40237S

Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
---	---	------------------------------------	--------------

Does the project have the potential to:

- |    |  |   |   |   |     |
|----|--|---|---|---|-----|
| 1. | Conflict with any policy of the County adopted for the purpose of avoiding or mitigating an environmental effect?  | — | — | — | —   |
| 2. | Conflict with any County Code regulation adopted for the purpose of avoiding or mitigating an environmental effect?  | — | — | — | _X_ |
| 3. | Physically divide an established community?  | — | — | — | _X_ |
| 4. | Have a potentially significant growth inducing effect, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | — | — | — | _X_ |
| 5. | Displace substantial numbers of people, or amount of existing housing, necessitating the construction of replacement housing elsewhere?  | — | — | — | _X_ |

**M. Non-Local Approvals**

Does the project require approval of federal, state, or regional agencies?

Yes\_\_ No\_X\_

Which agencies?

\_\_\_\_\_

Significant Or Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	NO Impact
---	---	------------------------------------	--------------

**N. Mandatory Findings of Significance**

- |    |   |      |       |
|----|---|------|-------|
| 1  | Does the project have impacts that are individually limited, but cumulatively considerable (“cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, and the effects of reasonably foreseeable future projects which have entered the Environmental Review stage)? | Yes— | No_X_ |
| 2. | Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?  | Yes— | No_X_ |

**TECHNICAL REVIEW CHECKLIST**

	<u>REQUIRED</u> <u>N/A</u>	<u>COMPLETED</u>
APAC REVIEW	_____	_____
ARCHAEOLOGIC REVIEW	_____	_____X_____
BIOTIC ASSESSMENT	_____	_____X_____
GEOLOGIC HAZARD ASSESSMENT	_____	_____
GEOLOGIC REPORT	_____	_____
RIPARIAN PRE-SITE	_____	_____
SEPTIC LOT CHECK	_____	_____
SOILS REPORT	_____	_____X_____
OTHER.		
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\*Attach summary and recommendation from completed reviews

List any other technical reports or information sources used in preparation of this initial study:

APPLICANT: Stephen Graves and / s  
 OWNER: S&P Carmichael Enterprises, Inc. et al  
 Application No: 00-0143 and 40237S  
 APN: 040-081-09,0E

## ENVIRONMENTAL REVIEW ACTION

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described below have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required..

Date

1/12/03

Signature



For:

Environmental Coordinator

Attachments:

1. Location Map
2. Project Plans
3. Eco Systems West, August 28, 2001
4. Biotic Resources Group, August 28, 2000
5. Entomological Consulting Services, Ltd. April 24, 2001
6. Biotic Resources Group, April 18, 2001
7. Letter, Bowman and Williams, June 13, 2001
8. Geology / Geotechnical Review Letter and Report Summary
9. Letter, Larry Palm PE, June 15, 2001
10. Memorandum for Matt Baldzikowski to Joel Schwartz, re: archeological resources

APPLICANT: Stephen Graves and Associates  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 00-0143 and 40237s

APN: 040-081-09.06

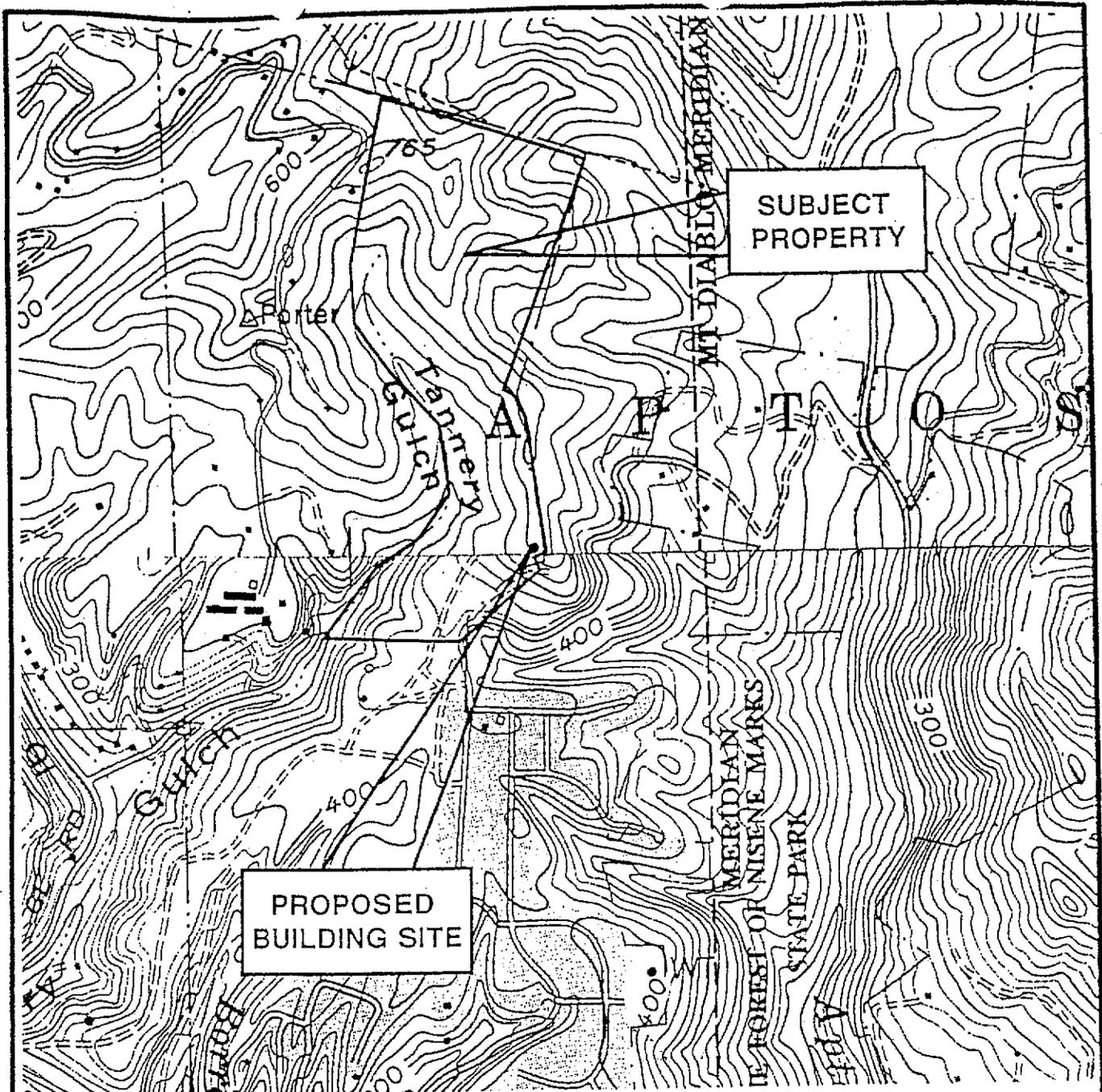
23/24

81

APPLICANT: Stephen Gray and Associates  
OWNER: S&P Carmichael Enterprises Inc. et al  
Application No: 004143 and

APN: 040-081-09,06

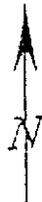
# Initial Study Attachment 1



Environmental Review Initial Study

ATTACHMENT  
APPLICATION

00-0143 &  
402375



EASE MAP: SOQUEL 8 LAUREL 7.5' Quadrangle, United States  
Geological Survey, 1954 (Photorevised 1994) Scale: 1" = 2,000'

0 Feet 1,000

ROGERS E. JOHNSON & ASSOCIATES  
Consulting Engineering Geologists  
1729 Seabright Avenue  
Sania Cruz, California 95062  
(851)425-1288 FAX (831)425-1136

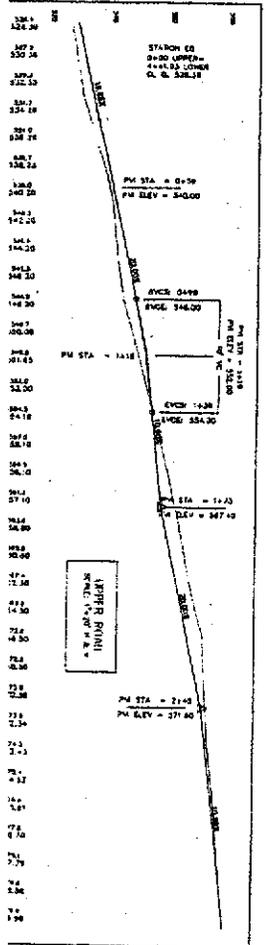
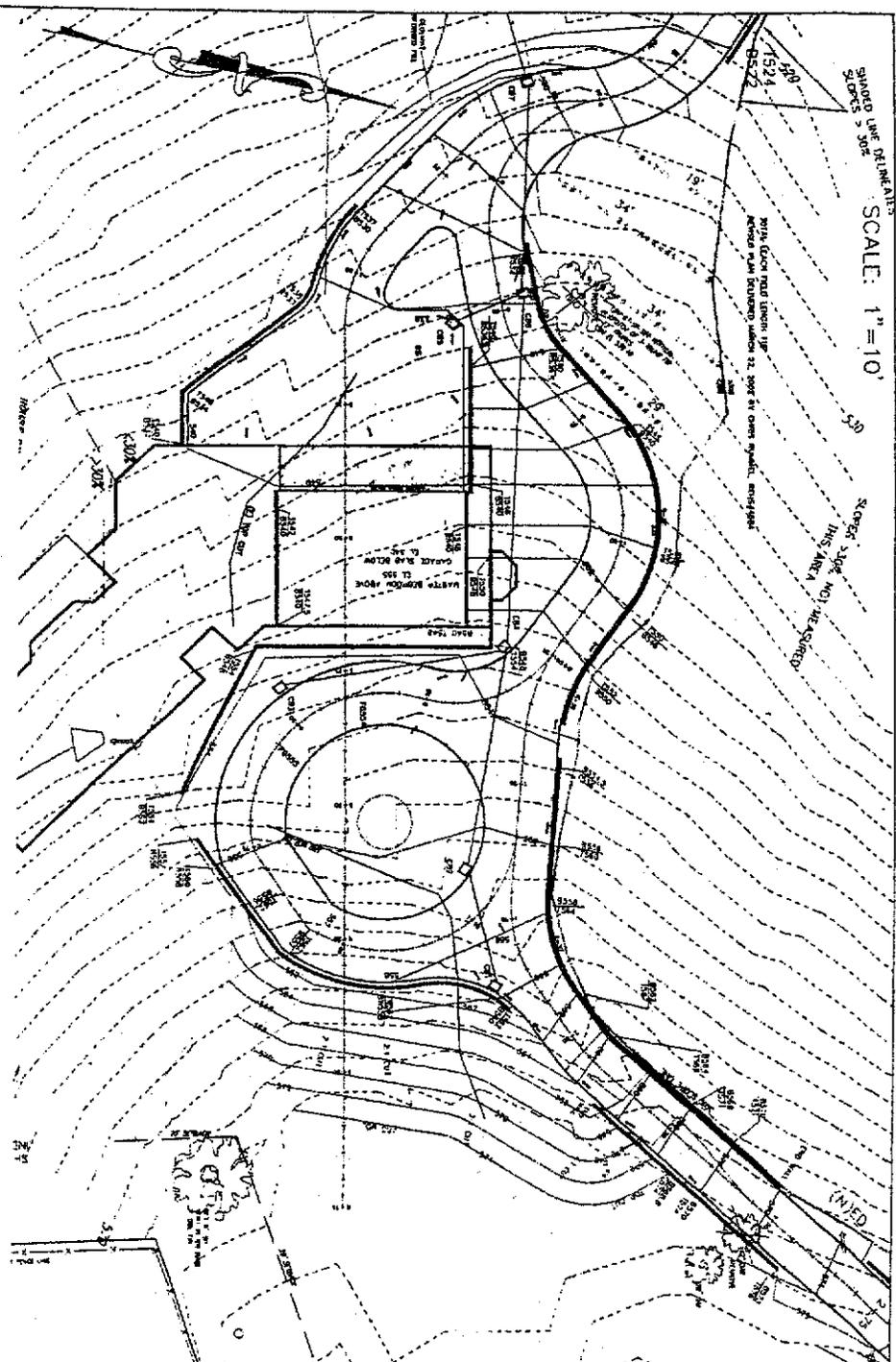
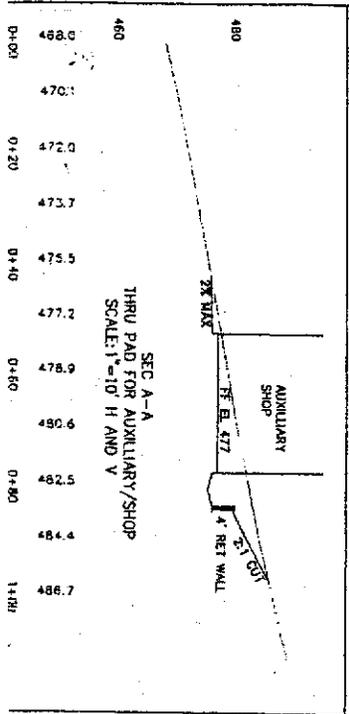
SITE LOCATION MAP  
Carmichael Property  
Cook Ranch  
Aptos, California

FIGURE #  
1  
JOS #  
G98076 - 61



# Initial Study Attachment 2





Environmental Review Initial study  
**ATTACHMENT**  
**APPLICATION 00-0143**  
**402375**

3/17

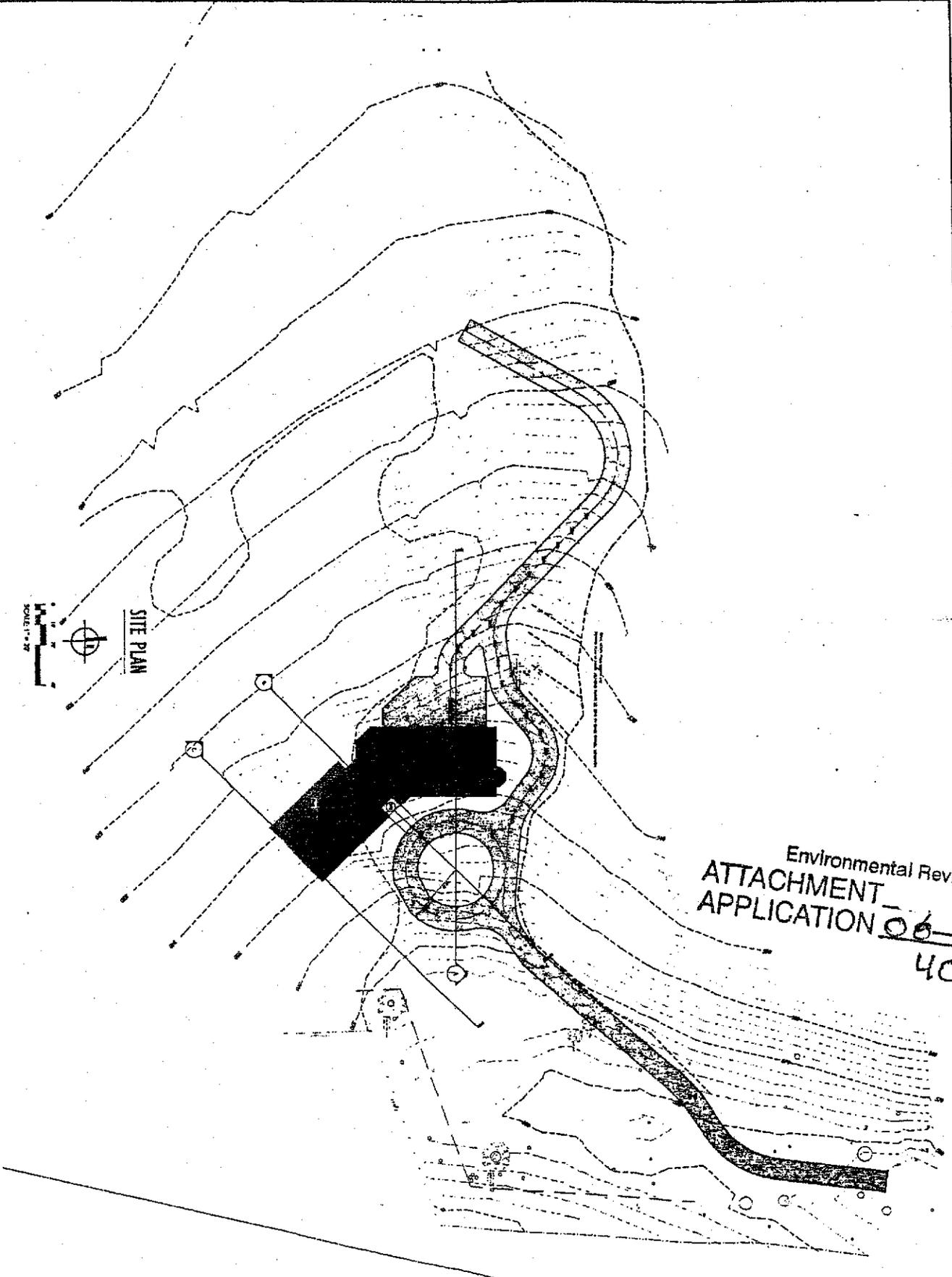
GRADING, DRAINAGE AND EROSION CONTROL PLAN



LARRY PALM  
 LAND SURVEYOR-CIVIL ENGINEER  
 7200 EMPIRE GRADE  
 SHERMAN OAKS, CA 92660  
 818-438-3341  
 JOB 1291



STATION	GRADE	FINISH
1+00	416.0	416.0
1+05	415.5	415.5
1+10	415.0	415.0
1+15	414.5	414.5
1+20	414.0	414.0
1+25	413.5	413.5
1+30	413.0	413.0
1+35	412.5	412.5
1+40	412.0	412.0
1+45	411.5	411.5
1+50	411.0	411.0
1+55	410.5	410.5
1+60	410.0	410.0
1+65	409.5	409.5
1+70	409.0	409.0
1+75	408.5	408.5
1+80	408.0	408.0
1+85	407.5	407.5
1+90	407.0	407.0
1+95	406.5	406.5
2+00	406.0	406.0
2+05	405.5	405.5
2+10	405.0	405.0
2+15	404.5	404.5
2+20	404.0	404.0
2+25	403.5	403.5
2+30	403.0	403.0
2+35	402.5	402.5
2+40	402.0	402.0
2+45	401.5	401.5
2+50	401.0	401.0
2+55	400.5	400.5
2+60	400.0	400.0
2+65	399.5	399.5
2+70	399.0	399.0
2+75	398.5	398.5
2+80	398.0	398.0
2+85	397.5	397.5
2+90	397.0	397.0
2+95	396.5	396.5
3+00	396.0	396.0
3+05	395.5	395.5
3+10	395.0	395.0
3+15	394.5	394.5
3+20	394.0	394.0
3+25	393.5	393.5
3+30	393.0	393.0
3+35	392.5	392.5
3+40	392.0	392.0
3+45	391.5	391.5
3+50	391.0	391.0
3+55	390.5	390.5
3+60	390.0	390.0
3+65	389.5	389.5
3+70	389.0	389.0
3+75	388.5	388.5
3+80	388.0	388.0
3+85	387.5	387.5
3+90	387.0	387.0
3+95	386.5	386.5
4+00	386.0	386.0
4+05	385.5	385.5
4+10	385.0	385.0
4+15	384.5	384.5
4+20	384.0	384.0
4+25	383.5	383.5
4+30	383.0	383.0
4+35	382.5	382.5
4+40	382.0	382.0
4+45	381.5	381.5
4+50	381.0	381.0
4+55	380.5	380.5
4+60	380.0	380.0
4+65	379.5	379.5
4+70	379.0	379.0
4+75	378.5	378.5
4+80	378.0	378.0
4+85	377.5	377.5
4+90	377.0	377.0
4+95	376.5	376.5
5+00	376.0	376.0
5+05	375.5	375.5
5+10	375.0	375.0
5+15	374.5	374.5
5+20	374.0	374.0
5+25	373.5	373.5
5+30	373.0	373.0
5+35	372.5	372.5
5+40	372.0	372.0
5+45	371.5	371.5
5+50	371.0	371.0
5+55	370.5	370.5
5+60	370.0	370.0
5+65	369.5	369.5
5+70	369.0	369.0
5+75	368.5	368.5
5+80	368.0	368.0
5+85	367.5	367.5
5+90	367.0	367.0
5+95	366.5	366.5
6+00	366.0	366.0
6+05	365.5	365.5
6+10	365.0	365.0
6+15	364.5	364.5
6+20	364.0	364.0
6+25	363.5	363.5
6+30	363.0	363.0
6+35	362.5	362.5
6+40	362.0	362.0
6+45	361.5	361.5
6+50	361.0	361.0
6+55	360.5	360.5
6+60	360.0	360.0
6+65	359.5	359.5
6+70	359.0	359.0
6+75	358.5	358.5
6+80	358.0	358.0
6+85	357.5	357.5
6+90	357.0	357.0
6+95	356.5	356.5
7+00	356.0	356.0
7+05	355.5	355.5
7+10	355.0	355.0
7+15	354.5	354.5
7+20	354.0	354.0
7+25	353.5	353.5
7+30	353.0	353.0
7+35	352.5	352.5
7+40	352.0	352.0
7+45	351.5	351.5
7+50	351.0	351.0
7+55	350.5	350.5
7+60	350.0	350.0
7+65	349.5	349.5
7+70	349.0	349.0
7+75	348.5	348.5
7+80	348.0	348.0
7+85	347.5	347.5
7+90	347.0	347.0
7+95	346.5	346.5
8+00	346.0	346.0
8+05	345.5	345.5
8+10	345.0	345.0
8+15	344.5	344.5
8+20	344.0	344.0
8+25	343.5	343.5
8+30	343.0	343.0
8+35	342.5	342.5
8+40	342.0	342.0
8+45	341.5	341.5
8+50	341.0	341.0
8+55	340.5	340.5
8+60	340.0	340.0
8+65	339.5	339.5
8+70	339.0	339.0
8+75	338.5	338.5
8+80	338.0	338.0
8+85	337.5	337.5
8+90	337.0	337.0
8+95	336.5	336.5
9+00	336.0	336.0
9+05	335.5	335.5
9+10	335.0	335.0
9+15	334.5	334.5
9+20	334.0	334.0
9+25	333.5	333.5
9+30	333.0	333.0
9+35	332.5	332.5
9+40	332.0	332.0
9+45	331.5	331.5
9+50	331.0	331.0
9+55	330.5	330.5
9+60	330.0	330.0
9+65	329.5	329.5
9+70	329.0	329.0
9+75	328.5	328.5
9+80	328.0	328.0
9+85	327.5	327.5
9+90	327.0	327.0
9+95	326.5	326.5
10+00	326.0	326.0
10+05	325.5	325.5
10+10	325.0	325.0
10+15	324.5	324.5
10+20	324.0	324.0
10+25	323.5	323.5
10+30	323.0	323.0
10+35	322.5	322.5
10+40	322.0	322.0
10+45	321.5	321.5
10+50	321.0	321.0
10+55	320.5	320.5
10+60	320.0	320.0
10+65	319.5	319.5
10+70	319.0	319.0
10+75	318.5	318.5
10+80	318.0	318.0
10+85	317.5	317.5
10+90	317.0	317.0
10+95	316.5	316.5
11+00	316.0	316.0
11+05	315.5	315.5
11+10	315.0	315.0
11+15	314.5	314.5
11+20	314.0	314.0
11+25	313.5	313.5
11+30	313.0	313.0
11+35	312.5	312.5
11+40	312.0	312.0
11+45	311.5	311.5
11+50	311.0	311.0
11+55	310.5	310.5
11+60	310.0	310.0
11+65	309.5	309.5
11+70	309.0	309.0
11+75	308.5	308.5
11+80	308.0	308.0
11+85	307.5	307.5
11+90	307.0	307.0
11+95	306.5	306.5
12+00	306.0	306.0
12+05	305.5	305.5
12+10	305.0	305.0
12+15	304.5	304.5
12+20	304.0	304.0
12+25	303.5	303.5
12+30	303.0	303.0
12+35	302.5	302.5
12+40	302.0	302.0
12+45	301.5	301.5
12+50	301.0	301.0
12+55	300.5	300.5
12+60	300.0	300.0
12+65	299.5	299.5
12+70	299.0	299.0
12+75	298.5	298.5
12+80	298.0	298.0
12+85	297.5	297.5
12+90	297.0	297.0
12+95	296.5	296.5
13+00	296.0	296.0
13+05	295.5	295.5
13+10	295.0	295.0
13+15	294.5	294.5
13+20	294.0	294.0
13+25	293.5	293.5
13+30	293.0	293.0
13+35	292.5	292.5
13+40	292.0	292.0
13+45	291.5	291.5
13+50	291.0	291.0
13+55	290.5	290.5
13+60	290.0	290.0
13+65	289.5	289.5
13+70	289.0	289.0
13+75	288.5	288.5
13+80	288.0	288.0
13+85	287.5	287.5
13+90	287.0	287.0
13+95	286.5	286.5
14+00	286.0	286.0
14+05	285.5	285.5
14+10	285.0	285.0
14+15	284.5	284.5
14+20	284.0	284.0
14+25	283.5	283.5
14+30	283.0	283.0
14+35	282.5	282.5
14+40	282.0	282.0
14+45	281.5	281.5
14+50	281.0	281.0
14+55	280.5	280.5
14+60	280.0	280.0
14+65	279.5	279.5
14+70	279.0	279.0
14+75	278.5	278.5
14+80	278.0	278.0
14+85	277.5	277.5
14+90	277.0	277.0
14+95	276.5	276.5
15+00	276.0	276.0
15+05	275.5	275.5
15+10	275.0	275.0
15+15	274.5	274.5
15+20	274.0	274.0
15+25	273.5	273.5
15+30	273.0	273.0
15+35	272.5	272.5
15+40	272.0	272.0
15+45	271.5	271.5
15+50	271.0	271.0
15+55	270.5	270.5
15+60	270.0	270.0
15+65	269.5	269.5
15+70	269.0	269.0
15+75	268.5	268.5
15+80	268.0	268.0
15+85	267.5	267.5
15+90	267.0	267.0
15+95	266.5	266.5
16+00	266.0	266.0
16+05	265.5	265.5
16+10	265.0	265.0
16+15	264.5	264.5
16+20	264.0	264.0
16+25	263.5	263.5
16+30	263.0	263.0
16+35	262.5	262.5
16+40	262.0	262.0
16+45	261.5	261.5
16+50	261.0	261.0
16+55	260.5	260.5
16+60	260.0	260.0
16+65	259.5	259.5
16+70	259.0	259.0
16+75	258.5	258.5
16+80	258.0	258.0
16+85	257.5	257.5
16+90	257.0	257.0
16+95	256.5	256.5
17+00	256.0	256.0
17+05	255.5	255.5
17+10	255.0	255.0
17+15	254.5	254.5
17+20	254.0	254.0
17+25	253.5	253.5
17+30	253.0	253.0
17+35	252.5	252.5
17+40	252.0	252.0
17+45	251.5	251.5
17+50	251.0	251.0
17+55	250.5	250.5
17+60	250.0	250.0
17+65	249.5	249.5
17+70	249.0	249.0
17+75	248.5	248.5
17+80	248.0	248.0
17+85	247.5	247.5
17+90	247.0	247.0
17+95	246.5	246.5
18+00	246.0	246.0
18+05	245.5	245.5
18+10	245.0	245.0
18+15	244.5	244.5
18+20	244.0	244.0
18+25	243.5	243.5
18+30	243.0	243.0
18+35	242.5	242.5
18+40	242.0	242.0
18+45	241.5	241.5
18+50	241.0	241.0
18+55	240.5	240.5
18+60	240.0	240.0
18+65	239.5	239.5
18+70		



SITE PLAN

Environmental Review Initial Study  
 ATTACHMENT 2  
 APPLICATION 06-0143 &  
 402375

<p>DATE: 11/11/06        DRAWN BY: [Name]        CHECKED BY: [Name]</p>	<p>91 CARMICHAEL RESIDENCE        15000 CHINA AVE, AVILA, CALIFORNIA        SITE PLAN</p>	<p>TRACER        ENGINEERING        ARCHITECTS        10000 CHINA AVE        AVILA, CALIFORNIA 94001</p>	
---	---	--	--

6/7



# Initial Study Attachment 3



August 28, 2009'1

Paia Levine  
Planning Department  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

Subject: Biological Review of Supplemental Botanical and Entomological Surveys Conducted for the Carmichael Property (APN 040-081-09)

Dear Paia:

This letter provides my biological review of the botanical assessment prepared by Kathleen Lyons of the Biotic Resource Group dated April 18, 2001 and the presence absence surveys for Ohlone tiger beetle prepared by Dr. Richard Arnold of Entomological Consulting Services, Ltd. dated 24 April 2001. Both letter reports assessed those portions of the parcel with either the potential to support special-status species and habitats or that may be impacted by the current home development proposed by Mr. Carmichael.

As noted in my earlier assessment letter the subject development is located in the northern portion of Parcel 09 Within the Carmichael property (APN 040-081-09) located northwest of the Vienna Woods Subdivision in the Aptos Planning Area of Southern Santa Cruz County, California. In addition, the proposed access driveway will traverse south through parcel 09 and then through Parcel 06 to Jennifer Drive. The objective of Ms. Lyon's review was to primarily determine and map the distribution of habitats adjacent to the proposed driveway and residence. She conducted this assessment during the months of February and March 2001. During the course of her assessment she identified five habitat types with grassland being subdivided into three types, mixed grassland, non-native grassland, and coastal terrace prairie. The distributions of these habitats are mapped on Figure 1 attached to her letter report. Surveys were not phenologically timed for clearance of special-status plant species noted by Randy Morgan in his 3 June 2000 letter to the Nisene to the Sea Open Space Alliance. This reviewer has not seen the parcels at a time when the grassland habitats were at peak flowering phenology in April and May, so I cannot confirm the accuracy of the mapping of grassland types. As I recollect, they appear to be relatively close to here characterization and mapping locations with a possible minor adjustment in the southern end of the property behind the existing homes of Vienna Woods. Therefore, I reiterate my earlier request that a habitat management and enhancement plan be developed that not only refines mapping of the prairie grassland but that also identifies the location of compensation and enhancement areas for coastal terrace prairie habitat that would be displaced on the parcel by development activities. This plan should be completed prior to the initiation of grading activities for the access driveway and other appurtenant facilities.

Environmental Review/Initial Study

ATTACHMENT 3  
APPLICATION 00-0143

819 1/2 PACIFIC AVE \* SUITE 4, SANTA CRUZ CA 95060  
PHONE 831-429-6730 \* FAX 831-429-6742

94

402375

1/2

Dr. Arnold's surveys for Ohlone tiger beetle did not locate any adult individuals or larval burrows on the Carmichael Property. All surveys were conducted during the phonological window when the adult beetles were active above ground. He confirmed daily activity at known sites on the same day surveys were conducted on the Carmichael Property. Although, the Carmichael property coast terrace prairie habitat provides the same or similar attributes to those found at known sites for the beetle, it appears that the beetle does not occupy this area at this time.

Since the current proposal only consists of the single-family dwelling at the top of the hill and an access driveway to the home; then other than the development of a prairie management plan, no other surveys are required. If however, other land uses such as the boarding of horses or other livestock or further subdivision of the parcels for development, then a comprehensive biological survey and characterization should be completed for the whole property.

Should you require further clarification of these suggestions, please don't hesitate to contact me.

Sincerely,



Bill Davilla  
Principal/Senior Botanist

Environmental Review/Initial Study  
ATTACHMENT - 43  
APPLICATION - 43  
402375

# Initial Study Attachment 4

# Biotic Resources Group

Biotic Assessments • Resource Management • Permitting

August 28, 2000

Stephen Graves  
Stephen Graves and Associates  
4630 Soquel Drive, Suite 8  
Soquel, CA 95073

**RE: Carmichael Property, Aptos (APN 040-081-09): Results of Botanical Review of Residential Area and Driveway**

Dear Steve,

1

The Biotic Resources Group conducted a review of a portion of the Carmichael property in the County of Santa Cruz. These reviews were conducted between April and June 1998. The review was focused on the occurrence of special status plants in the vicinity of the proposed driveway and residential area in the northeastern portion of the property (as depicted on the Preliminary Grading, Drainage and Erosion Control Plan prepared by Larry Palm, dated November 29, 1999). The results of this botanical review are described herein.

## ASSESSMENT METHODOLOGY

A site Visit of the project area was conducted on April 24 and June 11, 1998. The subject property is currently uninhabited, however several dirt roads traverse the site. The proposed development area was viewed on foot by traversing the southeastern portion of the site.

The major plant communities on the site, based on the general classification system developed in Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland, 1986), were identified during the field reconnaissance visit. To assess the potential occurrence of special status biotic resources, two electronic databases were accessed to determine recorded occurrences of sensitive plant communities and sensitive species. Information was obtained from the California Native Plant Society's (CNPS) inventory (Skinner & Pavlik, 1994), CNPS Electronic Inventory (1997), and California Department of Fish & Game's (CDFG) RareFind database (CDFG, 1997) for the Soquel and Laurel U.S.G.S. quadrangles. Based on these data base searches, the following plant species were searched for on the site: Santa Cruz tarplant (*Holocarpha macradenia*), Gairdner's yampah (*Perzderidia gairdneri* spp. *gairdneri*), robust spineflower (*Chorizanthe robusta* var. *robusta*), Santa Cruz clover (*Trifolium buckwestiorum*), and San Francisco popcorn flower (*Plagiobothrys diffusus*).

The purpose of the site assessment was to document the occurrence of habitats within the proposed development area and the known or potential for special status plant species.

Environmental Review Initial Study  
ATTACHMENT 4  
APPLICATION 00401431#  
02378

97

## ASSESSMENT RESULTS

Grassland, non-native planted tree groves, patches of coastal scrub and fingers of coast live oak woodland dominate the proposed development area. The proposed development area abuts a larger coast live oak woodland that occurs along the intermittent drainage.

### Grassland

The grassland **inhabits** the relatively level and gently sloping portions of the parcel. The grassland has been subject to human disturbances along the border (i.e., along the existing residential areas), as evidenced by the large number of non-native plant species. **An** existing dirt road traverses through the grassland. It is presumed that most of the property was farmed or grazed at one time. Much of what remains of the historical (i.e., pre-European era) grassland are **fragment** stands of native bunchgrasses, intermixed with native and non-native forbs (i.e., non-grass herbaceous species, such as spring wildflowers).

The grassland with the proposed development area is dominated by non-native plant species, however, some native plants were also observed. Common non-native species include rattlesnake grass (*Briza major*) and **rip**gut brome (*Bromus diandrus*). Soft chess (*Bromus mollis*), wild oat (*Avena fatua*), Mediterranean clover (*Trifolium angustifolium*) and yellow clover (*T. dubium*) are also common. Native grass, purple needlegrass (*Nassella pulchra*) was also observed within these areas.

Native herbaceous plant species, such as wildflowers, were also observed in the grassland.

### Sensitive Habitats

Sensitive habitats are defined by local, State, or Federal agencies as those habitats that support special **status** species, provide important **habitat** values for wildlife, represent an area of unusual or **regionally** restricted habitat types, and/or provide **high** biological diversity. Native grass **stands**, particularly when adjacent to larger open space areas, are considered a sensitive habitat according to CDFG due to the prevalence of native plant species, potential for rare, threatened or endangered species and **its** limited distribution within the region

### Special Status **Plant** Species

Plant species of concern include those listed by either the Federal or State resource agencies as well as those identified as rare by CNPS (Skinner & Pavlik, 1994). The search of the CNPS and CNDDDB inventories resulted in five special status species of concern with potential to occur in the project area. These are Santa **Cruz** tarplant, Gairdner's yampah, robust spineflower, Santa Cruz clover, and San Francisco popcorn **flower**. Special status species have not been recorded on the property as per CNDDDB records, nor were any observed during the **April** and June 1998 field visits.

## ASSESSMENT CONCLUSIONS

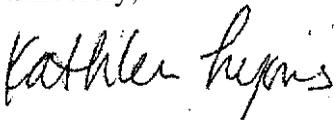
Development of the residential unit on the parcel would result in the loss of non-native and native grass stands on the site. Since most of the native grasses were observed south of the existing road, they are not expected to be impacted by the construction of the new driveway. Based on the field surveys conducted on the site and review of the proposed plan, no special status plant species will be impacted by the proposed project.

### Intended Use of this Report

The findings presented in this biological review are intended for the sole use of Stephen Graves and Associates and his client in evaluating land uses for the subject parcel. The findings presented by the Biotic Resources Group in this report are for information purposes only; they are not intended to represent the interpretation of any State, Federal or City laws, polices or ordinances pertaining to permitting actions within sensitive habitat or endangered species. The interpretation of such laws and/or ordinances is the responsibility of the applicable governing body.

Thank you for the opportunity to assist you in your project planning. Please give me a call if you have any questions on this report,

Sincerely,



Kathleen Lyons  
Principal/Plant Ecologist

Environmental Review/Initial Study  
ATTACHMENT - 4  
APPLICATION 00-0143 E  
40237S

# Initial Study Attachment 5

# Entomological Consulting Services, Ltd.

104 Mountain View Court, Pleasant Hill, CA 94523 • (925) 825-3784 • FAX 827-1809  
bugctr@home.com • www.ecsltd.com

24 April 2001

Mr. Stephen Graves  
Stephen Graves & Associates  
4630 Soquel Drive, Suite 8  
Soquel, CA 95073

RE: APNs 040-081-06, 040-081-07, & 040-081-09  
Carmichael Property in Aptos, CA  
Presence-Absence Survey Report for the Ohlone Tiger Beetle

Dear Steve:

At your request, I conducted a presence-absence survey for the Ohlone Tiger beetle (*Cicindela ohlone*) at the above-referenced property owned by Mr. Steve Carmichael. This letter reports the findings of my survey and presents a brief description of the project site.

## PROJECT SITE DESCRIPTION

The 142-acre property is generally located east of Cabrillo College and west of Danube Drive in Aptos. Slopes at the property range from less than 5% on the old marine terrace to greater than 50% in Tannery Gulch. Elevations range from a low of 260 feet in the southwestern corner of the property, to a high of 760 feet at the top of the ridge near the northern property boundary. The attached series of four photographs (Figures 1 - 4) illustrate conditions at the site.

The primary vegetation types observed at the site included oak woodland, coastal sage scrub, and grassland. Introduced broom (*Cytisus* sp.) has colonized much of the lower portion of the property along Danube Drive. The grassland includes a nice remnant of coastal terrace prairie, located between the slopes below the house site and the southern border. The house site, located at approximately 550 feet elevation, and the south and Southwestern-facing slopes immediately below the house site exhibit considerable erosion.

Bowman et al. (1980) identified four soil types at the property. These soil types include Elkhorn-Pfeiffer and Lompico-Felton complexes in the area around Borregas Creek, Lompico-Felton complex on the steep northwest-facing slope in Tannery Gulch, Los Osos Loam along the ridge and steep slopes on the northern section of the property, and Watsonville Loam on the terrace surface and vicinity of the house site.

Environmental Review/Initial Study

ATTACHMENT 5  
APPLICATION 00-0143 #

Carmichael Property: Ohlone Tiger Beetle Survey Report

402375 Page 1

## BACKGROUND INFORMATION

This section summarizes available information about the taxonomy, identification, distribution, habit, biology, and conservation of the Ohlone Tiger beetle (OTB). Information from related species of tiger beetles is often discussed, particularly when specific information for this species of concern is lacking.

### Taxonomy.

Tiger beetles are generally treated as a family, the Cicindelidae, in the insect order Coleoptera; however, some entomologists prefer to recognize tiger beetles as a subfamily (Cicindelinae) or tribe (Cicindelini) of the ground beetle family, Carabidae. Thus, all of these names are encountered in the entomological literature.

The Ohlone Tiger beetle was described in 1993 by Freitag, Kavanaugh, and Morgan (1993). Dr. Richard Freitag is a coleopterist (i.e., an entomologist who studies beetles) who specializes in tiger beetles. Dr. David Kavanaugh is a coleopterist who specializes in ground beetles. Mr. Randall Morgan is a local naturalist who specializes in the flora and fauna of Santa Cruz County, and is the person who discovered the Ohlone Tiger beetle and first recognized that it might represent a new species.

Their description of this new species was based on specimens collected from three sites in west central Santa Cruz County between 1987 and 1992. Subsequent to the authors' submission of their paper, a fourth site supporting the beetle was discovered above the Vine Hill Elementary School in Scotts Valley, and a fifth site was discovered at Pogonip Park next to the UC Santa Cruz campus. In the spring of 2000, I discovered a sixth population at the Kinzli property, located at the end of Meder Street in Santa Cruz.

### Species Description

Adult tiger beetles possess elongate, cylindrical bodies. They are usually brightly colored, often with a metallic or iridescent sheen. Their eyes and sickle-shaped mandibles (i.e., jaws) are very prominent. Together, their eyes and head are wider than the thorax. They possess long, cursorial legs that are characterized by numerous spines. Adults are typically about 15-25 mm. in length.

*Cicindela ohlone* is most closely related to *C. purpurea*, but can be distinguished from this and related species by its overall size, the color and maculation patterns on its thorax and elytra, and its genitalic features. The OTB's body color is a brilliant green, with gold maculations. Freitag, Kavanaugh, and Morgan (1993) illustrate the maculation pattern characteristic of *C. ohlone* and the diagnostic features of its genitalia. In addition, the winter-spring activity period of the OTB is distinctive, as most tiger beetles in coastal California are active in the spring and summer months (Nagano 1980).

Larvae of tiger beetles are much more uniform in appearance than adults. They have an eruciform (i.e., grub-like) appearance. The head and pronotum are strongly chitinized, and the

fifth abdominal segment possesses a pair of medial hooks that are used as anchors to secure the larvae as they reach out from the tunnel to ambush prey. The larvae of *C. ohlone* have not been described.

### Distribution

Of the approximately 110 species of tiger beetles that have been described in North America (Boyd and Associates 1982), *Cicindela ohlone* exhibits one of the most restricted geographic ranges. It has been reported at only five locations in central and western Santa Cruz County.

Although the potential exists for it to occur in other locations in the county supporting similar habitat, to date the beetle has not been found in other similar areas checked. This species appears to be restricted to coastal terrace situations, at low to mid-elevations (less than 1,200 feet), located between the crest of the Santa Cruz Mountains and the Pacific Ocean.

### Habitat.

*Cicindela ohlone* inhabits areas characterized by remnant stands of native grassland. California oatgrass (*Danthonia californica*) and Purple needlegrass (*Stipa pulchra*) are two native grasses known to occur at all five sites. Within these grasslands, the beetle has been observed primarily on level ground, where the vegetation is sparse or bare ground is prevalent. The substrate at each known beetle location consists of shallow, poorly drained clay or sandy clay soils that have accumulated over a layer of bedrock known as Santa Cruz Mudstone (Freitag, Kavanaugh, and Morgan 1993). The soils at all known OTB sites, as mapped by Bowman et al. (1980), are Watsonville Loams.

### Biology.

Specific biological and life history information for *C. ohlone* is not known. Similarly, the egg, larval, and pupal stages of *C. ohlone* have not been described. However, all tiger beetles share some general biological characteristics, which are summarized in this section.

The diurnally active adults and larvae of *C. ohlone* are associated with sunny areas of bare or sparsely vegetated ground. Adults run rapidly in and near the larval habitat. They are strong flyers for short distances. Because they are cold-blooded, are active during the winter and spring months, and favor microhabitats that are sparsely vegetated and can become quite warm during their activity period, adults and larvae typically spend a considerable portion of their daily activity thermoregulating.

Collection records indicate that most adult *C. ohlone* are active from late January through early May. Specific dates when beetles have been observed range from January 29th through May 3rd (Freitag, Kavanaugh, and Morgan 1993; Morgan, personal communication; Arnold, personal observation).

Both adults and larvae of tiger beetles are opportunistic, preying on smaller, soft-bodied insects and invertebrates. Adults possess good visual acuity and are found on sunny glades of bare or sparsely vegetated soil, where they actively search for potential prey. In contrast, larvae

remain in their tunnels, and ambush prey that wander within their striking distance. Specific prey-items of *C. ohlone* are not known, but prey for other species of tiger beetles have been identified as ants, adult and larval flies (Diptera), tiny insects, small beetles, and worms (Larochelle 1974). These and other small, soft-bodied insects and invertebrates are likely prey items of *C. ohlone*.

The larvae of most tiger beetles occur in a narrower range of microhabitats than their adult stages, probably because they tolerate less variation in many physical factors, especially soil moisture, soil composition, and temperature (Pearson 1988; Shelford 1907 and 1909). All known larvae construct a tunnel-like burrow at sites where eggs were laid by the mother beetle. Larvae of other tiger beetle species that live in grasslands typically build their tunnels at the edges of the bare or sparsely vegetated portions of the grassland where adult beetles are most commonly observed (R. Freitag, personal communication). Tunnel length varies depending on the larval developmental stage, species, season, and substrate, but ranges from 15 to 200 centimeters (Pearson 1988; Willis 1967). Larvae of some tiger beetles require two years to complete their development (Lindroth 1974).

Richard Freitag (personal communication) states that tiger beetle species related to *C. ohlone* construct larval tunnels that average about 50 centimeters (ca. 20 inches) in length. Although the tunnels of most closely related species are usually constructed perpendicular to the surface of the ground, a few are known to construct tunnels at an acute angle.

Pupation takes place in the larval burrows. The upper portion of the larval burrow is usually sealed off by the larva when it moults or prepares to pupate.

### Conservation

The three describers of this new beetle species noted that because of the beetle's apparent restriction to clay-based, marine terraces, which support native grassland remnants in the coastal mid-Santa Cruz County area, much of its former habitat within this portion of the Santa Cruz County and similar areas in neighboring San Mateo and Monterey counties, had already been converted for development or other land uses before the new beetle was recognized as a new species. For this reason, Freitag, Kavanaugh, and Morgan (1993) suggested that it was unlikely that the OTB would be found in many other places, which has turned out to be the case despite numerous searches.

Because developments or other land uses have been proposed for at least two of the six known OTB locations, the describers have advised the U.S. Fish & Wildlife Service that it should evaluate the possibility of recognizing the OTB as an endangered or threatened species. The U.S. Fish & Wildlife Service (2000) has recently proposed to recognize the **OTB** as an endangered species.

Nationally, two eastern taxa of tiger beetles are recognized as endangered species. Five of the 17 taxa of tiger beetles that are candidates or species of concern for federal protection under the Endangered Species Act (U.S. Fish & Wildlife Service 1994) occur in California.

ATTACHMENT  
APPLICATION OR-0143 E

104

402375

4/9

## SURVEY METHODS

I visited the Carmichael property six times, at approximately weekly intervals, between February 28<sup>th</sup> and April 22<sup>nd</sup>, 2001. All visits occurred on sunny days when ambient air temperatures were at least 60° F (the temperature when OTBs become active). Also, on the day of each survey visit I also stopped by the Santa Cruz Gardens site in Soquel to confirm that OTB adults were active. During my initial site visits, I surveyed the entire project site by hiking throughout it to identify areas of potentially suitable habitat for the OTB. During subsequent site visits, I focused my surveys only in those areas that I determined to represent potential habitat for the beetle, namely the portion of the property that supports coastal terrace prairie. This grassland habitat is patchily distributed on the property from the proposed house site to the southern boundary of the property.

Although my survey period occurred during the adult activity period, I also searched in appropriate portions of the property, namely areas of bare or sparsely-vegetated ground in the coastal terrace prairie, for larval burrows of the OTB. Both life stages of the beetle prefer the coastal terrace prairie habitat and the larval burrows are quite characteristic in appearance.

## RESULTS AND DISCUSSION

No life stages of the Ohlone Tiger beetle nor larval burrows were observed during my six visits to the Carmichael property. My surveys at the Carmichael property began on the first day (February 28<sup>th</sup>) that I observed OTB adults in 2001 at the nearby Santa Cruz Gardens site. The last OTB adults observed at this control site were seen on April 14<sup>th</sup>, however my surveys at the Carmichael property continued through April 22<sup>nd</sup>.

The Ohlone Tiger beetle prefers barren or sparsely vegetated areas in grassland habitats dominated by bunchgrasses growing on Watsonville Loams. Other than the horse/foot trails that traverse portions of the site, the only portion of potentially suitable habitat is in the vicinity of the house site southward to the southern property line. On the south and southwestern-facing slopes below the house site, coastal terrace prairie grows on Watsonville loam in a few acres. As you continue south to the southern property line, the patches of coastal terrace prairie become fewer in number and smaller in size as they are replaced by dense brush, trees, and introduced broom.

Soils at the house site and the slopes immediately below it exhibit considerable erosion, so even though they are mapped as Watsonville loam, the erosion has probably altered the soils here in a manner that is not favorable for OTB habitation. Similarly, at the toe of the slope immediately below the house site, the soils of coastal terrace prairie habitat remained saturated until the end of March. Such wet soil conditions are not favorable to the OTB, which spends most of its life in an earthen burrow.

South of this largest patch of coastal terrace prairie, brush, trees, and broom become more prevalent. A few, smaller patches of coastal terrace prairie habitat are interspersed among the brush and trees, however these taller types of vegetation cast shadows on the prairie remnants

during the warmest part of the day when adult OTBs would be active. The OTB cold-blooded and dependent upon the ambient air temperature and sunlight to warm up and be active. It's preferred habitat is barren or sparsely-vegetated areas of sunlit ground in grassland, rather than areas characterized by dense brush, trees, or herbaceous vegetation as characterize this portion of the site.

For these reasons, I conclude that the OTB does not occur at your property. Construction of your proposed single-family residence, driveway, and other improvements will not adversely impact the beetle or its habitat and no mitigation is necessary to alleviate impacts.

#### REFERENCES

Bowman, R.H., et al. 1980. Soil survey of Santa Cruz County, California. US. Dept. of Agriculture and Soil Conservation Service in cooperation with the University of California, Agricultural Experiment Station Publication.

Boyd, H.P. and Associates. 1982. Annotated checklist of Cicindelidae (Coleoptera), the Tiger beetles, of North and Central America and the West Indies. Plexus Publishing, Inc. Marlton, NJ. 31 pp.

Freitag, R., D.H.Kavanaugh, and R. Morgan. 1993. A new species of *Cicindela* (*Cicindela*) (Coleoptera: Carabidae: Cicindelini) from remnant native grassland in Santa Cruz County, California. The Coleopterists Bulletin 47:113-120.

Larochelle, A. 1974. The food of Cicindelidae of the world. *Cicindela* 6(2):21-43.

Lindroth, C. 1974. Handbooks for the identification of British insects: Coleoptera, Carabidae. Vol. IV, Part 2. Royal Entomological Society. London, U.K. 148 pp.

Nagano, C.D. 1980: Population status of the tiger beetles of the genus *Cicindela* (Coleoptera: Cicindelidae) inhabiting the marine shoreline of Southern California. *Atala* 8:33-42.

Pearson, D.L. 1988. Biology of Tiger beetles. *Annual Review of Entomology* 33:123-147.

Shelford, V. 1907. Preliminary note on the distribution of the tiger beetles (*Cicindela*) and its relation to plant succession. *Biological Bulletin* 14:9-14.

Shelford, V. 1909. Life histories and larval habits of the tiger beetles (Cicindelidae). *Journal of the Linnean Society of London (Zoology)* 30:157-184.

U.S. Fish & Wildlife Service. 1994. Endangered and threatened wildlife and plants; animal candidate review for listing as endangered or Threatened species, proposed rule. *Federal Register* 59:58982-59028.

Carmichael Property: Ohlone Tiger Beetle Survey Report

Environmental Review/Initial Study  
ATTACHMENT  
APPLICATION

5  
00-0143  
402378

Page 6

106

6/9

U.S. Fish & Wildlife Service. 2000. Endangered and threatened wildlife and plants; proposed endangered status for the Ohlone Tiger beetle (*Cicindela ohlone*). Federal Register 65: 6952-6960.

Willis, H.L. 1967. Bionomics and zoogeography of tiger beetles of saline habitats in the central United States (Coleoptera: Cicindelidae). University of Kansas Science Bulletin 47:145-313.

If you have any questions about my report, please contact me:

Sincerely,



Richard A. Arnold, Ph.D.  
President

Environmental Review Initial Study  
ATTACHMENT 5  
APPLICATION 00-0143 #  
402375



Fig. 1 (left)  
Home site at top of hill with  
coastal terrace prairie on  
slopes and in foreground

Fig. 2 (below)  
Area below home site with  
coastal terrace prairie



Environmental Review Initial Study  
ATTACHMENT 4/5  
APPLICATION 00-0143#  
402378



Fig. 3  
Lower portion of property where brush and trees become dominant



Fig. 4  
Trail through lower portion of property where brush is dominant

Environmental Review Initial Study  
ATTACHMENT S  
APPLICATION 00-01437  
40237C

# Initial Study Attachment 6

# Biotic Resources Group

Biotic Assessments ♦ Resource Management ♦ Permitting

April 18, 2001

Stephen Graves  
Stephen Graves and Associates  
4630 Soquel Drive, Suite 8  
Soquel, CA 95073

**RE: Carmichael Property, Aptos ( APN040-081-09): Results of Additional Botanical Review of Residential Area and Driveway**

~~Dear~~ Steve,

The Biotic Resources Group conducted an additional review of a portion of the Carmichael property in the County of Santa Cruz. These reviews were conducted in February and March 2001 to demarcate the distribution of habitat types in the vicinity of the proposed driveway and residence, as per a request from the County. The results of *this* botanical review are described herein.

## ASSESSMENT METHODOLOGY

Three site visits of the project area was conducted in February and March 2001. The subject property is currently uninhabited, however several dirt roads traverse the site. The proposed driveway and residential development area was viewed on foot. The location of the area surveyed is depicted on the attached Figure 1.

The major **plant** communities on the site, based on the general classification system developed in Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland, 1986), were identified during the field visits. The purpose of the site assessment was to document the occurrence of habitats within and adjacent to the proposed driveway and residential development area.

## ASSESSMENT RESULTS

The following plant communities types were distinguished in the study area: coyote brush scrub, French broom scrub, coast live oak woodland, mixed evergreen forest and three **grassland** types (mixed grassland, non-native grassland and coastal terrace prairie). The distribution of these plant communities is depicted on Figure 1.

Environmental Review/Initial Study  
ATTACHMENT — 16  
APPLICATION 00-0143 #  
402375

1/e

## Coyote Brush Scrub

This scrub community is prevalent in the project area. The co-dominant plant species are coyote brush (*Baccharis pilularis*), poison oak (*Toxicodendron diversilobum*) and California blackberry (*Rubus ursinus*). The scrub also supports young coast live oak (*Quercus agrifolia*) and acacia (*Acacia* sp.). In one location where the road crosses a small drainage swale, the scrub supports dense patches of non-native periwinkle (*Vinca major*), poison hemlock (*Conium maculatum*) and spreading rush (*Juncus effusus*).

## French Broom Scrub

This scrub type is characterized by a dense growth of French broom (*Genista monspessulana*). The broom, an invasive, non-native plant species, has invaded areas previously observed to support mixed grassland or coastal terrace prairie.

## Coast Live Oak Woodland

The project area supports patches of coast live oak woodland. Coast live oak is intermixed with non-native trees of acacia and Monterey pine (*Pinus radiata*). The understory includes coyote brush, coffee berry (*Rhamnus californica*), French broom, California blackberry and poison oak.

## Mixed Evergreen Forest

The proposed residence area abuts a forested area with Douglas fir (*Pseudotsuga menziesii*) intermixed with coast live oak, madrone (*Arbutus menziesii*) and California bay (*Umbellularia californica*).

## Grassland Types

Three grassland types were distinguished in the study area; the types were based on plant composition. Figure 1 demarcates their distribution.

**Non-Native Grassland.** This grassland type was observed along the property line, where the grassland abuts the adjacent residential lots and in previously disturbed areas on the hillside leading to the proposed residence. The grassland along the property line has been repeatedly disturbed, as evidenced by mowing, deposition of organic and inorganic debris and pig-rooting activity. The majority of the proposed driveway is proposed to be located in this plant community type, as depicted on Figure 1.

Small patches of non-native grassland were also observed along the margins of coyote brush scrub, as depicted on Figure 1. The dominant plant species within this grassland type are annual, non-native species, such as rattlesnake grass (*Briza* sp.), soft chess (*Bromus hordeaceus*), and wild oat (*Avena* sp.) and English plantain (*Plantago lanceolata*). The hillside areas had been seeded and straw mulched for erosion control. Non-native clovers (*Trifolium* sp.) were observed in these erosion control-treated areas.

**Mixed Grassland.** Portions of the relatively level and sloping portions of the parcel support a mixture of native and non-native grasses. On the slope below the proposed residence, the native grass, purple needlegrass (*Nassella pulchra*) was observed. The needlegrass intermixes with lesser amounts of another native, California oatgrass (*Danthonia californica*) and non-natives, such as rattlesnake grass, wild oat, soft chess and foxtail (*Hordeum leporinum*). The grassland has been subject to human disturbances as evidenced by the various trails/old roads. Native and non-native forbs were also observed, including English plantain, lupine (*Lupinus* sp.), sun cups (*Camissonia ovata*) and blue-eyed grass (*Sisyrinchium bellum*). Invasive, non-native plant species also occur within the grassland, including scattered occurrences of cotoneaster (*Cotoneaster* sp.), pampas grass (*Cortaderia jubata*) and French broom.

**Coastal Terrace Prairie.** Several of the relatively level portions of the project area, including portions of the existing roadways are vegetated with California oatgrass and slender rush (*Juncus tenuis*). The oatgrass, a perennial grass, typically inhabits thin soil areas on top of marine terraces, hence the name of coastal terrace prairie. The abundance of both the oatgrass and slender rush suggest a perched water table, which is typical of terrace areas. Other native plant species observed in these areas include gumplant (*Grindelia* sp.), blue-eyed grass, sun cups and small amounts of purple needlegrass. Non-native grasses and forbs were also observed, including rattlesnake grass, cat's ear (*Hypochaeris* sp.), English plantain, filaree (*Erodium* sp.), fiddle dock (*Rumex acetosella*), soft chess and lupine. Pigs had recently rooted several areas within the prairie, such that plants were dislodged and bare soil was evident.

## ASSESSMENT CONCLUSIONS

Improvements to the existing roadway and construction of a new driveway to the residential unit on the parcel would result in the removal of grassland, scrub and woodland plant communities. The majority of the proposed driveway traverses through non-native grassland that abuts the existing residences.

Some roadway improvements will result in the removal of coastal terrace prairie and mixed grassland. Assuming a 12-foot wide driveway, approximately 580 linear feet will traverse through coastal terrace prairie. The impact to the prairie is estimated to be a total of 6,200 square feet (which occurs in a linear pattern in and adjacent to the existing road). Due to the prevalence of native grasses within this community, their limited distribution within the County, and their importance as recognized by the California Department of Fish and Game, this removal is considered to be a significant impact to local botanical resources. These grassland resources on the project site, however, are becoming significantly degraded by the spread of coyote brush scrub and French broom scrub. With no human intervention and/or with the lack of grazing or fire, the grasslands on the site are expected to continue to be encroached upon by scrub. Pig rooting activity may retain some open areas; however, an overall loss of site biodiversity is expected without site management.

Environmental Review Initial Study  
ATTACHMENT 6  
APPLICATION 00-0143 §

402375

If the residential project is approved, a possible compensation for the removal of the **small** amount of coastal terrace prairie is for the landowner (or other land management entity) to implement a program to **remove/control** the spread of coyote brush and French broom scrub **from** the driveway project area. Areas recommended for treatment are the cotoye brush and French broom scrub **areas** that abut the coastal terrace prairie, as depicted on Figure 1. French broom should be hand-pulled from the site during the late winter/early spring. French broom plants should not be weed-whacked or mowed. Once the majority of the scrub is removed/controlled from these areas, a grazing or mowing program should be implemented to provide long-term management of these grassland resources. Successful implementation of these management would reduce impacts to sensitive botanical resources to a less than significant level.

### Intended Use of this Report

The findings presented in **this** botanical review are intended for the sole use of Stephen Graves and Associates and his client in evaluating land uses for the subject parcel. The findings presented by the Biotic Resources Group in this report are for information purposes only; they are not intended to represent the interpretation of any State, Federal or local laws, polices or ordinances pertaining to permitting actions within sensitive habitat or endangered species. The interpretation of such laws and/or ordinances is the responsibility of the applicable governing body.

Thank you for the opportunity to assist you in your project planning. Please give me a call if you have any questions on this report.

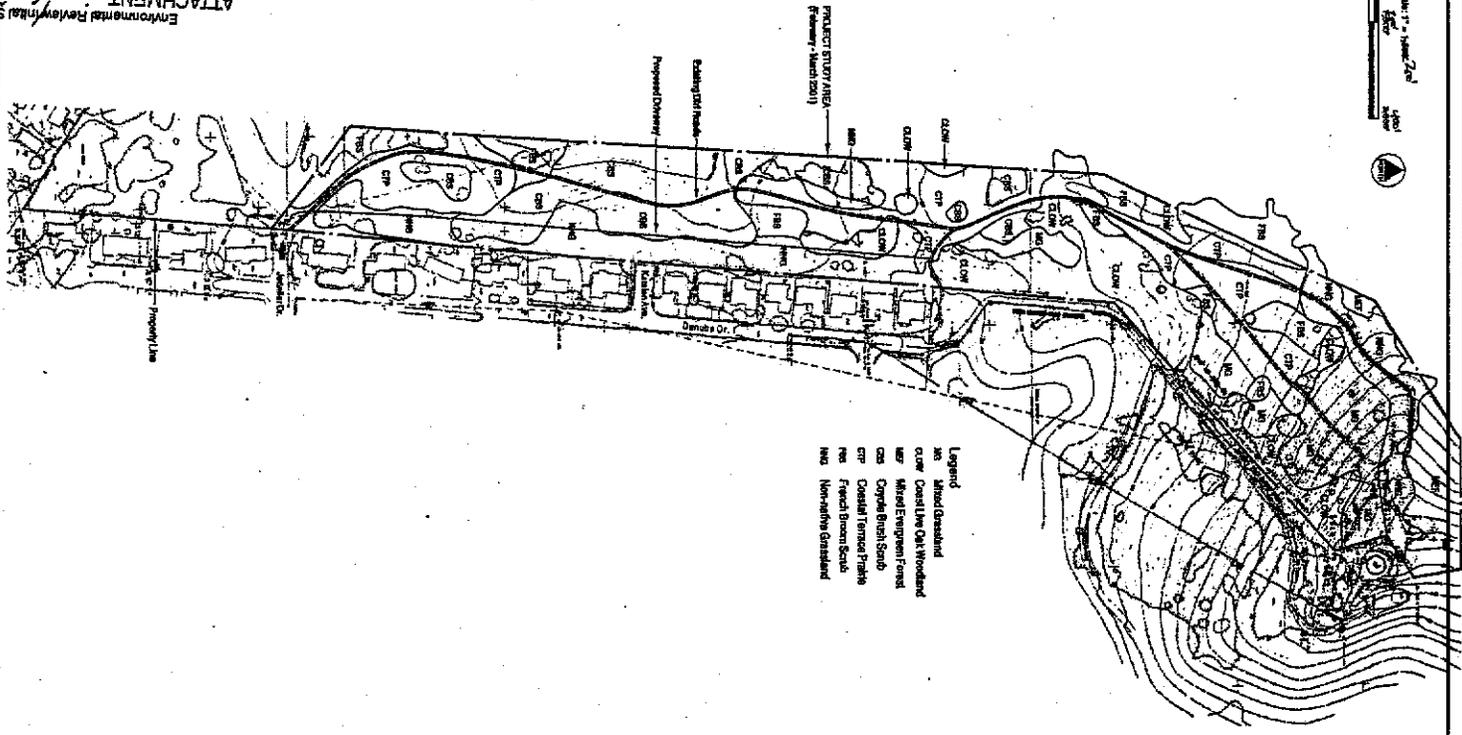
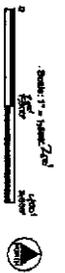
Sincerely,



Kathleen Lyons  
Principal/Plant Ecologist

Environmental Review / Initial Study,  
ATTACHMENT 6  
APPLICATION 00-0143 #  
402375

Attachment: Figure 1. Plant Community map



- Legend
- ms Mixed Grassland
  - oww Coastal Oak Woodland
  - mp Mixed Evergreen Forest
  - os Coastal Bush Scrub
  - cp Coastal Terrace Flats
  - rs Fresh Beach Scrub
  - ns Non-woody Grassland

Environmental Review Group  
 ATTACHMENT 00-014-B  
 # 402337  
 Part office use - Santa Cruz, California 95061  
 Biotic Resource

Carmichael Property  
 Residential Development Area  
 Phase I Environmental Map

Figure 1  
 4/01  
 1/1/01

# Initial Study Attachment 7



**BOWMAN & WILLIAMS**  
CONSULTING CIVIL ENGINEERS  
A CALIFORNIA CORPORATION

1011 CEDAR • PO BOX 1621 • SANTACRUZ, CA 95061-1621  
PHONE (831) 426-3560 FAX (831) 426-9182 www.bowmanandwilliams.com

13 June, 2001

Joe Hanna, County Geologist, County of Santa Cruz Planning Department  
701 Ocean Street  
Santa Cruz, CA 95060

Subject: APN 040-081-09, Carmichael Property, Driveway Access Analysis, Our file no. 21221-3

Dear Mr. Hanna,

At the request of Steven Graves & Associates we have reviewed th2 copies of maps sent by them by facsimile on 30 May. 2001. Copies are attached. We understand that these maps are being used in review of a proposed residential project on the above-noted property.

The first one appears to be a reduced copy of one of our plans. The plan copied and reduced appears to be the one entitled "Driveway Access Analysis" prepared by this office in November, 1997. The plan was prepared to explore the feasibility of two proposed driveway alignments to a future building site. Due to the client's budget constraints, the collection of field data points for the topography shown on that plan was on a very broad grid. The data was only intended to show that a more detailed survey was needed in the areas of proposed driveway construction. It was not intended for use by anyone but the owner and only for feasibility analyses. Nor was it intended for as a final site specific slope analysis. More specific site topography was required. In April, 1998, we prepared an aerial topographic map of the property, at the request of the owner, which more clearly depicted the area in question.

The source of the next three sketches transmitted and what they depict is unclear. The second one in this set is entitled "1997 Bowman and Williams Slope Map, PRE-GRADING". This sketch was not produced at this office.

In February of this year, this same issue came up with regards to Environmental Health approval and the November, 1997, plan's conflict with the current plans. At that time we prepared a slope analysis based on the April, 1998, survey showing the proposed leach field provided by Mr. Palm and its relation to the area steeper than 30% slope. A copy of that analysis is also attached. This plan shows that the leach field could be placed on slopes less than 30% slope.

We understand that another Registered Civil Engineer, Larry Palm, has done a complete topographic survey and engineered plans for the construction of the driveway for the purpose of obtaining approval for the development. That was not the intended use of the November, 1997, plan nor any copies thereof.

We hope that this clears up the issues with regards to the use of the November, 1997 survey. Please call if you have any questions.

Very truly yours,

Bowman & Williams

Joel F. Ricca, R.C.E. 53588

Environmental Review Initial Study

ATTACHMENT 7  
APPLICATION 00-0143 #  
402375

5 attachments

Cc: Steven Graves & Associates  
4630 Soquel Drive, Suite 8  
Soquel, CA 95073  
Attn: Steven Graves  
VIA Fax 831-465-0678

# Initial Study Attachment 8



# County of Santa Cruz

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060-4000  
(831) 454-2580 FAX (831) 454-2131 TDD (831) 454-2123  
ALVIN D. JAMES, DIRECTOR

October 25, 2002

Steve graves and Associates  
4630 Soquel Drive  
Soquel, CA 95073

SUBJECT: Review of soil report by Steve Rass  
Dated August, PROJECT NUMBER: 9963-SZ61-J31  
Review of Engineering Geology Report by Rogers E. Johnson  
Date August 23, 1999, C98076-61  
APN: 040-081-09., APPLICATION NUMBER: 40237S

Dear Mr. Rich Beale:

Thank you for submitting the report for the parcel referenced above. The report was reviewed for conformance with County Guidelines for Soils/Geotechnical Reports and for completeness regarding site specific hazards and accompanying technical reports (e.g. geologic, hydrologic, etc.). The purpose of this letter is to inform you that the Planning Department has accepted the report and the following recommendations become permit conditions:

1. All report recommendations must be followed.
2. An engineered foundation plan is required. This plan must incorporate the design recommendations of both the geotechnical engineer and the engineering geologist.
3. Final plans shall include an engineered drainage system including appropriate sub-drains around the structure, outlet locations and appropriate energy dissipation devices for both the home and roadway. Drainage shall not be designed in a manner that will adversely affect the adjacent parcels. Crawlspace or basement excavations shall not be included in the proposed development.
4. Final plans shall reference the approved reports and state that all development shall conform to the report recommendations,
5. Prior to building permit issuance, the geotechnical engineer and engineering geologist must submit a brief building, grading and drainage plan review letter to Environmental Planning stating that the plans and foundation design are in general compliance with the report recommendations, If, upon plan review, the engineer or geologist requires revisions or additions, the applicant shall submit to Environmental Planning *two* copies of revised plans and a final plan review letter stating that the plans, as revised, conform to the report recommendations.

Environmental Review Initial Study  
ATTACHMENT 1/8  
APPLICATION 00-0143 #  
40237S

119

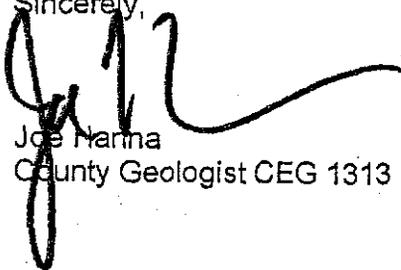
- 6. The soil engineer must inspect all foundation excavations and a letter of inspection must be submitted to Environmental Planning and your building inspector prior to pour of concrete.
- 7. For all projects, the soil engineer must submit a final letter report to Environmental Planning and your building inspector regarding compliance with all technical recommendations of the soil report prior to final inspection. For all projects with engineered fills, the soil engineer must submit a final grading report (reference August 1997 County Guidelines for Soils/Geotechnical Reports) to Environmental Planning and your building inspector regarding the compliance with all technical recommendations of the soil report prior to final inspection.

The reports' acceptance is only limited to the technical adequacy of the report. Other issues, like planning, building, septic or sewer approval, etc., may still require resolution.

The Planning Department will check final development plans to verify project consistency with report recommendations and permit conditions prior to building permit issuance. If not already done, please submit two copies of the approved soil report at the time of building permit application for attachment to your building plans.

Please call 454-3175 if we can be of any assistance.

Sincerely,



Joe Nanna  
County Geologist CEG 1313

Kevin Crawford  
Senior Civil Engineer

Cc: Jessica De Grassi, Resource Planner  
Building Plan Check

Environmental Review / Initial Study  
ATTACHMENT \_\_\_\_\_ \$  
APPLICATION 00-0143 \$  
402375

## FINAL SOILS –GRADING REPORTS

Prior to final inspection clearance a final soils report must be prepared and submitted for review for all projects with engineeredfills. These reports, at a minimum, must include:

1. Climate Conditipns

Indicate the climate conditions during the grading processes and indicate any weather related delays to the operations.

2. Variations of Soil Conditions andlor Recommendations

Indicate the accomplished ground preparation including removal of inappropriate soils or organic materials, blending of unsuitable materials with suitable soils, and keying and benching of the site in preparation for the fills.

3. Ground Preparation

The extent of ground preparation and the removal of inappropriate materials, blending of soils, and keying and benching of fills.

4. Optimum Moisture/Maximum Density Curves

Indicate in a table the optimum moisture maximum density curves. Append the actual curves at the end of the report.

5. Compaction Test Data

The compaction test locations must be shown on same topographic map as the grading Plan and the test values must be tabulated with indications of depth of test from the surface of final grade, moisture content of test, relative compaction, failure of tests (i.e. those less than 90% of relative compaction), and re-testing of failed tests.

6. Adequacy of the Site for the Intended Use

The soils engineer must re-confirm her/his determination that the site is safe for the intended use.

Environmental Review Initial Study  
ATTACHMENT 1/8  
APPLICATION 00-0143 #  
402378

## DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

### GENERAL

1. The results of our investigation indicate that from a geotechnical engineering standpoint the property may be developed as proposed provided these recommendations are included in the design and construction of the project.
2. Our laboratory testing indicates that the clays on the south side of the building site possess high expansive properties. Special site preparation recommendations and foundation recommendations are presented in this report to mitigate the potential problems due to expansive soils.
3. Grading and foundation plans should be reviewed by Steven Raas & Associates, Inc. during their preparation and prior to contract bidding.
4. Steven Raas & Associates, Inc. should be notified at least **four (4) working days** prior to any site clearing and grading operations on the property in order to observe the stripping and disposal of unsuitable materials, and to coordinate this work with the grading contractor. During this period, a pre-construction conference should be held on the site, with at least the owner's representative, the grading contractor, a county representative and one of our engineers present. At this time, the project specifications and the testing and inspection responsibilities will be outlined and discussed.
5. Field observation and testing must be provided by a representative of Steven Raas & Associates, Inc., to enable them to form an opinion regarding the degree of conformance of the exposed site conditions to those foreseen in this report, the adequacy of the site preparation, the acceptability of fill materials, and the extent to which the earthwork construction and the degree of compaction comply with the specification requirements. Any work related to grading performed without the full knowledge of, and not under the direct observation of Steven Raas & Associates, Inc., the Geotechnical Engineer, will render the recommendations of this report invalid.

### SITE PREPARATION

6. The initial preparation of the site will consist of the removal of trees as required including all associated debris. Septic tanks and leaching lines, if found, must be completely removed; The extent of this soil removal will be designated by a representative of Steven Raas & Associates, Inc. in the field. This material must be removed from the site.

Environmental Review / ...  
ATTACHMENT \_\_\_\_\_ 8  
APPLICATION 00-0143 \$  
402375

7. Any voids created by removal of trees, septic tanks, and leach lines must be backfilled with properly compacted native soils that are free of organic and other deleterious materials or with approved import fill.

8. Any wells encountered that are not to remain shall be capped in accordance with the requirements of the County Health Department. The strength of the cap shall be equal to the adjacent soil and shall not be located within 5 feet of a structural footing.

9. Surface vegetation and organically contaminated topsoil should then be removed from the area to be graded. These soils may be stockpiled for future landscaping. The required depth of stripping will vary with the time of year and must be based upon visual observations of a representative of Steven Raas & Associates, Inc. It is anticipated that the depth of stripping may be 2 to 4 inches.

10. Following the stripping, the area should be excavated to the design grades. If the building is to be founded on spread footings (see FOUNDATION section), all clays within 5 feet of the building footprint should be removed and the removed soil replaced with compacted non expansive soil. The exposed non expansive soils in the building and paving areas should be scarified, moisture conditioned, and compacted as an engineered fill except for any contaminated material noted by a representative of Steven Raas & Associates, Inc. in the field. The moisture conditioning procedure will depend on the time of year that the work is done, but it should result in the soils being 1 to 3 percent over their optimum moisture content at the time of compaction.

Note: If this work is done during or soon after the rainy season, the on-site soils may be too wet to be used as engineered fill without significant and effective moisture conditioning. Moisture conditioning may require effective soil processing such that drying occurs as evenly as possible throughout the soil mass. Note that moisture conditioning may include drying as well as wetting the soil.

11. With the exception of the upper 8 inches of subgrade in paved areas and driveways, the soil on the project should be compacted to a minimum of 90% of its maximum dry density. The upper 8 inches of subgrade in the pavement areas and all aggregate subbase and aggregate base should be compacted to a minimum of 95% of its maximum dry density.

12. The maximum dry density will be obtained from a laboratory compaction curve run in accordance with ASTM Procedure #D1557. This test will also establish the optimum moisture content of the material. Field density testing will be in accordance with ASTM Test #D2922.

13. Should the use of imported fill be necessary on this project, the fill material should be:

- a. free of organics, debris, and other deleterious materials
- b. granular in nature, well graded, and contain sufficient binder to allow utility trenches to stand open

7  
193

Environmental Review/Initial Study  
ATTACHMENT 8  
APPLICATION 00-0143 #  
402378

and  
value of 30, and be non-expansive

Imported fill planned for use on this project should be  
Associates, Inc. for appropriate testing and approval not less  
the anticipated jobsite delivery.

### 1.1 SLOPES

All slopes should be constructed with engineered fill meeting the minimum density  
requirements of this report and have a gradient no steeper than 2:1 (horizontal to vertical).  
Slopes should not exceed 15 feet in vertical height unless specifically reviewed by Steven  
Raas & Associates, Inc. Where the vertical height exceeds 15 feet, intermediate benches  
must be provided. These benches should be at least 6 feet wide and sloped to control surface  
drainage. A lined ditch should be used on the bench.

16. Fill slopes should be keyed into the native slopes by providing a 10 foot wide base  
keyway sloped negatively at least 2% into the bank. The depth of the keyways will vary,  
depending on the materials encountered. It is anticipated that the depth of the keyways may  
be 3 to 6 feet, but at all locations shall be at least 2 feet into firm material.

Subsequent keys may be required as the fill section progress upslope. Keys will be  
designated in the field by a representative of Steven Raas & Associates, Inc. See Figure No.  
8 for general details.

17. Cut slopes shall not exceed a 2:1 (horizontal to vertical) gradient and a 15 foot vertical  
height unless specifically reviewed by a representative of Steven Raas & Associates, Inc.  
Where the vertical height exceeds 15 feet, intermediate benches must be provided. These  
benches should be at least 6 feet wide and sloped to control surface drainage. A lined ditch  
should be used on the bench.

18. The above slope gradients are based on the strength characteristics of the materials under  
conditions of normal moisture content that would result from rainfall falling directly on the  
slope, and do not take into account the additional activating forces applied by seepage from  
spring areas. Therefore, in order to maintain stable slopes at the recommended gradients, it is  
important that any seepage forces and accompanying hydrostatic pressure encountered be  
relieved by adequate drainage. Drainage facilities may include subdrains, gravel blankets,  
rockfill surface trenches or horizontally drilled drains. Configurations and type of drainage  
will be determined by a representative of Steven Raas & Associates, Inc. during the grading  
operations.

Environmental Review Initial Sign

ATTACHMENT 8  
APPLICATION 00-0143 #  
40237 S

8  
124

19. The surfaces of all cut and fill slopes should be prepared and maintained to reduce erosion. This work, at a minimum, should include track rolling of the slope and effective planting. The protection of the slopes should be installed as soon as practicable so that a sufficient growth will be established prior to inclement weather conditions. It is vital that no slope be left standing through a winter season without the erosion control measures having been provided.
20. The above recommended gradients do not preclude periodic maintenance of the slopes, as minor sloughing and erosion may take place.
21. If a fill slope is to be placed above a cut slope, the toe of the fill slope should be set back at least 8 feet horizontally from the top of the cut slope. A lateral surface drain should be placed in the area between the cut and fill slopes.

#### EROSION CONTROL

22. The surface soils are classified as moderately to highly erodible. Therefore, the finished ground surface should be planted with ground cover and continually maintained to minimize surface erosion.

#### FOUNDATIONS - SPREAD FOOTINGS

23. At the time we prepared this report, the grading plans had not been completed and the Structure location and foundation details had not been finalized. We request an opportunity to review these items during the design stages to determine if supplemental recommendations will be required.
24. Considering the soil characteristics and site preparation recommendations, it is our opinion that an appropriate foundation system to support the proposed structures will consist of reinforced concrete spread footings bedded into firm non expansive native soil or engineered fills of the non expansive on-site soils. This system could consist of continuous exterior footings, in conjunction with interior isolated spread footings or additional continuous footings or concrete slabs.
25. Footing widths should be based on allowable bearing values with minimum requirements as indicated in the table below. Footing excavations must be observed by a representative of Steven Raas & Associates, Inc. before steel is placed and concrete is poured to insure bedding into proper material. The footing excavations should be thoroughly saturated prior to placing concrete.

Environmental Review Initial Stamps

ATTACHMENT  
APPLICATION 00-0143 #  
402375

Structure Type	Footing Width	Footing Depth
1 Story Structure	12 inches	12 inches
2 Story Structure	15 inches	18 inches

In computing the pressures transmitted to the soil by the footings, the embedded weight of the footing may be neglected.

27. No footing should be placed closer than 8 feet to the top of a fill slope nor 6 feet from the base of a cut slope.

28. The footings should contain steel reinforcement as determined by the Project Structural Engineer in accordance with applicable UBC or ACI Standards.

#### FOUNDATIONS - PIER AND GRADE BEAM

29. If the expansive soil is left beneath the structure and within 5 feet of the foundations, it is our recommendation that the structure be founded on a reinforced concrete pier and grade beam foundation system in conjunction with a raised wood floor. Slab on grade floors are not recommended on expansive soil.

30. Reinforced concrete piers should be designed and constructed as follows:

- a. Minimum pier embedment should be 5 feet into the yellowish brown silty sands. This may necessitate pier depths of approximately 9 feet in the clay areas. Actual depths could depend upon a lateral force analysis performed by your structural engineer.
- b. Minimum pier size should be 18 inches in diameter and all pier holes must be free of loose material on the bottom.
- c. Passive pressures of 275 psf/ft of depth can be developed, acting over a plane 1% times the pier diameter. Neglect passive pressure in the top 3 feet of soil.
- d. The allowable end bearing capacity is 4,000 psf, with a 1/3<sup>rd</sup> increase for wind or seismic loading.

Environmental Review Initial Study

ATTACHMENT 8  
APPLICATION 08-0143  
402378

- e. All pier construction must be observed by a Steven Raas & Associates, Inc. Any piers constructed without the full knowledge and continuous observation of Steven Raas & Associates, Inc., will render the recommendations of this report invalid.

31. The piers and grade beams should contain steel reinforcement as determined by the Project Structural Engineer.

### SLAB-ON-GRADE CONSTRUCTION

32. Concrete slab-on-grade floors may be used for ground level construction on non expansive native soil or engineered fill. Slabs may be structurally integrated with the footings. Concrete slab-on-grade floors should only be used for garage areas in areas where the clays have not been removed. For garage slabs in clay areas, the slabs should be constructed as a "free floating slab" with the concrete slabs structurally independent of the grade beams. A minimum of ¼ inch of felt or some other positive friction break must be inserted between the slab floors and the grade beams to reduce the cracking potential.

33. All concrete slabs-on-grade should be underlain by a minimum 4 inch thick capillary break of ¾ inch clean crushed rock. It is recommended that neither Class II baserock nor sand be employed as the capillary break material.

34. Where floor coverings are anticipated or vapor transmission may be a problem, a waterproof membrane should be placed between the granular layer and the floor slab in order to reduce moisture condensation under the floor coverings. A 2 inch layer of moist sand on top of the membrane will help protect the membrane and will assist in equalizing the curing rate of the concrete.

35. Requirements for pre-wetting of the subgrade soils prior to the pouring of the slabs will depend on the specific soils and seasonal moisture conditions and will be determined by a representative of Steven Raas & Associates, Inc. at the time of construction. It is important that the subgrade soils be thoroughly saturated at the time the concrete is poured. For slabs constructed on the clays, the clays must be continuously **saturated a minimum** of 72 hours prior to the placement of the concrete.

36. Slab thickness, reinforcement, and doweling should be determined by the Project Structural Engineer.

Environmental Review Initial Study  
ATTACHMENT - 8  
APPLICATION - 00-0143-#  
402375

**General Recommendations:**

1. The peak horizontal acceleration that should be used at the subject site for specific evaluation or structural design is 0.6 g. Project engineers may use a repeatable high ground acceleration of **0.4 g** for site-specific evaluation or structural design if they consider it a more appropriate design parameter. Predicted accelerations correspond to Modified Mercalli Intensities of VII to VIII+ (Table I). The ridge top setting of the proposed building site and possible amplification of ground accelerations during seismic events should be considered by the project engineer.
2. If pseudo-static slope stability analysis is performed at the site, a seismic coefficient of 0.15 should be utilized.
3. Detailed drainage and erosion-control plans should be developed by the project civil engineer, and approved by the project geologist and geotechnical engineer, and submitted along with the building plans.

We recommend that all drainage from improved surfaces such as walkways, patios, roofs and driveways be collected in impermeable gutters or pipes and carried to storm drains or delivered to Tannery Gulch via an energy dissipater. **At no time** should any concentrated discharge be allowed to spill directly onto the ground adjacent to the proposed developments. Any water issuing onto paved areas should not be allowed to flow towards the proposed developments. The control of runoff is essential for control of erosion and prevention of ponded water against foundation elements.

4. We request the opportunity to review all forthcoming engineering reports and development plans for consistency with our geological findings and recommendations.
5. We recommend the homeowners implement the seismic procedures outlined in *Peace of Mind in Earthquake Country* by Peter Yanev (1974) for improving the homes' strength and safety in a large earthquake. This book contains a wealth of information regarding seismic design and precautions homeowners can take to reduce the potential for injury, property damage, and loss of life.

Injury and loss of life during large earthquakes result mainly from falling objects, overturned furniture and appliances, and fires caused by severed utility lines. The majority of damage in the City of San Francisco in the 1906 earthquake resulted from the fires that burned out of control for weeks after the quake. Securing furniture and large appliances to the floor or structural components of the building will help to reduce this risk.

**INVESTIGATION LIMITATIONS**

1. The conclusions and recommendations noted in this report are based on probability and in no way imply that the homesites and adjacent slope benches will not possibly be subjected to ground failure, seismic shaking or erosion causing significant damage. The report does suggest that using the site for residential purposes in compliance with the recommendations contained herein is an acceptable risk.

Environmental Review Initial Study  
 ATTACHMENT 8  
 APPLICATION 00-0143 #  
402395

# Initial Study Attachment 9

Page 2 of 3

June 15, 2001 Carmichael

This next step was completed after an aerial survey the following spring, 1998, which was a much more extensive topographic study.

I was requested to prepare a more comprehensive, detailed analysis of the available slope information prior to the first grading/erosion repair work in 1998.

I have prepared a slope study map showing:

1. The location of the head of the "wash" and the B&W profile lines surveyed in the fall 1997
2. The 2' interval aerial photo contour lines from the photo of spring 1998.
3. Three profiles I have developed from said aerial photo contour map showing surface as it existed in the spring of 1998 and my calculation of the surface as it existed prior to the recent erosion.

### **Slope calculation by Joel Schwartz**

Joel Schwartz indicated that he found cross slopes in excess of 30% in the vicinity of the proposed driveway.

Mr. Schwartz's calculations differ from my calculations, in order to determine why our calculations differed, I visited the site with Joel on July 27, 2000 and asked him to show the location and method used. He stood at a point which he estimated as being near the original ground, about 10' east of the proposed drive at station 6+80, as shown on the enclosed slope study plan, and with a clinometer took a downslope reading of 35% at approximately 80' distant. This reading was valid as a straight-line reading from near the top of the vertical curve of the ridge to a point 80' distant. However, the reading was a straight line average across a curve with a constantly increasing slope, with grades increasing from less than 30% to greater than 30%, and this method did not determine the point at which the slope became greater than 30%. This area was not addressed on the Bowman & Williams slope analysis map.

Since portions of this area had been graded for an access road in Dec 1998, Joel indicated that he would like to know the depth of the disturbance in the area that had been graded. A determination of depths from present surfaces to undisturbed surfaces in the graded area was made by John Scott, Soils Engineer. He drilled through the fill at selected points to determine present depth to undisturbed soil and submitted a log of his data.

Environmental Review/Initial Study

ATTACHMENT

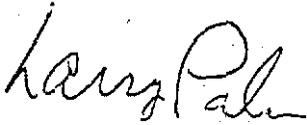
APPLICATION

Specializing in mountain development, engineering and surveying.  
Boundary retracement - Drainage plans

Lany Palm  
Civil Engineer - Land Surveyor  
7580 Empire Grade  
Santa Cruz, CA 95060  
831-426-0541

Page 3 of 3  
June 15, 2001 Carmichael

From the John Scott data and my survey of the undisturbed surrounding area I prepared a 2 sheet study as a supplement to the 5 sheet Grading plan dated Sept 14, 2000, which supplemental study was titled "Cross sections showing estimated original slope", same date. The purpose of this study was to locate the 30% slope line along the graded and natural slopes in the vicinity of proposed driveway stations 6+50 to 7+50. This study shows that the proposed driveway will not be on natural slopes greater than 30%.



Prepared by Larry Palm LS 4234, RCE 37007  
June 15, 2001  
Job 1251

Environmental  
ATTACHMENT  
APPLICATION

Environmental Review Initial Study  
ATTACHMENT 3  
APPLICATION 00 143 \$  
402375

*Specializing in mountain, development engineering and surveying.  
Boundary retracement - Drainage plans*

# Initial Study Attachment 10

# COUNTY OF SANTA CRUZ

## INTER-OFFICE CORRESPONDENCE

ATE: 05/07/00

O: Joel Schwartz, Environmental Planning

ROM: Matt Baldzikowski, Resource Planner

JBJECT: Archaeological review comments for 00-0143, APN: 040-081-09

On March 28, 2000 I made a site inspection to review the grading/erosion control work on the subject property. The purpose of the inspection was to review the site for potential impacts to archaeological resources. My site inspection included a ground survey of the recently disturbed areas, as well as adjacent, undisturbed areas. I also reviewed a previous archaeological survey report which is associated with a previous subdivision proposal. This report is by Meade and dated February, 1980.

Ground visibility was good, given the recent grading activity and adjacent areas of thin vegetative cover. I saw no archaeological materials within the areas of recent earthwork or the adjacent surrounding areas..

I inspected the site noted as Lots 61 and 62 of the Meade report. This site is not located near the area recently disturbed by grading activities that is the subject of this application. There is a silt fence placed in proximity to Meade's noted site, however, given the very sparse nature of the site - only one flake of Monterey chert was observed, and the minimal soil disturbance, it does not appear that the placement of the silt fence has significantly affected this area.

The existing grading on the knoll top and associated erosion control measures have not impacted archaeological resources.

It is possible that future development on the property which may occur on the flat terrace below the existing graded knoll top, could impact the known archaeological site. Any further development proposals which may impact this site must be evaluated by an archaeologist prior to any development-related approvals.

Environmental Review Initial Study  
ATTACHMENT 10  
APPLICATION 0-0143 \$  
402375



Gray Davis  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse



Tal Finney  
Interim Director

December 2, 2002

Paia Levine  
Santa Cruz County  
701 Ocean Street Room 400  
Santa Cruz, CA 95060

Subject: Carmichael Grading Project  
SCH#: 2002102136

Dear Paia Levine:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on November 27, 2002, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

*Terry Roberts*

Terry Roberts

Director, State Clearinghouse

*IS should discuss original  
alignment of driveway. Would  
existing dirt rd. (thru some coastal  
prairie) need to be widened? Kathy began  
orig. rpt. rec. abandoning rd. & letting prairie  
come back in. This doesn't really reduce  
project impacts because badland = a  
disturbed condition. Would this reduce  
concern of neighbors re: new access behind their house?*

~~Document Details Report~~  
**State Clearinghouse Data Base**

**SCH#** 2002102136  
**Project Title** Carmichael Grading Project  
**Lead Agency** Santa Cruz County

**Type** Neg Negative Declaration

**Description** Proposal to construct a single-family dwelling, driveway, and garage(s). Requires a grading permit to excavate approximately 3,500 cubic yards of material and fill 3,500 cubic yards of material; to recognize the grading of approximately 310 yards of earth that has already occurred, which was done in order to provide access to the building site for geotechnical exploration; and to recognize remedial grading to mitigate erosion and improve drainage, which has also already occurred. Project is on the vacant parcel at the dead-end of Jennifer Drive, approximately 200 feet west of the intersection of Jennifer Drive and Danube Drive, and the adjacent parcel to the north, approximately 2,000 feet north of Soquel Drive in the Vienna Woods neighborhood of the Aptos Planning Area.

**Lead Agency Contact**

**Name** Paia Levine  
**Agency** Santa Cruz County  
**Phone** (831) 454-3178  
**email**  
**Address** 701 Ocean Street Room 400  
**City** Santa Cruz **State** CA **Zip** 95060  
**Fax**

**Project Location**

**County** Santa Cruz  
**city**  
**Region**  
**Cross Streets** Vienna Drive & Soquel Drive  
**Parcel No.** 040-081-06, -09  
**Township** **Range** **Section** **Base**

**Proximity to:**

**Highways** 1  
**Airports**  
**Railways** SPRR  
**Waterways** Soquel, Aptos, Valencia Creek, Tizut & Porter Gulches, Pacific Ocean  
**Schools** Cabrillo College, Soquel H.S., Soquel Elem., Alar Vista,  
**Land Use** vacant/special use/rural-res, mountain-residential, proposed pack

**Project Issues** Aesthetic/Visual; Archaeologic-Historic; Drainage/Absorption; Geologic/Seismic; Soil Erosion/Compaction/Grading; Vegetation; Wildlife

**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 5; Department of Health Services: Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; State Lands Commission

**Date Received** 10/29/2002 **Start of Review** 10/29/2002 **End of Review** 11/27/2002

135

Note: Blanks in data fields result from insufficient information provided by lead agency.

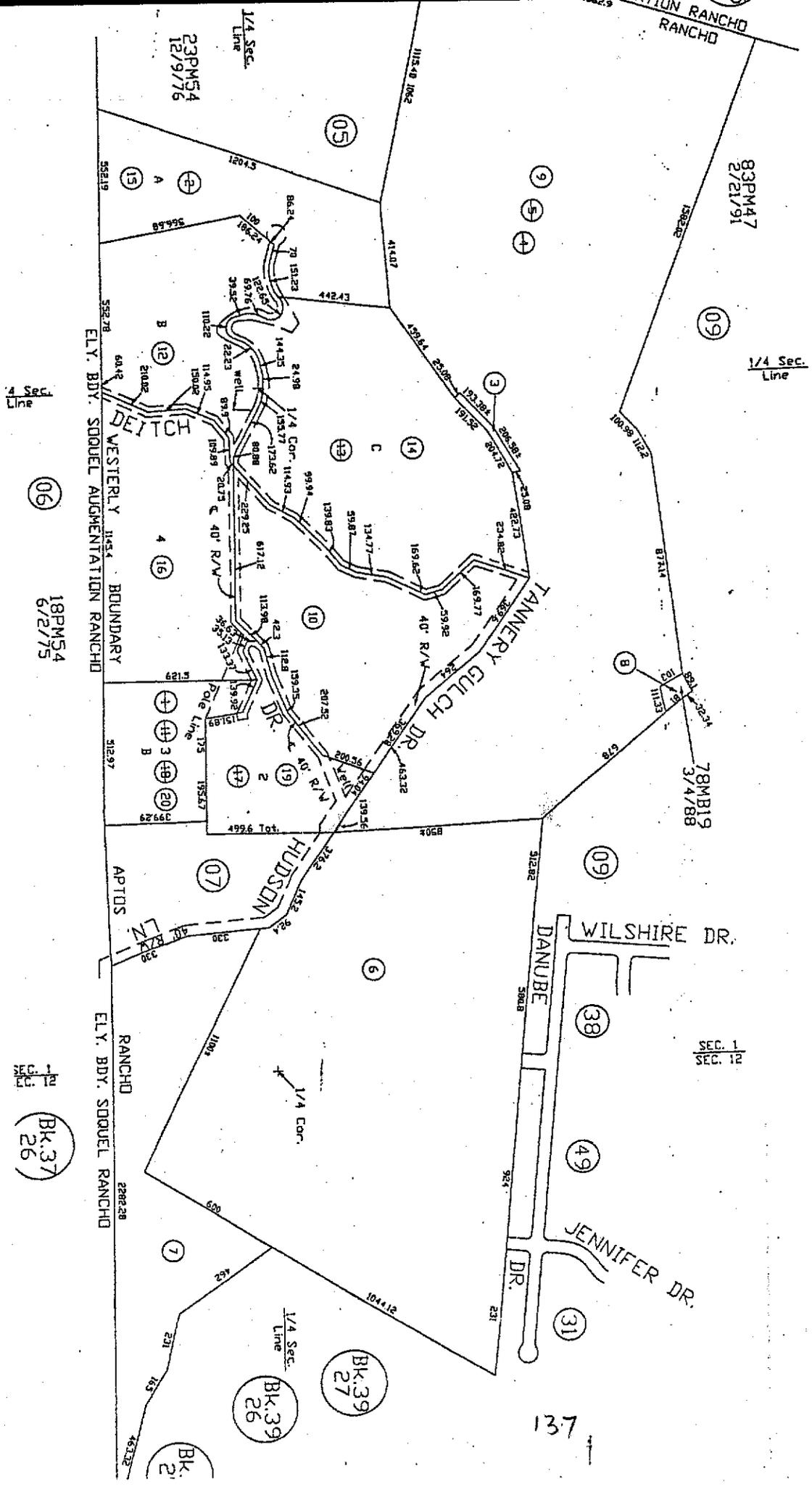
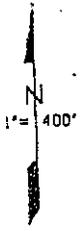
Exhibit D  
Assessor's Parcel Map

TAX PURPOSES ONLY  
MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY  
OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1998

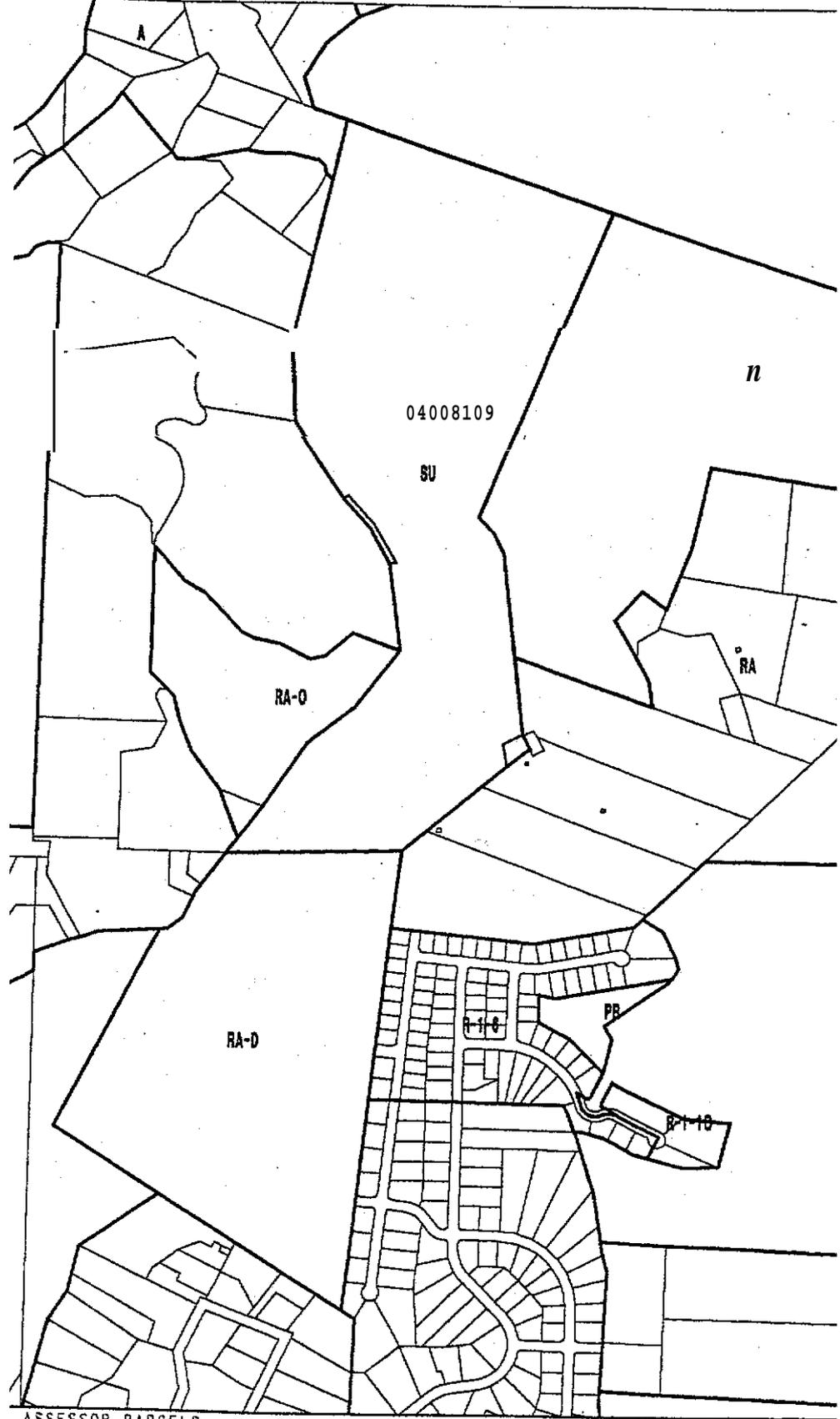
PDR. APTOS RANCHO  
SECS. 1 & 12, T.1S, R.1W, M.D.B. & M.

10x Area Code  
69-050

40-0

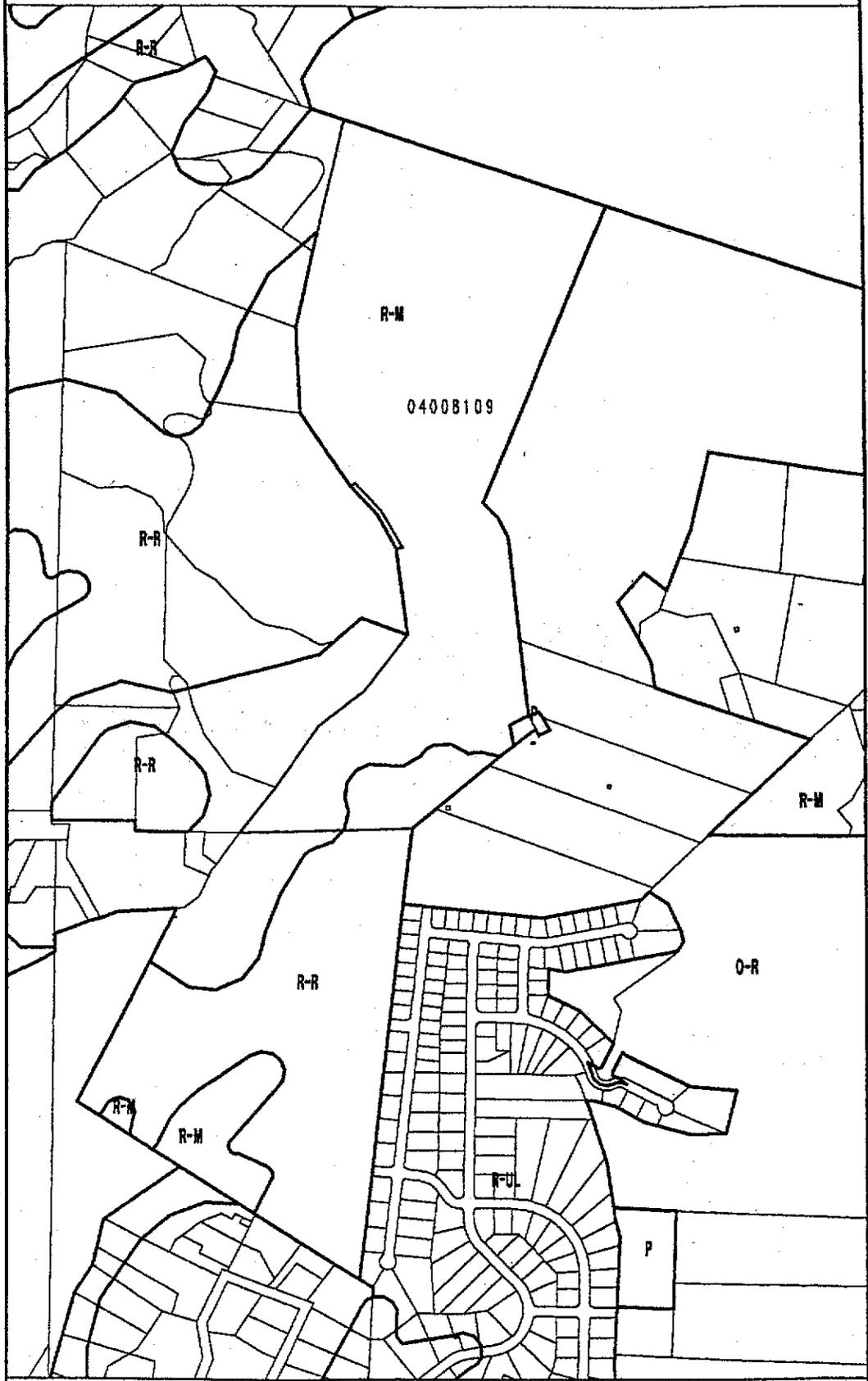


# Exhibit E Zoning Map



ASSESSOR PARCELS  
PLANNING ZONES





N83 ASSESSOR PARCELS  
N83 G P BASE LAYER



# Exhibit F

## Initial Study Comments



Gray Davis  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse



Tal Finney  
Interim Director

**ACKNOWLEDGEMENT OF RECEIPT**

DATE: November 19,2002  
TO: Paia Levine  
Santa Cruz County  
701 Ocean Street Room 400  
Santa Cruz, CA 95060  
RE: Carmichael Grading Project  
SCH#: 2002102136



This is to acknowledge that the State Clearinghouse has received your environmental document for state review. The review period assigned by the State Clearinghouse is:

Review Start Date: October 29,2002  
Review End Date: November 27,2002

We have distributed your document to the following agencies and departments:

- California Highway Patrol
- Caltrans, District 5
- Department of Conservation
- Department of Fish and Game, Region 3
- Department of Health Services
- Department of **Parks** and Recreation
- Department of Toxic Substances Control
- Department of Water Resources
- Native American Heritage Commission
- Office of Historic Preservation
- Public Utilities Commission
- Regional Water Quality Control Board, Region 3
- Resources Agency
- State **Lands** Commission

The State Clearinghouse will provide a closing letter with any state agency comments to your attention on the date following the close of the review period.

Thank you for your participation in the State clearinghouse review process.

**J. KENNETH GORMAN  
MICHELE M. GORMAN**  
365 Danube Drive  
Aptos, CA 95003  
831/685-3945

November 18, 2002

Paia Levine  
Santa Cruz County Planning Dept.  
701 Ocean St., ste. 400  
Santa Cruz, CA 95060

HAND DELIVERED

Re: Project Application no.s 00-0143 and 40237S  
APN: 040-081-09 and 040-081-06  
Applicants: S&P Carmichael Enterprises, Inc., and Men-Chy Properties

Dear Ms. Levine:

We have lived at the above address for over ten years. We use the subject property nearly every day for recreation such as hiking, nature observing and biking. It is our access to the entrance to the trail into Nisene Marks at the top of the hill. We have always appreciated the view of the land and respected the rights of the owners. We have protected it by removing trash, evicting vandals and hunters, and notifying the sheriff about squatters.

We are not members of any organized group concerning this project.

We have the following concerns and disagreements with the plan as we understand it.

The proposed driveway is unnecessarily long. It will cover a large amount of grass and will block access to the open space from Jennifer, Kamian and Mesa Grande, essentially cutting off the property entirely. It also runs right behind the homes of our neighbors. The driveway should start at Mesa Grande. There would be no disadvantage to the owners, in fact, it would be cheaper. It would avoid destruction of the environment, traffic and attendant noise behind the adjacent homes, and blocked access.

Second, the project would eliminate access to the trail from Caballo to Nisene Marks, as well as the Nisene Marks trail itself, by blocking entry at Haas, Jennifer, Kamian Way, Mesa Grande and the water tank driveway. A number of alternatives could be implemented.

Third, we understand that the owners bulldozed the hillside and cut down a number of native trees without permits. The erosion from that was considerable. Our information is that there were minimal if any penalties imposed. The subsequent efforts at remediation to the hillside have not been maintained and were not very effective. This has not inspired confidence that the steps necessary to protect the grassland will be observed, or that their violation will be effectively policed and remedied. This is particularly troubling in light of the recommendation to proceed without an environmental impact report.

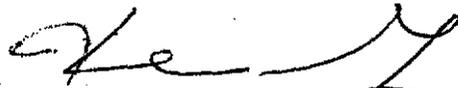
Fourth, we are advised that the owners are willing to sell the property for \$5,000,000, and that the purchase price 3-4 years ago was \$1,500,000. That is unreasonable. There is no guarantee that any investor will make a profit. A \$3,500,000 profit for speculative purchase of

property that historically had not <sup>\*</sup> been developed is excessive. The taxpayers should not have to support such a profit. An appraisal should be considered and **the** project halted **until** that has occurred.

Fifth, we have been informed that the owners have submitted documents indicating proposals for a development of 10-20 homes on the property. The owners' representative has personally informed me that that is not true the only plans are for the one house at issue. If in fact there are plans in the work for a subsequent development and this is only the first step, the project should be evaluated in that light, and the public should be so informed.

Based on the foregoing we request that the project not be approved as presented, that a public hearing be **schedule**; obtain community input and ensure the environmental and neighborhood concerns are adequately addressed, that an environmental impact report be required, that enforcement mechanisms be ensured, and that alternative accesses and purchase proposals be investigated before construction permits are issued.

Sincerely



J. Kenneth Gorman

cc: Alvin James  
Ellen Pirie

# Fax

**Name:** Paia Levine  
**Organization:** County of Santa Cruz Planning Dept  
**Fax:** 831 454-2131  
**Phone:** 831 454-3178  
**From:** Bud, Linda, and Jordan Gerstman  
**Date:** 11/19/02  
**Subject:** Koch Property Development  
**Pages:** 1

Please do all **you** can to squelch the **current** development **plans concerning** the Koch / Carmichael Property **near Nisene Marks Park at the end** of Vienna Woods . The neighborhood can not **withstand any more** traffic (esp. on Vienna Drive) **without** a serious threat to **safety**. **Also, this particular** developer is not an honest **person, as** he has **misrepresented** his **intentions** on several occasions to several people. **including me** (e.g., he **has** told different parties **that he plans on** building anywhere between 1 and 50 **homes** on the property.) **I am sure** you have heard the **first hand report, and I am** aware of the conflict between property and community rights. Let **me say** that **I am generally** a private property advocate. **But, at the same, time, I ask would we allow** a 7/11 or McDonald's in **our** residential neighborhood? **I suggest** that **this** particular developer is planning a large 50 to 100 home or condo developer on this unsuitable land, **We** have a right and responsibility to prevent **this misuse**, The developer and **his son** have been **threatening, dismissive, verbally abusive, and** downright dishonest. The current plans will blocking the **main access to an important Nisene Marks** trail. I have no doubt why. **The contractor** and **his** foreign investors have no intention of using the 3 parcels as **the land as currently** intended. **As** civil and public servants, you have a **right and** responsibility to represent **the will of** the people, **and to** protect the public's **safety**. We should not confuse private property rights with the **type of** nonsense **we are** currently confronted with. **1** therefore urge you to do the right thing--the **sane** thing, the common sense thing, **and** the responsible thing--do not allow **this greedy person to run** over our right to self-governance **and** local control.

Sincerely yours,

B. Gerstman, D.V.M., **M.P.H.** Ph.D.

copies to:

Alvin James, Director. County of Santa Cruz Planning Dept (FAX 454-2131)  
Ellen Pirie, Supervisor 2nd District, Santa Cruz County (FAX 454-3262)

Laurel Nakanishi  
432 Danube Drive  
Aptos, CA 95003  
November 15, 2002



Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

Dear Ms. Levine:

I have several strong concerns about the pending County approval for the house that Stephen Carmichael wants to build on the Koch Property in Aptos. If the County approves development of *this* property, the public will lose access to a popular recreational area, and will lose an access to Nisene Marks and Cabrillo College, both important issues in these times of growing population and traffic congestion.

One piece of the developer's plans that seems to be totally unnecessary is the road that he wants to build 30 feet behind the houses on Danube Drive, where my family and I live. Not only does this seem unnecessarily close to my neighbors' and my homes and backyards, but it also is a poor decision from an environmental standpoint. With the Coastal Prairie Grassland habitat on the property, it seems incredible that the developer will be allowed to build a 2,200 foot through the property parallel to an existing public street. It would make more sense to have his house accessed by Danube Drive to Mesa Grande Road, rather than make a new road, paving over unique habitat.

I assume that you are already informed of other issues concerning development of the Koch Property, including increased traffic on an already marginal Vienna Drive, parking issues, and more. I hope that you are highly aware of how pivotal the Koch Property is, that Cabrillo College is in favor of its preservation, that it is in the Nisene Marks General Plan, and how it provides a link between the two public lands. This is an important piece of property for future public use. Please act with vision for the future.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laurel Nakanishi".

(Ms.) Laurel Nakanishi

cc: Alvin James, Ellen Pirie

Alvin James, Paia Levine. Ellen Pirie,

I am writing this letter to strongly request that you do not proceed with final approval of the projects (app.#00-0143 and #40237S) to construct a single-family dwelling and access road on the "Koch property" in Aptos. I believe that the negative impacts that would occur with this development far outweigh any need for additional housing in this area.

As a resident of the adjacent "Vienna Woods" neighborhood my first concern is that of the "Koch property" is that it is used as an access to Nisene Marks State Park and I believe once that access is eliminated that the entrance of choice will be the trailheads in Vienna Woods. While I appreciate everyone's right to access the public park, I see a concern concerning this increase in traffic on Vienna Drive (a road divided by a ravine on one side and a hill with housing on the other), and the lack of parking space and restrooms at the trailheads. The neighborhood was not designed to handle a public thoroughfare. One of the reasons my wife and I purchased our home here is that we wanted to avoid the dangers of heavy traffic, for the safety of our young children, as well as the quiet. I know this desire for safe, low traffic is shared by many of my neighbors. As one of the largest cul-de-sacs in the Cruz area, the neighborhood was designed to safely handle the traffic. The safety concern is that of access. If access is to be eliminated, the access through the "Thousand Oaks" neighborhood is eliminated.

My home is on Danube Drive in my backyard bordering the Koch property. The week we were looking at our property we inquired on the status of the Koch property. We were told that the County of Santa Cruz had designated the Koch property as limited development of the entire Koch property to five homes. This designation is what we relied on for affirmation that our backyard would not be used for a general development. I respect a property owner's right to do what they wish with their property - as long as they respect the designation stated by the Planning Department. Carmichael Enterprises, Inc., has stated publicly that they intend to develop many more than five homes the Planning Department has designated for the property. This kind of development provides for the potential of a drastic increase in traffic on a road that is already very busy as well as diminishes my assessed value of my home.

The plan of placing the "driveway" 30 feet behind the existing homes shows a blatant disregard by the developer for the current residents along Danube Drive. Not only will there be an increase in noise and dust due to the road, but our neighborhoods drainage systems will be disrupted as it discharges to the property along where the proposed road would be located.

There is an opportunity to use this land in a way that benefits people far beyond just the residents of Vienna Woods, or any future home development. The plans outlined by the group "Nisene 2 Sea", shows vision in creating a community that is less reliant on

motorized vehicles for accessing areas of Aptos, while providing public use of this land. The Koch property lies between Nisene Marks State park and New Brighton State beach. This property is the only link from the Santa Cruz Mountains to our coastline. Once this property is developed the opportunity of this unique corridor disappears for this generation as well as all those who follow. I think the plans and ideas of this group should be fully realized in a public forum before any decision about development moves forward.

I believe that the building of this first home is just the beginning of a plan for the development of the entire property, with no consideration for the designation by the Planning Department, the sensitive Coastal Prairie Grassland areas, or for the prescriptive easement that has been enjoyed by the area residents for decades. I purchased my home with the idea that this Aptos area is unique because of the wonderful open spaces that greatly improve the quality of life here, as well as the security that comes with living in a neighborhood at the end of the road cul-de-sac. I implore you to take this opportunity as the current stewards of the planning department to ensure that this property is utilized in the best fashion for all the residents of Aptos, the surrounding areas, and future generations. At the very least this issue should be brought to a public forum, and all plans should be the result of careful study of environmental and social concerns.

Thank you for your time and your consideration.

LeAnn and Thomas Copriviza  
260 Danube Drive  
Aptos  
(831)684-2738

November 19,2002

Paia Levine  
Santa Cruz County Planning Department  
Environmental Review Staff  
701 **Ocean** Street, Suite 400  
Santa Cruz, CA 95060  
FAX (831)454-2131

Vickie and ~~Gary~~ Anderson ~~ore~~ strongly opposed to the development ~~on~~ the Koch property - Assessor Parcel #040-081-09 and 040-081-06.

We purchased our house at 404 Danube Drive in 1975, and have ~~always~~ been concerned with evacuation, (i.e., fire, earthquake, **mudslide**). We have only one (1) ~~exit/entrance~~ road, **which** is Vienna Drive. The increase in traffic just with construction ~~and~~ heavy equipment ~~alone~~ will be dangerous.

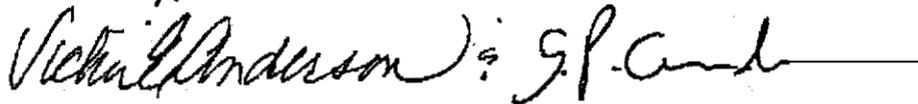
For years ~~we~~ have requested the option to purchase (1/4-112) acre behind our **houses**. We **know this** new road not only will ~~it~~ be too close to our homes, **it will** create a danger to sensitive habitat, cause drainage problems and will be an eye-sore. On top of that **it will also** be a "back door" opportunity to open up development of the Koch property. This is an outrage given our traffic, **the life** threatening danger of no access to Soquel, and lack of water and sewer sources.

**How** can **this** development even be considered without an Environmental Impact Report or Public Hearing? What is happening to Santa Cruz? We almost have to have an Environmental **Impact** Report to put up an awning.

We have many other concerns regarding **this** proposal to our neighborhood such as: Impact on all homes on Danube Drive, loss of safe alternate access to Cabrillo, Soquel Drive and bus lines, parking issues, and **loss** of the Nisene Pines Corridor.

Please reconsider a public hearing and Environmental **Impact Report** before doing anything!! These **people** are not local and do **not** care what this proposal could do to our environment or our welfare.

Sincerely,



Vickie and Gary Anderson  
404 Danube Drive  
Aptos, CA 95003

c: **Alvin James**, Director  
County of **Santa Cruz** Planning Department  
**Ellen Pirie**, Supervisor 2<sup>nd</sup> District  
Santa **Cruz** County Board of Supervisors

November 17, 2002

Santa Cruz County Planning Department  
Attention: Paia Levine,

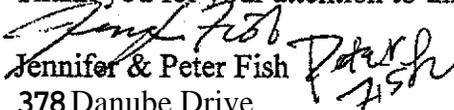
We are writing to you to express our concerns regarding the planned development of the Koch Property adjacent to the Vienna Woods area of Aptos. We live on Danube Drive which backs up to the property in question. We understand that Mr. Carmichael, the current owner of the property, has applied for permits to build a single large residence and an access road which would run directly behind our house. We also understand that his desire is to develop the property further with as many as 20 large homes despite the fact that the property was not zoned for a large development, is outside the Urban Services Line.

This property is also the only direct link between Nisene Marks State Park and the Cabrillo College property and has been used for over 35 years by the public for hiking access. Though it would seem that there are prescriptive rights of access - Mr. Carmichael has previously threatened people walking on the property and has said he will close off all access once his project begins.

Our greatest personal concern at this time is regarding the planned access road which we have been told would run just 30 feet behind our home. This makes little sense, as there is an existing dirt road further back that Mr. Carmichael has previously utilized and which emergency vehicles have also historically utilized. Furthermore, there is a substantial drainage channel directly behind our home which draws run-off from a large portion of Danube Drive and would be impacted by the planned roadway. This is a very large property and to build a long road directly behind 14 homes that have stood unencumbered for 35 years, seems ill conceived and unnecessary.

We ask that these issues be taken into consideration and at the very least some kind of public forum be held, before any permits are finalized.

Thank you for your attention to this matter,

  
Jennifer & Peter Fish  
378 Danube Drive  
Aptos, CA 95003

cc: Supervisor, Ellen Pirie

Parcel #  
040-081-09  
+ 040-081-06

RC! APRN 040-081-09-7 Mid County -  
040-081-06 } above Cabrillo College

project number: 00-0143 + 402375

S + P Carmichael Est + main chg. Prop -

I live on Danube Dr -

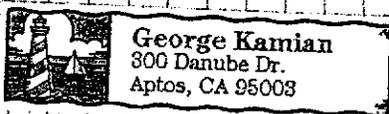
George Kamian + family

300 Danube Dr. Aptos 95003

831-688-2367 -

I main concern in the proposal  
2200 foot access road to be built  
30 feet behind on Home -

There is a "rough" road about a  
100 feet behind my home - why  
can't the builder use that - they have <sup>in the past</sup>  
also - does the Ord. on the 30 foot  
road mean that a future subdivision  
map has already been approved?



688-2367

Respectfully  
George Kamian

John Campbell  
3396 Haas Drive  
Aptos, CA 95003  
Phone: 662-2691

November 8, 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

**Re: Project Application Numbers: 00-0143 & 402378 - Public Review**

Dear Ms. Levine:

I am a local resident and property owner. My residence borders the property for the above referenced project. Many local residents and myself access Nisene Marks State Park via the trailhead connecting to Mr. Carmichael's property. I would estimate that twenty-five to fifty park visitors enter the park through this entrance on an average day. This entrance is the primary walk-in access from Cabrillo College lands and Haas Drive.

If the above referenced project is constructed, as proposed, this trailhead will be blocked from further usage. This will eliminate access to an important section of trail and require these park users to drive to other park entrances. Access to Nisene Marks State Park is a key issue, as there are so few access points to this large and important land resource. These trail systems have been in use by the general public for many years and provide the only entry to this northwestern boundary of the park.

I would like to request that this permit only be approved on the condition that the Owner provides an alternate access to this park entrance. The trailhead of which I am speaking is on the ridge-top behind the Soquel Creek Water District water tank. This would require the owner to provide an alternate trail around his proposed drive and house, up to the ridge-top and to the trailhead at the park boundary.

Sincerely,



John Campbell

cc:

Alvin James, Director  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

Ellen Pirie, Supervisor 2<sup>nd</sup> District  
Santa Cruz County Board of Supervisors  
701 Ocean Street, Room 500  
Santa Cruz, CA 95050

11-13-02

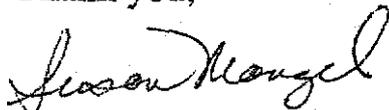
Susan Mangel  
204 Danube Dr.  
Aptos, CA 95616-2809

Paia Levine  
County of Santa Cruz, Planning Dept.  
701 Ocean St, Suite 400  
Santa Cruz, CA 95060

Dear Ms. Levine,

I am enclosing a letter that I sent to Steve Carmichael in April just to be certain that it is included in the material that you will consider when you review his permit. He spoke with me after the letter and assured me that he was taking my concerns into consideration. I would like to avoid-problems before they start.

Thank you,



Susan Mangel

4-10-02

Susan Mangel  
204 Danube Dr.  
Aptos, CA 95003-2809

Stephen R. Carmichael  
4125 Blackford Ave, Suite 250  
San Jose, CA 95117-1793

Dear Steve,

I was told that plans are moving forward to build a road from Jennifer Drive to access your property. I am writing to remind you of two matters about which we spoke some time ago so that they can be taken into consideration before construction begins. I am, also, forwarding this letter to Alvin James at the County Planning Office. My hope is that the road will be built with forethought avoiding headaches for all of us.

First, I understand that the plan is to build the road 40 feet from the property line, I assume that line is where our fence is standing. There is an oak tree on your property whose drip line is about 45 feet from our fence. I would like to insure that the tree's health is not compromised by the new road. It is a beautiful asset to your property which should be preserved.

Second, much of Danube Drive and some of your property drains directly to the area that the new road will begin at the extension of Jennifer Drive. This causes large puddles in the winter. In really wet winters, your property drains into our backyard and out again. I am hoping you will consider this in your plans. If the road is improperly constructed, it will either be submerged during heavy rains or act as a levee backing up water into **our** yard.

I am willing to work with you, if necessary, to trouble-shoot problems before construction begins. Please keep me informed.

Thank you,

Susan Mangel

cc: Alvin James, Planning Director of Santa Cruz County

November 13, 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean Street, Ste. 400  
Santa Cruz, CA 95060

Dear Ms. Levine:

I am writing in regard to S&P Carmichael Enterprises et al (developers, Project Application numbers 00-0143 and 40237S) who are seeking to begin development on Aptos parcels #040-081-06 and 040-081-09.

The buyers are asking to grade a new access road directly behind the residences on Danube Drive. There is an existing road connecting Jennifer Drive with the proposed house site that has been used historically for public right-of-way and fire access. That road does not encroach as much on the existing homes. The original road has better drainage slopes than the proposed route. It has eroded little despite long use and no special drainage features other than sensible original placement. The proposed new road would need extensive new grading to drain well at all.

The proposed new road would expose the existing homes and yards to noise and dust, while the existing road is naturally screened by vegetation along most of its route. Many of the homes along Danube Drive have minimum setbacks at the rear, meaning that the new road would be only 50 feet from the bedrooms.

I would much prefer that this land eventually become part of Nisene Marks State Park. The property has been used extensively by the public for hiking, biking and equestrian access between Cabrillo College, Thousand Oaks and Vienna Woods to the adjacent Nisene Marks park. However I respectfully request that, if we can't get this land into Nisene Marks, we at least see that it is developed with as much sensitivity to the local environment and ambiance as possible.

Sincerely,



Barry R. Turner  
390 Danube Drive  
Aptos, CA 95003  
(831) 662-1774

cc: Alvin James, Director SC Planning Dept  
Ellen Pirie, 2<sup>nd</sup> Dist. Supervisor

13 November 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Dept.  
701 Ocean St, Ste. 400  
Santa Cruz, CA 95060

Dear **Ms .** Levine:

Regarding project applications #00-0143 and 40237S filed by **S&P** Carmichael Enterprises and Men-Chy Properties for development on the Koch property in Aptos:

My husband and I purchased our Danube Dr. home in 1994, specifically because of the open space behind it. We remodeled the house to take full advantage of the view west across the Koch property. Since then we have enjoyed watching hikers, bicyclists, dog-walkers, deer, coyotes, quail, hawks, joggers, Cabrillo College classes, mushroom gatherers, horses and their riders, raccoons, possums, birds, bird watchers - and yes, even wild pigs - outside our windows. I have photographed many sunsets over this gorgeous piece of property and pulled French broom that was encroaching on hiking paths: my husband has carefully planted and tended redwood trees in the "field".

I am horrified to learn that approval for a driveway immediately behind our home is already pending. Mr. Carmichael, angered that his plans to subdivide and develop this property were being fought by neighbors, threatened several years ago to run his driveway right behind our fences in retaliation. I cannot believe that the county is considering allowing him to do just that, without even an Environmental Impact study. I do not begrudge Mr. Carmichael his "dream home" on top of the hill but I object to the impact that the proposed placement of his driveway will make on our own dream home. The houses on this side of Danube Dr. have very narrow backyards and the proposed driveway would run directly behind our back fence. Aside from the fact that that area is quite swampy in winter, we (and our neighbors) will lose the privacy we purchased when we bought our homes. I am also quite sure that the value of our property will suffer should the proposed driveway be installed: how many other homes in the county have roads both in front of and behind them?

There is already a good, historic road running from Jennifer Drive through the field and up to Mr. Carmichael's hill. Improving that road would cause considerably less damage to the field than creating a brand new road: it has better drainage and is already well compacted. I would hope that the county would take a careful look at this other option rather than simply approving Mr. Carmichael's request without question.

In addition, I strongly object to Mr. Carmichael's plan to block all public access to the Koch property "when work begins". I sincerely hope that the county will not allow this. The Koch property has been used by the public, freely and without interruption, for countless years and it is my belief that the public now has a prescriptive easement across that property. Since he purchased the property, Mr. Carmichael has been attempting to block access to it and I fear that if the county allows him to do so "when work begins", it will jeopardize our access in the future. Please allow the courts to make the decision as to whether the public has the right to enjoy the Koch property. For safety's sake, the public would only need to be barred from the actual home site.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Carole B. Turner". The signature is written in black ink and is positioned above the typed name.

Carole B. Turner  
390 Danube Dr.  
Aptos, CA 95003  
(831)662-1774

cc: Alvin James  
Ellen Pirie

November 18, 2002

**Applicants:** S P Carmichael Enterprises, Inc. and Mcn-Chy Properties  
(Developers/Joint Owners)

**Assessor Parcel Numbers:** 040-081-09 and 040-081-06

**Project Application Numbers:** 00--143 and 40237S

To: Alvin James, Director, County of Santa Cruz, Planning Department

My husband and I are homeowners in the Vienna Woods neighborhood. We have lived here since 1990 and in Aptos since 1975. We are writing **this** letter to state our opposition to the project slated for the **property**, (formerly known as the Koch Property) listed at the top of this letter. We are opposed to the construction of the home and the 2,200 foot road that will give the developer access to the property on the west side of Danube Drive, exiting at Jennifer Drive.

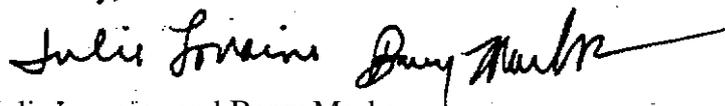
We believe that if this project is **allowed** to be built, it will negatively impact our neighborhood in several ways.

1. Loss of recreational **use** of the Koch **Property**. The developer has slated that he will block all public access to this property via Jennifer Dr., Kamian Way, **Mesa Grande**, Haas and the water **tank** trail into the Forest of Nisene Marks **State Park** once **work** begins. There is a very **long standing** use of this **area** by hikers, bicyclists, bird watchers, and folks enjoying the open space.
3. This property provides an important **non-motorized** access link between Nisene Marks **State Park** and adjoining neighborhoods, Aptos Village, Cabrillo College (and Saturday Farmer's Market!) and **New Brighton State Beach**. This would be lost, if the **project** moves forward.
3. Truck and heavy machinery **traffic** from project construction, would impact **Vienna Drive**, the only road in and out of the neighborhood. In addition, there would be increased **traffic related** to loss of **public access** into Nisene Marks from Cabrillo College. Approximately 100 people per day enter Nisene **Marks** from the Cabrillo property.
4. **Loss of privacy** to all homes on Danube which back up to the proposed driveway.

Despite good faith efforts to purchase the property as parkland, the developer has set an **unrealistically high sale price** and has developed an increasingly **antagonistic** relationship With the neighborhood.

We strongly urge **you** to take this information seriously and to vote against approval of this proposed project.

Sincerely,



Julie Lorraine and Barry Marks  
3848 Vienna **Drive**  
Aptos, California 95003

Date: NOV 18, 02

To: Celia Scott

From: Paul Levine Phone: 454-3178

Subject: Carmichael Inquiry

Number of pages including this page: 2

Comments: Proposed mitigation measures are attached. Note that the footprint of the house appears on sheets 2, 3, + 6 of Attachment 2. Road grading for all roads = 675 yds<sup>3</sup>, per project description. (that category includes the driveway). I do not <sup>know</sup> have the proposed area of the home. Please check w/ the planner Joe Hanna, 454-3175, for that info.

SHOULD YOU HAVE ANY TECHNICAL PROBLEMS RELATIVE TO THIS FACSIMILE TRANSMISSION, PLEASE CALL THE STAFF PERSON SENDING THIS AT THE NUMBER LISTED ABOVE.

\* \* \* \* \*

**WARNING!** This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail at our expense. Thank you.

fax/811

94296166	NORMAL	18.12:39	1'38"	2	OK
Telephone Number	Mode	Start	Time	Page	Result
Note					

Nov 18 2002 12:41

P.1

\*\* Transmit Conf. Report \*\*

SC CNTY/PLANNING Fax: 831-454-2131 091

Lisa Levine, Environmental Review Staff  
 County of Santa Cruz, Planning Department  
 100 Dean Street Suite 400  
 Santa Cruz, CA 95060

Re: Project Application Numbers: 02-0143 & 402378 - Public Review

As local residents at 3400 Haas Dr. in Aptos, my husband and I have walked the trails on the Koch property for more than 20 years; including the trail head going into Nisene Marks State Park on top of hill where applicant proposes to build. We also access the Park entrance at the end of Danube Dr. via the Koch property.

We have an immediate concern about the developer's plans to block all public access to the Koch property via Haas Dr.; Jennifer, Kamian and Mesa Grande when work begins; this also cutting our access to Nisene Marks Park.

We strongly urge you to initiate an Environmental Impact Report for this project for the following reasons:

1. There is the sensitive Coastal Prairie Grassland.

The 2,200 ft. access road proposed on the middle 52 acre parcel will destroy too much native vegetation. It will also cover too much aquifer receding ground (Aquifers of water are receding before the tide of luxury homes.)

You and your staff must know we are now, and have been for some years overdrawing our Aquifers in Segul Creek Water District (SCWD) by an estimated 600-15,000 acre feet per year. To their credit SCWD denied applicants a water hook up, then a County Dept gave a well permit. It is all the same water we are overdrawing!

2. Applicants are proposing a 2 story home and driveway (on very steep terrain) with 2 garages on top of the hill next to a SCWD water tank.

There should be some concerns about allowing building/development near a public drinking water supply in a time of terrorism, and recent warnings about terrorist threats regarding water supplies.

What does your department know about S & P Carmichael Enterprises and Men-Chy Properties who are the Developers/Joint Owners? I understand Men-Chy is a foreign Co.; and should that be a concern?

3. The 2,200ft. road as proposed on the middle parcel will mean loss of the Nisene & the Sea Corridor; which will be a great potential recreational loss for all County residents.

Remnants of wild, biologically intact areas such as thidland are precious few. We are losing ground as I write this

We urge you to study this project further with above concerns in mind and not approve this project as presented.

Sincerely,

Henry van Doy

*[Signature]*

3460 Hagg Dr.  
Cupertino CA 95003  
P/FAX 831-888-5105

cc:

Allen Pirie, Supervisor 2nd District  
Santa Cruz County Board of Supervisors  
FAX 831-454-3262

Alvin James, Director  
County of Santa Cruz, Planning Department  
FAX 831-454-3122



3757 Vienna Drive, Aptos, CA 95003  
Telephone: (831) 688-7724  
Fax: (831) 688-1316

November 19, 2002

Ms. Paia Levine, Environmental Coordinator  
Planning Department  
County of Santa Cruz  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060-4023

RE: **Environmental Review, Initial Study  
Proposed Environmental Review with Mitigations  
Application Nos. 00-0143 and 40237S  
APN 040-081-09 and APN 040-081-06  
Deadline for comments: November 20, 2002 5PM**

Dear Ms. Levine,

First, we request that the review period for the above referenced Initial Study and Proposed Environmental Review for the Grading Applications referenced above (hereafter, the "Environmental Review") be extended because the copy of the Environmental Review Initial Study that were provided by the County on October 30, 2002 does not include: (a) Attachment 6 referred to in the Environmental Review in section C. Biological Resources 2 as "The current [road] alignment, overlaid on the vegetation map, is shown on Figure 1, Attachment 6."; (b) the list of Mitigation Measures that will be required by the County; (c) the Mitigation Monitoring Plan; and (d) the Erosion Control Plan. Therefore, a complete review of the Environmental Review was not possible within the stated deadlines and, these deficits alone require a revised and re-circulated Environmental Review, Initial Study.

Despite the foregoing material deficits, please consider the following comments submitted on behalf of The Nisene 2 Sea Open Space Alliance with regard the components of the above referenced Environmental Review that was provided on October 30, 2002.

This letter along with the letter and related documents provided by Grey Hayes (an expert on the biotic resources and coastal prairie grasslands) are submitted as a part of our organization's comments on the Environmental Review for the above referenced grading permit applications sought by S&P Carmichael Enterprises, Inc. and Men-Chy Ma Enterprises, (hereafter, the "Developers").

Furthermore, all prior correspondence from our attorney, Jonathan Wittwer, and from our organization, The Nisene 2 Sea Open Space Alliance, regarding the activities of Developers on the subject property are hereby requested to be considered as further evidence in support of our organization's comments. These documents include, without limitation, Jonathan's Wittwer's October 20, 1999 and June 5, 2000 letters and the Exhibits attached to all this correspondence (hereafter, the "1999 Letter" and the "2000 Letter" respectively).

■ - ENVIRONMENTAL ISSUES NOT ADDRESSED IN ENVIRONMENTAL REVIEW

A. Non-Local Approval from California State Parks, Sacramento is Required:

The Environmental Review fails to consider the need to obtain approvals from State Parks in Sacramento for the Project. This easement is not shown on the site plan for the project and has not been considered in the County's analysis. The project impacts the Porter-Fallon Easement owned by State Parks that travels from The Forest of Nisene Marks State Park onto the Parcels, crosses project areas, and travels southward down the western side of Borregas Gulch, through Cabrillo College lands, to Soquel Drive. The Porter Fallon easement, which can be established to be up to sixty (60) feet wide, permits public use of the Parcels for access to The Forest of Nisene Marks State Park from Cabrillo College lands. The Developers have consistently represented that they intend to fence the Parcels and block all public access to the 06 Parcel and the 09 Parcel when work on the project begins. Any fencing and blocking of public access will materially interfere with State Park's easement and the public's right to continue to use the Parcels. The County needs to obtain the appropriate State approvals along with feedback on State required Mitigations measures to include as part of a revised and re-circulated Environmental Review-Initial Study.

B. Alternative Access/Road Location Not Considered

(1) The Environmental Review fails to consider alternate access to public roads that would prevent grading on sensitive grasslands and large oak tree removal. The Environmental Review states that the Project access is from Jennifer Drive and implies that this road, which is 2,500+ feet from the home site, is the only way to get to the 09 parcel and the proposed home. There are, in fact, two paved roads to the 06 Parcel that provide access to public roads from the home site on the 09 Parcel. Kamian Way is the closer access point and it is at least 850 feet closer to the home site. The proposed project road passes within 30 feet of this street exit. Grading of approximately 850 feet of sensitive grasslands could be completely avoided if the road to the home site was accessed from Kamian Way rather than from Jennifer Drive. Grading volumes and the amount of impervious surfaces could be reduced as well. This alternative exit was not considered by the County. Mandated use of the Kamian Way exit should be required as one of the Mitigation measures required to protect the sensitive biotic habitats on the Parcels.

(2) The Environmental Review also fails to consider re-location of road to the existing roadway on 06 Parcel that would prevent grading of sensitive grasslands. The Environmental Review fails to consider re-location of the roadway location proposed by the Developers. A nearby roadway on the Parcels that is bare ground that is devoid of most vegetation is the most appropriate location for the road to the home site. The road route proposed by the Developers is about 30 feet behind the homes on Danube Drive and would require extensive grading through an additional 750 feet of sensitive grasslands. The Environment Review fails to consider relocation the proposed roadway to the existing road. Mandated use of this existing road should be included as a required Mitigation measure to protect the sensitive biotic habitats on the Parcels.

In conclusion, a Mitigation requirement should be added to the Environmental Review that requires that the Developers use the Kamian Way entrance to the 06 Parcel and

have the new road follow the existing road's path to the proposed home site. This requirement would result in maximum protection for the sensitive grasslands, reduce the number of the oaks removed along with significantly reducing grading volumes and the amount of impervious surfaces created as well.

## **II. CRITICAL MATERIAL ERRORS IN THE ENVIRONMENTAL REVIEW**

In summary, in addition to the lack of appropriate documentation mentioned above, there are found numerous errors and inaccuracies in the Environmental Review. It is contended that these errors and inaccuracies substantially and materially affect the findings and determinations made by the County. Under CEQA, (including but not limited to Section 15073.5 - Recirculation of a Negative Declaration Prior to Adoption) at a bare minimum these defects require revision and recirculation of the Environmental Review and potentially may even require greater County scrutiny such as Planning Commission or Board review or a public hearing. The most critical material errors in the proposed Environmental Review relate to: (a) the lack of an adequate Project description; (b) the serious shortcoming of Biotic Review; (c) incorrect grading volume calculations; (d) the visual impact of project; and (e) incorrect slope determinations.

### **A. Lack of Adequate Project Description:**

The lack of Attachment 6 (Project Overlay) and no clear description definition of the "Project" area and related project impact areas prevent an accurate meaningful analysis of the project, including that with regard to important sensitive biotic habitats and prevent the creation of effective, detailed mitigation measures. See Section 3D of this letter for the detailed discussion on the impact of this deficit.

### **B. Shortcomings of Biotic Review:**

(1) The Biotic Review provided by the Developers has serious and material defects that are described in detail in the report filed by Grey Hayes in this matter. Recommendations made by the County's own expert, Bill Daviila, have not been followed (see Attachment 2 to Environment Review). Lack of an adequate Project Description and Mitigation list add to the list of shortcomings related to the County's review of the biotic resources on the Parcels. The Environmental Review was required predominately because the entire project, how ever ultimately described, exists in and is surrounded by sensitive biotic habitat. The proposed project will seriously impact and in fact destroy areas of such habitat. Any shortcomings related to the County's proposed actions in this regard are material deficits that require at a minimum a substantially revised and re-circulated Environmental Review-Initial Study.

### **C. Grading Volume Errors:**

(1) Initial Unauthorized Grading: The Environmental Review states that the grading volumes for the unauthorized grading that was done by the Developers in January and October 1999 that is to be recognized under the grading applications is approximately 310 cubic yards of material. These volumes are grossly underestimated. Please see Exhibit D to the June 2000 Letter which documents from the County's own records that the earlier grading volumes were in excess of 2600 cubic yards. This larger volume is further

Ms. Paia Levine  
Environmental Coordinator  
Santa Cruz County Planning Department  
701 Ocean Street, Santa Cruz, CA 95060  
Comments Concerning Application No. 00-0143  
Page 4 of 10

supported by Larry Palm, the Developer's surveyor, in the Developer's map created by this surveyor that is dated October 18, 1999 (lob 1251) that notes that previous grading and recent erosion control [read grading] covered an area of 30,000 square feet (greater than 3300 square yards). The Developer's estimate of 310 cubic yards for previous unauthorized grading suggests that the average depth of cut and fill is less than 4" (36 "/yard "3300 cubic yards / 310 square yards). Note also that there is survey data in the record that was taken before and after the second unauthorized grading which could provide grading volumes for the second unauthorized grading. Although this calculation would not include the grading volumes for the first unauthorized grading, this calculation would provide at least a minimum grading volume for the unauthorized grading. This underestimation is a material error that requires, at a minimum revision and recirculation of the Environmental Review.

(2) Calculation of Additional Grading Volumes: The calculations provided by the County concerning additional grading volumes are incorrect. The breakdown of volumes for grading for the entire project do not include grading for certain components of the project including the 3550 cubic feet of spread fill and in appear to exclude the grading volumes for the 2500 foot long, 12' wide road to the home site from Jennifer Drive and related the service road up the hill to the water tank. Further, in the event that the County can show that the grading for the 2,500 foot road was included, analysis will support at least an additional 1,000 cubic feet of graded material should be included. Note also that the total grading volume noted on a November 29, 1999 map by the Developer's surveyor, Larry Palm, for a substantially different house at a different location with different driveway configurations (one with a circular driveway), retaining walls, and one additional, 1,000 ft<sup>2</sup> building is exactly the same total graded volume as the current estimates provided in the Environmental Review. It is not possible to have two totally different plans with exactly the same volume of grading. This information from the County files further supports the finding that the grading volumes are incorrect and underestimated.

(3) Conclusion: Since, since grading volume determinations are a key factor in determining the level of review required by the County, the lack of information, documentation and analysis in the Environmental review concerning the County's basis for the determination of the grading volumes is a material error that requires, at a minimum, revision and re-circulation of the Environmental Review and perhaps a higher level of review. The County's own records support grading volumes in excess of 8,000 cubic feet for this project.

**D. Undocumented Visual Impact Conclusions:** Initially the County found that the project is visible from the Highway 1 Scenic Corridor and now state, without substantiation, in the Environmental Review that there is no visual impact. The County failed to provide any facts to support its new conclusion. The house site itself is visible from areas of Highway 1, from Capitola, and from New Brighton State Beach lands. The proposed home is quite large and tall and is to be situated near the top of the hill. We therefore request that the County revise the Environmental Review and require that the proposed home, water tank, and outbuildings be staked out in a way that will permit actual confirmation of the County's assertion concerning the visual impact or the gathering of useful information that would form the basis for any necessary Mitigation measures.

**E. Slope Issues:**

(1) Slopes in Excess of 30%. The County again is agreeing to permit the Developers to grade in some areas that are or were, prior to the unauthorized grading, in excess of 30 percent slopes in violation of its own ordinances. The references to the map by Bowman and Williams dated November 20, 1997 stating that... "the map preliminary in nature [and] should not have been used to determine the slope of the hill. The slope should have been determined by accurate, on site survey performed for the specific purpose" is not factually correct. The purpose of the Bowman and Williams survey was to determine slopes for the location of a driveway. The method was accurate (sub-centimeter accuracy using State of the art equipment) and on site. The title of the map is "Driveway Access Analysis". The scale of the map, 1"=40', is large indicating that there was considerable survey information, including information on slopes. Areas of greater than 30% grade are delineated on the map as irregular shapes, indicating that there was data to support grades greater than 30%. The County should have asked for the original data that was used to make this map to accurately and also assessed what Bowman and Williams used the basis of the determination of >30% grade areas. In addition, the County should have evaluated this pre-grading information and determined whether the Bowman and Williams information is more representative of natural slopes than other information provided. The Developer has provided and the County cited a letter by Joel Ricca of Bowman and Williams that was requested by the Developers as concluding, "subject slopes do not exceed 30%". The "subject slopes" refer to an area in a proposed septic field (since moved) and is not referring to the path of the driveway. This letter was written on June 13, 2001. The plans for current location of the driveway are dated May 14, 2002, nearly one year after the letter was written. It is not possible for Joel Ricca, or anyone, to comment on slopes along a path of a driveway a year before the plans for the driveway were available.

(2) Evidence Documenting Grade of Slopes in County Records. Maps are available to the County show slopes greater than 30%. Maps other than the Bowman and Williams 1997 map show greater than 30% grade on most of the hill with the proposed driveway. These maps include a Bowman and Williams map of a survey completed in 1998 before the initial grading by the Developers in 1999. Several maps based on surveys completed after the initial grading in 1999 were submitted by the Developers to Environmental Health. These maps, although made with data collected after initial grading, show most of the hill where the home site, driveway, and service road is proposed with slopes greater than 30%. A good example of this is the May 15, 2000 map submitted by Chris Rummel to Environmental Health on a base map prepared by Larry Palm, the Developers' surveyor, show slopes greater than 30% as shaded. Has the County compared areas shown in previous maps submitted by Developers to the position of the road in the current plans to ensure that the area has not been reported as greater than 30% in any maps submitted by the Developers? Information concerning the County's resolution of these contradictions and the basis for such decision should be documented in the Environmental Review.

(3) Comments and questions on accuracy of Larry Palm cross-sections used to determine natural (pre-grading) slope. Reconstruction of natural grade slope by the Developer's surveyor, Larry Palm, was estimated by using post-grading surveys and sediment cores. Determination of undisturbed sediment is equivocal. It is not possible to determine accurately if an area where cores are taken has been graded beneath natural grade and

then filled. A map by Larry Palm dated September 14, 2001 (Sheet 2 of 2, 1"=2') shows cross-sections reconstructing original grade in the home site area with grades greater than 30% within 5 feet of the position of the proposed road. Estimates of grade at the proposed driveway were 28.57% on two cross-sections. What is the County's estimate of the accuracy of the Developer's slope reconstructions? Has the County determined what affect this accuracy has on its determinations related to the slopes? Has the County determined whether the position of the driveway on the current plans is in an area with greater than 30% on the Larry Palm September 14, 2001 map? The County's failure to provide the factual basis for its determinations, at a minimum, should require revision and recirculation of the Environmental Review.

### **III. DETAILED ANALYSIS OF ENVIRONMENTAL REVIEW:**

The following analysis sets out, in detail, the material errors and omissions in the current Environmental Review, the factual basis related thereto, and the supporting documentary evidence from County records and otherwise, concerning the Environmental Review.

#### **A. Existing Site Conditions:**

(1) Slope: The Environmental Review states that APN 040-081-09 and APN 040-081-06 (126 acres total) is comprised of 30 acres of 0-15% slope, 30 acres of 16-30% slope, 10 acres of 31-50% slope and 4 acres in excess of a 50% slope. The preceding allocation significantly misrepresents the topography of the Parcels (hereafter, the "09 Parcel", and the "06 Parcel" respectively). Please see Exhibit A in the June 2000 Letter (Slope Map). The 09 Parcel is substantially steeper than represented in the Environmental Review. A very small percentage of the 09 Parcel is less than 15 % slope with the majority of the remainder of the Parcel in excess of a 30% slope. The topography of the 52 acre 06 Parcel that is will contain the 2500 foot road to the proposed home site is not included in the Slope Description.

(2) Nearby Watercourses: The Environmental Review states that the only nearby watercourse is in Tannery Gulch which is  $\frac{3}{4}$  of a mile from the Parcels. This is incorrect. Please see Exhibit B to the June 2000 Letter (Aquifer Recharge Area and Drainage Area Maps). The following accurately describes the nearby watercourses.

*Tannery Gulch:* The bottom of Tannery Gulch is the western boundary of both the 06 Parcel and the 09 Parcel and the slope into this gulch begins at the edge of the home Site area described for the project with the bottom of Tannery Gulch no more than 500 feet from this proposed home site. A substantial portion of both the 09 Parcel and the 06 Parcel drains into Tannery Gulch.

*Aptos Creek:* The Aptos Creek Drainage Basin covers about one-half of the 09 Parcels and Aptos Creek is no more than one half mile away from both the 06 and 09 Parcels. The proposed home site will primarily drain into The Forest of Nisene Marks State Park and Aptos Creek.. Furthermore, half of the perimeter boundary of the 09 Parcel and 500 feet of the 06 Parcel boundary adjoin lands comprising The Forest of Nisene Marks State Park.

Ms. Paia Levine  
Environmental Coordinator  
Santa Cruz County Planning Department  
701 Ocean Street, Santa Cruz, CA 95060  
Comments Concerning Application No. 00-0143  
Page 7 of 10

**Borregas Gulch:** Borregas Gulch begins on the middle of the 06 Parcel and will be crossed by the proposed 2,500 foot road proposed for the project... This watercourse drains a substantial portion of the 06 Parcel.

**Porter Gulch:** Tannery Gulch joins Porter Gulch approximately 1/4 mile from the Parcels.

## **B. Environmental Concerns**

(1) Water Supply, Watershed, and Groundwater Recharge: The Environmental Review states that there are no environmental concerns related to Water Supply, Watershed, and Groundwater Recharge and makes no reference to Riparian Corridors. This is incorrect. Please refer to Exhibit B of the 2000 Letter which show that: (a) Aquifer Recharge Areas cover significant portions of the 09 Parcel including areas adjoining the proposed building site and septic system location; (b) the 09 Parcel drains into Aptos Creek, Tannery Gulch, and Borregas Gulch; (c) the Tannery Gulch Riparian Corridor comprises significant portions of both the 06 and 09 Parcels; and (d) the 06 Parcel is transected by the Borregas Gulch Riparian Corridor/Watercourse which, along with Tannery Gulch, drains the 06 Parcel. All of these watercourses drain into State Parks (The Forest of Nisene Marks and New Brighton State Beach) and ultimately into the Monterey Bay Marine Sanctuary.

(2) State Park Boundary, The Environmental Review fails to mention that the 09 Parcel is bounded on two sides by The Forest of Nisene Marks State Park and that the Aptos Creek Drainage Basin on this Parcel drains including a considerable portion of the home site area drains directly into this State Park. The Environmental Review fails to mention the planned home site, out-building sites, service road and water tank all are to be located less than 500 feet (sometimes within 50 feet) of The Forest of Nisene Marks State Park boundary.

(3) Sensitive Biotic Habitat. The Environmental Review does confirm that there is Sensitive Biotic Habitat on both the 06 Parcel and the 09 Parcel but does not properly define the habitat areas nor provide appropriate and necessary protections. Both Parcels are covered with sensitive coastal grasslands, oak woodlands predominated by the very rare Shreve oak (*Quercus parvula* var. *shreveii*), redwoods, and also include potential Ohlone Tiger Beetle habitat (a federally protected Endangered Species). Please refer to: (i) Exhibit C of the June 2000 Letter which contains the reports submitted by the biologist, Randy Morgan; and (ii) the analysis of the County's approach and critique of the adequacy of the Developer's biological resource consultant's reports submitted with this letter by Grey Hayes, an expert concerning the habitat found on the Parcels. The lack of a clear description of the project area and project impact area also seriously compromises the validity of any reports provided by the Developer's consultant and the findings made by the County concerning the project and activities related thereto. Please see Section 3D of this Letter for further elaboration of the impact of the County's failure to clearly define the Project boundaries and impact areas on the validity of any findings or decisions made by the County concerning the project concerning the Sensitive Biotic Habitats on the Parcels and the submissions of Grey Hayes provided herewith.

**Ms. Paia Levine**  
Environmental Coordinator  
Santa Cruz County Planning Department  
701 Ocean Street, Santa Cruz, CA 95060  
Comments Concerning Application No. 00-0143  
Page 8 of 10

**C. Services**

(1) School District: The Environmental Review states that the School District is Pajaro Valley Unified. This is incorrect. The Parcels are in the Soquel Union School District.

(2) Access: The Environment Review states that the access to the project is from Jennifer Drive. Please see Section IB of this letter for a detailed discussion of the access and road location issues.

(3) Fire: The Environmental Review states that the project is in the Central Fire Protection District and also states that there is critical fire danger on the 09 Parcel. The Environmental Review fails completely to address the admitted fire danger. The 06 and 09 Parcels are covered with oak woodlands, redwoods, brush and grassland habitat; the 09 Parcel is extremely steep and is bordered on 2 sides by forested, inaccessible areas of The Forest of Nisene Marks State Park. Prior County actions have required annexation of the Koch Property into the Aptos Fire Protection District as a Mitigation measure. The Aptos-La Selva Fire District has station on Soquei Drive that is within ½ mile of the Parcels. The Central Fire District station is located at least five miles away in Soquei Village. Given the County's acknowledgement of the extreme fire danger on the 09 Parcel, the County's failure to address this issue in the Environmental Review is a material error that requires remediation and re-circulation of the Initial Study.

**D. Project Summary Description**

(1) Lack of Project Description. The County's Environmental Review and supporting documentation lacks of a viable description of "the Project". This is a significant material error that undermines all grading volume calculations, the sensitive biotic habitat analysis, and the effectiveness of any mitigations that may be proposed by the County. Lack of this information precludes the possibility analysis of the shortcomings of the County actions

(2) Referenced Overlay Missing: The documentation provided by the County in support of their Environmental Review includes reference to an Exhibit 6 "Project Overlay") that apparently overlays the Developer's Biotic Review information over the other mapped information concerning proposed grading activities proposed on the Parcels. This Exhibit 6 was not provided by the County. The lack of this information severely interferes with a careful analysis of the impact of the grading on the sensitive biotic resources on the property and in any event, this defect ultimately will require a revised and re-circulated Environmental Review-Initial Study.

(3) Confusion from Expanded Project Description: Some documentation used in support of the County's findings was provided by the Developers or gathered by the County at the time when the "unauthorized grading on the hillside" was the only "project" under consideration by the County. Later the County required that the "project" be expanded to include the home site, driveway, and the 2,500 foot access road. Supporting information used by Developers and the County to carry out the Environmental Review do not distinguish the difference. Further, all additional documentation that was provided by the Developers or obtained by the County after the requirement of an expanded project description, was collected without reference to any defined project boundaries and impact

areas. Provision of a definite project description should be a prerequisite to any analysis carried out by the County related to this Environmental Review.

(4) Inconsistent County References to Project. Throughout the Environmental Review – the references "the project" are inconsistent and confusing. For instance, at times, the description of the project appears to exclude the 2500 foot long road across the 06 Parcel and sometimes it does not. The project description uniformly excludes the grading, fill, and tree cutting that will be required to permit a service road to the proposed water tank located on the ridge line. In any event, these issues require clarification and a revised and a revised and re-circulated Initial Study.

(5) Conclusion. Notwithstanding the other deficits in the Environmental Review, the problems with the project description are significant and material errors that affect the validity of the facts, the County's conclusions based on these facts, the County's assessment of the impact of the project on the environment, and ultimately these deficits will affect any mitigation measures required by the County. The primary reason that the Environmental Review was required in the first place was because the project was situated in the middle of a very sensitive biotic resource and will impact/destroy sensitive biotic habitats. Therefore, these facts alone create a substantial material error in the Environmental Review that require, at the very minimum, a revised and re-circulated Environmental Review-Initial Study with appropriate, detailed mitigation measures designed to protect the sensitive biotic habitat that the Developer's have selected as a site for their development.

#### **E. Project Description and History**

##### **(1) Grading**

(a) Initial Unauthorized Grading: The Environmental Review again restates the Developers' assertion that they only graded 310 cubic yards initially solely to provide access for geo-technical exploratory equipment and to complete remedial earthwork and to mitigate an erosion condition and improve drainage. These statements are made without documentation and from the County's own records are incorrect. Please refer to Section IRC of this Letter for discussion of the errors in this determination.

(b) Grading Volume Errors: Please see Section IRC of this Letter for a discussion of the errors in the grading volumes.

(c) Spread Fill. The County failed to address any issues concerning the "3430 cubic feet of spread fill" proposed by the Developers. This is a material deficit in the County's Environmental Review in that improper spreading of excavated fill can destroy the sensitive biotic habitats that are part of and surround the project area. Appropriate mitigation measures that address this **issue** must be included and should be included in a revised and re-circulated Environmental Review,

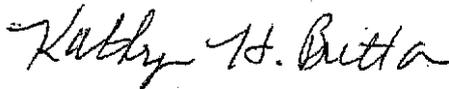
(d) Project Description. The Environmental Review refers the Developer's intention to build only a single-family home on the 09 Parcel. Both the 09 and 06 Parcels are owned by two San Jose based real estate development corporations, S&P Carrichael Enterprises, Inc., and Men Chy Properties, Inc. The one house proposed on the 09 Parcel been characterized

Ms. Paia Levine  
Environmental Coordinator  
Santa Cruz County Planning Department  
701 Ocean Street, Santa Cruz, CA 95060  
Comments Concerning Application No. 00-0143  
Page 10 of 10

frequently by the Developers as part of a larger development that the Developers intend for the 06 Parcel and the 07 Parcel that will include 10 to 20 expensive homes. Documentation for this assertion is contained in the June 2000 letter.

In conclusion, the Environmental Review should be revised by the County taking into consideration all the before discussed points and the Mandatory Finding of Significance and Technical Review Checklist should be revised accordingly. In light of the revisions, appropriate and details Mitigation requirements should developed and provided as part of the revised and re-circulated Environmental Review.

Sincerely



Kathryn H. Britton  
Executive Committee Member  
The Nisene to the Sea Open Space Alliance

cc: Ellen Pirie, Supervisor 2<sup>nd</sup> District

November 19, 2000

Paia Levine, Environmental Coordinator  
Planning Department  
County of Santa Cruz  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060-4023

RE: Environmental Review, Initial Study  
Proposed Negative Declaration with Mitigations  
Application No. 00-0143, APN 040-081-09 and APW 040-081-06

Dear Ms. Levine:

I write in order to elucidate what I perceive as ecological values of the Koch Property and the need to protect its sensitive habitats, including the coastal prairie terrace grassland and Shreve oak woodlands impacted by the above referenced project. I include with this letter, my critique of the proposed Negative Declaration with Mitigations referenced above.

As a biologist, I have performed years of research, management, and restoration of California coastal prairie habitat not only in Santa Cruz County but also throughout the extent of the habitat from San Luis Obispo through Mendocino counties. I have included my Curriculum vitae for your reference. For a published account of the importance of this habitat type, see Stromberg, et al. 2001<sup>1</sup>, which, among other things, notes that coastal prairie is the most diverse grassland ecosystem known from North America.

I have extensively toured the Koch Property and the two parcels that are the subject of the above reference "Application" during the spring of 2002 to assess habitat values and potentials of coastal prairie and to review prior ecological inventories and analyses.

In summary, my assessment is that the property has coastal prairie areas of the quality and extent that place it within the top 20 parcels in California remaining in private ownership. Three native grass species- *Danthonia californica*, *Nassella pulchra*, *Nassella lepida*- grow densely and extensively over most of the portions of grassland on the property. Native wildflowers co-occur in these areas, including the unusual *Dichelostemma multiflora* (many flowered saitas), *D. capitatum* (blue dicks), *Brodiaea terrestris* (dwarf Brodiaea) and *Calochortus luteus* (yellow mariposa). Although not known from the property, the habitat appears to be appropriate for rare, coastal prairie species such as *Holocarpha macradenia* (Santa Cruz tarplant), *Perideridia gairdneri* (Gairdner's yampah), and *Plagiobothrys diffusus* (San Francisco popcornflower). These species have the potential to be extant in the soil seed bank.

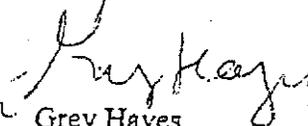
<sup>1</sup> Stromberg, M. R., P. Kephart, and V. Yaden. 2002. Composition, invasibility, and diversity in coastal grasslands. *Madroño* 48:236-252.

The coastal prairie **areas** at the Koch property form an important **link** for prairie dependent species. There are extensive areas of coastal prairie on the north coast of Santa Cruz County **and** in the hills above Watsonville, but little remains in the mid-county area. The tenets of conservation biology **stress** the importance of maintaining patches of **habitat** throughout the **historic** geographic **range** of **any such** habitat, in order to conserve the range of genetics of **species**. Moreover, **many animals** may use habitat islands **such as** the prairie at the Koch property **to disperse** through time. Given the fact that the Koch Property **is** appropriate habitat, **it is** certainly **possible** that the **endangered** *Cicindela ohlone* (Ohlone tiger beetle) could **again** disperse onto the Koch Property given the correct management regime of the property in the future.

In summary, I urge **that** the substantial grassland **areas** of this important property be carefully conserved in order to protect **its** many valuable ecological resources including all grassland and Shreve oak **woodland areas** that may **be** impacted by **any proposed** development on this property. Therefore, at the absolute minimum, the Initial Study must be revised and recirculated with the addition of detailed Mitigations proposed to be included in any Negative Declaration that appropriately address the impact of the proposed project on this important property.

Please feel **free** to contact **me** if you have **further questions** about the biology of the property or my **submissions** herewith

Sincerely,

  
Grey Hayes

Encls.

cc: **Supervisor Ellen Pirie** (by hand)

**Environmental Review: Initial Study**  
**by Joe Hanna, County of Santa Cruz Planning Department**

*General Critiques*

The Initial Study and checklist contain a few confusing issues. I take this opportunity to ask the following questions:

- The Environmental Checklist is missing the required column headings. What do the various checked lines stand for? Without the headings, does this document meet the legal requirements of CEQA?
- Does not include referenced footnotes (#'s 1 – 5, p.4). To what do these footnotes refer?
- The term “Mixed Grasslands” is not a standard term for plant communities in California. This undefined and vague term does not adequately inform the public. What is the definition of “mixed grasslands?”

B. Hydrology

5. This section notes “there is ample space in which to accomplish this filtration.”

- a. Where will detention basins for runoff filtration be situated?
- b. How much space and what conditions are required to filter pollutants from the site?

7. Driveway passes through soils with low-permeability, adjacent to ephemeral drainages. The document states that discharge will not leave site, but provides no data. There is an unclear sentence, “ and full of drainage will be required by County Public Works.”

- a. How will driveway runoff be maintained on site, especially in the wet meadow areas through which the driveway passes?

10. Notes that there are no impacts that degrade water quality

- a. How will driveway runoff be filtered before entering the “drainage swale” or sensitive wet meadows, mentioned in the biotic reports.

### C. Biological Resources

1. This area neglects to mention that *Danthonia californica* is listed on the County's sensitive plants species list.
  - a. Why is California oatgrass not recognized as being included on the County's sensitive plant species list in this section?
  - b. How does the County know that there are not regulated animals that might be impacted the proposed development?
2. There is no mention of wetlands and seasonal drainage areas in this section, nor is there recognition of impacts on purple needlegrass grassland or special forests. The text in this section also states, without cited reference material, that proposed mitigation measures will benefit prairie by controlling non-native plants and preventing further loss of habitat due to succession.
  - a. Are there wetland or seasonal drainage areas that will be impacted by the project?
  - b. Why are potential impacts to purple needlegrass and Shreve oak woodlands not included in this analysis?
  - c. What evidence is there on the long-term efficacy of mitigation such as that proposed?
  - d. What evidence is there to suggest that habitat will be lost due to succession?

### N. Mandatory Findings of Significance

1. This box is checked "no" though the project studies note a loss of >6,000 square feet of coastal prairie.
  - a. How does one reconcile the fact that >6,000 square feet of coastal prairie is being lost with the answer "no" in this section, especially with the lack of evidence of successful mitigation measures?
2. This box is checked "no" though there is no evidence of analysis of cumulative impacts in the reports. For instance, because Shreve oak was recently described and its range known to be very restricted, an analysis on its distribution and currently proposed projects' impacts is necessary. Also, current projects at the University of California, Santa Cruz, Nisene Marks, and Coast Lands and Dairies have the potential to impact the same sensitive habitats as occur on this property.

Furthermore, there is no analysis given on cumulative impacts on water use and hydrological resources.

- a. What other past and proposed projects will impact Shreve *oak* woodland and native grasslands containing California oatgrass and purple needlegrass?
- b. What are the cumulative impacts of the aforementioned projects on the aforementioned sensitive habitats?
- c. What other projects are proposed or ongoing in the watershed and what are the cumulative impacts of these projects on the hydrological integrity of the system?
- d. What other projects are proposed and ongoing that will impact the water use of the proposed project, and what are cumulative impacts of these projects?

### **Biotic Reviews by Kathy Lyons, April 2001, etc.**

#### *Use of Holland, 1986 citation*

In all of her reports, Ms. Lyons purports to use the Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland, 1986) as a basis for classifying the vegetation of the property. Although this is the only reference cited in any of her reports, there is no bibliographical citation included with details of this reference. Moreover, this citation is an unpublished report that is unavailable to the public, making it difficult to interpret the results of the analysis.

Although Ms. Lyons' methodology proposes use of the unpublished Holland system, the classification actually used in the reports does not coincide with that of the Holland classification system. For instance, neither the Holland (1986) system nor any other published scientific reference on California plant community types includes the terms "non-native grassland," "mixed grassland," "French broom scrub," or "mixed evergreen forest." The use of these terms makes it difficult to interpret the analysis.

Furthermore, Ms. Lyons appears to wrongly apply the term "coastal terrace prairie," which has recently been allied with stands of Pacific reed grass and tufted hairgrass rather than California oatgrass, which dominates the community termed "coastal prairie" in the Holland, 1986 reference (see Sawyer and Keeler-Wolf 1995).

Ms. Lyons' use of plant community nomenclature from either unpublished documents that are unavailable to the general public or from coined terminology circumscribes the purpose of CEQA review, which is to provide the public with adequate information to assess the impacts of a project. This leads to a number of questions:

- 1) Using Ms. Lyons documents, how can the public reference scientific publications to assess the impacts of the proposed projects?
- 2) Using Ms. Lyons documents, how can either the regulatory agencies or the public assess the *cumulative impacts* (defined by CEQA) of the project on the plant communities involved, when other regional planning document terminology differs from that used in this report?
- 3) When there is an established and widely accepted text on plant community nomenclature, why does Ms. Lyons use arcane and/or invented terminology?
- 4) What are the exact definitions of the plant Community types included in the reports?

### *Delineation of habitat types*

Ms. Lyons' methodology for delineating plant community types is not detailed in any of the documents. Generally, the methodology quoted areas being "viewed on foot." This is curious because there are published methodologies for completing biological inventories for this kind of biological analysis, and the methodology indicated is not adequate according to these methodologies. The latest publication, widely accepted by regulatory agencies, includes a rapid assessment methodology that would include little more work than that accomplished by Ms. Lyons (Sawyer and Keeler-Wolf 1995).

Use of established methodology may have prevented mis-identification of a major vegetation type on the property. Ms. Lyons incorrectly identified areas of a rare oak forest type dominated by Shreve oak (*Quercus parvula shrevii*). Much of what is mapped in the biotic reports and labeled "coast live oak woodland" is this, much rarer, forest type.

The demarcation of grassland types is similarly problematic. In other reports, Ms. Lyons has variously defined grassland types by percent cover or, more vaguely, dominance of native vs. non-native grasses. Here, Ms. Lyons relies on this latter, vague definition. In fact, non-native grasses dominate even the best quality coastal prairie areas and other grasslands commonly recognized as "native" grasslands. Ms. Lyons appears to rely on a yet to be undefined abundance of California oatgrass or purple needlegrass to distinguish between three grassland types on the property. As a suggested improvement, I append a policy statement that is currently in circulation with experts in the field, who have generally concurred with the present draft (Appendix I). What is needed is more precise standards and methodologies so that credible boundaries between grassland types can be presented. Coastal prairie and grasslands with stands of purple needlegrass are considered rare in California (Keeley 1990), and, as such, are required to be inventoried during the CEQA process. The current level of analysis includes insufficient scientific data to provide the level of detail presented in maps (see Fig. 1, from Lyons 4/01 report).

Finally, I have surveyed numerous coastal grasslands in California, and it is my professional opinion that there are much more extensive areas of grassland that deserve delineation as either California oatgrass and purple needlegrass series (coinciding with valley grassland and coastal prairie grassland in the Holland classification system). The grasslands at the site deserve more protection that suggested in the planning documents.

These comments lead to a series of questions:

- 1) What is the extent of Shreve oak forest on the property, and how significant are the impacts to this rare community type?
- 2) What are the specific criteria for delineation of the three grassland types?

#### *Analysis of impact*

I note that the biotic reports only analyze impacts to plants and plant habitats. Other than one survey for Ohlone tiger beetle, there is apparently no analysis of impacts to wildlife. The proposed project may impact corridors for a number of species, upland habitat for red-legged frogs, foraging and nesting habitat for a number of rare raptors and other birds, and habitat for a number of bats. None of these species appear to have been inventoried, and there is no analysis of impacts to these species.

The analysis of impacts to grasslands and Shreve oak woodlands, as partially stated above, is inadequate. The analysis includes only direct impacts to habitats, neglecting to analyze indirect impacts. Mitigation measures do not address the need for construction staging areas, impacts of changed hydrology, drainage structures, leach fields, night lighting, pollution and storm water runoff, or impacts of introduced species.

I note that *Danthonia californica* is listed as a wetland species by the US Fish and Wildlife Service in the list used to delineate wetlands. There is no analysis of impacts to wetlands in the biotic report, although there is allusion to wetland areas in at least one passage (p. 2 Lyons, 4/18/01). Because of soils and plant species, many areas delineated as "coastal terrace prairie" may indeed qualify as jurisdictional wetlands under the Clean Water Act, as these areas are dominated by California oatgrass and other wetland species. Moreover, coastal prairie, as a wet meadow habitat, is dependent upon saturated soil conditions that may be impacted by uphill development, as with the proposed driveway. And, encroachment on these wetland areas, or within buffer areas for ephemeral drainages, is in violation of the County's environmental ordinances.

- 1) Have wildlife impacts been assessed?
- 2) How might the project impact raptors who use grasslands as foraging areas?
- 3) How might the project impact red-legged frogs?

- 4) How much additional grassland and oak woodland will be affected by indirect impacts as listed above?
- 5) What measures will be used to avoid further indirect impacts from the project?
- 6) How will the project affect hydrology of the coastal prairie, and what will be done to mitigate for these impacts?
- 7) How will the project manage storm water runoff and water polluted by sediment during construction or leachates from construction materials flowing off site?
- 8) What biological impacts are possible from increased night lighting from the proposed development?
- 9) Why has there not been a wetland delineation of the property, particularly when the proposed driveway crosses a "drainage swale" and through areas dominated by wetland plant species, in a wetland soil type?
- 10) Will the project require County and/or Corps of Engineers permits because of impacts to sensitive wetlands and riparian areas?

*Suggested mitigation measures*

Ms. Lyons suggests a few measures in order to mitigate loss of sensitive habitat, but these measures are inadequate, inappropriate and untested. There is no time line for this work, no delineation of areas where this work is to be performed, no delineation of the amount of area to be mitigated, no funding mechanism (i.e., bond) for the mitigation, no reference site cited, no success criteria, and no baseline data on the mitigation sites. Moreover, the mitigation is suggested to take place in areas that are currently set aside from development: it would seem that mitigation should take place in areas currently threatened by development that would otherwise be lost. Suggested mitigation areas hinge on predicted loss and ecological degradation of existing habitat by exotic species and lack of management, though there is no data presented to substantiate this claim.

These subjects are worrisome because the County and other regulatory agencies have permitted a number of such projects, but not one grassland restoration/mitigation project has succeeded. Further permitting increasingly threatens sensitive habitats such as coastal prairie and purple needlegrass grassland

- 1) How will the mitigation areas be protected into perpetuity?
- 2) How will the mitigation funding be guaranteed?
- 3) What will be the time line for mitigation measures?

- 4) Will the County permit the project, as it **has** in the past, without clear mitigation measures and mechanisms for mitigation?
- 5) How much area will the mitigation areas contain?
- 6) What are the success criteria for the mitigation?
- 7) Where is the reference site for the mitigation?
- 8) What successful coastal prairie and purple needlegrass re: uration projects will this mitigation project be modeled upon?
- 9) What data supports the restoration need for the proposed (but undesignated) mitigation areas?
- 10) Why doesn't the required mitigation include permanent protection of sensitive habitats that are currently threatened by development?

### **Bibliography**

- Keeley, J. E. 1990. The Californiavalley grassland. Pages 1-23 *in* A. A. Schoenherr, editor. Endangered plant communities of southern California. Southern California Botanists, Los Angeles, CA, USA.
- Sawyer, J. O., and T. Keeler-Wolf. 1995. A Manual of California Vegetation. California Native Plant Society, Sacramento, CA, USA.

## Conservation Strategy for Coastal Prairie Conservation

### Issue Identification

Humans have severely directly and indirectly impacted grasslands in California during the last 300 years such that conservation of this ecosystem should now be a priority. The vast majority of California's original grasslands have been converted to agriculture or urban development (Huenneke and Mooney 1989). Remaining undeveloped grasslands face continued development pressure and are severely impacted by exotic, invasive organisms (Bartolome 1989). These remaining grasslands are recognized as one of the most endangered ecosystems in the United States (Noss et al. 1995).

The most intact remaining grasslands lie in the fog belt along the coast and have variously been referred to as "coastal prairie" "northern coastal prairie" "coastal terrace prairie (Heady et al. 1988a)." These grasslands are thought to contain the most plant diversity of any grasslands in North America (Stromberg et al. 2002). The core habitat of many species of plants and animals is contained the habitat matrix including coastal prairie (Appendix 1). Coastal prairie is home to most populations of at least 30 species of endangered plant and animal species (Appendix 2).

Conservation of remaining coastal prairie requires recognition and protection of remaining prairie areas as well as an understanding of the threats to the system from invasion, changes of disturbance regimes, and fragmentation. Much is already known about grassland ecology, but there has been little published research focused specifically on California coastal prairie (Foin and Hektner 1986, Heady et al. 1988b, Marvier 1998, Hatch et al. 1999, Maron and Jefferies 2001). The following section should serve as a basic methodology for recognizing coastal prairie areas so that conservation measures can be put in place to protect their remaining habitat.

### California Coastal Prairie Composition

Grasslands in coastal California vary depending on slope, aspect (Harrison 1999), and hydrology, but there appear to be community composition divisions between "xeric" and "mesic" types (Appendix 3). As with many plant community types in California, there is a great deal of community composition variation at local and landscape scales.

In describing the community composition of California grasslands, there has been much focus on the density of perennial grasses (particularly "bunchgrasses") (Barry 1972, Burcham 1975). The emphasis on perennial grasses is probably a mistake rooted in the presupposition that California grasslands, in their pristine state, would have been similar to Midwestern grasslands (Blumler 1992, Holstein 2001). However, the Mediterranean climate of California has driven the evolution of a diverse assemblage of annual grassland plants, particularly forbs, many of which are endemic to these grasslands. These annual species respond to a variety of germination cues so that they are not present in all years or under all management regimes (Talbot et al. 1939, Duncan 1975, Pitt and Heady 1978). The variation in abundance of this species has created the popularly

recognized “wildflower years” that make California so famous. However, it is this variation that also makes it difficult to recognize the conservation value of what are, in many years, fields devoid of Wildflowers. Therefore, it is present policy to assess grassland habitat value based on perennial grasses. In this respect, coastal prairie is widely recognized as containing two species of perennial grass: ‘*Danthonia californica* (California oatgrass) and *Nassella pulchra* (purple needlegrass). However, a few other perennial grass species may be equally important in various coastal prairie sites (Appendix 3).

### Assessing Conservation Value of California Coastal Prairie

It has been common practice to assess the conservation value of a given grassland site by recording a visual estimate of the percent cover of California oatgrass and purple needlegrass. Usually, this estimate is derived by walking a site and mapping variously sized patches as containing these species. Then, the percent cover within those patches is enumerated with a non-plot based ocular estimate or, more rarely, by recording visual estimates from quadrats placed within the patch.

For conservation purposes, scientists and agency personnel do not recognize a threshold value for percent cover of native grasses (Todd Keeler-Wolf, pers. comm). Data collected in the spring from numerous locations throughout the geographic extent of remaining coastal prairie areas suggest that few areas contain more than 15% relative cover of all native perennial grasses (Grey Hayes, unpublished data). Most of the cover in coastal prairie, as with all California grasslands, is exotic species. There is no data on the cover or extent of native grasses prior to the advent of these species, so it is difficult to assess potential cover for native perennial grasses at any site. There is, however, sufficient literature on the perennial native grasses to state a few important conclusions:

- 1) Even in relatively intact areas, there have been historic factors such as overgrazing, disease, drought, and competition with exotic, invasive species (in combination or alone) that has caused native perennial grasses to decline;
- 2) Perennial grasses experience extreme competition with exotic species, especially exotic annual grasses;
- 3) Otherwise, reestablishment and growth is limited primarily by edaphic factors in xeric areas and by seed dispersal and in mesic areas;
- 4) Perennial grasses, like most grassland species, are patchily distributed through any given patch of grassland;

Given these conclusions, it is evident that the conservation value of a given grassland site is well indicated by the presence, even in low numbers and in diffuse patches, of perennial bunchgrasses. It should be remembered that, even in the absence of native perennial grasses (and in the presence of abundant weeds) a diverse flora of native grasses and forbs may exist in the seedbank- but, this it is beyond the presently accepted regulatory framework to assess this possibility. At present, the following assessment criteria are suggested.

## Assessment Criteria

There are two types of grasslands that will have little potential to contain much native plant diversity. First, there are areas degraded by prior agriculture ("old fields"): if an area has been intensely cultivated, irrigated, or fertilized, the chance that it maintains much, if any, native plant diversity is slight. In such cases, there will be no native grasses in the center of the field as dispersal will be very slow and only along the fields' border (Stromberg and Griffin 1996). Historic photographs are a primary source of this information, but old hay fields appear as cultivated in photographs, but may have only been marginally disturbed may still maintain stands of native species.

The second type of grassland with little potential for native plant diversity is an area that has been type converted from other community types. It was historically common for ranchers to convert oak and scrub habitat to rangeland, and these areas may have recovered little plant species diversity typical of more intact grassland (Huenneke and Mooney 1989). In this case, historic photographs will be the only means of assessment.

If an area does not meet the previous two criteria, then it is necessary for a more intensive survey. The first stage of assessment should be a thorough mapping of the density and distribution of native perennial grasses. Coastal grassland areas that are of conservation value will, most likely, have individual native grass plants distributed in varying densities throughout the extent of the site. Because of varying topography, soils, hydrology, and so forth, there may be very few to very many individual bunchgrasses per acre. Mapping the distribution and densities of perennial grasses may help identify historic management boundaries that impacted the system (eg., old fields and type conversion). There is no known correlation between biotic values of dense vs. diffuse stands of native perennial grasses. The purpose for mapping perennial grass distribution and density is to assess site history. The presence of native perennial grasses may serve as an indicator for the potential for the site to contain other, more diverse species in the soil seed bank and for the site to offer the habitat for an array of animals which depend on this ecosystem.

## Bibliography

- Barry, W. J. 1972. The Central Valley Prairie. report California Department of Parks and Recreation, Sacramento, California.
- Bartolome, J. W. 1989. Ecological history of the California Mediterranean-type landscape. Pages 2-15 in J. W. Clawson, editor. Landscape Ecology: Study of Mediterranean Grazed Ecosystems, Proceedings of the Man and the Biosphere Symposium XVI International Grasslands Congress, Nice, France.
- Blumler, M. A. 1992. Some myths about California grasslands and grazers. *Fremonia* 20:22-27.
- Burcham, L. T. 1975. Climate, structure, and history of California's annual grassland ecosystem. Pages 16-31 in R. M. Love, editor. The California Annual Grassland Ecosystem, The Institute of Ecology, University of California at Davis, Anaheim, California.

- Duncan, D. A. 1975. The San Joaquin site of the grassland biome: its relation to annual grassland ecosystem synthesis. Pages 9-13 *in* R. M. Love, editor. The California Annual Grassland Ecosystem. Institute of Ecology, University of California at Davis, Anaheim, California.
- Foin, T. C., and M. M. Hektner. 1986. Secondary succession and the fate of native species in a California coastal prairie community. *Madroño* **33**:189-206.
- Harrison, S. 1999. Native and alien species diversity at the local and regional scales in a grazed California grassland, *Oecologia* **121**:99-106.
- Hatch, D. A., J. W. Bartolome, J. S. Fehmi, and D. S. Hillyard. 1999. Effects of burning and grazing on a coastal California grassland. *Restoration Ecology* **7**:376-381.
- Heady, H. F., J. W. Bartolome, M. D. Pitt, G. D. Savelle, and M. C. Stroud. 1988a. The California prairie. Pages 313-335 *in* R. T. Coupland, editor. *Natural Grasslands: introduction and western hemisphere*. Elsevier, New York, New York.
- Heady, H. F., T. C. Foin, M. M. Hektner, D. W. Taylor, M. G. Barbour, and W. J. Barry. 1988b. Coastal prairie and northern coastal scrub. Pages 733-762 *in* M. G. Barbour and J. Major, editors, *Terrestrial vegetation of California*. California Native Plant Society,
- Holstein, G. 2001. Pre-agricultural grassland in central California, *Madroño* **48**:253-264.
- Huenneke, L. F., and H. A. Mooney. 1989. The California annual grassland an overview. Pages 213-218 *in* L. F. a. H. M. Huenneke, editor. *Grassland Structure and Function: California Annual Grassland*. Kluwer Academic Publishers, Dordrecht, Netherlands.
- Maron, J. L., and R. Jefferies. 2001. Restoring enriched grasslands: effects of mowing on species richness, productivity, and nitrogen retention. *Ecological Applications* **11**:1088-1100.
- Marvier, M. A. 1998. Parasite impacts on host communities: plant parasitism in a California coastal prairie. *Ecology* **79**:2616-2623.
- Noss, R. F., E. T. LaRoe, and J. M. Scott. 1995. *Endangered Ecosystems of the United States: A Preliminary Assessment of Loss and Degradation*. Biological Report 28, National Biological Service, Moscow, Idaho.
- Pitt, M. D., and H. F. Heady. 1978. Responses of annual vegetation to temperature and rainfall patterns in northern California. *Ecology* **59**:336-350.
- Stromberg, M. R., and J. R. Griffin. 1996. Long-term patterns in coastal California grasslands in relation to cultivation, gophers, and grazing. *Ecological Applications* **6**:1189-1211.
- Stromberg, M. R., P. Kephart, and V. Yadon. 2002. Composition, invasability, and diversity in coastal California grasslands. *Madroño* **48**:236-252.
- Talbot, M. W., H. H. Biswell, and A. L. Hormany. 1939. Fluctuations in the annual vegetation of California. *Ecology* **20**:394-402.



Gary Davis  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse



Tal Finney  
Interim Director

**ACKNOWLEDGEMENT OF RECEIPT**

DATE: November 19, 2002  
TO: Paia Levine  
Santa Cruz County  
701 Ocean Street Room 400  
Santa Cruz, CA 95060  
RE: Carmichael Grading Project  
SCH#: 2002102136



This is to acknowledge that the State Clearinghouse has received your environmental document for state review. The review period assigned by the State Clearinghouse is:

Review Start Date: October 29, 2002  
Review End Date: November 27, 2002

We have distributed your document to the following agencies and departments;

- California Highway Patrol
- Caltrans, District 5
- Department of Conservation
- Department of Fish and Game, Region 3
- Department of Health Services
- Department of Parks and Recreation
- Department of Toxic Substances Control
- Department of Water Resources
- Native American Heritage Commission
- Office of Historic Preservation
- Public Utilities Commission
- Regional Water Quality Control Board, Region 3
- Resources Agency
- State Lands Commission

The State Clearinghouse will provide a closing letter with any state agency comments to your attention on the date following the close of the review period.

Thank you for your participation in the State Clearinghouse review process.

186

**J. KENNETH GORMAN**  
**MICHELE M. GORMAN**  
365 Danube Drive  
Aptos, CA 95003  
831/685-3945

November 18, 2002

Paia Levine  
Santa Cruz County Planning Dept.  
701 Ocean St., ste. 400  
Santa Cruz, CA 95060

HAND DELIVERED

Re: Project Application no.s 00-0143 and 40237S  
APN: 040-081-09 and 040-081-06  
Applicants: S&P Carmichael Enterprises, Inc., and Men-Chy Properties

Dear Ms. Levine:

We have lived at the above address for over ten years. We use the subject property nearly every day for recreation such as hiking, nature observing and biking. It is our access to the entrance to the trail into Nisene Marks at the top of the hill. We have always appreciated the use of the land and respected the rights of the owners. We have protected it by removing trash, evicting vandals and hunters, and notifying the sheriff about squatters.

We are not members of any organized group concerning *this* project.

We have the following concerns and disagreements with the plan as we understand it.

The proposed driveway is unnecessarily long. It will cover a large amount of grass and will block access to the open space from Jennifer, Kamian and Mesa Grande, essentially cutting off the property entirely. It also runs right behind the homes of our neighbors. The driveway should start at Mesa Grande. There would be no disadvantage to the owners, in fact, it would be cheaper. It would avoid destruction of the environment, traffic and attendant noise behind the adjacent homes, and blocked access.

Second, the project would eliminate access to the trail from Cabrillo to Nisene Marks, as well as the Nisene Marks trail itself, by blocking entry at Haas, Jennifer, Kamian Way, Mesa Grande and the water tank driveway. A number of alternatives could be implemented.

Third, we understand that the owners bulldozed the hillside and cut down a D U Hf ~ native trees without permits. The erosion from that was considerable. Our information is that there were minimal if any penalties imposed. The subsequent efforts at remediation to the hillside have not been maintained and were not very effective. This has not inspired confidence that the steps necessary to protect the grassland will be observed, or that their violation will be effectively policed and remedied. This is particularly troubling in light of the recommendation to proceed without an environmental impact report.

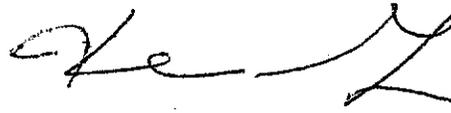
Fourth, we are advised that the owners are willing to sell the property for \$5,000,000, and that the purchase price 3-4 years ago was \$1,500,000. That is unreasonable. There is no guarantee that any investor will make a profit. A \$3,500,000 profit for speculative purchase of

property that historically had not been developed is excessive. The taxpayers should not have to support such a profit. An appraisal should be considered and the project halted until that has occurred.

Fifth, we have been informed that the owners have submitted documents indicating prospects for a development of 10-20 homes on the property. The owners' representative has personally informed me that that is not true - the only plans are for the one house at issue. If in fact there are plans in the work for a subsequent development and this is only the first step, the project should be evaluated in that light, and the public should be so informed.

Based on the foregoing we request that the project not be approved as presented, that a public hearing be scheduled to obtain community input and ensure that environmental and neighborhood concerns are adequately addressed, that an environmental impact report be required, that enforcement mechanisms be ensured, and that alternative accesses and purchase proposals be investigated before construction permits are issued.

Sincerely



J. Kenneth Gorman

cc: Alvin James  
Ellen Pirie

# Fax

**Name:** Paia Levine  
**Organization:** County of Santa Cruz Planning Dept  
**Fax:** 831 454-2131  
**Phone:** 831 454-3178  
**From:** Bud, Linda, and Jordan Gerstman  
**Date:** 11/19/02  
**Subject:** Koch Property Development  
**Pages:** 1

Please **do** all you can to squelch the current **development** plans concerning the Koch / Carmichael Property near **Nisene Marks Park** at the end of Vienna **Woods**. The neighborhood **can** not **withstand** any more traffic (esp. on Vienna Drive) **without** a serious **threat** to safety. Also, this **particular** developer is not **an** honest person, as he has misrepresented his **intentions** on several occasions **to several** people, including me (e.g., he **has** told different parties that he **plans** on **building anywhere** between I and 50 homes on **the** property.) I am **sure** you have **heard** the first hand **report**, and I am **aware** of the conflict between property and **community** rights. Let **me** say that I **am** generally a **private** property advocate. **But**, at the same, time, I ask **would we allow** a 7/11 or McDonald's in our residential neighborhood? I **suggest** **that** this particular developer is **planning** a large 50 to 100 home **or** condo developer on this **unsuitable** land. We **have** a right and responsibility to prevent this **misuse**. The developer and **his son** have been threatening, **dismissive**, verbally **abusive**, and downright dishonest. The current **plans** will blocking **the main** access to an **important** Nisene Marks tail. I **have** no **doubt** why. The contractor and **his** foreign investors **have** no intention of using the 3 parcels as the **land** as currently intended. **As** civil and public servants, you have a right and responsibility to represent the will of the people, **and** to **protect** the public's safety. We **should** not confuse private **property** rights **with** the type of nonsense we are currently confronted **with**. I therefore urge you to do the right **thing--the sane** thing, the **common sense** thing, and the responsible thing--do not **allow** this greedy person to run over our right to self-governance and **local** control.

Sincerely yours,

B. Gerstman, D.V.M., **M.P.H.** Ph.D.

copies to:

Alvin James, Director, **County of Santa Cruz** Planning Dept (FAX 454-2131)  
Ellen Pirie, Supervisor 2nd District, Santa Cruz County (FAX 454-3262)

Laurel Nakanishi  
432 Danube Drive  
Aptos, CA 95003  
November 15, 2002



Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

Dear Ms. Levine:

I have several strong concerns about the pending County approval for the house that Stephen Carmichael wants to build on the Koch Property in Aptos. If the County approves development of this property, the public will lose access to a popular recreational area, and will lose an access to Nisene Marks and Cabrillo College, both important issues in these times of growing population and traffic congestion.

One piece of the developer's plans that seems to be totally unnecessary is the road that he wants to build 30 feet behind the houses on Danube Drive, where my Family and I live. Not only does this seem unnecessarily close to my neighbors' and my homes and backyards, but it also is a poor decision from an environmental standpoint. With the Coastal Prairie Grassland habitat on the property, it seems incredible that the developer will be allowed to build a 2,200 foot through the property parallel to an existing public street. It would make more sense to have his house accessed by Danube Drive to Mesa Grande Road, rather than make a new road, paving over unique habitat.

I assume that you are already informed of other issues concerning development of the Koch Property, including increased traffic on an already marginal Vienna Drive, parking issues, and more. I hope that you are highly aware of how pivotal the Socii Property is, that Cabrillo College is in favor of its preservation, that it is in the Nisene Marks General Plan, and how it provides a link between the two public lands. This is an important piece of property for future public use. Please act with vision for the future.

Sincerely,

(Ms.) Laurel Nakanishi

cc: Alvin James, Ellen Pirie

Alvin James, Paia Levine, Ellen Pirie,

I am writing **this letter** to strongly request that you do **not** proceed with final approval of the projects (app #00-0143 and #40237S) to construct a single-family dwelling and access road on the "Koch property" in Aptos. I believe *that* the negative **impacts** that would occur with **this development far outweigh any** need for additional **housing in this** area

As a resident of the adjacent "Vienna Woods" neighborhood my **first concern is** the **safety** of the residents. The "Koch property" is heavily used as an access to Nisene Marks State **Park**, and I believe once **this access is** eliminated that the entrance of choice will be the trailheads in Vienna Woods. While I **appreciate** everyone's **right** to access **the public park**, I see a problem concerning **this increase of traffic on Vienna Drive** (a **windy road bordered by a ravine on one side and a hill with housing on the other**), and the **lack of parking space and restrooms at the trailheads**. **This** neighborhood was not designed to **handle** a public thoroughfare. One of the reasons my husband and I purchased our home in **this neighborhood** was to **avoid the dangers of heavy traffic**, for the **safety** of our young children, as well as the **quiet**. I know this desire for safe, low traffic streets is shared by many of my neighbors. As one of the largest cul-de-sacs in Santa Cruz County, I believe we already have **maximum** traffic **the neighborhood was** designed to safely handle. Another safety concern is **that** of emergency access. If **development is to take place**, the emergency access through the "Thousand Oaks" neighborhood is eliminated, **making** emergency rescue/evacuation of the neighborhood quite limited.

My home is on Danube Drive, with my backyard bordering **the Koch property**. When we **were looking at our property** we inquired on the **status** of the Koch property. We were informed that the **County of Santa Cruz, Planning Department** had limited development of the entire Koch property to five homes. This designation is what we relied on for affirmation that my backyard would not be overlooking a big housing development. I respect a property owners right to do what they will with **their own property - as long as** they respect the designation stated by the **Planning Department**. The owner of the property, S&P Camichael Enterprises, Inc., **has stated** publicly that they intend to develop many more than **the five homes the Planning Department has allocated for the property**. **This kind of development provides for** the potential of a drastic increase in traffic on a road that is already very busy, as well as diminishes my assessed value of my home.

The **plan** of placing the "driveway" 30 feet behind **the existing homes shows** a blatant disregard by the developer for the current residents along Danube Drive. **Not only** will there be an increase in noise and dust due to the road, but our neighborhoods drainage systems **will be disrupted as it discharges** to the property along **were the proposed road** would be located.

There is an opportunity to **use** this land in a way that benefits people **far** beyond **just the** residents of Vienna Woods, or any future home development. The **plans outlined** by the group "Nisene 2 Sea", shows vision in creating a community that is less reliant on

motorized vehicles for accessing areas of Aptos, while providing public use of this land. The Koch property lies between Nisene **Marks State park** and **New Brighton State beach**. This property is the only **link from the Santa Cruz Mountains to our coastline**. **Once this property is developed the opportunity of this unique corridor disappears for this generation as well as all those who follow. I think the plans and ideas of this group should be fully realized in a public forum before any decision about development moves forward.**

I believe that the building of this first home is just the beginning of a plan for the development of the entire property, with no consideration for the designation by the Planning Department, the sensitive Coastal Prairie Grassland areas, or for the prescriptive easement that has been enjoyed by the area residents for decades. I purchased my home with the idea that this Aptos area is unique because of the wonderful open spaces that greatly improve the quality of life here, as well as the security that comes with living in a neighborhood at the end of the road cul-de-sac. I implore you to take this opportunity as the current stewards of the planning department to ensure that this property is utilized in the best fashion for all the residents of Aptos, the surrounding areas, and future generations. At the very least this issue should be brought to a public forum, and all plans should be the result of careful study of environmental and social concerns.

Thank you for your time and your consideration.

LeAnn and Thomas Copriviza  
260 Danube Drive  
Aptos  
(831)684-2738

November 19, 2002

Paia Levine  
Santa Cruz County Planning Department  
Environmental Review Staff  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060  
FAX (831) 454-2131

Vickie and Gary Anderson are strongly **opposed** to the development on the Koch property - Assessor Parcel #040-081-09 and 040-081-06.

We purchased our house at 404 Oanube Drive in 1975, and have always been concerned with evacuation, (i.e., fire, earthquake, mudslide). We have only one (1) **exit/entrance** road, which is Vienna **Drive**. The increase in traffic just with construction and heavy equipment alone will be dangerous.

For years we have requested **the** option to purchase (1/4-1/2) acre behind our houses. We know **this new** road not only will **it** be too close to our homes, **it** will create a danger to sensitive habitat, cause drainage **problems** and will **be** an **eye-sore**. On top of **that** **it** will **also** be a "back **door**" opportunity to open up development of the Koch property. This is an outrage given our traffic, the life threatening danger of no access to Soquel, and lack of water and sewer sources.

How **can** this development even be considered without an Environmental Impact Report or Public Hearing? What **is** happening to **Santa Cruz**? We almost **have** to have an Environmental Impact Report to put up an awning,

We have many other concerns regarding **this** proposal to our neighborhood such as: Impact **on all homes** on Danube Drive, **loss** of safe alternate access to Cabrillo, Soquel Drive and **bus lines**, parking **issues**, and **loss** of the Nisene 2 Sea Corridor.

**Please** reconsider a **public** hearing and Environmental Impact Report before doing anything!! These people are not local and do not care what this proposal could do to our environment or our **welfare**.

Sincerely,



Vickie and **Gary** Anderson  
104 Danube Drive  
Aptos, CA 95003

c: Alvin **James**, Director  
**County** of Santa **Cruz** Planning Department  
Ellen Pirie, Supervisor 2<sup>nd</sup> District  
Santa Cruz County Board of Supervisors

November 17, 2002

Santa Cruz County Planning Department  
Attention: Paia Levine,

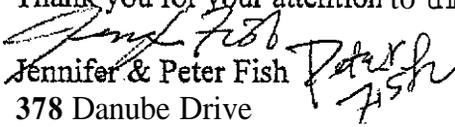
We are Writing to you to express our concerns regarding the planned development of the Koch Property adjacent to the Vienna Woods area of Aptos. We live on Danube Drive which backs **up** to the property in question. We understand that Mr. Carmichael, **the** current owner of the property, has applied for permits to build a single large residence and an access road which would run directly behind our house. We also understand that his desire is to develop the property further **with as many as 20** large homes despite the fact that the property was not zoned for a large development, is outside the Urban Services Line.

This property is also the only direct link between Nisene Marks State Park and the Cabrillo College property and has been used for over **35** years by the public for hiking access. Though it would seem that there are prescriptive rights of access - Mr. Carmichael has previously threatened people walking on the property and has said he **will** close off all access once his project begins.

**Our** greatest personal concern at this time is regarding the planned access road which we have been told would run just 30 feet behind our home. This makes little sense, as there **is** an existing dirt road further back that Mr. Carmichael has previously utilized **and** which emergency vehicles have also historically utilized. Furthermore, there is a substantial drainage channel directly behind our home which draws run-off from a large portion of Danube Drive and **would** be impacted by the planned roadway. This is a very large property **and** to build a long road directly behind 14 homes that have stood unencumbered for **35** years, seems ill conceived and unnecessary.

We ask that these issues be taken into consideration and at the very least some **kind** of public forum be held, before any permits are finalized.

Thank you for your attention to this matter,

  
Jennifer & Peter Fish  
378 Danube Drive  
Aptos, CA 95003

cc: Supervisor, Ellen Pirie

Parcel #  
040-081-09  
+ 040-081-06

RD: APN 040-081-09-7 Mid County -  
040-081-06 } above Cabrillo College

Project number = 00-0143 + 407375

S + P Carmichael Est + minor chg. Prop.

I live on Danube Dr -

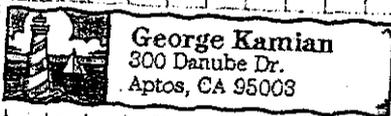
George Kamian + family

300 Danube Dr. Aptos 95003

831-688-2367 -

I main concern in the proposal  
2200 foot access Road to be built  
30 feet behind on Home -

There is a ~~rough~~ Road about a  
100 feet behind my Home - why  
cant the builder use that - they have  
also - does the Ord. on the 30 foot  
Road mean that a future subdivision  
map has already been approved?



688-2367

Respectfully -  
George Kamian

John Campbell  
3396 Haas Drive  
Aptos, CA 95003  
Phone: 662-2691

November 8, 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean street, Suite 400  
Santa Cruz, CA 95060

**Re: Project Application Numbers: 00-0143 & 402378 - Public Review**

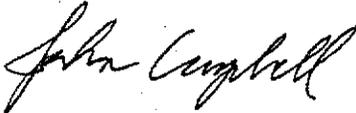
Dear Ms. Levine:

I am a local resident and property owner. My residence borders the property for the above referenced project. Many local residents and myself access Nisene Marks State Park via the trailhead connecting to Mr. Carmichael's property. I would estimate that twenty-five to fifty park visitors enter the park through this entrance on an average day. This entrance is the primary walk-in access from Cabrillo College lands and Haas Drive.

If the above referenced project is constructed, as proposed, this trailhead will be blocked from further usage. This will eliminate access to an important section of trail and require these park users to drive to other park entrances. Access to Nisene Marks State Park is a key issue, as there are so few access points to this large and important land resource. These trail systems have been in use by the general public for many years and provide the only entry to this northwestern boundary of the park.

I would like to request that this permit only be approved on the condition that the Owner provides an alternate access to this park entrance. The trailhead of which I am speaking is on the ridge-top behind the Soquel Creek Water District water tank. This would require the owner to provide an alternate trail around his proposed drive and house, up to the ridge-top and to the trailhead at the park boundary.

Sincerely,



John Campbell

cc:

Alvin James, Director  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

Ellen Pine, Supervisor 2<sup>nd</sup> District  
Santa Cruz County Board of Supervisors  
701 Ocean Street, Room 500  
Santa Cruz, CA 95060

Robert M. Weissberg  
102 Las Lomas Drive  
Aptos, CA 95003

November 9, 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

**Re: Project Application Numbers: 00-0143 & 402378 –Public Review**

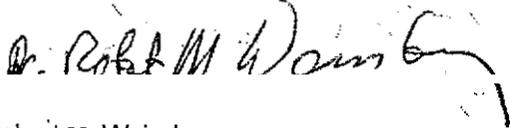
Dear Ms. Levine.

I am a local resident and property owner. My residence borders the property for the above referenced project. Many local residents and myself access Nisene Marks State Park via the trailhead connecting to Mr. Carmichael's property. I would estimate that twenty-five to fifty park visitors enter the park through this entrance on an average day. This entrance is the primary walk-in access from Cabrillo College lands and Haas Drive.

If the above referenced project is constructed, as proposed, this trailhead will be blocked from further usage. This will eliminate access to an important section of trail and require these park users to drive to other park entrances. Access to Nisene Marks State Park is a key issue, as there are so few access points to this large and important land resource. These trail systems have been in use by the general public for many years and provide the only entry to this northwestern boundary of the park.

I would like to request that this permit only be approved on the condition that the owner provides an alternate access to this park entrance. The trailhead of which I am speaking is on the ridge-top behind the Soquel Creek Water District water tank. This would require the owner to provide an alternate trail around his proposed drive and house, up to the ridge-top and to the trailhead at the park boundary.

Sincerely,



Robert M. Weissberg

cc:

Alvin James, Director  
County of Santa Cruz, Planning Department  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

Ellen Pirie, Supervisor 2<sup>nd</sup> District  
Santa Cruz County Board of Supervisors  
701 Ocean Street, Room 500  
Santa Cruz, CA 95060

11-13-02

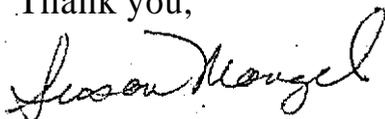
Susan Mangel  
204 Danube Dr.  
Aptos, CA 95616-2809

Paia Levine  
County of Santa Cruz, Planning Dept.  
701 Ocean St, Suite 400  
Santa Cruz, CA 95060

Dear Ms. Levine,

I am enclosing a letter that I sent to Steve Carmichael in April just to be certain that it is included in the material that you will consider when you review his permit. He spoke with me after the letter and assured me that he was taking my concerns into consideration. I would like to avoid problems before they start.

Thank you,



Susan Mangel

4-10-02

Susan Mangel  
204 Danube Dr.  
Aptos, CA 95003-2809

Stephen R. Carmichael  
4125 Blackford Ave, Suite 250  
San Jose, CA 95117-1793

Dear Steve,

I was told that plans are moving forward to build a road from Jennifer Drive to access your property. I am writing to remind you of two matters about which we spoke some time ago so that they can be taken into consideration before construction begins. I am, also, forwarding this letter to Alvin James at the County Planning Office. My hope is that the road will be built with forethought avoiding headaches for all of us.

First, I understand that the plan is to build the road 40 feet from the property line. I assume that line is where our fence is standing. There is an oak tree on your property whose drip line is about 45 feet from our fence. I would like to insure that the tree's health is not compromised by the new road. It is a beautiful asset to your property which should be preserved.

Second, much of Danube Drive and some of your property drains directly to the area that the new road will begin at the extension of Jennifer Drive. This causes large puddles in the winter. In really wet winters, your property drains into our backyard and out again. I am hoping you **will** consider this in your plans. **If** the road is improperly constructed, it will either be submerged during heavy rains or act **as** a levee backing up water into **our yard**.

I am willing to work with you, if necessary, to trouble-shoot problems before construction begins. Please keep me informed.

Thank you,

Susan Mangel

cc: Alvin James, Planning Director of Santa Cruz County

November 13, 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Department  
701 Ocean Street, Ste. 400  
Santa Cruz, CA 95060

Dear Ms. Levine:

I am writing in regard to S&P Carmichael Enterprises et al (developers, Project Application numbers 00-0143 and 40237S) who are seeking to begin development on Aptos parcels #040-081-06 and 040-081-09.

The buyers are asking to grade a new access road directly behind the residences on Danube Drive. There is an existing road connecting Jennifer Drive with the proposed house site that has been used historically for public right-of-way and fire access. That road does not encroach as much on the existing homes. The original road has better drainage slopes than the proposed route. It has eroded little despite long use and no special drainage features other than sensible original placement. The proposed new road would need extensive new grading to drain well at all.

The proposed new road would expose the existing homes and yards to noise and dust, while the existing road is naturally screened by vegetation along most of its route. Many of the homes along Danube Drive have minimum setbacks at the rear, meaning that the new road would be only 50 feet from the bedrooms.

I would much prefer that this land eventually become part of Nisene Marks State Park. The property has been used extensively by the public for hiking, biking and equestrian access between Cabrillo College, Thousand Oaks and Vienna Woods to the adjacent Nisene Marks park. However I respectfully request that, if we can't get this land into Nisene Marks, we at least see that it is developed with as much sensitivity to the local environment and ambiance as possible.

Sincerely,



Barry R. Turner  
390 Danube Drive  
Aptos, CA 95003  
(831) 662-1774

cc: Alvin James, Director SC Planning Dept.  
Ellen Pirie, 2<sup>nd</sup> Dist. Supervisor

201

13 November 2002

Paia Levine, Environmental Review Staff  
County of Santa Cruz, Planning Dept.  
701 Ocean St, Ste. 400  
Santa Cruz, CA 95060

Dear Ms. Levine:

Regarding project applications #00-0143 and 40237S filed by S&P Carmichael Enterprises and Men-Chy Properties for development on the Koch property in Aptos:

My husband and I purchased our Danube Dr. home in 1994, specifically because of the open space behind it. We remodeled the house to take full advantage of the view west across the Koch property. Since then we have enjoyed watching hikers, bicyclists, dog-walkers, deer, coyotes, quail, hawks, joggers, Cabrillo College classes, mushroom gatherers, horses and their riders, raccoons, possums, birds, bird watchers – and yes, even wild pigs – outside our windows. I have photographed many sunsets over this gorgeous piece of property and pulled French broom that was encroaching on hiking paths; my husband has carefully planted and tended redwood trees in the "field".

I am horrified to learn that approval for a driveway immediately behind our home is already pending'. Mr. Carmichael, angered that his plans to subdivide and develop this property were being fought by neighbors, threatened several years ago to run his driveway right behind our fences in retaliation. I cannot believe that the county is considering allowing him to do just that, without even an Environmental Impact study. I do not begrudge Mr. Carmichael his "dream home" on top of the hill but I object to the impact that the proposed placement of his driveway will make on our own dream home. The houses on this side of Danube Dr. have very narrow backyards and the proposed driveway would run directly behind our back fence. Aside from the fact that that area is quite swampy in winter, we (and our neighbors) will lose the privacy we purchased when we bought our homes. I am also quite sure that the value of our property will suffer should the proposed driveway be installed: how many other homes in the county have roads both in front of *and* behind them?

There is already a good, historic road running from Jennifer Drive through the field and up to Mr. Carmichael's hill. Improving that road would cause considerably less damage to the field than creating a brand new road: it has better drainage and is already well compacted. I would hope that the county would take a careful look at this other option rather than simply approving Mr. Carmichael's request without question.

In addition, I strongly object to Mr. Carmichael's plan to block all public access to the Koch property "when work begins". I sincerely hope that the county will not allow this. The Koch property has been used by the public, freely and without interruption, for countless years and it is my belief that the public now has a prescriptive easement across that property. Since he purchased the property, Mr. Carmichael has been attempting to block access to it and I fear that if the county allows him to do so "when work begins", it will jeopardize our access in the future. Please allow the courts to make the decision as to whether the public has the right to enjoy the Koch property. For safety's sake, the public would only need to be barred from the actual home site.

Thank you for your attention to this important matter:

Sincerely,

A handwritten signature in cursive script that reads "Carole B. Turner". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Carole B. Turner  
390 Danube Dr.  
Aptos, CA 95003  
(831) 662-1774

cc: Alvin James  
Ellen Pirie

00-143-02 08:52A TEMPLE BETH EL GIFT SHOP 831 688-0888 P.02

November 18, 2002

Applicants: S P Carmichael Enterprises, Inc. and Men-Chy Properties  
(Developers/Joint Owners)

Assessor Parcel Numbers: 040-081-09 and 040-081-06

Project Application Numbers: 00--143 and 40237S

To: Alvin James, Director, County of Santa Cruz, Planning Department

My husband and I are homeowners in the Vienna Woods neighborhood. We have lived here since 1990 and in Aptos since 1975. We are writing this letter to state our opposition to the project slated for the property, (formerly known as the Koch Property) listed at the top of this letter. We are opposed to the construction of the home and the 2,200 foot road that will give the developer access to the property on the west side of Danube Drive, exiting at Jennifer Drive.

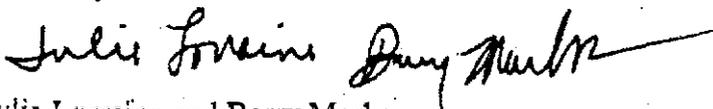
We believe that if this project is allowed to be built, it will negatively impact our neighborhood in several ways.

1. Loss of recreational use of the Koch Property. The developer has stated that he will block all public access to this property via Jennifer Dr., Kamian Way, Mesa Grndnc, Haas and the water tank trail into the Forest of Nisene Marks State Park once work begins. There is a very long standing use of this area by hikers, bicyclists, birdwatchers, and folks enjoying the open space.
2. This property provides an important non-motorized access link between Nisene Marks State Park and adjoining neighborhoods, Aptos Village, Cabrillo College (and Saturday Farmer's Market!) and New Brighton State Beach. This would be lost, if the project moves forward.
3. Truck and heavy machinery traffic from project construction, would impact Vienna Drive, the only road in and out of the neighborhood. In addition, there would be increased traffic related to loss of public access into Nisene Marks from Cabrillo College. Approximately 100 people per day enter Nisene Marks from the Cabrillo property.
4. Loss of privacy to all homes on Danube which back up to the proposed driveway.

Despite good faith efforts to purchase the property as parkland, the developer has set an unrealistically high sale price and has developed an increasingly antagonistic relationship with the neighborhood.

We strongly urge you to take this information seriously and to vote against approval of this proposed project.

Sincerely,



Julie Lorraine and Barry Marks  
3848 Vienna Drive  
Aptos, California 95003

Date: Nov 18, 02

To: Celia Scott

From: Paul Levine Phone: 454 3178

Subject: Carmichael Inquiry

Number of pages including this page: 2

Comments: Proposed mitigation measures are attached. Note that the footprint of the house appears on sheets 2, 3, + 6 of Attachment 2. Road grading for all roads = 675 yds<sup>3</sup>, per project description. (That category includes the driveway). I do not ~~have~~ <sup>know</sup> the proposed area of the home. Please check w/ the planner Joe Hanna, 454-3175, for that info.

SHOULD YOU HAVE ANY TECHNICAL PROBLEMS RELATIVE TO THIS FACSIMILE TRANSMISSION, PLEASE CALL THE STAFF PERSON SENDING THIS AT THE NUMBER LISTED ABOVE.

\* \* \* \* \*

**WARNING!** This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail at our expense. Thank you.

fax/811

94296166	NORMAL	18,12:39	1'38"	2	OK
Telephone Number	Mode	Start	Time	Page	Result
Note					

P.1 502 Nov 18 2002 12:41

\*\* Transmit Conf. Report \*\*

via Levine, Environmental Review Staff  
 County of Santa Cruz, Planning Department  
 60 Ocean Street Suite 400  
 Santa Cruz, CA 95060

Re: Project Application Numbers: 00-0143 & 402378 - Public Review

As local residents at 3400 Haas Dr. in Aptos, my husband and I have walked the trails on the Koch property for more than 20 years; including the trail head going into Nisene Marks State Park on top of hill where applicant proposes to build. We also access the Park entrance at the end of Danube Dr. via the Koch property.

We have a immediate concern about the developer's plans to block all public access to the Koch property via Haas Dr.; Jennifer, Kamian and Mesa Grande when work begins; thus also cutting our access to Nisene Marks Park.

We strongly urge you to initiate an Environmental Impact Report for this project for the following reasons:

1. There is the sensitive Coastal Prairie Grassland. The 2,200 ft. access road proposed on the middle 3 acre parcel will destroy too much native vegetation. It will also cover too much aquifer receding ground (Aquifers of water are receding before the tide of luxury homes.) You and your staff must know we are now, and have been for some years overdrawing our Aquifers in Sequel Creek Water District (SCWD) by an estimated 600-15,000 acre feet per year. To their credit SCWD denied applicants a water hook up, then a County Dept gave a well permit. It is all the same water we are overdrawing!
2. Applicants are proposing a 2 story home and driveway (on very steep terrain) with 2 garages on top of the hill next to a SCWD water tank.

Exhibit G  
Re-circulated  
Initial Study Comments

# **Fax cover sheet**

**5 pages to follow**

**Attention:**  
**Paia Levine**  
**Ken Hart**

County Of Santa Cruz Planning Department

Application No: 00-0143 and 40237S

APN: 040-081-09 and 040-081-06

Owner: S&amp;P Carmichael Enterprises Inc. et al

Thank you for sending me a copy of the Environmental Review Checklist concerning the above noted property. When reviewing the E.R.C. I found several items that seem in contradiction, are unclear, or wrong. As residents of Danube Drive our backyard overlooks the property and I believe that we have valid concerns with the accuracy of the E.R.C. At this time I ask that further review be required before the proposed development proceed.

My first concern is with the proposed area 10 feet from the back of my property, and its preference as a road, over the already existing dirt road. In 1999 Carmichael Enterprises began the illegal grading of the hillside, along with drilling a well, and surveying the property. There was extensive vehicular travel associated with these developments. Heavy equipment and passenger vehicles utilized the existing roads (pictures to follow) to the building site. In one instance a S.U.V. attempted to utilize the area of the property behind the homes on Danube Dr. and become stuck, requiring a tow truck. Due to the fact that the area behind the homes is not a natural roadway and there is an existing roadway on the property that has been used by Carmichael Enterprises, I believe the intent of the roadway behind Danube Dr. is to ring fence the property and close off all access to the public along with making it much easier for future building on the property. The E.R.C. (in section L, #4) ask the question concerning potential "growth inducing effect", and contends there will be none. Mr. Carmichael has publicly stated his intentions in developing the property far beyond the current designation, and the design of the access road is conducive to the type of large development Mr. Carmichael desires. This ring fence access road will eliminate any potential of a park that Parcel 06 has been designated, will block the public access that has been enjoyed for many years, and also eliminate a path for the Nisene 2 Sea Corridor, which has the potential to be a jewel of Santa Cruz County tying the forest of Nisene Marks to the Pacific Ocean. If the true concern of the developer were to minimize impact on the environment and to provide continuity within the community context, the house would be planned in a place with closer access to existing paved roads. In the E.R.C., section C, #2 it is stated, "the road alignment was modified to avoid most of the sensitive habitat." Which refers to a small area of Coastal Terrace Prairie on the southern border of the property. In referencing the much larger Coastal Terrace Prairie north of Wilshire Ave. the E.R.C. (same section and #) states "As long as the new roadway follows the existing roadways disturbance in this area as much as possible: there will be minimal loss of habitat." To contend that in one area building a roadway will cause the loss of "approximately 6000 square feet of Coastal Terrace Prairie", and in another larger area there will be "minimal loss" is a blatant contradiction.

If the house were to stay at its current proposed place at the least the obvious choice for the access road would be to enter the property from "Karnian Way" ("A Street", "Karnian Ave."). This access point would not only bypass some of the sensitive Coastal Terrace Prairie, but also avoid natural habitat of the many small animals (quail, rabbit...) that live in the Coyote Brush Scrub and avoid the Coastal Live Oak Woodland, as well as negating the impact of placing a road directly behind the residence of Danube Drive.

The noise created by being in the middle of two thoroughfares would drastically alter the current ambiance of the Danube Drive homes. The E.R.C. contends that there will be no change in ambient noise levels, which is ridiculous. On a personal note, the noise and dust created by this road would be intolerable to me as I work at home during the day and have a young child with asthma. The area of *the proposed* access road between Jennifer Dr. and Wilshire Dr. is a green belt between the homes in the area and Carmichael Enterprises property. To say there is an existing roadway along this site a complete fallacy. By using the existing dirt roadway of the property the future development would be impacted. I believe that Santa Cruz County has an unique opportunity to have a corridor from Nisene Marks to the Sea, but a road ring fencing Carmichael Enterprises property will eliminate this from being a possibility, as well as cut off the access to the park that the public has enjoyed for years. The residents would suffer from the loss of this access and the loss of the ambiance in which they currently live.

Thank you for your time.

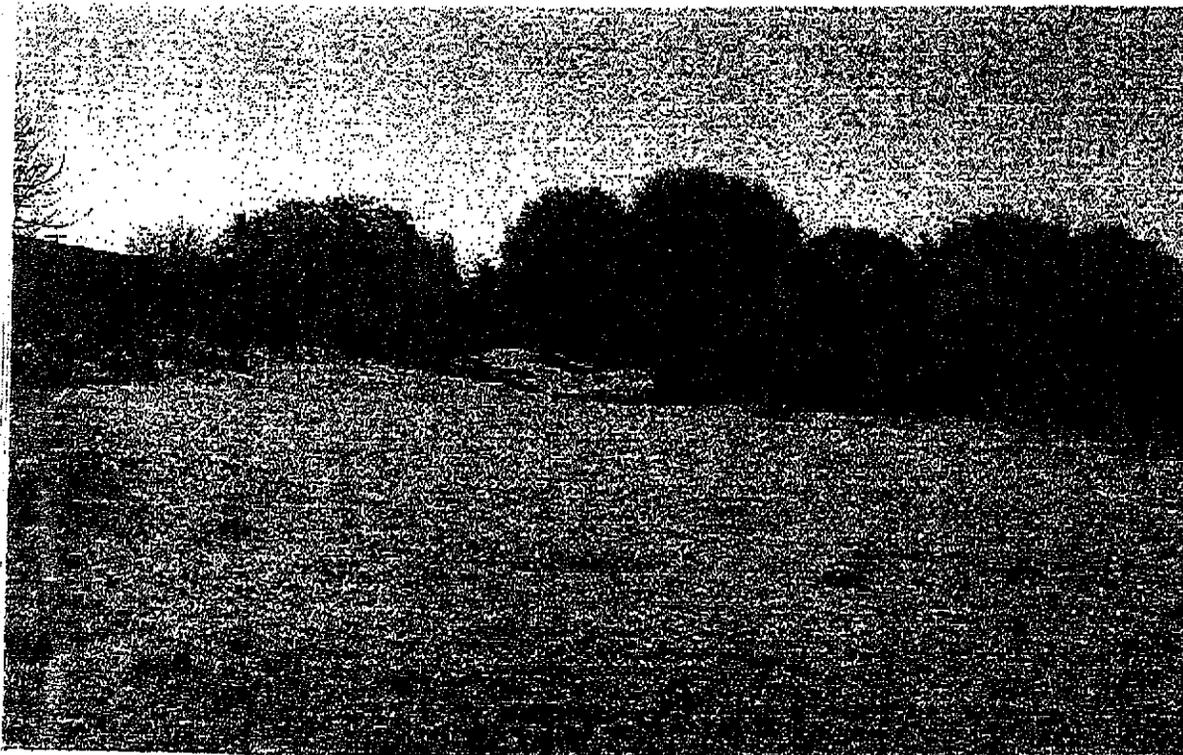
Sincerely,

LeAnn and Tom Copriviza P.E.  
260 Danube Dr. Aptos Ca.

cc: Ellen Pirie  
John Laird  
Ken Hart  
Paia Levine



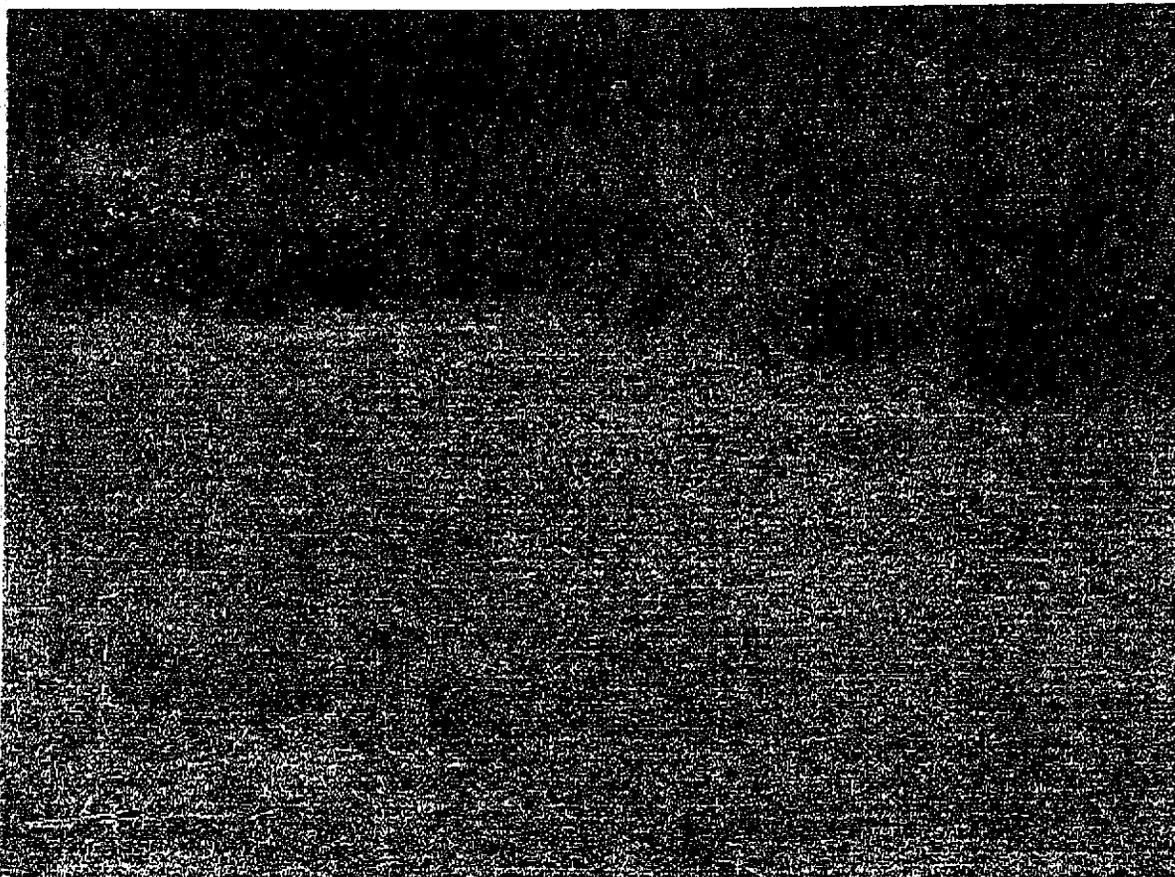
Picture of Carmichael Enterprises proposed road looking from Jennifer Dr. toward Wilshire. No evidence of a existing road.



Picture of Carmichael Enterprises future proposed road looking from Wilshire toward Jennifer. As you can tell there is no existing road, just an undisturbed green belt.



This road has been in existence for many years, and used by Carmichael Enterprises to perform work on the property. Using this existing road could limit the future development potential (beyond the one proposed home) of the property.



Access to a existing road off of Jennifer Dr. This would have less impact on the neighborhood and environment.



Existing road off of Kamian Way. This road was utilized by Carmichael Enterprises to **illegally grade the hill in 1999** along with well, septic, and survey work.

November 18,2002

Applicants: S P Carmichael Enterprises, Inc. and Men-Chy Properties  
(Developers/Joint Owners)

Assessor Parcel Numbers: 040-081-09 and 040-081-06

Project Application Numbers: 00--143 and 40237S

To:Ellen Pirie, Supervisor 2nd District

My husband and I are homeowners in the Vienna Woods neighborhood. We have lived here since 1990 and in Aptos since 1975. We are writing this letter to state our opposition to the project slated for the property, (formerly known as the Koch Property) listed at the top of this letter. We are opposed to the construction of the home and the 2,200 foot road that will give the developer access to the property on the west side of Danube Drive, exiting at Jennifer Drive.

We believe that if this project is allowed to be built, it will negatively impact our neighborhood in several ways.

1. Loss of recreational use of the Koch Property. The developer has stated that he will block all public access to this property via Jennifer Dr., Kamian Way, Mesa Grande, Haas and the water tank trail into the Forest of Nisene Marks State Park once work begins. There is a very long standing use of this area by hikers, bicyclists, bird watchers, and folks enjoying the open space.
2. This property provides an important non-motorized access link between Nisene Marks State Park and adjoining neighborhoods, Aptos Village, Cabrillo College (and Saturday Farmer's Market!) and New Brighton State Beach. This would be lost, if the project moves forward.
3. Truck and heavy machinery traffic from project construction, would impact Vienna Drive, the only road in and out of the neighborhood. In addition, there would be increased traffic related to loss of public access into Nisene Marks from Cabrillo College. Approximately 100 people per day enter Nisene Marks from the Cabrillo property.
4. Loss of privacy to all homes on Danube which back up to the proposed driveway.

Despite good faith efforts to purchase the property as parkland, the developer has set an unrealistically high sale price and has developed an increasingly antagonistic relationship with the neighborhood.

We strongly urge you to take this information seriously and to vote against approval of this proposed project.

Sincerely,



Barry Marks

Me Lorraine and Barry Marks  
3848 Vienna Drive Aptos, California 95003

RECEIVED  
NOV 20 2002

# Exhibit G

**CHRISTOPHER G. RUMMEL, REHS #4684**

CONSULTING REGISTERED ENVIRONMENTAL HEALTH SPECIALIST  
115 VISTA DRIVE  
LA SELVA BEACH, CA 95076 (831) 684-1446

Oct. 21, 2003

RE: APN: 40-081-09; Stephen Carmichael property

To Whom It May Concern:

The following statements are prepared in response to a request for information regarding the permitted sewage disposal site for the proposed residence on this 142 acre parcel. The County approval of this site was based upon the thorough study and testing work that I conducted to verify that the proposed sewage disposal system is located in at the best possible location for the proposed residence site and in full compliance with the Santa Cruz County sewage disposal ordinance for new construction. The following brief will describe how I determined that this is the most suitable site for a Leaching system, in order to consider whether any another site should be utilized for sewage leaching on this property.

- Based on an aerial topographic map by Bowman and Williams, a 1978 soils investigation by Earth Systems Consultants of Palo Alto, and a full search of the property on foot, I reviewed all of the potential sites where sewage disposal leaching systems could be located.
- Most of the early test borings by others at sites throughout the property reported the type of soils information that indicated unsuitable soils for standard sewage disposal systems. In particular, there were very dense structured soils or high clay content. However, these tests were conducted for engineering purposes, so additional sewage disposal related testing was necessary to confirm suitability. I selected for testing any site which the engineering study reported some possibility of soils which may be suitable. All but one of these sites was found to be very poor for leaching systems. Some site areas were not even tested because the engineering study reported even worse conditions of clay and density.
- I conducted the soil testing of these possible sites and several other potential sewage leaching sites. The testing was done by using a backhoe as required by the County's testing procedures for obtaining deep soil profiles at potential leaching sites. Later that day, after Mr. Bob Lorey, from the County Environmental Health Services inspected and witnessed the test excavations and agreed that all of the sites looked very poor, with one exception, the present site. The only suitable soils of the entire parcel for standard sewage leaching trenches were found at the proposed leaching site.
- This site appeared to be an ideal sandy soil series of the Purissima formation. Soil percolation tests were conducted on the parcel within the leaching area at the prescribed depths and repeated again at several other depths and sites to define the chosen area. The percolation results and soil logs were reported to the County. The findings were unusual in that the percolation rates were slower than expected

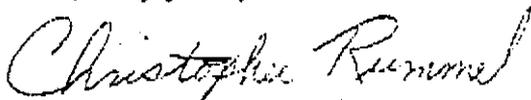
considering how ideally sandy the soils at this site were. I attributed this to the percentages of fine-grained sand and the natural cementation of this native material. The findings resulted in the necessity for a dual leaching system due to slow, but generally passing perc. rates. Nonetheless, since no other site even remotely looked as good as this site, it is inconceivable that percolation rates at other sites downs slope would pass for any type of standard leaching trenches.

The County will not approve pump-up systems for moving septic effluent to sites upslope if gravity fed locations can be found to be suitable. This is one very good reason for keeping the proposed house where it is or even higher upslope. Nothing was suitable for septic down slope. The building site and driveway were required to be moved (off of the higher original building site) and thus the suitable leaching system site was still barely below the house and able to be gravity fed. However, now the original adequately sized area had been so reduced in size that only by the use of enhanced treatment could the system fit. Enhanced treatment, which allows a deeper and smaller sized standard leaching system because the effluent is rendered much more "clean" of contaminants, still must be located as currently approved.

- AS a final option to enhanced treatment at the one suitable leaching site, a pump system was considered and areas behind the house site and up into all of the ridges along the trail were explored. Again, all sites with suitable slopes and size were tested and nothing was found suitable except for the site next to the house. Even sites that looked remotely suitable were tested and the percolation tests quickly failed.

The principal statement that I can conclude with is that no other section of this large parcel could support conventional septic tanks systems with any long term success, other where it is currently positioned. Even with the enhanced treatment technologies now available, there still must be a good leaching trench area, as I have found. I have been involved in such studies locally for over 30 years and have developed a very good sense of what soils and sites will or will not meet the County requirements for standard leaching systems. There is no other reason for locating this septic system where it is other than the determination that it is the only place we discovered where it will actually work for a long time. To move the house down the hill is contrary to the intent of the County Ordinance and policy which disallow pumping sewage if gravity-fed locations are available. Since no septic locations are available down slope, the building site should remain where it is, and where pumping would not be necessary. If you have any questions about this report, please contact me at (831) 681-1446.

Very truly yours,



Christopher G. Rummel  
Registered Environmental Health Specialist #4684

# Exhibit H

## GRADING PERMIT FINDINGS

### Exhibit H

The Grading Ordinance under section 16.20.080 (c) Approval Limitations And Conditions includes provisions for denial of an application for a grading approval if any one of a number of specified "Findings" are made. To confirm that this project can be approved the following section will examine these findings and indicate why the finding for denial cannot be made. In some cases extra conditions are proposed to assure compliance with the General Plan and Code.

#### 16.20.080 (c) Denial of Approval

1) An application for a grading, dredging, or diking approval shall be denied if the Planning Director or Planning Commission makes any of the following findings:

- i. That the design of the proposed site is not consistent with the applicable general and specific plans adopted pursuant to Chapters 13.01 and 13.03 of the Santa Cruz County Code.

The applicant has complied with the Neighborhood Character Inventory, 8.4.5, and the proposed home is similar to the surrounding homes. The home will be located below the peak of the hill in compliance with GP 8.6.6 Protecting Ridge-tops and Natural Landforms, and the home and accessory structures height and size comply with the zoning district standards

Several other sections of the General Plan require additional analysis to confirm that the proposed project complies with that specific General Plan Policy. These policies include: (A) 5.1.6 (Development within Sensitive Habitat) and 5.1.7 (Site Design and Use Regulations), (B) 6.3.1 (Slope Restrictions), (C) 6.3.9 (Site Design to Minimize Grading), and (D) (General Plan Policy 6.5.1 (Access Standards). These sections are discussed in the following sections A through D.

- 
- A. General Plan Policy 5.1.6 and 5.1.7: Both of these policies apply to the proposed Carmichael Grading Plan. These policies state:

*"General Plan Policy 5.1.6: Sensitive Habitat shall be protected against any significant disruption of habitat value; any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive*

## GRADING PERMIT FINDINGS

## Exhibit H

*habitats unless approval if a project is legally necessary to allow a reasonable use of the property,”*

*And,*

*“General Plan Policy 5.1.7 Protect sensitive habitats against any significant disruption or degradation of habitats values in accordance with the Sensitive Habitat Ordinance. Utilize the following site design and regulations on parcels containing these resources, excluding existing agricultural operations:*

- (a) Structures shall be placed as far from the habitat as feasible.*
- (b) Delineate development envelopes to specify location of the development in minor and land divisions and subdivisions.*
- (c) Require easements, deed restrictions, or equivalent to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitat on adjacent parcels.*
- (d) Prohibit domestic animals where they threaten habitats.*
- (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens;*
- (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.*

The Negative Declaration mitigations include a Coastal Prairie Habitat Management and Enhancement Plan, a revised alignment of the proposed roadway to avoid Oak Woodland, a revised grading plan to reduce the impact on Oak Woodland, and an Oak replacement plan. As designed the project's impact on biotic resources and sensitive habitat have been reduced to a less than significant level. The proposed home and accessory building is located away from sensitive habitat and the removal of native vegetation has been reduced to only small areas along the proposed driveway.

Sections b, c, d and f of General Plan Policy 5.1.7 will require specific conditions to assure compliance including the following.

**For compliance with General Plan Policy 5.1.7 b and c the following conditions have been applied.**

- a. As a Condition of Approval a Development Envelope shall be designated on the approved building plans and shall be recorded with the County Records Office prior to the issuance of a building permit; And,
- b. As a Condition of Approval a Declaration of Restriction shall be recorded with the County Records Office prior to the issuance of any permit that requires the protection and enhancement of sensitive habitat. The declaration must include the language contained in the Mitigated Negative Declaration for the proposed project.

## GRADING PERMIT FINDINGS

## Exhibit H

For compliance with General Plan Policy **5.1.7 d** the **following** condition is applied.

- c. Domestic Animals shall be prohibited from the property except as allowed in the Costal Prairie Habitat Management And Enhancement Plan.

For compliance **with** General **Plan** Policy **5.1.7 f** the **following** condition is applied.

- d. The landscaping shall use characteristic native species and must not include invasive non-native species.

With these added conditions the project will be in compliance with both General Plan Policy 5.1.6 and 5.1.7.

- 
- B. General Plan Policy **6.3.1** Slope Restrictions apply to hillside development similar to this project. This Policy, that states:

*“Prohibit structures in discretionary projects on slopes in excess of 30 percent. A single family dwelling on an existing lot of record may be excepted from the prohibition where siting on greater slopes would result in less disturbance, or siting on a lesser slope is infeasible.”*

The applicant proposes to locate about 800 square feet of ~~the~~ proposed home on a slope greater than 30%. Staff has concluded that locating a portion of the home on slopes over 30% is supported, based upon the exception in this section, which allows the home to be located slopes steeper than 30% if the resulting construction would result in less disturbance.

We believe that this conclusion is reasonable considering the constraints that limit development on this property and also the minimal amount of disturbance that will occur where the home will be constructed on slopes over 30%. In addition to the restriction in the General Plan Policy 6.3.1, the following constraints affect the parcel.

- The home must be located away from sensitive habitat located on flatter portion of the property (See General Plan Policies 5.6.6 and 5.1.7, discussed above.)
- The home must be located relatively near and above the proposed septic system.
- The home must be located in a manner that allows driveway access to the home.
- The home cannot be located so that it will project above the ridge-top.

In combination, these factors, and the prohibition against constructing on slopes over 30%, restricts home construction to a small area on the property's northern slope. A

## GRADMG PERMIT FINDINGS

## Exhibit H

home similar in size to the proposed home could be contained within this very restricted area by extended the home up the face of the slope, but would require a significant amount of site disturbance. This site disturbance can be significantly reduced if a portion of the home is extended horizontally into the 30% area.

General Plan 6.3.1 foresees a situation similar to this projects and allows an exception to the prohibition against construction on slopes over 30% if the encroachment will result in less site disturbance. By extending the home onto slopes over 30% site disturbance will be reduced significantly, and therefore, with this exception considered, the proposed grading and home complies with this General Plan Policy 6.3.1.

---

C. General Plan Policy **6.3.9 Site Design to Minimize Grading.**

*Require site design in all areas to minimize grading activities and reduce vegetation removal based on the following guidelines:*

*a. Structures should be clustered;*

The proposed locations of structures is an appropriate compromise between the retention of habitat, the reduction in the amount of grading and the placement of the home and accessory unit in close proximity to another structure.

*b. Access roadways and driveways shall not cross slopes greater than 30 percent; cuts and fills should not exceed 10 feet, unless they are wholly underneath the footprint and adequately retained;*

The access roadway has been located on slopes that are less than 30%. Staff recognizes that the public has expresses concerns that the unauthorized grading may have modified these slopes and that the original engineer's topographic map may have represented slopes as greater than 30%. Planning staff, along with all of the Civil Engineers that have worked on the project, have re-examined this question and have determined that the roadway is located on natural slopes less than 30 %.

*c. Foundations design should minimize excavation or fill;*

The proposed home has been designed with a foundation system that will be placed on grade to minimize foundation excavation. This will result in a home that is stepped down the slope.

## GRADING PERMIT FINDINGS

## Exhibit H

- d. Building and access envelopes should be designated on a basis of site inspection to avoid particularly erodable areas;*

The project site has been examined numerous times. In order to prevent erosion on this site the County has required an engineered grading and drainage plan, along with an erosion control plan that requires re-vegetation.

- e. Require that all fill and side cast material to be re-compacted to engineering standards, reseed, and mulched and/or burlap covered*

All fills will be re-compacted and all slopes will be covered with appropriate erosion control blankets and re-planted with appropriate native species. .

---

**D. General Plan Policy 6.5.1 Fire Access Standards:** As with all Single Family Dwellings, this proposed home must comply with the requirements of the Objectives of General Plan Policy 6.5 Fire Hazards, To assure compliance with this Policy the Central Fire Protection District reviewed and approved the plans with a letter dated September 23, 2003. This letter is attached as Exhibit G and a Condition of approval of this project requires conformance with the standards enumerated by the Central Fire District.

- 
- ii. The proposed grading plan for the development contemplated does not comply with the requirements of the Santa Cruz County Code.*

The proposed project complies with the County Code Sections concerning grading and geologic hazards.

- 
- iii. If the project is for the creation of a building site, that adequate sewage disposal and water supplies cannot be provided.*

Environmental Health has approved the septic system location, and a permitted on-site well has been developed that will supply an adequate source of water.

---

GRADING PERMIT FINDINGS  
Exhibit H

- iv. *If the project as proposed will cause excessive and unnecessary disturbance of the site particularly as defined in Section 16.10.050.*

The project's disturbance will not be significant as documented within the Negative Declaration. To further reduce the impact of the proposed access roadway grading an alternative access roadway has been considered that follows the existing disturbed areas as shown on Attachment 1. The Environmental Coordinator has reviewed this proposal and has determined that this alternative meets the conditions of the Negative Declaration and can be considered as an alternative to the current proposal. In either proposal, the required engineered drainage plan must include a review of the drainage along the real alignment.

- 
- 2) *An application for a grading permit shall be denied if the work proposed would be hazardous for any reason of flooding, geologic hazard, or unstable soils; be liable to endanger other properties or result in the deposition of debris on any public way, property, or drainage course; or otherwise create a hazard.*

The proposed grading plan will not be hazardous for any reason including flooding, geologic hazards, or unstable soils nor will it endanger other properties. To confirm this conclusion the applicant has submitted Civil Engineered Plans, the Geotechnical Engineering Report, and the Engineering Geology.

- 
- 3) *An application for a grading approval which would create an unavoidable adverse environmental impact shall be denied.*

The Negative Declaration documents that there are not unavoidable adverse environmental impacts.

- 
- 4) *An application for grading in a riparian corridor shall be denied if it is not in conformance with other chapters of the County Code, which regulate development activity in riparian corridors.*

The application does not include any work within a riparian corridor.

- 5) *An approval for a grading approval to place fill within a 100-year floodplain shall be denied.*

The project will not be located within a 100 flood plan.

---



---

# Exhibit I



# County of Santa Cruz

---

## PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD (831) 454-2123

ALVIN D. JAMES, DIRECTOR

June 27, 2003

Steven Graves & Associates  
4630 Soquel Drive, Suite 8  
Soquel, Ca 95073

Subject: Application # 00-0143; Assessor's Parcel #: 040-081-06, 07 & 09  
Owner: S & P Carmichael Enterprises

Dear Steven Graves:

This letter is a follow up to the meeting that you attended on 6/19/03 with the Planning Director and Planning Department staff. In that meeting, you had stated that you desired to withdraw the application for a Residential Development Permit (03-0171), and to proceed with preliminary grading application number 00-0143. In that meeting, it was brought to your attention that any structure over 28 feet in height (measured from existing or finished grade – whichever is the greater height) or any accessory structure greater than 1000 square feet in area would require a Residential Development Permit.

A letter from your office, dated 6/20/03, requested withdrawal of application number 03-0171, and continued processing of this project under preliminary grading application number 00-0143. The withdrawal of application number 03-0171 has been completed.

In the review of the most recent plans for preliminary grading application 00-0143, it is clear that the proposed structure exceeds the 28 foot maximum height limitation for residential structures (Site Plan and Site Sections - prepared by Thatcher & Thompson), and there is an inconsistency in the scaled dimensions for the proposed accessory structure between two of the site plans (Sheets 1 & 2 of the Grading, Drainage, and Erosion Control Plan). It will be necessary to revise the project plans for preliminary grading application 00-0143 in order to meet the 28 foot maximum height limitation, and to clearly depict the size of the proposed accessory structure as less than 1000 square feet, or an application for a Residential Development Permit will continue to be required for **this** project. Without having already submitted such revisions to the plans for preliminary grading application 00-0143 it may have been premature to withdraw application number 03-0171 for a Residential Development Permit.

Additional clarifications will be necessary to the proposed preliminary grading plans for this project. Currently, the cut and fill volumes are not clearly described and it is possible that the lower access road with hammerhead and the upper road above the building site will be eliminated from the proposed project per your statements at previous public hearings. The proposed residence also appears to be located within areas of slopes greater than 30 percent, per notations

on the project plans. All of *this* information will need to be revised or otherwise clarified on the project plans prior to the next public hearing with the Zoning Administrator.

In order to continue processing preliminary grading application 00-0143 without the associated Residential Development Permit, to allow for a structure in excess of 28 feet in height with increased yard setbacks (and possibly for an accessory structure in excess of 1000 square feet in area) the following revisions to the project plans and additional materials are required:

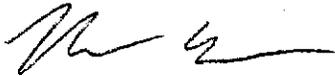
- Please correct the inconsistency related to the *size* of the proposed accessory structure on sheet 1 of the Grading, Drainage, and Erosion Control Plan. **This** inconsistency appears to be in the noted scale – which is 1” = 40’. In order to be consistent with sheet 2, the scale would need to read 1” = 30’.
- Please clarify the proposed grading totals on sheet 1 of the Grading, Drainage, and Erosion Control Plan. Currently, a balanced total of 2070 cubic yards of cut and fill is noted with an additional notation of 3430 cubic yards of fill material for which the purpose is unclear. Please provide accurate calculations of all of the proposed earthwork, broken down into categories of cut and fill for each purpose and location. Please separate a volume of earthwork for roadway construction and building pad construction, and separate the volume of road base (base rock) material from any proposed earthen fill. The project plans and all grading totals should reflect the revised project proposal – including any modifications that were agreed to at the previous Zoning Administrator’s hearing.
- Please clarify the areas of the project site that are in excess of 30 percent slope. The current plans (Sheets 1-3 of the Grading, Drainage, and Erosion Control Plans) indicate a line of 30 percent slope in the area of the project site. If the areas currently depicted are the accurate locations of the areas in excess of 30 percent slope, then this revision is not required.
- Please revise the proposed Grading, Drainage, and Erosion Control Plans to reflect the roads and building pads that are proposed for this project. If the lower access road with hammerhead and the upper road above the building site are proposed to be eliminated from the project per your statements at previous public hearings, these revisions must be reflected in the revised project plans.
- Please have all revisions to the plans and materials prepared by the previous project civil engineer be prepared by a new licensed civil engineer and provide a transfer of responsibility from the previous project civil engineer to the new licensed civil engineer.
- If the residential structure continues to be located in areas in excess of 30 percent slope (after any revisions to the project plans regarding the areas in excess of 30 percent slope), then please submit a written justification for the purpose and need for the construction of a structure on slopes in excess of 30 percent. Please refer to the language in General Plan Policy 6.3.1 in making your justification – “*6.3.1 Slope Restrictions – Prohibit structures in discretionary projects on slopes in excess of 30 percent. A single family dwelling on an existing lot & record may be excepted from the prohibition where siting on greater slopes would result in less land disturbance, or siting on lesser slopes is infeasible.*”

- Please redesign the proposed residence to comply with the 28 foot maximum height limitation for residential structures. The current project plans (Site Plan and Site Sections - prepared by Thatcher & Thompson) indicate a residence that appears to be 33 feet in height. Please provide sufficient information to clearly depict that the proposed residence will not exceed the 28 foot maximum height limitation for residential structures.

If you decide not to submit the required revisions and information, and would prefer to have your current project return to the Zoning Administrator without revisions, please submit a letter requesting such action in response to this letter. Please note that this project was continued by the Zoning Administrator on 5/2/03 for the submittal of additional information to address the issues described above.

This letter was prepared as a result of the meeting held on 6/19/03, and reflects the requests that you made during that meeting and in your 6/20/03 withdrawal letter. If you would like to meet to discuss any of the information or requirements listed in this letter, please contact me at: (831)454-3218, or e-mail: [randall.adams@co.santa-cruz.ca.us](mailto:randall.adams@co.santa-cruz.ca.us)

Sincerely,



Randall Adams  
Project Planner  
Development Review

# Exhibit J



3757 Vienna Drive, Aptos, CA 95003  
Telephone: (831) 688-7724  
Fax: (831) 688-1316

December 30, 2003

Planning Commission  
Santa Cruz County Planning Department  
County of Santa Cruz  
701 Ocean Street, Room 400  
Santa Cruz, CA 95060-4023



RE: Appeal of Zoning Administrator's Decision on December 19, 2003  
Application No. 00-0143: Proposal to construct a 1.5-acre family dwelling  
driveway and garage(s)  
Applicant: Steven Graves  
On S&P C Parcel owned by [redacted] Inc. and Men-Chy Properties  
located on the [redacted] Parcel with 3 APN(S) 040-081-06, 07 and 09  
Zoning Administrator Hearing Date: December 19, 2003

To Whom It May Concern:

We hereby appeal the above referenced decision made by the Zoning Administrator on December 19, 2003 concerning the above referenced Application No. 00-0143 (previously "No. 00-0143 and 40237S" and "No. 03-0171") (hereafter the "Application"). This request is made by Nisene 2 Sea, a community group whose mission is preservation of the Nisene 2 Sea Corridor connecting New Brighton State Beach via Cabrillo College Lands to The Forest of Nisene Marks State Park, on behalf of its Executive Committee, its supporters, nearby property owners, and all other members of the public whose interests are adversely affected by the above reference decision.

Before we set out the basis for this appeal, we want to emphasize that we are very aware that the Developers have the right to build one house with associated outbuildings on their 142 acre property. Our efforts, including this appeal, are intended to assure that this home is constructed in the best location on the above referenced property and that the development activities permitted on the property take into consideration the valid constraints imposed by the nature of the land itself, the extensive sensitive biotic habits, the concerns of impacted neighbors and the public, and the limitations imposed by State and County laws, regulations and ordinances.

Information to be included in this Appeal :

In addition to the transcripts of the March, 2003 and December 19, 2003 Zoning Administrator Hearing and all Santa Cruz County Environmental Health, Public Works, and Planning files related to the above referenced Application No. 00-0143 and the earlier related Applications for the same proposed Project ("No. 00-0143 and 40237S" and "No.03-0171"),

please also consider the December 15, 2003 letter submitted by Nisene 2 Sea at the December 19, 2003 Zoning Administrator hearing with all its exhibits (hereafter the "December 2003 Letter") and all presentations and submissions made by Nisene 2 Sea and nearby property owners at this hearing. Please include the following exhibits to the December 2003 Letter and supplemental information provided with this letter or presented at the December hearing: (a) information concerning State Park's Porter Fallon Easement which impacts the Project area (Exhibits D, E, F, and G); (b) 2003 biotic surveys of the Project area and flatter portions of the Koch/Carmichael Property completed in April and June, 2003 by Randy Morgan (a well known biotic resource expert) and the associated map of these biotic resources which materially contradicts the developer's expert (Kathy Lyons) mapping of the Project Area along with associated plant identification information (Exhibits B and C); (c) the submission of Katharine Cunningham provided at the March 2003 hearing; (d) the presentations of Bruce Jaffe at the March and December 2003 hearings concerning the slopes is currently and previously in excess of 30% in the Project area and other related grading matters; (e) the presentation and documentation provided by Beth McCanlies Concerning the grasslands on the Property; and (f) all comments and submissions made by the homeowners that are impacted by the proposed road location.

In addition, please consider all comments concerning all of the above referenced information and comments previously submitted on behalf of Nisene 2 Sea with regard to the Applications and the Project Environmental Review included therewith and all associated submissions and records related to activities on the above referenced lands owned by, S & P Carmichael Enterprises, Inc. and Men-Chy Ma Properties, (hereafter, the "Developers") who are the joint owners of the 143-acre property referenced above (hereafter the "Property"). We also request that all prior correspondence from our attorney, Jonathan Wittwer, and from our organization, Nisene 2 Sea, regarding the past and proposed activities on the Property be considered along with our organization's comments concerning the above Application and associated Project Environmental Review. These documents and submissions include, without limitation:

- (a) Jonathan's Wittwer's October 20, 1999 and June 5, 2000 letters and the Exhibits attached to all such correspondence (hereafter, the "1999 Letter", and the "2000 Letter" respectively);
- (b) The written comments submitted by Nisene 2 Sea concerning the above referenced Application on November 19, 2002 and the related documents provided by Grey Hayes, an expert on the biotic resources and coastal prairie terrace grasslands, (hereafter, the "2002 Comments");
- (c) The written comments submitted by Nisene 2 Sea concerning the above referenced Application on February 11, 2003 (hereafter, the "2003 Comments");
- (d) The oral presentation with associated documentation presented at the Zoning Administrator Hearing in March, 2003, by Nisene 2 Sea 's representatives (Kathryn Britton, John Campbell, Bruce Jaffe, Laurel Nakanishi, and John Campbell) a summary of which is attached hereto (hereafter, the "2003 Presentation"); and

(e) Any additional comments or written documentation presented on Nisene 2 Sea 's behalf or by the owners of homes that adjoin or are close to the Koch/Carmichael Property in writing or orally at the Zoning Administrator Hearings in March and December 2003, all of which are incorporated by reference in our submission.

### ISSUES APPEALED

#### **1. Procedural Issues Affect Validity of Hearing**

##### **A. Insufficient Notice to the Public:**

The Hearing on December 19, 2003 was a continuation of the Zoning Administrator Hearing concerning the above referenced Application first held in March 2003. The Project under consideration was the same Project under consideration in March 2003 with few changes. Notice of the second hearing was only sent to a very small number homeowners adjoining the 142 acre parcel and not to the long list of concerned citizens and homeowners that were formally notified of the March 2003 hearing even though the Planning Department had the mailing list and knew full well of the public interest and concerns. It also is not clear that all the necessary property owners were notified of the December 19, 2003 hearing since the County's determination that 142 acre parcel is actually one legal parcel with 3 APN's and not 3 separate parcels occurred about the time of the March, 2003 hearing. The public expected to be notified as they were for the March 2003 hearing especially because it was not clear what next step the County was going to take or when. This public confusion was amplified because of the following actions by the County and the Developers.

The March 2003 hearing was continued by the Zoning Administrator so that additional information could be provided both by concerned members of the public and the Developers. Notice of the first hearing along with copies of the Staff Report and Environmental Review was sent to a very long list of concerned citizens and organizations that had previously communicated their interest and concerns to the County about development on the Koch/Carmichael Property. In addition, there were about 50 members of the public attending the first hearing. All attendees and others that received notice of the first hearing reasonably expected to be again notified when the Zoning Administrator was going to proceed with his consideration of Application at the "to be scheduled" continuation of the first hearing.

The second part of the hearing did not occur apparently because the original Application under consideration at the March, 2003 hearing was withdrawn and a new Application initiated for the same Project by the Developers who decided to ask for height and building size exceptions. After the Developers received and appealed a Notice of Incomplete Application from the County related to this new Application, the Developers withdrew the new Application (before the Planning Director ruled on their appeal) and asked to re-activate their old Application or its equivalent (the Application Number was changed slightly). Very recently, the Planning Department reactivated the old Application and proceeded to the December 19, 2002 hearing. Information about this reactivation, the status of the Application and the hearing date setting was not available to the public until a couple of weeks before the December 19<sup>th</sup> hearing because there was a "Stop Work Order" in the Application file at the County pending payment of fees due by the Developers. As a result, no information was available from the County about

the status of the project or scheduling of a continuation hearing until immediately before the hearing was to be held.

In addition, in contrast to the March 2003 component of the Zoning Hearing, notice for the December 19, 2003 continuation hearing consisted of the standard one page notice of hearing; this was mailed was sent to a limited number of property owners adjacent to the 142 parcel. The remainder of the concerned citizens originally notified for the first hearing, including Nisene 2 Sea were not notified even though the Planning Department had the old mailing list available and the Zoning Administrator had specifically asked that additional information be submitted at the second hearing by the concerned public.. In addition, since the County has now determined that the Project is on a single 142-acre parcel and not one of three smaller parcels, the formal notice of hearing should have also been sent to adjoining landowners to the west and north of the property. To our knowledge this was not done.

The Zoning Administrator did not address this issue at the hearing even through it was brought to his attention in writing. He in fact ruled without reading any written submissions presented at the December 19<sup>th</sup> hearing.

**0. Limitation on Scope of Decisions at Hearing**

The Notice of Hearing describes the Project **only** with reference to access at Jennifer Drive. The Environmental Review and Staff Reports prepared for the hearing include maps that **only** show the 2500-foot long driveway/road route extending from the home site, traveling close behind all the homes Danube Drive with an exit at Jennifer Drive and provide a narrative referring to the same route and exit. The Notice of Hearing and the Staff Report with Exhibits prepared for the hearing make no mention of or finding about alternate road routes or exits for the proposed driveway. Without proper notice of decisions to be made by the Zoning Administrator at the public hearing and provision of related documentation, plans, and requirements in the Staff report, the Zoning Administrator and/or the County Planning Department cannot make any decisions about road routes or exits other than a decision about the Jennifer exit and the stated road location at the above referenced hearing. The Zoning Administrator could have stated that the current exit was not acceptable or (since he was aware that the Kamian exit was available) he could of required new maps and information be submitted. The Zoning Administrator did neither.

At the December hearing the Zoning Administrator presented a new map from the revised Staff Report (as contrasted to the one used at the first Zoning Administrator Hearing) that showed a slight change in the road location behind the first 5 homes on Danube Drive with a continuation to an exit at Jennifer following the original location about 30 feet behind the remaining homes on Jennifer as in the original map. An exit at Kamian was not shown or mentioned. Then the Zoning Administrator made the decision to change the exit of the road to Kamian Drive "on the fly" and verbally suggested upon questioning by nearby homeowners that he might further change the road route so that it avoids traveling so close to the homes on Danube. The Zoning Administrator just waived his laser pointer at a map showing the proposed new location.

Given the inevitable impact of the new road on sensitive biotic habitats, on the nearby neighborhood homes, and substantial questions about the validity of the Developers' mapping

and identification of the biotic resources in all Project areas, any decisions related to any alternate road/driveway routes and exits should not have been "on the fly" by the Zoning Administrator but instead can only be made after sufficient analysis has been done by the County and this information has been made available for public review prior to a final decision by the County.

The County should have required that the Developers:

- (a) Map the exact road location;
- (b) Provide accurate biotic data and information about the impacted sensitive biotic habitat once the exact road location is mapped; and
- (c) Comply with specified mitigation requirements that include:
  - (i) A route exiting at Kamian that travels directly from Kamian onto the existing old road and does not angle in behind any homes on Danube as shown in the maps in the Application file and Staff Report;
  - (ii) Road lighting restrictions;
  - (iii) Noise restrictions including a quiet paving; and
  - (iv) Screening with native plants including Shreve Oaks along all parts of the road visible to adjoining homes.

In addition, all fire requirements concerning road specifications should be included in advance of approval of the Application to assure that the plan for the road does not change in any material way subsequent to any decision made after the public hearing. The road mapped by the Application should explicitly meet these fire requirements. (See section on Fire Protection)

C. Substantive Problems with Negative Declaration Mitigations.

The proposed Mitigations approved by the Zoning Administrator still require that the Developers later submit various plans concerning the Project that will only be subject to County staff review. This approach eliminates any opportunity for public scrutiny concerning key components of habitat preservation and management, disturbance envelopes, road alignment, and grading activities. As a result, meaningful public comment and review of significant Mitigation requirements and criteria will be eliminated.

In addition, the Mitigations proposed by the County, remain inadequate in light of:

- (a) The impact of the proposed Project on the public;
- (b) The historic public use of the Property;
- (c) The fact that significant grading is proposed in sensitive, critical biotic habitats that cannot be regenerated or replaced; and
- (d) The fact that substantial grading for the home site and associated driveway areas, notwithstanding the Findings concerning grading, is proposed in for areas that:
  - (i) Are uniformly covered with "sensitive habit" under the County ordinances (except for areas previously illegally graded by the Developers and re-seeded with non-native grasses that prior to such grading contained such "sensitive habitats" and oak woodlands); and

- (ii) Contain and have contained (prior to the illegal grading in 1999) slopes that are 30% or greater.

D. Impact Single Parcel Determination Not Considered.

In March, 2003, the County determined that the Property is legally one 142-acre parcel with three APN's. The County's Environmental Review and earlier work on the Application was handled as if the Property was 3 separate legal parcels. This new determination has a significant impact on the Application and was not sufficiently addressed in the Zoning Administrator's decision.

1. Impact of Single Parcel on Home Location.

This change is significant as the proposed home is now on a very large tract of land with much more flexibility as to potential home sites since the home site no longer is contained on just one parcel (formerly APN "09") with very limited home locations. The Developers have always said (interviews, personal communications, news paper articles etc) that they plan to build up 10 to 15 upscale homes on the flatter portions of property (formerly APN "06" and "07") confirming the possibility of relocating the proposed home off of slopes in excess of 30%. The Developers have selected the proposed home site that sits at a high point on the acreage because of the view of Monterey Bay. It has always been our position that the Developer's original illegal grading in 1999 was done to materially change the slope of the hilltop to permit construction of a home in a location that would not normally be permitted by the County. Permitting the Developers to now benefit from their illegal grading by approving a home site at the location proposed in the Application when there are alternate home locations on the Property should not have been approved.

At the December 19<sup>th</sup> hearing Zoning Administrator stated "only if there are no other possible home locations on a parcel will the Developers be permitted under the County Code to build on slopes in excess of 30 %". The Zoning Administrator also indicated that the proposed home site and driveway sits and/or crosses slopes in excess of 30 %. He stated that since there are no other home sites on the 142 acres that his approval of the Project is acceptable. He supported this decision by providing some information from County Environmental Health stating that a much of the property has very poor percolation that will affect the availability of alternate sites for septic systems. He further stated that requiring that the Developers move the home lower on the hill is not possible because that would require that the Developers "pump up" to the septic leach field.

Neither the County, nor the Developers have extensively surveyed the entire 142 acres for alternate septic locations. This should have been a requirement imposed on the Developers. Since purchasing the Property in 1998 the Developers have continuously stated with full knowledge of septic assessments and issues, that they plan to build at least 10 to 15 upscale homes on the flatter portions of the acreage (see Developer quotes in Metro Santa Cruz NUZ on April 10, 2000, and Santa Cruz Sentinel articles dated April 10, 2001, and October 5, 2003. The Developers know that a significant number of other home sites are possible. Although it is true that Developers extensively surveyed an acre or so around the home site on the hill proposed in the Application (formerly on APN "09" parcel) for septic sites, this fact is now irrelevant applies since the home is not (as formerly presumed on a parcel with limited home

sites) but is now located on a 142-acre parcel that includes all the potential sites for the 10 to 15 homes the Developers have always planned to build. The Zoning Administrator's decision, at a minimum, should have required that the Developers establish with certainty that there are no other home sites on the 142 acres. Then, before a proposal to grade and build on slopes in excess of 30% in areas of sensitive biotic habitat was approved, the County should have required that; (a) the home be moved down the hill to areas that historically and presently as less than 30 percent and that minimally impact the sensitive biotic habitats even if this requires that the have to pump "up" to the septic system, or (b) that the Developers locate another home site on the 142 acres, or (c) or the Developers provide substantial proof that no other location is possible before a proposal to grade and build on slopes in excess of 30% in sensitive biotic habitat is approve. Note that since County Environmental Health will permit pumping "up" to a home septic system (in contradiction to the Zoning Administrator's statements at the recent hearing) the County should, at a minimum require that the home location be moved down the hill away from slopes that previously or current are in excess of 30% near to the proposed septic site to an area that minimally impacts the sensitive biotic habitats.

2. Impact on Biotic Assessment and Reuirements,

The shift to "oneparcel only" in mid 2003 materially affects County decisions made prior to this determination. The entire Project needs to be re-considered in light of this determination and appropriate adjustments made. Much of the flatter portions of the 142 acres are covered with sensitive Coastal Prairie Grassland Habitat with substantial native grass seedbeds remaining under the stands of non-native invasive Broom. This fact and the mitigations proposed by the County do not address this new situation. The Developers have only provided biotic information on the project development envelope and not the remainder of the sensitive habitat. The entire area should be mapped and at a minimum the Developers should be required to manage the sensitive habitat within and outside of the development envelop. Although Nisene 2 Sea and others have provided extensive information about the grasslands with associated plants and the oak woodlands on the 142 acres over the last several years, the County and the Zoning Administrator have continued to ignore this information, relying only on the information provided by the Developers' expert. The County must start with good, accurate, detailed biotic information and data before it can decide on appropriate mitigations and develop sound habitat management plans related to this Property.

3. Combined Impact One Parcel/House Location/ Biotic Reuirements:

Extensive documentation concerning the inadequacy of the Developers' biotic information was provided to the County, including: (a) a letter in the March 2003 Staff Report from Bob Davilla, the County's biotic expert stating that the Developers' biotic mapping was inadequate, and (b) extensive biotic survey and mapping information that Nisene 2 Sea obtained in April and June, 2003. The Zoning Administrator has never addressed the deficiencies in the Developer's biotic information at either hearing and did not read the **new** biotic information provided at the December hearing.

Placement of the house and outbuilding in locations that will degrade and/or destroy sensitive habitats violate the County General Plan Policies 5.1.6 and 5.1.7. Substantiated biotic information provided to the County and in the record clearly establishes that excellent quality Coastal Prairie Terrace Grasslands exist in the proposed home/out building project area (except

in areas previously destroyed by the Developers prior illegal grading in 1999 and re-seeding with non-native grasses); this sensitive habitat will **be** destroyed and "down-slope" sensitive habitat will be reduced and degraded by the current proposed place of the home and driveways. The County continues both to ignore this information and to fail to require that the Developers provide better, more accurate information following the County's own expert, Bill Davilla's recommendations. Now that the County has established that the proposed home is to be sited on a 142 acre parcel and not just the area described as the "09" parcel, there are many other areas on the remainder of the property that could provide alternate home locations with much reduced impact on the sensitive biotic habitat that flourishes on the south facing slopes of the hill where the Developers have proposed to build their home. The County has not considered or required that the Developer's explore other alternative locations that have less impact on the sensitive habitat.

A conservation easement should be established on the Property for all areas outside of the development envelope, as provided in Section C of the General Plan Policy 5.1.7 in order to protect the sensitive habitat on this 142 acre Property. The Zoning Administrator mentioned this possibility at the December hearing but did not insist after the Developers indicated verbally that they did not want this to happen. Given that extent and quality of the Coastal Prairie Terrace Grasslands along with the extensive stands of the rare Shreve Oak, a decision to require a conservation easement on the undeveloped portions of the 142 acre parcel is appropriate.

## 2. Reinstatement of Original Application after Withdrawal of Previous Application Impacts County's Analysis

The Developers have been working on the same Project, notwithstanding the different Applications on file with the County for grading work they have done and intend to do. Therefore, the Developer's decision to file and then withdraw a new Application this year and the resulting reversion to the original Application should have no effect on the County's assessment of the problems related the Project and the Developer's Applications or any requirements related thereto. The Application deficits were recently set out in the formal Notice of Incomplete Application served by County on Developers this summer concerning the now withdrawn Application. These deficits should continue to apply to the current Application. In other words, the Project remains the same and therefore the Developers should not be able circumvent the problems with their Application that were set out by a qualified County Planner, Randall Adams and County Environmental Coordinator, Robin Bolster, by withdrawing their second Application and reverting to the original Application for the Project. The Zoning Administrator failed to address this issue at the hearing.

## 3. Road Location and Related Requirements

A. Exit onto Mesa Grande. An exit road from the proposed home site onto Mesa Grande would have the least impact on the surrounding neighborhoods and sensitive habitats in the event the home location on the hill is approved. Although it would have taken the Developers some time to obtain exit rights onto Mesa Grande, success is possible. The Developers have know of the possibility since they purchased the Property in 1998 but have said that they have chosen not to work on obtaining such rights onto an existing road on State Park property. At this time the County is not requiring that the Developers exit onto Mesa Grande because it will take such a 'long time to obtain the rights to do so. The Developers

should not be excused at this point from being required to obtain such an exit merely because of the time delays that they were aware of in the first place.

**B. Discrepancies in Staff Report.** The Staff Report and associated Environmental Review describe the Project both verbally and in maps to include driveway/road from the home site that is in excess of 2200 feet long that travels within 30 feet from the rear fence lines of all the homes on Danube Drive with the only exit onto Jennifer Drive. The Staff report (which includes the Environmental Review) includes a set of new maps that has a slightly relocated road that still runs within 30 feet from the rear fence lines of all but 4 of the homes on Danube Drive, in conflict with the maps referenced by the County in its Environmental Review and the map provided by the Developer's biotic resource expert. This discrepancy is not discussed in the Staff Report nor is there any other mention or discussion of any alternate road locations or exits in either the Staff Report or the Environmental Review.

**C. Road Location Issues and Requirements.** The location and the exit route of the driveway/road has a significant impact on nearby home owners in that it affects the value of their homes in material and significant ways since each of the adjoining homes are on relatively small lots (6000ft<sup>2</sup> to 9000 ft<sup>2</sup>) and, if the road is located as proposed, will result in these homes having a road about 50 feet from the rear of their homes in addition to a road within 30 feet from the front of their homes. Further the proposed road location travels through considerable areas that are very soggy clay during the wet months and, as contrasted to existing old road nearby on the Property, will require substantial extra grading and fill to create a roadway that would be sufficient for fire trucks and other heavy vehicles in contrast to other potential road locations on the Property.

The home site is located on a single 142-acre parcel. The road/driveway to the home does not have to be 2500 feet long and located within 30 feet of the fence lines of most of the homes bordering the property. Alternate road locations exist on this expansive acreage. Exits via Mesa Grande or Hudson Lane that would minimally impact the habitat or adjoining homes are possible but the Developers have instead chosen not to take the steps to develop these alternatives nor has the County required that the Developer to work on these alternatives.

If alternative road routes and/or exits are to be considered, including a re-routing of the road away from the homes with an exit at Kamian Drive, this should have been done at a subsequent, properly noticed, hearing held after the specific alternatives have been evaluated by the Planning Department.

At the hearing, the Zoning Administrator actually changed the road exit to Kamian Drive and moved the "No Access" strip from Kamian Drive to Jennifer Drive without notice and without any mention in the Staff Report. Though this is a positive change, it was done improperly and "on the fly" without sufficient planning and associated mitigation requirements. If the road exit is relocated to Kamian, additional requirements should have been included as part of the decision and the public should have been informed about the changes, in advance of the hearing. The decision to change the road exit, if made should include requirements that the road: (a) travels straight from Kamian to the old road and does not travel behind any houses on Danube; (b) is screened with native oaks and shrubs in any area where it is visible from the nearby homes; (c) is not lighted; and (d) is paved with sound reducing pavement. .

In the previous hearing, the Zoning Administrator specifically asked the Developers to obtain approval of the road plans from the Fire Department rather than just obtaining the generic sign off with generic conditions in view of the possibility that at some time after the County approval of the Application, the Fire Department will actually visit the site and decide that the road, driveway, slopes, turn-around may need to be changed. To avoid post Application approval changes in the road design, more extensive grading, and potentially a greater impact on the Coastal Prairie Grasslands (the development envelop is primarily Coastal Prairie Terrace Grasslands), the County's mitigations should confirm the requirement that the road construction plans are actually pre-approved by the fire department prior to approval by the County to avoid later "ad hoc" changes when fire department actually visits the site that may result in more extensive grading or a change in the road design and/or location.

**4. Biotic Resource Information Contradicts Developer Surveys.**

Submitted with the December 2003 Letter is substantial and detailed additional information concerning the Biotic Resources in the Project Area and the flatter portions of the 142 acre Property that was collected by Randy Morgan in 2003 at the times of year when the plants and grasses could be properly identified (April and June of 2003) and mapped by Kevin Contreras of the Elkhorn Slough Foundation. This information documents the inadequacies of in the Developer's biotic surveys conducted in February and March 2001 and earlier (See Initial Study, Attachment 6) which, according to the County's own expert, Bill Davilla of Ecosystems West, were: (a) not timed to permit identification of special status plants or accurate identification of grassland types; and (b) did not sufficiently define the areas of prairie grassland. (See Initial Study, Attachment 3).

Narrative information and plant lists along with a map of vegetative types documented as the result of Randy Morgan's recent survey's of the Koch/Carmichael Property are included as Exhibits B and a map of his findings as Exhibit C. Earlier surveys by Randy Morgan and Grey Hayes, both knowledgeable experts on Coastal Terrace Prairie Grasslands and Oak Woodlands are already part of the Application file and were submitted by Nisene 2 Sea in 2002 and 2003.

Since many critical "Grading Permit Findings (Exhibit H of Staff Report) are based on the nature and extent of sensitive habitats in the Project area and the County's decisions concerning many if not most of the grading activity relate to the biotic mapping of the Project area, the data and information used by the County must be accurate or the decisions, recommendations, and mitigation requirements made by the County will be faulty.

The fact that there are significant material contradictions between the surveys complete in 2001 by the Developers and surveys completed for the same property by Randy Morgan in 1980 and 2000 (both currently in the Project files) and in 2003 is critically important, especially with regard to the extent and location of the Coastal Prairie Terrace Grasslands and related plant species and the nature, character, and extent of the Oak Woodlands.

The survey information and habitat/vegetation map that is provided with our December 2003 letter is based on Randy Morgan's 2000 and April and June 2003 surveys which materially contradict the Grading Permit Findings and show that most of the Project area is covered with excellent quality Coastal Prairie Terrace Grasslands along with the normally expected associated plants. Even in areas overgrown with invasive Broom or non-native

grasses, significant seedbeds remain. In addition, the fact that the oaks on the Property have not been properly identified or mapped by the Developers is significant (most of the oaks on the Property are the rare Shreve Oak (*Quercus parvula* var. shrevii) and not *Quercus agrifolia* as stated by the Developer's expert). The County has failed to take into consideration that the Developers also removed a substantial number of oaks in 1998 from the areas where the illegal grading occurred. The decision by the Zoning Administrator only mandates that the Developer plant " 2 oak trees of an undefined species to mitigate the impact of the project on the oaks on the property. This requirement does little to address the impact of the Project on the rare Shreve Oaks impacted by the Project.

Accurate biotic surveys are essential and these must be made before grading decisions are made and mitigation measures developed. Even after the March 2003 hearing where the deficiencies in the biotic information were clearly established, the Developers chose not update their survey information and the County continued to ignore the obvious shortcomings even after they were identified by the County's own expert and in supplemental survey information submitted by Nisene 2 Sea.

Any decisions of the Zoning Administrator that were based on or involved biotic information should be set aside, the Developers should be required to survey their entire 142 acre parcel during the spring of 2004 at times when all plants and grasses can be properly identified (with survey emphasis on all flatter areas, including those areas overgrown with invasive Broom and similar non-native brush which still hold considerable seed beds of native grasses and associated plants) so that the County's findings and mitigation requirements and habitat management requirements can be properly revised and will be meaningful and based on facts..

#### 5. Additional Slope and Grading Related Information Contradicts County Determinations.

Accurate pre-grading slope information developed in the 1997-1998 timeframe for the Developers by Bowman and Williams documents the fact that significant areas of the pre-graded slopes were 30% or more and that such areas are in areas proposed for the home site and driveways. This information and maps were legally provided by Nisene 2 Sea and used by the County because it was discovered by subpoena by Nisene 2 Sea ,in association with a Writ of Mandate filed against the Developers and the County.

The transcript of the December 19, 2003 hearing will show that the County now agrees that the proposed home location and associated grading and driveway is on and/or crosses slopes that were (prior to the illegal grading) or remain in excess of 30%. The Zoning Administrator approved the home location based on the following: (1) there are no other home sites on the 142 acre property; and (2) the home site location can't be moved down the hill to less sloping areas because the Developer can not be required to pump up to the septic system location selected for the proposed home.

Section 6.3.1 (Slope Restrictions) of the General Plan Policy "Prohibits structures in discretionary projects on slopes in excess of 30 percent" and Section 6.3.9 of the General Plan Policy (Site Design to Minimize Grading) states that "Access roadways and driveways shall not cross slopes greater than 30 percent". Information and maps presented by Bruce Jaffe and that

is in the County files demonstrates that the County cannot permit structures on the hillside as proposed in the Application. Exceptions possibly can be made if there are no other home site locations on the parcel under consideration. There are other home sites on the 142-acre parcel under consideration and the Developer must be required to establish with certainty otherwise in order for the Application approval to include findings based on a single-site assertion.

The Zoning Administrator only provided some evidence from Environmental Health that they had performed some research and in their opinion, there are no other possible locations for septic systems on the entire 142 acres, including the 60 or so reasonably flat acres adjoining the Vienna Woods and Thousand Oaks tracts. There was no other information provided to support the "no other home location on the 142 acres" determination made by the Zoning Administrator when he approved the location of the home on the proposed hillside location. On the other hand, the Developers, with full knowledge of the potential septic percolation problems, have always stated in articles, interviews and in person that they intend to develop 10 to 15 home sites on the flatter portions of the 142 acre parcel. The Developers' own statements directly contradict the Zoning Administrator's determination.

**6. Easement through Cabrillo College and The Forest of Nisene Marks State Parks through the Project Area.**

A. The Zoning Administrator Made Decisions about the Porter Fallon Easement without a Basis. The March, 2003, Zoning Administrator hearing concerned this same Application and Project and was continued to permit the public to address matters pertaining to the Porter Fallon Easement. The current Staff Report and Notice of Hearing are silent about this important issue that was to be addressed by the County at this hearing. Substantial information supporting the existence of the easement was provided by Nisene 2 Sea in its December 15<sup>th</sup> Letter and Exhibits. Although it appeared that the Zoning Administrator did not read any of this information, he did bring up the issue of the easement and determined, we allege in error, that since we could not provide title insurance that there was no State Park owned easement on the Property. He further stated that the Developers showed him a title report that did not indicate the existence of easement on their Property and that this confirmed that there was no easement, and further that in his opinion that if there was an easement that it was not appurtenant to the land but was a personal agreement between the original land owners in the 1860's. All of these assertions are made without a proper basis. First, Title Insurance is not actually proof of the existence or non-existence of an easement. Secondly, the fact that the Developer's title report does not show that there is an easement *is* not relevant as easement that can be established may or may not show up in a title report. Finally, the Zoning Administrator was not qualified in any way to decide whether an easement first established in the 1800s was personal or appurtenant to *the* land.

B. Relevant Additional Information and Changes since Last Hearing. (i) The California State Department of Parks and Recreation in Sacramento has formally determined that acquisition of the Koch/Carmichael Property is an appropriate addition to The Forest of Nisene Marks State Park; (ii) The last State Clearing House request was submitted by the County in the fall of 2002 and has not been resubmitted by the County since the Easement information was brought to State Park's attention in 2003; and (iii) The General Plan for the Forest of Nisene Marks State Park was formally approved by the Parks Commission in the late summer of 2003. This Plan supports the acquisition of the Koch/Carmichael Property along with the development

of collaborative educational opportunities with Cabrillo College, all of which will be facilitated by acquisition of the Koch/Carmichael Property (50 percent of the Property boundaries adjoin either Cabrillo College or State Park lands. None of the preceding information was reviewed or considered by the Zoning Administrator even though it was presented at the December 19<sup>th</sup> hearing.

**7. Staff Report Does Not Adequately Address Fire Related Concerns.**

A. Certain Approvals Not Obtained. Although the County admits that there is critically high fire danger on the entire 142 acre Property (comprised of 142 acres of brush, grasslands, and steep, heavily wooded terrain that is bounded on 2 sides by heavily forested The Forest of Nisene Marks State Park and the other side by extensive oak woodlands and grasslands), the County has not addressed obtaining approvals from The California Department of Forestry and The California Department of Parks and Recreation related thereto.

B. Gradinu Related Fire Approvals not Obtained.

The Property remains in the Central Fire District at this time. The Staff Report mentions an attached letter from Central Fire approving the grading project but this letter is not attached to the Staff Report as Exhibit G as noted. At the March 2003 Hearing, the Zoning Administrator agreed that it was very important for the Developers to obtain, in advance, more than a generic approval of their Project indicating that the Developers needed to be sure that the Fire District reviewed and approved the actual Project Plans because of the length ~~of~~ the road, the nature of the soils, the driveway turn around designs, and the steep slopes by the home.

The Zoning Administrator did not address this issue at the December 19<sup>th</sup> hearing as promised. The public's concern is that the grading and proposed road design and width will be changed upon site review by the Fire District (which frequently occurs) when they actually evaluate capacity of the road, the slopes, and the nature of the turnaround. After the site review, the Fire District may require such things as a wider road with greater carrying capacity or a different driveway configuration near the home site that may result in substantially more grading than proposed in the Application. Given that most of the 142 acres is covered with sensitive habitat, merely clearing firebreaks may not be feasible, nor will other types of similar fire prevention measures. These types of issues should be **addressed in advance** after a firm decision about the road location and exit site is made by the County and not after the Application is approved. It was our understanding at the March 2003 Hearing that the Zoning Administrator was in agreement with this assessment. The Staff Report is essentially silent about the actions taken by the Developers to address these concerns prior to the hearing and the Zoning Administrator did not address this issue at the December 19<sup>th</sup> hearing.

C. Other Fire Protection Requirements Missing.

The Project involves a 142-acre parcel bounded by dense tracts with nearly 300 single family dwellings at the end of dead end roads (1 exit route), Cabrillo College, and otherwise expansive oak woodlands and the 23,000 acre The Forest of Nisene Marks State Park. The County agrees that the Project is in an area of critically high fire danger. At the same time the County did not include any fire related requirements as conditions of approval of the Application. The Zoning Administrator failed to address this issue.

At a minimum, the Application should require that: (a) the Developers keep the existing dirt roadways on the 142 acres between Cabrillo and between the neighborhoods open to permit the travel of fire truck in the event of a wildfire (These existing roadways are visible on aerial photos of the Property); (b) annually mow a wide fire-brake on the Property along the boundaries between the Property and the adjoining housing tracts; (c) use only gates at Cabrillo, Kamian, Mesa Grande, Haas, Jennifer and Hudson Lane that permit easy fire truck access (crash gates); and (d) remove the over-growth of Broom and other invasive, non-native shrubs (which provide a significant fuel source) from the grasslands on the 142 acres.

a. **Continued Public Access and Related Traffic Concerns Not-Considered.**

A. **Trails Will Be Blocked.** The proposed building/driveway will entirely block trails that are and have been heavily used by the public for more than 40 years to access The Forest of Nisene Marks State Park from Cabrillo College lands and other nearby areas. The public trail that provides the only western winter access into most areas of The Forest of Nisene Marks State Park passes directly through the center of the proposed building site and there are not alternate trail routes available. Without these trails, the only pedestrian/non-motorized vehicular exit from the Vienna Woods tract of 280 homes (most with young children) is down a dangerous, narrow path at the edge of Vienna Drive, a narrow, very heavily traveled road at the edge of a ravine.

B. **Traffic and Parking will Increase.** The Project will divert the associated pedestrian and vehicular traffic (that usually parks at Cabrillo) into the adjoining neighborhoods and private roadways (Vienna Drive, Hudson Lane, Haas Drive extension, Mesa Grande) in order to gain access to the western side of The Forest of Nisene Marks State Park and winter western access to the interior areas of this park. This diversion will also cause a substantial increase in traffic on Vienna Drive that is the only access to a 280 tract and parking problems in the impacted neighborhoods. The Developers were very aware of these issues prior to their purchase of the property in 1998 and the County has not addressed these concerns at all in their decisions concerning the proposed Project.

The Staff Report and Zoning Administrator failed to consider Mitigations that would continue to permit the heavily used, historic, non-motorized public access routes through both the Property and the impact of the diversion of the 100 person/day use that will be diverted by the Project into adjoining neighborhoods and surrounding roads and lands.

9. **Wildlife Study Missing.** A wildlife study should have been included as part of the Environmental Study and is missing from the analysis done by the County or information provided by the County. This should be included as part of the Environmental Review and has not been include. In addition, although no Ohlone Tiger Beetles were found on the Property, there was ample evidence, and more will be provided prior to any hearing on this appeal that will establish that the Property contains significant suitable habitat for this Federally Protected Endangered Species that could provide additional habitat for the species in the future.

Planning Commission

701 Ocean Street, Santa Cruz, CA 95060

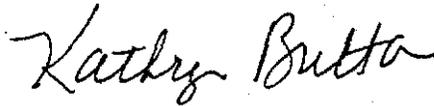
Appeal Letter: **Zoning** Administrator Decision Concerning Application No. 00-0143

Page 15 of 15

**10. Conclusions.**

Any decision of the Planning Commission assure that County determinations are factually based, comply with all applicable laws, ordinances, and policies, and should include decisions that carefully balance the interests of the Developers with the preservation and restoration of critical biotic resources and the interests and concerns of the State and the public.

Sincerely

A handwritten signature in cursive script that reads "Kathryn Britton".

Kathryn H. Britton  
Executive Committee Member  
Nisene 2 Sea

cc: Ellen Pirie, Supervisor 2<sup>nd</sup> District  
cc: Assembly Representative, John Laird

# Exhibit K

COUNTY OF SANTA CRUZ  
INTER-OFFICE CORRESPONDENCE



DATE: February 12, 2004  
TO: Don Bussey, Zoning Administrator  
FROM: Tom Bums, Planning Director *TJB*  
SUBJECT: Reconsideration of Application 00-0143

---

As you may know, your recent approval of this application has been appealed to the Planning Commission. One of the issues ~~asserted~~ by the appellants is that there was improper notice provided for the hearing at which you rendered your decision. During my review of this matter, I have determined that, in fact, we failed to provide public notice of the hearing as prescribed in County Code Section 18.10.223(f). I am therefore directing staff to refund the fee collected for this appeal and to schedule ~~this~~ application for reconsideration by the Zoning Administrator. Prior to opening the public hearing, you will need to vacate the previous approval of application 00-0143. Thanks for your attention to *this* matter.

# Exhibit L

East 27 links distant; thence East along said Rancho boundary 13.00 chains, a little more or less, to the Northeast corner of said Soquel Rancho, on the East boundary of the Aptos Rancho, thence South along the East boundary of said Aptos Rancho 29.70 chains to the North corner of lands conveyed by G. K. Porter and B. F. Porter to G. T. Grow, by deed dated Oct. 9th, 1866 and recorded in the records for deeds of Santa Cruz County, in Volume 8 at pages 666 and following; thence along the West boundary of said last mentioned lands, the same being along the East side of a road South 29° 35' West 3.97 chains to a station; South 16° 30' West 1.83 chains to a station; South 9° 20' West 3.96 chains to a station; South 26° 10' West 10.62 chains to a station on the North side of said County Road leading from Santa Cruz to Watsonville; thence Westerly along said side of said County Road about 31 chains to the place of beginning, CONTAINING an area of about 78 acres.

RESERVING AND EXCEPTING from the above described lands the right of way granted to James L. Grover, Stephen F. Grover and Dwight W. Grover by deed dated April 14th, 1883 and recorded in the records for deeds of Santa Cruz County, in Volume 36 at pages 87 and following.

1963  
→  
RESERVING AND EXCEPTING also the right of way granted to Thomas Fallon, by B. F. Porter and Geo. K. Porter by agreement dated August 22nd, 1866 and recorded in the records for agreements of Santa Cruz County, in Volume 1 at pages 178 and following. AND ALSO the right of way granted by B. F. Porter to Thomas Fallon by agreement dated August 22nd, 1866 and recorded in the records for agreements of Santa Cruz County, in Volume 1 at pages 181 and following.

RESERVING AND EXCEPTING therefrom that parcel of land conveyed by B. F. Porter Estate, a corporation, to E. W. Kober by deed dated August 11, 1930 and recorded September 2, 1930 in Volume 184, page 166 Official Records of Santa Cruz County.

ALSO RESERVING AND EXCEPTING therefrom that parcel of land conveyed by B. F. Porter Estate, a California corporation, to Salesian Society, a California corporation, by deed dated January 30, 1948 and recorded February 20, 1948 in Volume 628, page 96, Santa Cruz County Official Records.

AND ALSO RESERVING AND EXCEPTING therefrom any portion thereof within the boundaries of the real property described in the Decree of Condemnation of the Superior Court of the State of California in and for the County of Santa Cruz in the matter of Cabrillo Joint Union Junior College District v. Porter Estate Company and Others and numbered therein 30,976, which said Decree of Condemnation was recorded on the 1st day of May, 1961 in Volume 1394 at page 533 Official Records of Santa Cruz County and/or within the boundaries of the real property described in that Quitclaim Deed dated June 9, 1961 recorded July 19, 1961 in Volume 1408 page 364 Official Records of Santa Cruz County.

*Easement Reference*  
EXHIBIT F *Recent*  
*Deed Reference*

STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO } ss.

On this 31st day of December, 1962, before me, a Notary Public in and for the City and County of San Francisco, State of California, residing therein, duly commissioned and sworn, personally appeared EVERETT S. LAYMAN and D. G. KERNER, known to me to be a Vice-President and Assistant Secretary respectively, of PORTER ESTATE COMPANY, the corporation described in and that executed the within instrument, and also known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City and County of San Francisco, State of California, the day and year in this certificate first above written.

*Eloise G. Ransom*

ELOISE G. RANSON  
Notary Public

In and for the City and County of San Francisco, State of California

My Commission Expires: June 7, 1963

12/31/62

10m M. Kelly

JAN 4 8 28 AM '63

*Eloise G. Ransom*

RECORDED AND INDEXED

00333

W 1101 RE 113

interests and rights granted to Porter Sesnon, Barbara Sesnon Cartan and William T. Sesnon, Jr. by deed dated October 31, 1952 and recorded in the Office of the County Recorder of Santa Cruz County, California on November 3, 1952 in Book 890 of Official Records at pp. 611 and following.

The property conveyed hereby is subject to the estates, rights and interests transferred, reserved, excepted or created by the following instruments:

Deed dated April 14, 1883 to James L. Grover, Stephen F. Grover and Dwight W. Grover, which was recorded in Volume 36 of Deeds, Records of Santa Cruz County, California at pages 87 and 88;

Agreement dated August 22, 1866, which was recorded in Volume 1 of Agreements, Records of said Santa Cruz County at pages 178 and following;

1956  
→

Agreement dated August 22, 1866, which was recorded in Volume 1 of Agreements, Records of said Santa Cruz County at pages 181 and following;

Deed dated August 11, 1930 to E. W. Kober which was recorded September 2, 1930 in Volume 184 of Official Records of said Santa Cruz County at page 166;

Deed dated January 30, 1948 to Salesian Society, a California corporation, which was recorded February 20, 1948 in Volume 628 of Official Records of said Santa Cruz County at page 96;

Deed dated July 11, 1876 to Santa Cruz Railroad Company, which was recorded in Volume 21 of Deeds, Records of said Santa Cruz County at pages 367 and following;

Deed dated December 19, 1947 to State of California, which was recorded February 11, 1948 in Volume 626 of Official

On this 1st day of November, 1956, before me  
ELOISE G. PARSONS, a Notary Public in and for  
the City and County of San Francisco, State of California,  
residing therein, duly commissioned and sworn, personally  
appeared PORTER SESNON and BARBARA SESNON CARTAN known to  
me to be the President and Assistant Secretary respectively,  
of B. P. PORTER ESTATE, the corporation described in and that  
executed the within instrument and also known to me to be the  
persons who executed the within instrument on behalf of the  
corporation therein named, and they acknowledged to me that  
such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal at my office in the City and County  
of San Francisco, State of California, the day and year in  
this certificate first above written.

*Eloise G. Parsons*  
NOTARY PUBLIC  
in and for the City and County of  
San Francisco, State of California  
My Commission Expires June 7, 1957

RECORDED AT REQUEST OF  
NOV 2 8 37 AM 1956  
VOL 1101 PAGE 109  
OF THE COUNTY OF SAN FRANCISCO

17339

to a station; North  $31\text{-}3/4^\circ$  E. 4.50 chains to a station; North  $4^\circ$  East 2.78 chains to a station; North  $17\text{-}1/2^\circ$  West 1.69 chains to a station; North  $61\text{-}3/4^\circ$  West 1.60 chains to a station; North  $34^\circ$  West 1.80 chains to a station; North  $17^\circ$  West 2.00 chains to a station; North  $36\text{-}1/2^\circ$  West 1.50 chains to the North boundary of the Soquel Rancho from which a post in a mound on the West side of the traveled track of said road bears South  $89\text{-}1/4^\circ$  East 27 links distant; thence East along said Rancho boundary 13.00 chains, a little more or less, to the Northeast corner of said Soquel Rancho, on the East boundary of the Aptos Rancho, thence South along the East boundary of said Aptos Rancho 29.70 chains to the North corner of lands conveyed by G.K. Porter and B.F. Porter to G.T. Grow, by deed dated Oct. 9th, 1866 and recorded in the records for deeds of Santa Cruz County, in Volume 8 at pages 666 and following; thence along the West boundary of said last mentioned lands, the same being along the East side of a road South  $29^\circ 35'$  West 3.97 chains to a station; South  $16^\circ 30'$  West 1.83 chains to a station; South  $9^\circ 20'$  West 3.96 chains to a station; South  $26^\circ 10'$  West 10.62 chains to a station on the North side of said County Road leading from Santa Cruz to Watsonville; thence Westerly along said side of said County Road about 31 chains to the place of beginning, CONTAINING an area of about 78 acres.

RESERVING AND EXCEPTING from the above described lands the right of way granted to James L. Grover, Stephen F. Grover and Dwight W. Grover by deed dated April 14th, 1883 and recorded in the records for deeds of Santa Cruz County, in Volume 36 at pages 87 and following:

1955  
→

RESERVING AND EXCEPTING also the right of way granted to Thomas Fallon, by B.F. Porter and Geo. K. Porter by agreement dated August 22nd, 1866 and recorded in the records for agreements of Santa Cruz County, in Volume 1 at pages 178 and following. AND ALSO the right of way granted by B.F. Porter to Thomas Fallon by agreement dated August 22nd, 1866 and recorded in the records for agreements of Santa Cruz County, in Volume 1 at pages 181 and following.

RESERVING AND EXCEPTING therefrom that parcel of land conveyed by B.F. Porter Estate, a corporation, to E. W. Kober by deed dated August 11, 1930 and recorded September 2, 1930 in Volume 184, page 166 Official Records of Santa Cruz County.

ALSO RESERVING AND EXCEPTING therefrom that parcel of land conveyed by B.F. Porter Estate, a California corporation, to Salesian Society, a California corporation, by deed dated January 30, 1948 and recorded February 20, 1948 in Volume 623, page 96, Santa Cruz County Official Records.

Vol 1024 PAGE 404

REPUBLIC OF FRANCE  
DEPARTMENT OF THE SEINE  
CITY OF PARIS  
EMBASSY OF THE UNITED  
STATES OF AMERICA

ES.

On this 21<sup>st</sup> day of June, 1955, before me,  
Sue E. Harlow  
Vice Consul of the United States  
of America

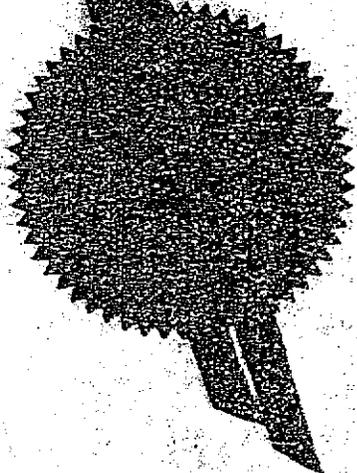
\_\_\_\_\_ , at Paris, France,  
personally appeared JACQUELINE K. SESNON, known to me to be  
the person whose name is subscribed to the within instrument  
and acknowledged that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal this 21<sup>st</sup> day of June,  
1955.

Sue E. Harlow  
Vice Consul of the United States  
of America

Service No. 13639  
Tariff No. 28  
\$ 2 = 1.72

JUN 2



RECORDED AT REQUEST OF  
Elizabeth J. ...  
JUL 8 10 46 AM 1955  
Vol 1024 page 397  
OFFICE OF THE VICE CONSUL OF THE UNITED STATES OF AMERICA  
Paris, France

10232

Vol. 890 Page 612

West side of the traveled track of said road bears South 89-1/4° East 27 links distant; thence East along said Rancho boundary 13.00 chains, a little more or less, to the Northeast corner of said Soquel Rancho, on the East boundary of the Aptos Rancho; thence South along the East boundary of said Aptos Rancho 29.70 chains to the North corner of lands conveyed by G. K. Porter and B. F. Porter to G. T. Grow, by deed dated Oct. 9th, 1866 and recorded in the records for deeds of Santa Cruz County, in Volume 8 at pages 666 and following; thence along the West boundary of said last mentioned lands, the same being along the East side of a road South 29° 35' West 3.97 chains to a station; South 16° 30' West 1.83 chains to a station; South 9° 20' West 3.96 chains to a station; South 26° 10' West 10.62 chains to a station on the North side of said County Road leading from Santa Cruz to Watsonville; thence Westerly along said side of said County Road about 31 chains to the place of beginning, CONTAINING an area of about 78 acres.

RESERVING AND EXCEPTING from the above described lands the right of way granted to James L. Grover, Stephen F. Grover and Dwight W. Grover by deed dated April 14th, 1883 and recorded in the records for deeds of Santa Cruz County, in Volume 36 at pages 87 and following.

1952 →

RESERVING AND EXCEPTING also the right of way granted to Thomas Fallon, by B. F. Porter and Geo. K. Porter by agreement dated August 22nd, 1866 and recorded in the records for agreements of Santa Cruz County, in Volume 1 at pages 178 and following. AND ALSO the right of way granted by B. F. Porter to Thomas Fallon by agreement dated August 22nd, 1866 and recorded in the records for agreements of Santa Cruz County, in Volume 1 at pages 181 and following.

RESERVING AND EXCEPTING therefrom that parcel of land conveyed by B. F. Porter Estate, a corporation, to E. W. Kober by deed dated August 11, 1930 and recorded September 2, 1930 in Volume 184, page 166 Official Records of Santa Cruz County.

ALSO RESERVING AND EXCEPTING therefrom that parcel of land conveyed by B. F. Porter Estate, a California corporation, to Salesian Society, a California corporation, by deed dated January 30, 1948 and recorded February 20, 1948 in Volume 628, page 96, Santa Cruz County Official Records.

PARCEL TWO:

BEGINNING on the South side of the County Road leading from Santa Cruz to Watsonville and in the middle of the gulch known as the Sanjon de los Borregas, on the East boundary of the Soquel Rancho, from which point the Southeast corner of the tract of land designed by the letter "S" on the Map which accompanies the report of the Referees appointed to make partition of said Soquel Rancho, between the owners thereof in the case of F. A. Hihn vs. H. W. Peck et al., bear North 15° 30' E. 91 links distant; thence along said South side of said County Road North 75° 30' West 14.09 chains to the

VOL 890 PAGE 616

authorized and its corporate seal to be hereunto affixed this  
31<sup>st</sup> day of October, 1952.

B. F. PORTER ESTATE,

By Everett J. Raymond  
Its Vice-President

and

By J. G. Keener  
Its Assistant Secretary

Did not pass

AMENDED IN SENATE APRIL 17, 1969

SENATE BILL

No. 407

Introduced by Senator Grunsky  
(Coauthor : Assemblyman Murphy)

February 25, 1969

REFERRED TO COMMITTEE ON GOVERNMENTAL EFFICIENCY

*An act authorizing the conveyance of certain park  
rights-of-way to Cabrillo College.*

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Director of Parks and Recreation is author-
- 2 ized to convey to Cabrillo College all right, title and interest of
- 3 the State of California in and to that certain right-of-way
- 4 described in the instrument between B. F. Porter, et al., and
- 5 Thomas Fallon, dated August 22, 1866, recorded October 19,
- 6 1866, in Book One of Agreements, Records of Santa Cruz
- 7 County, page 178, upon such terms and conditions he may de-
- 8 termine are in the best interest of the State of California; pro-
- 9 vide the terms and conditions specified in Section 2 of this act; pro-
- 10 vided, however, that at the time of such conveyance, that there
- 11 be no restriction upon the properties described and known as
- 12 The Forest of Nisene Marks State Park, or any portion thereof
- 13 which will cause a reversion of such properties or any portion
- 14 thereof to the former owners, or their heirs, successors or
- 15 assigns.
- 16 SEC. 2. The Director of Parks and Recreation shall not
- 17 make a conveyance as specified in Section 1 of this act until
- 18 he determines that Cabrillo College has replaced the easement

LEGISLATIVE COUNSEL'S DIGEST

SB 407, as amended, Grunsky (Gov. Eff.). Rights-of-way.  
New act.

Authorizes the Director of Parks and Recreation to convey a speci-  
fied right-of-way in Santa Cruz County to Cabrillo College. Requires  
exchange of easements between department and college.

Vote—Majority; Appropriation—No; Sen. Fin.—Yes; W. & M.—  
Yes.

EXHIBIT 9 Assembly  
Bell

1 to be conveyed with a suitable easement from the remaining  
2 park right-of-way to the end of Vienna Drive.  
3 SEC. 3. The conveyance authorized by section 1 of this  
4 act shall be exchanged for a conveyance of easement to the  
5 Department of Parks and Recreation as approved by the  
6 Director of Parks and Recreation pursuant to section 2  
7 hereof.

0

Recorded in Volume 1 at Page 178 of Agreements of Santa Cruz County, California records between B.F. and G.K. Porter (First Party) and Thomas Fallon (Second Party).

This Indenture made and entered into this 22nd day of August A.D. 1866 between B.F. Porter and G.K. Porter of the State of California and County of Santa Cruz, parties of the first part and Thomas Fallon of the State of California and County of Santa Clara, party of the second part.

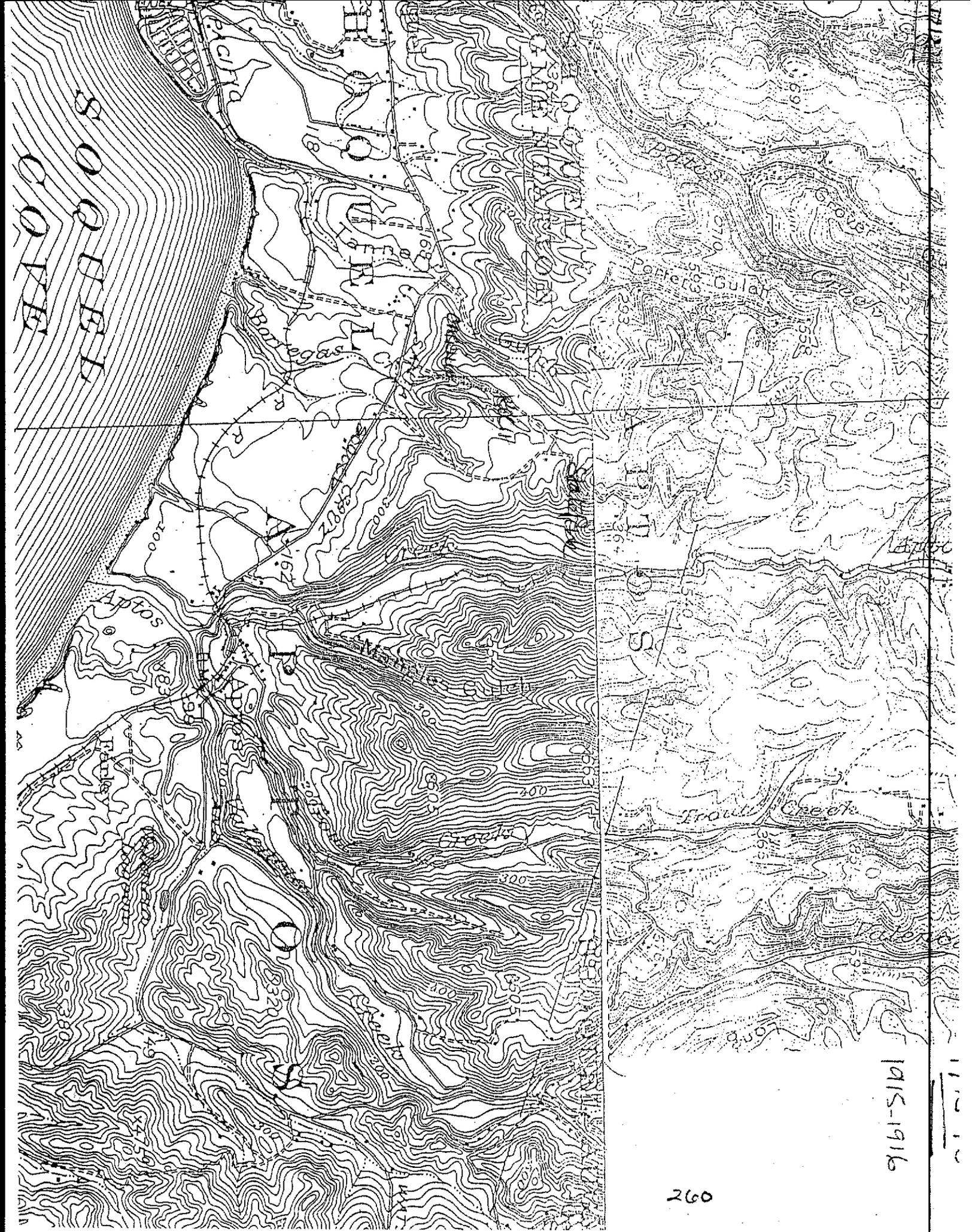
Witnesseth that whereas the said party of the second part is desirous of laying out and grading a good and substantial wagon road for the transportation of wood, lumber, and whatever else may be necessary from that part of the Soquel Augmentation Rancho so called in the County of Santa Cruz, owned of Carmel Fallon, wife of the party of the second part and by her purchased from L. Maconary. Said road to commence at some point on said portion of Same Soquel Augmentation Rancho and to run from thence across the lands of Rafael Castro to the Easterly line on the Borregas Gulch of the Soquel Rancho and from thence across said Soquel Rancho to the public road leading from Santa Cruz to Watsonville. Said road to be used by the said Thomas Fallon Carmel Fallon, and their and each of their heirs, assignees, tenants, servants, visitors, and all other persons who shall have occasion to pass and repass on foot with all kinds of animals or vehicles between the said public road and that portion of the Soquel Augmentation aforesaid; and the said parties of the first part desiring to have the use of such road as soon as the same is laid out for the purpose of transporting wood, lumber and other materials over the same.

Now therefore, in consideration that the said party of the second part shall cause said road to be laid out and shall allow the said parties of the first part the free and uninterrupted use of the Same for the purposes aforesaid and for the further consideration of the sum of twenty-five dollars to the said parties of the first part by the party of the second part, at or before the executing and delivery of these presents, duly paid, the receipt whereof is hereby acknowledged. The said parties of the first part has given and granted and by these presents and give and grant unto the said party of the second part his heirs and assignees forever, the right to enter upon, locate upon and grade a road not exceeding sixty feet in width across the lands of the parties of the first part on the Westerly side of the Borregss Gulch over such grade as the party of the second part shall select - and from the lands of Rafael Castro to the County Road that leads from front Santa Cruz to Watsonville, and also this right within the limits of such road so located to make all such excavations, embankments and bridges and to cut all such trees and undergrowth as shall be necessary to make the same a good passable road for loaded vehicles and to maintain and keep the same in repair and also the right for himself and the said Carmel Fallon their and each of their heirs and assignees, tenants, agents, servants, visitors and all other persons having occasion to use the same free right of

*Porter-Fallon Easement*

EXHIBIT *D* transcription  
258

way to pass and repass over and along said road either on foot with all kinds of vehicles at anytime whatsoever. And the said party of the second part in consideration thereof does hereby covenant and agree that as soon as said road shall be open from the said Rafael Castro Ranch to the public road they the said parties of the first part, their heirs and assigns, tenants, and servants shall forever have the free use of said road for the purpose of transporting wood, lumber, and other materials over the same; but nothing herein contained shall be construed to bind either party to keep said road in repair for the use of the other or for any other person whatsoever. And the parties of the first part has further given and granted and by these presents does give and grant unto the said Thomas Fallon, his heirs and assigns forever, the right at anytime after laying out and opening the wagon road as aforesaid to lay down and maintain a railroad track over and along said road and to place cars thereon with locomotives or horse power for the transporting of wood, lumber and other materials or for the transportation of passengers. That said track and cars shall be for his and their own use and benefit forever. In witness whereof, the said parties ..... first where written.



# Exhibit M



# Exhibit N

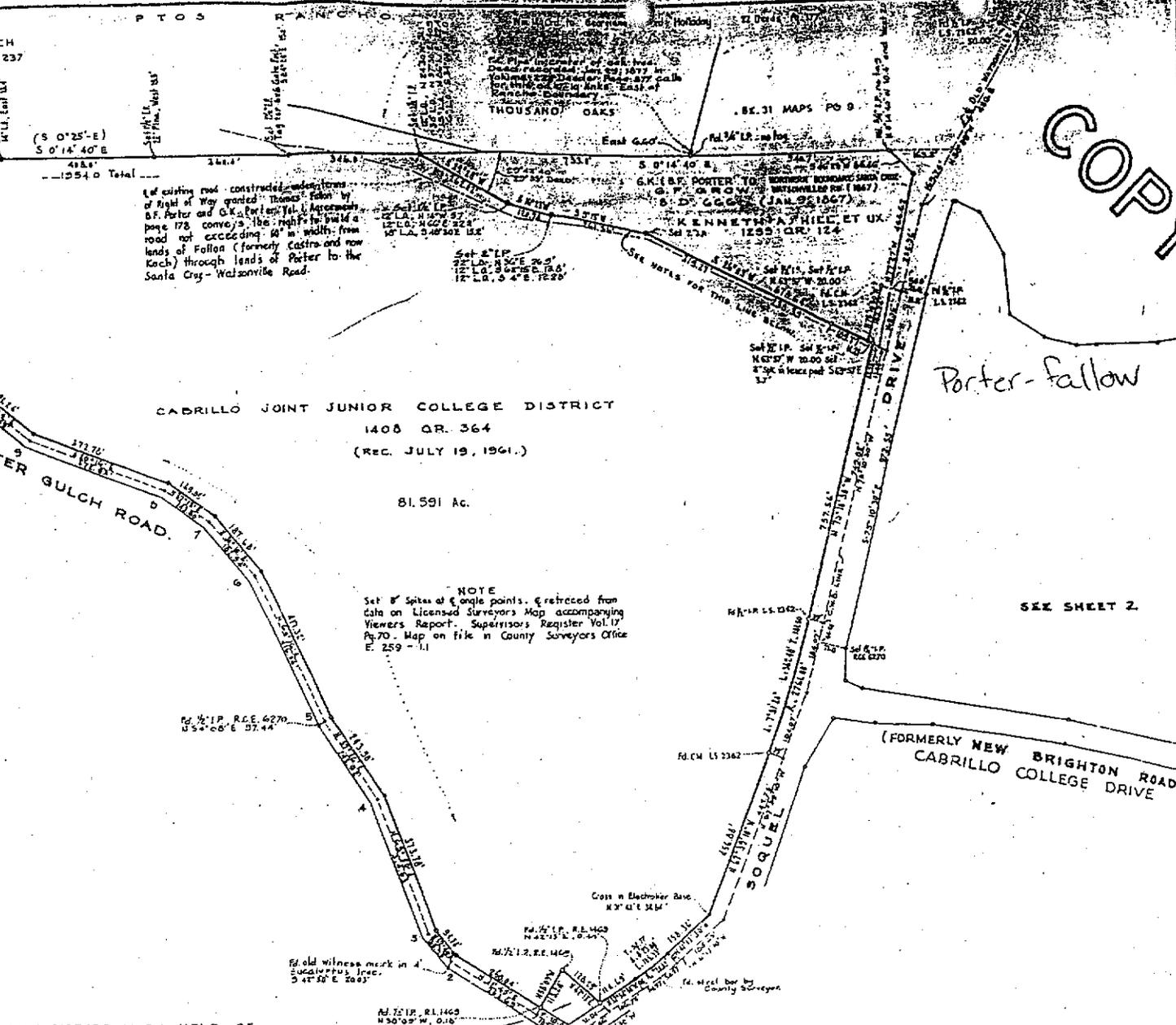


R. M. Towill Inc.

1" = 1000'

1-28-65

1478-4, (54)



COPY

CH 237  
 (S 0°25' E)  
 S 0°14' 40" E  
 418.6'  
 1954.0 Total

of existing road constructed under terms of Right of Way granted Thomas Fallon by G.F. Porter and G.W. Fallon, Vol. 1, Agreement, page 178, comes to the right to build a road not exceeding 60' in width from lands of Fallon (formerly Castro and now Koch) through lands of Porter to the Santa Cruz-Watsonville Road.

Set 2 1/2" IP  
 12' L.A. 3 3/4" S 85° E 12.6'  
 12' L.A. 3 3/4" E 12.6'

SEE MAPS FOR THIS LINE BEING  
 G.K. (E.F. PORTER TO BRIGHTON BROADWAY DISTRICT)  
 G.F. & G.W. (JAN. 22, 1867)  
 KENNETH P. HILL ET UX  
 1259 QR. 124

CABRILLO JOINT JUNIOR COLLEGE DISTRICT  
 1408 QR. 364  
 (REC. JULY 19, 1961.)  
 81.591 Ac.

NOTE  
 Set of Spikes at angle points, & retraced from data on Licensed Surveyors Map accompanying Viewers Report, Supervisors Register Vol. 17, P. 70. Map on file in County Surveyors Office E. 259 - 11

Set 1/2" IP, R.E. 6270  
 S 54° 06' E 37.44'

(FORMERLY NEW BRIGHTON ROAD)  
 CABRILLO COLLEGE DRIVE

EDIAN SISTERS MARY HELP OF  
 CHRISTIANS JUNIORATE, INC.  
 1375 C.R. 323 PARCEL 2  
 (REC. Feb. 24, 1961)

Set 1/2" IP, R.E. 1469  
 N 30° 05' W, 0.16'

ORDER'S CERTIFICATE  
 26950  
 record this 6/22/63 by September  
 22 days in Book 123 of Maps  
 at the request of  
 J. A. Williams  
 County Surveyor

LEGEND  
 1. Set 1/2" IP, Ang RCE 5270 (unless otherwise noted)  
 2. M = Concrete Monument  
 3. Not set (unless otherwise noted)  
 4. W.B. = West Bound as shown on plans on file in County Surveyors Office Project 19 SCR 1246-A Sheets 4 & 5 of 71

RECORD OF SURVEY  
 OF LANDS OF  
 CABRILLO JOINT JUNIOR COLLEGE DIST.  
 RANCHO SOQUEL,  
 SANTA CRUZ COUNTY, CALIFORNIA  
 AT THE REQUEST OF  
 BOWMAN AND WILLIAMS  
 REGISTERED CIVIL ENGINEERS  
 SANTA CRUZ, CALIFORNIA  
 DATE JAN. 1963 SCALE 1" = 200'

MAPS WITH  
 EXHIBIT E EASEMENT

**STAFF REPORT TO THE PLANNING COMMISSION**

APPLICATION NO. 00-0143  
APN: 040-081-06, 07, 09

**ATTACHMENT 3**

## Proposed Revisions to Conditions of Approval for Application 00-0143

**Revised Condition I.A1.** : Identify finish of exterior materials and color of roof covering for Planning Department approval. Colors must be natural earth-tone ~~building~~ colors that are found on the site and that cause the structure to blend with the environs. Roof and window materials must be ~~and~~ non-reflective. ~~roofs and windows that reduces the buildings contrast with the surrounding terrain~~

**New Condition I.I** : The Real Property Section of the Department of Public Works shall exchange the one foot non-access strip currently in place at the terminus of Kamian Way, with a one foot non-access strip on Jennifer Drive to prevent access to APN 040-081-06.

**STAFF REPORT TO THE PLANNING COMMISSION**

**APPLICATION NO. 00-0143**  
**APN: 040-081-06, 07, 09**

**ATTACHMENT 4**



# THE NISENE 2 SEA OPEN SPACE ALLIANCE

KATHRYN H. BRITTON  
 3757 VIENNA DRIVE, APTOS, CA 95003  
 EMAIL: KBRITTON@IX.NETCOM.COM  
 TELEPHONE: (831) 688-7724  
 FAX: (831)688-1316

THIS FACSIMILE AND THE INFORMATION IT CONTAINS IS INTENDED TO BE A CONFIDENTIAL COMMUNICATION ONLY TO THE PERSON OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU RECENE THIS FACSIMILE IN ERROR, PLEASE NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FAX TO MIS OFFICE BY MAIL.

TOTAL PAGES: 2 MAIL CONFIRMATION: No

DATE: May 17, 2004

TO: Cathy Graves, S.C. Planning Department

FAX: 831-454-~~2131~~ TELEPHONE: 2131

FROM: KATHRYN H. BRITTON

RE: Request For Entireness of Planning Commission Hearing

*Cathy, please provide the members of the  
 planning commission with copies of this letter  
 or advise me of the appropriate way to do  
 so. Thankyou*

*Kathryn Britton*



**3757 Vienna Drive, Aptos, CA 95003**  
**Telephone: (831) 688-7724**  
**Fax: (831) 688-1316**

May 16,2004

Planning Commission  
 Santa Cruz County Planning Department  
 County of Santa Cruz  
 701 Ocean Street, Room 400  
 Santa Cruz, CA 95060-4023

Attention: Cathy Graves

**RE: Appellant's Reauest to Continue Hearing Set for May 26.2004 to June 23.2004**  
 Appeal of Zoning Administrator's Decisions at March 19,2004 Hearing  
**Application No. 00-0143:** Proposal to construct a single-family dwelling, driveway, and  
 garage(s)  
Applicant: Steven Graves  
Appellant: Nisene 2 Sea  
Property Owners: S&P Carmichael Enterprises, Inc. and Men-Chy Properties  
Property: Single 142-Acre Parcel (3 APN(S) 040-081-06, 07, and 09)  
 Adjoining Cabrillo College and The Forest of Nisene Marks State Park

Delivered by FAX (831-454-2131)

**Dear** Members of the Planning Commission:

By this letter, we request a continuance of the above referenced hearing set to be heard before the Planning Commission on the morning of May 26,2004, to June 23,2004. This request is based on the unavailability on May 26, 2004 of both the 5<sup>th</sup> District Planning Commissioner and the 5<sup>th</sup> District Alternate Commissioner. The above referenced Project has a significant County wide impact on the public and should be heard by the Planning Commissioners from all 5 Districts.

Based on the critical impact of this Project on the future character of mid Santa Cruz County we also request that the hearing on the above referenced Appeal be set, if possible, in the evening to facilitate public participation.

Sincerely

Kathryn H. Britton  
 Executive Committee Member, Nisene 2 Sea

cc: Ellen Pirie, Supervisor 2<sup>nd</sup> District,  
 cc: Assembly Representative, John Laird