

## MONTEREY COUNTY ZONING ADMINISTRATOR

<b>Meeting:</b>	<b>July 27, 2006 at 9:35am</b>	<b>Agenda Item: 4</b>
<b>Project Description:</b>	Combined Development Permit (PLN050434/Kay) consisting of a Coastal Administrative Permit to allow the construction of a 2,298 sq. ft. single-family dwelling, a 528 sq. ft. detached garage, new septic system and domestic well with associated grading (546 cubic yards of cut and 213 cubic yards of fill); and a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat.	
<b>Project Location:</b>	The property is located at 5295 Starr Way (Assessor's Parcel Number 129-211-017-000), Royal Oaks Area, North County, Coastal Zone.	
<b>Plan Area:</b>	North County Coastal	
<b>Zoning:</b>	RDR/5 (CZ)	<b>Flagged and Staked:</b> Yes
<b>CEQA Action:</b>	Mitigated Negative Declaration	
<b>Date Application Deemed Complete:</b>	December 30, 2005	
<b>Department:</b>	Planning	

**RECOMMENDATION:** Staff recommends that the Zoning Administrator:

- 1) Adopt a Mitigated Negative Declaration with the attached Mitigation Monitoring Program (**Exhibit F**).
- 2) APPROVE a Combined Development Permit (PLN050434/Kay) based on the Findings and Evidence (**Exhibit C**) and subject to proposed Conditions (**Exhibit D**).

**SUMMARY:** The proposed project was originally scheduled for hearing before the Zoning Administrator on February 9<sup>th</sup>, 2006 and determined categorically exempt under CEQA pursuant to Section 15303. However, in an abundance of caution and due to an inquiry and peer review letters received from Fenton & Keller, legal representation for *Owners concerned about "Fair Planning Practices" in Monterey County*, the applicant requested that the Zoning Administrator table the item and direct Staff to complete an Initial Study and any associated environmental review. The Zoning Administrator granted the request and continued the item to a date uncertain. The peer review letters received from Fenton & Keller focused primarily on the projects proximity to environmentally sensitive habitat areas (ESHA), adequacy of the associated Geotechnical Investigation and Percolation Study, and Hydrogeologic concerns. These letters are attached as **Exhibit G**. Each of the areas identified in the letters are addressed within the associated Initial Study and Mitigated Negative Declaration (MND) (**Exhibit F**).

**PROJECT DESCRIPTION:** The project entails the construction of a new single-story residence and detached two car garage, a new domestic well, storage tank, septic system and associated grading. The parcel is approximately 10.5 acres in size, naturally vegetated by native and invasive species and is located in north Monterey County, in the Royal Oaks area. The lot has remained undeveloped since its creation through a minor subdivision in 1972.

Staff's review focused on consistency with LCP policies for the North County Area Land Use Plan. The primary issues considered were: 1) visual resources, 2) water resources, 3)

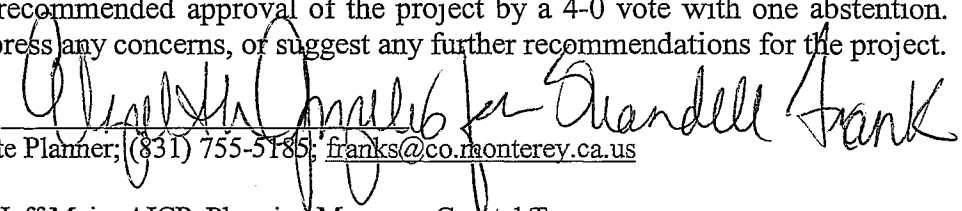
environmentally sensitive habitat and 4) hazardous area development. Staff's review determined that the project, as designed, sited, and mitigated will not have impacts related to the above-stated issues and is consistent with the LCP policies for the North County Area Land Use Plan.

Standard conditions are applied pursuant to directives in the Title 20 – Zoning Ordinance and the Coastal Implementation Plan to address health and safety issues pursuant to other County ordinances. No issues remain unresolved for this project. See **Exhibit A** for a detailed discussion.

**OTHER AGENCY INVOLVEMENT:** The following agencies have reviewed the project and those that are checked (“✓”) have comments and/or recommended conditions:

- ✓ Water Resources Agency
- ✓ Environmental Health Division
- Public Works Department
- ✓ North County Fire Protection District
- Parks Department
- Monterey County Sheriff

Conditions from the reviewing agencies have been incorporated into the project Conditions of Approval. On December 5, 2005 the North County Coastal Land Use Advisory Committee (LUAC) (**Exhibit D**) recommended approval of the project by a 4-0 vote with one abstention. The LUAC did not express any concerns, or suggest any further recommendations for the project.

This report prepared by:   
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This report reviewed by Jeff Main, AICP, Planning Manager, Coastal Team.

cc: Zoning Administrator; County Counsel; Health Department; Public Works; North County Fire Protection District; Monterey County Water Resources Agency; California Coastal Commission; David Sweigert; Jeff Main; Shandell Frank; Mari Kloepfel; Marjorie Kay; Project File

- Attachments:
- Exhibit “A” Discussion of Proposed Project
  - Exhibit “B” Findings and Evidence
  - Exhibit “C” Recommended Conditions of Approval
  - Exhibit “D” LUAC meeting minutes
  - Exhibit “E” Project Plans
  - Exhibit “F” CEQA Documents (IS/MND)
  - Exhibit “G” Fenton & Keller request and Peer Review Letters, January 27<sup>th</sup>, 2006
  - Exhibit “H” Expert Response to Peer Review Letters, February 6<sup>th</sup> and March 20<sup>th</sup>, 2006
  - Exhibit “I” Comments received on IS/MND
  - Exhibit “J” Comment letter from Mr. J. William Yeates

**Note:** This project is appealable to the Board of Supervisors and the California Coastal Commission.

## EXHIBIT A

### DETAILED DISCUSSION

PLN050434 (KAY)

June 22, 2006

#### A. PROJECT DESCRIPTION AND LOCATION

##### **Setting**

The subject property is approximately 10.5 acres in size, and roughly square in shape with the lowest elevation and longest side fronting Starr Way. The highest elevations are located on the opposite side of the property and increase from southwest to northeast. The proposed home site is located near the southern corner of the property parallel to Starr Way. Adjacent uses include rural residential and agricultural.

The project site is currently vegetated by native and invasive species. Dominant plant communities located on the parcel include coast live oak forest, central maritime chaparral, and central coastal scrub. These plant communities are mostly in a natural state over much of the property. Central maritime chaparral is classified as sensitive habitat and occurs continuously along the highest ridgetop across the northeastern side of the property.



##### **Project Description**

The project consists of the construction of a 2,298 sq. ft. single-story residence, 528 sq. ft. detached two car garage, septic system, domestic well and 5,000 gallon storage tank. A majority of the development is proposed within the central coastal scrub plant community however, the proposed driveway is located within 100-feet of several isolated individual Pajaro manzanitas. The project does not include the removal of any trees or sensitive habitat and development is not proposed on slopes greater than 25%.

## **B. PROJECT ANALYSIS**

### **Development Standards**

The proposed project is consistent with the following applicable RDR zoning district development standards:

**Setbacks** Main structures require a minimum 30 feet (front), 20 feet (side), and 20 feet (rear). Accessory non-habitable structures (garage) require a minimum 50 feet (front), 6 feet (side) and 1 foot (rear). The proposed structures are set back at least 125 feet (front), 44 feet (side), and more than 6 acres (rear).

**Height** Allowed height measured from the average natural grade for a main structure is 30 feet and 15 feet for accessory structures. The residence is a one-story structure that measures 26 feet at the highest point, while the detached garage measures a maximum of 10 feet.

**Minimum Distance Between Structures** The minimum required distance between a main structure and an accessory structure is 10 feet. The proposed residence and detached garage are separated by approximately 75 feet.

Upon further review staff identified several possible issues related to the development and its consistency with the North County Land Use Plan. Primary issues include environmentally sensitive habitat, visual resources, water resources, and hazardous area development.

**Environmentally Sensitive Habitat** North County Land Use Plan Policy, Environmentally Sensitive Habitats 2.3.2 (2), requires that development adjacent to environmentally sensitive habitats be compatible with the long-term maintenance of the resource. According to the biological surveys conducted by Ed Mercurio dated November 6, 2004 and May 2, 2005 existing sensitive habitat on the property includes central maritime chaparral, specifically, Pajaro manzanita and Hooker's manzanita. While the majority of development on the property is sited more than 100 ft away from the boundaries of this plant community, several isolated individual Pajaro manzanitas will be approximately 90 ft from the proposed driveway and detached garage. According to the report the project will not affect any natural habitat consistent with existing circumstances. The remaining central maritime chaparral occurs continuously along the northeastern portion of the subject property on slopes greater than 25% where no development is proposed. As per Section 20.144.040 (B) (6) of the North County Coastal Implementation Plan, standard conditions of approval are included to ensure the habitat's long-term maintenance including the removal of non-native species and the recordation of a Scenic and Conservation Easement.

**Visual Resources** North County Land Use Plan Policies, Visual Resources 2.2.2 (4) and (5), require development to be sited on the least visually obtrusive portion of the parcel where existing topography and vegetation provide natural screening and tree removal and grading are minimized. The proposed structures are single-story and earth tone in color. The residence and garage are sited in the lowest portion of the parcel directly adjacent to Starr Way, and are screened by existing oak trees.

Due to the natural topography of the area and the existing vegetation, the project will not be visible from a public viewing area including the waterways of Elkhorn Slough. Proposed grading will not cause structures or access roads to be visible from public viewing points and corridors. As per Section 20.144.030 (B) (5) of the North County Coastal Implementation Plan, conditions of approval will require landscape screening and restoration using native vegetation in order to enhance and protect the natural scenic character of the area.



**Water Resources** North County Land Use Plan Policy 2.5.3 (3) requires a permit for the construction of new wells or the intensification of use. The current policy within the North County Coastal area is to allow the construction of wells to serve single-family residences if those residences are proposed on legal lots of record. The subject parcel was legally created by minor subdivision in 1972. Neither Water Resources nor Environmental Health expressed concerns regarding the quality or quantity of water necessary to serve this project. The project is not located within a watershed restoration area. As per the associated Geotechnical Report (Pacific Crest Engineering, 2005) soils within the project site are classified as Aromas sand characterized by having a high potential for erosion. Standard conditions of approval have been applied to ensure that development does not occur on slopes greater than 25%, that the exposure of bare ground is minimal, and that the recommended actions discussed within the Geotechnical Report are implemented.

**Hazardous Fire Conditions**

The project site is located in a high fire hazard zone and is heavily vegetated. North County Land Use Plan Policy 2.8.3 (C) (3) allows development to occur within these areas if no less hazardous portion of the site is suitable for development and if the development will not increase the threat of fire to the public. The project is located directly adjacent to Starr Way in the least forested area of the parcel. As per regulations contained in the North County Coastal Implementation Plan, the project was reviewed by the North County Fire Protection District and has been conditioned to ensure compliance with the above policy. Further analysis concluded that the project will not result in any adverse effects on the environment and will be consistent with the policies contained in the North County Land Use Plan.

## **C. CEQA DETERMINATION**

### **Categorical Exemption**

As the Lead Agency, Staff initially found the project categorically exempt from CEQA review pursuant to §15303. Class 3 exemptions consist of limited new construction or the conversion of small structures. §15303 (a) specifically exempts the construction of one single-family residence in a residential zone. The proposed project consists of the construction of a one story single-family residence and detached garage within the RDR/5 (CZ) zone. Development will not occur on slopes greater than 25%, or require the removal of existing trees or environmentally sensitive habitat. However, on February 9<sup>th</sup>, 2006 in an abundance of caution and in response to an inquiry and peer review letters received from Fenton & Keller, legal representation for *Owners concerned about "Fair Planning Practices" in Monterey County (Exhibit G)*, the applicant tabled the item and requested Staff to complete a thorough environmental review.

### **Initial Study and Mitigated Negative Declaration**

It was suggested by evidence contained in the record (Fenton & Keller, January 27, 2006) that the project may potentially affect Biological Resources and Hydrology/Water Quality. Therefore, as requested by the applicant, Staff conducted an Initial Study and subsequent Mitigated Negative Declaration to address these and other issues where applicable. The Initial Study and Mitigated Negative Declaration were circulated from May 24<sup>th</sup>, 2006 to June 21<sup>st</sup>, 2006. Comments were received from Fenton & Keller, the Monterey Bay Unified Air Pollution Control District (MBUAPCD), and the California Department of Fish and Game (**Exhibit I**). These comments are summarized below with staff's response:

#### 1) Fenton & Keller

- The Initial Study does not adequately address the issues raised in our January 27, 2006 letter.

*Staff Response:* The first item raised in the letter from January 27, 2006 referred to the processing of the application without subsequent CEQA review. Staff conducted and circulated an Initial Study and Mitigated Negative Declaration for the project from May 24<sup>th</sup>, 2006 to June 21<sup>st</sup>, 2006 in accordance with CEQA guidelines.

- Expert opinions were contained in the January 27<sup>th</sup>, 2006 letter regarding potentially significant impacts related to biology, hydrogeology, and geotechnical/percolation issues.

*Staff Response:* The Initial Study and Mitigated Negative Declaration examined each of areas identified above and potential significant impacts were found to only occur as they related to biological resources. Mitigation Measures were identified to mitigate any potential impacts to biological resources to below a level of significance. No subsequent comments were made by Fenton & Keller or previous experts regarding hydrogeology or geotechnical/percolation issues.

- Mitigation Measures are inadequate particularly with regard to the protection of ESHA.

*Staff Response:* The County's responsibility under CEQA is to minimize any potential environmental impacts, be they direct or indirect. The project will not remove any environmentally sensitive habitat. Construction is proposed within 100ft of several individual Pajaro manzanita plants. Mitigation Measures have been included to protect these plants during construction and a planting/monitoring plan will be required to ensure the ongoing survival of the required 15 Pajaro manzanita to be planted within the disturbed area upon completion of the project. Furthermore, approximately 4.1 acres of the property will be placed in a permanent scenic conservation easement to ensure the long term maintenance of the habitat.

- The project is inconsistent with LCP policies for the protection of ESHA. Specifically, LCP Section 20.144.040B. and C. require impacts to be minimized.

*Staff Response:* No environmentally sensitive habitat will be removed as a result of the project. Adherence to the required Mitigation Measures will ensure that impacts to ESHA will be minimized. Approximately 4.1 acres of the property will be placed in a permanent scenic conservation easement to ensure the long term maintenance of the habitat. The California Department of Fish and Game has commented that the proposed mitigation measures to protect and enhance central maritime chaparral and central coast scrub communities are adequate and acceptable to DFG. Impacts to ESHA have been minimized and the project is therefore consistent with the above policies.

- Ample room is available on the property (near the road) to comply with habitat protection requirements, as in this case, all improvements must be relocated away from the ESHA at least 100 feet.

*Staff Response:* The County allows for development within 100 feet of ESHA after securing a Coastal Development Permit. Due to the heavily vegetated nature of the parcel, relocation of the house closer to the roadway would still require portions of the development (i.e. well, septic system, leach fields, driveway) to be constructed within 100 feet of ESHA. This relocation may also require the leach fields to run uphill which could result in potentially significant impacts.

- Future Fire management prescriptions may have a significant impact on the oak woodlands on the property and Public Resources Code section 21083.4 has not been complied with in this case.

*Staff Response:* As stated in the Initial Study and Mitigated Negative Declaration, to implement adequate defensible space consistent with PRC 21083.4, the North County Fire Protection District will be enforcing to 30 feet and educating to 100 feet during 2006.

Any sensitive species within the mandatory clearance zone may remain as long as the vegetative growth is not too great. Trees and perennial shrubs can remain. Mitigation Measures include maintenance trimming while precluding the removal of any sensitive resources. Therefore, implementation of the fire management zone will not significantly impact the oak woodland and associated maritime chaparral.

- If the building is not relocated to fully comply with LCP requirements for ESHA protection and to mitigate environmental impacts to a less than significant level, an EIR will be required for this project.

*Staff Response:* There is no evidence in the record that the project, combined with the required mitigation measures, will result in a significant impact to the environment. Nor is there evidence in the record proving that the relocation of the house will decrease any identified impacts. Furthermore, no evidence has been received in light of the whole record to support the "Fair Argument" standard pursuant to CEQA and related court decisions that an EIR is required.

## 2) Jean Ferreira through Fenton and Keller

- Mitigation Measure #4 defers to the fire management recommendations included in the Biological Survey (Mercurio November 6, 2004) which allows for removal of any native plant as needed for fire clearance. This conflicts with LCP requirements regarding long-term maintenance of ESHA and may result in a potentially significant impact.

*Staff Response:* The above referenced recommendation states the following: clearing of natural vegetation on the property should only be done in order to be in compliance with fire laws. As stated in the Initial Study and Mitigated Negative Declaration, to ensure adequate defensible space, the North County Fire Protection District will be enforcing to 30 feet and educating to 100 feet this year. However, any significant species within the mandatory clearance zone may remain as long as the vegetative growth is not too great. Trees and perennial shrubs can remain. Mitigation Measures include maintenance trimming while precluding the removal of any sensitive resources. Furthermore, not all natural vegetation is defined as ESHA, in this instance ESHA specifically refers to central maritime chaparral and oak woodlands. Neither of which are proposed for removal due to construction of the project or implementation of the fire management area.

- Mitigation Measure #1 requires 15 Pajaro manzanita to be planted to offset impacts of developing within the required 100 foot ESHA setback. The MM#1 and the biological survey do not require an approved planting plan nor detail how and where the manzanita are to be planted.

*Staff Response:* Development is allowed within 100ft of ESHA after securing a Coastal Development Permit; this is not a mandatory setback. The proposed project has been sited on the least environmentally sensitive portion of the subject property. The 15 Pajaro

manzanita will be planted in the areas directly disturbed by construction activities. The Mitigation Measures further included extensive monitoring by a qualified biologist. A detailed landscaping plan will be submitted prior to occupancy. By requiring and implementing this mitigation measure it enhances and therefore protects existing chaparral habitat in the area consistent with North County LUP policies 2.3.2.2 and 2.3.3.2.

- To address these impacts the project could be relocated so that a minimum 100ft ESHA setback is maintained from all improvements including grading, septic, structure, and driveway. Relocation of the house toward the road would also reduce the potentially significant impacts to the oak woodlands on the property.

*Staff Response:* The proposed project has been sited on the least environmentally sensitive portion of the subject property. Due to the heavily vegetated nature of the parcel, relocation of the house closer to the roadway would still require portions of the development to be constructed within 100 feet of ESHA, including the oak woodlands. Relocation of the project closer to the roadway would also significantly alter the design of the septic system and associated leach fields. This redesign would require the leach fields to run uphill which could result in potentially significant impacts.

- The biological survey report recommended removal of all invasive exotic plant species on the parcel. This recommendation was not included in the Initial Study and should be added to ensure the continued health of the native communities on the Kay property, especially maritime chaparral.

*Staff Response:* The current existence of invasive species is neither a direct nor indirect impact related to the proposed project. Removal of invasive species has been included as Condition of Approval #17 to protect and enhance biological resources as required by North County LUP policies 2.3.2.2 and 2.3.3.2.

### 3) California Department of Fish and Game

- The acreage amount dedicated to the Scenic Conservation Easement should be clarified in the document as it is a significant commitment on the part of the applicant to demonstrate their regard for the resource.

*Staff Response:* The applicant's are placing 4.1 acres into a permanent Scenic and Conservation Easement in order to enhance the long-term maintenance of the central maritime chaparral habitat. This has been clarified in the Initial Study as suggested.

- Proposed mitigation measures to protect and enhance central maritime chaparral and central coast scrub communities are adequate and acceptable to DFG. Success criteria should be amended to include the following: On page 21 in the MND, Monitoring Action 1B, the second to last sentence should

contain the following language for success criteria at five years: "At five years following completion of development at least 70 percent of plants shall be surviving. If 70 percent of plantings are not surviving then replanting and monitoring shall continue until compliance is achieved. The same language should be included for Monitoring Action #3B on Page 22 for enhancement of central coast scrub.

*Staff Response:* Comment noted. Monitoring Actions have been modified to reflect suggested changes.

- On the site visit with DFG staff noted one stick nest, possibly for Monterey dusky-footed woodrat, a California species of special concern. This nest should be investigated to see if it is within the project boundary and if so, monitored to see if it is active. If it is active and indeed inside construction boundaries, this area shall be avoided until late August to ensure that potential young of the year are raised and sufficiently mobile to relocate.

*Staff Response:* In accordance with the Biological Survey conducted on November 6, 2004, dusky-footed woodrat nests were observed in the coast live oak forest habitat on the property with some present in the central coastal scrub. No nests were noted within the project area or construction boundaries and no impacts to the Monterey dusky-footed woodrats were identified.

#### 4) Monterey Bay Unified Air Pollution Control District

- Please note population projections developed by AMBAG, not zoning are used to determine if a residential project is accommodated in the Air Quality Management Plan.

*Staff Response:* Comment noted. The document has been amended to reflect this change.

Based on the above responses, staff has determined that the potential impacts to Biological Resources have been mitigated to a less than significant level. No issues remain unresolved with the project.

#### **Additional Comments**

Staff received a letter from Attorney J. William Yeates on July 17, 2006. The letter is attached as **Exhibit J**. Comments include a direct legal response to the Fenton and Keller Initial Study comment letter from June 21, 2006 (**Exhibit I**). No new environmental information was contained in the letter requiring a Staff response.

**EXHIBIT B**  
**RECOMMENDED FINDINGS AND EVIDENCE**

**1. FINDING: CONSISTENCY** – The Kay Combined Development Permit (PLN050434), as described in Condition #1, and as conditioned, is consistent with the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the North County Area Land Use Plan, North County Area Coastal Implementation Plan (Part 2), Part 6 of the Coastal Implementation Plan, and Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance), which designates this area as appropriate for the residential development.

**EVIDENCE: (a) Plans/Regulations** – The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for consistency with:

- 1) North County Land Use Plan
- 2) North County Coastal Implementation Plan (Part 2)
- 3) Part 6 of the Coastal Implementation Plan
- 4) Part 1 of the Coastal Implementation Plan (Title 20 Zoning Ordinance)

There would be no conflict or inconsistencies with these policies or regulations. Staff's record of review is provided in Project File PLN050434.

**(b) Site and Land Use Description** – The project is located at 5295 Starr Way, Royal Oaks (Assessor's Parcel Number 129-211-017-000), Coastal Zone. The parcel is zoned Rural Density Residential, five (5) acre minimum per dwelling unit, Coastal Zone ("RDR/5 (CZ)"). The construction of a single family residence and detached garage are principally allowed uses in accordance with Section 20.16.040 A. However, due to the proximity of environmentally sensitive habitat the project was reviewed in accordance with Section 20.16.030 E as well. The project is in compliance with the Site Development Standards for Rural Density Residential Districts in accordance with Section 20.16.060.

**(c)** The Project Planner conducted an on-site inspection on July 26, 2005 and December 22, 2005 to verify that the project on the subject parcel conforms to the plans listed above.

**(d) Environmentally Sensitive Habitat** – The project as designed, conditioned, and mitigated is consistent with policies of the North County Land Use Plan concerning ESHA (Chapter 2.3).

- i. A Biological Survey was prepared by Ed Mercurio on November 6, 2004 and May 2, 2005 addressing the siting, design, and construction of the single family residence, detached garage, septic system, and domestic well. According to the reports, the property contains individuals representative of coast live oak forest, maritime chaparral, and central coastal scrub communities. Most of the development is located within the central coastal scrub community. A segment of the proposed driveway and detached

garage are located approximately 90-feet away from several isolated individual Pajaro manzanitas. The remaining central maritime chaparral representatives exist along the highest ridgetop across the northeastern portion of the property where no development is planned. Tree removal is not included in the development application.

- ii. In order to further the policies and regulations of the North County Land Use Plan (2.3) and the North County Coastal Implementation Plan (20.144.040), standard Conditions of Approval will require the following: grading shall be the least amount necessary to support the development, invasive plant species will be required to be controlled and removed, and the implementation of tree and native habitat protection measures shall be employed during construction activities.
- iii. Mitigation Measures designed to reduce impacts to ESHA to a less than significant level include the following: recordation of a scenic and conservation easement on 4.1 acres of the property having slopes greater than 25 % and/or contain maritime chaparral; the planting of at least 15 one gallon Pajaro manzanita of local origin; protection of Pajaro manzanita individuals located close to the construction site; restoration recommendations within the central coastal scrub plant community shall be implemented according to the Biological Survey conducted by Ed Mercurio (November 6, 2004 and May 2, 2005), and within the 30 foot and 100 foot fire management areas the applicant shall protect chaparral habitat to the maximum extent possible by implementation of the fire management recommendations included in the Biological Survey conducted by Ed Mercurio which include maintenance trimming while precluding removal of any sensitive resources.
- iv. The North County Fire Protection District is currently enforcing defensible space to 30 feet this year and educating to 100 feet. However, trees and many perennial shrubs can remain within this defensible space. Trees should be limbed up to 6 feet and shrubs such as rare, endangered and threatened plants, can remain but should have dead and dying material removed, leaving only healthy growth (Letter from Ed Mercurio outlining discussion with Fire Marshal Michael Roberson March 20<sup>th</sup>, 2006). Therefore, no significant impacts will occur as a result of fire maintenance activities to either Central maritime chaparral or Oak woodlands present on the property.
- v. Proposed mitigation measures to protect and enhance central maritime chaparral and central coast scrub communities are adequate and acceptable to the California Department of fish and Game (Jeff Cann, Associate Wildlife Biologist, Department of Fish and Game, June 20, 2006).

**(e) Visual Resources** – The project is consistent with policies of the North County Land Use Plan addressing visual resources (Chapter 2.2). The project planner conducted site visits on July 26, 2005 and December 22, 2005 to verify that the proposed project will not have a significant adverse effect on the public viewshed pursuant to the visual resource policies contained in the

North County Land Use Plan. The project has been carefully sited and designed to minimize visibility by being located in an existing forested area. The proposed structures will use earth tone colors and materials in order to be subordinate to and blend in with the natural environment. Proposed grading will not cause structures or access roads to be visible from public viewing points and corridors. Standard conditions of approval will require the implementation of tree and native habitat protection measures and the planting of additional native trees and vegetation for additional screening in order to ensure protection of the natural scenic character of the area.

**(f) Water Resources** – The project is consistent with policies of the North County Area Land Use Plan regarding water resources (Chapter 2.5). Monterey County does not consider the construction of one single-family house on an existing lot of record to have an adverse impact on groundwater resources. Water to serve the project will come from a private domestic well. Additionally, the project site is located within the area of benefit of the Salinas Valley Water Project (Zone 2C). The development will be sited, designed and constructed to minimize runoff, erosion and resulting sedimentation. The project will be required to adhere to Monterey County's Erosion Control (Chapter 16.12) and Grading (Chapter 16.08) Ordinances. Conditions of approval will require a drainage plan which includes retention/percolation facilities for stormwater runoff and follows the drainage and erosion control recommendations contained in the Geotechnical Soils Report prepared by Pacific Crest Engineering Inc. (September 2005). Additionally, a landscaping plan will be required which includes the planting of native trees and vegetation for those areas disturbed by construction in order to minimize erosion.

**(g) Hazards**- The project as designed and conditioned is consistent with the policies of the North County Land Use Plan addressing hazards (Chapter 2.8). The parcel is located in a high fire hazard area. In accordance with Section 20.144.100 (C) of the North County Coastal Implementation Plan, the project was reviewed by the North County Fire Protection District. In order to further the policies and regulations of the North County Land Use Plan and the North County Coastal Implementation Plan regarding hazards, standard Conditions of Approval will require clearance of defensible space, maintenance of adequate setbacks, installation of all weather driving surface, fire protection equipment and systems and the storage of an emergency water supply. Conditions of Approval further require adherence to recommendations contained in the Geotechnical Soils Report prepared by Pacific Crest Engineering Inc. (September 2005), designed to limit the potential effects of seismic shaking.

**(h) Land Use Advisory Committee** – The North County Coastal Land Use Advisory Committee reviewed and recommended approval (4 - 0 vote) of the Combined Development Permit on December 5, 2005 with no changes.

(i) **Application Materials** – The application and plans submitted for the Combined Development Permit in project file PLN050434 at the Monterey County Planning and Building Inspection Department.

(j) **Testimony** – No testimony, either written or oral, was received during the course of the public hearing process to indicate that there is any inconsistency with these plans or policies.

2. **FINDING: SITE SUITABILITY** – The site is suitable for the use proposed.

**EVIDENCE:** (a) The project has been reviewed for suitability by the Monterey County Planning and Building Inspection Department, North County Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Health Department and Monterey County Parks Department and the California Department of Fish and Game. There has been no indication from these agencies that the site is not suitable. Conditions recommended by these agencies have been incorporated as project conditions.

(b) The project planner conducted a site visit on July 26, 2005 and December 22, 2005 to verify that the site is suitable for this use.

(c) Necessary public facilities are available and will be provided.

3. **FINDING: PUBLIC ACCESS** – The project is in conformance with the public access and public recreation policies of the Coastal Act and the Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impacts on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

**EVIDENCE:** (a) The subject property is not described as an area where the Local Coastal Program requires access and is not indicated as part of any designated trails or shoreline access. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.

(b) Staff site visit on July 26, 2005 and December 22, 2005.

4. **FINDING: CEQA INITIAL STUDY/MITIGATED NEGATIVE DECLARATION** – On the basis of the whole record before the Zoning Administrator there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

**EVIDENCE:** (a) Initial Study. It was suggested by evidence contained in the record (Fenton & Keller, January 27<sup>th</sup>, 2006) that the project may potentially affect Biological Resources and Hydrology/Water Quality. Therefore, as requested by the applicant, Staff conducted an Initial Study and subsequent Mitigated Negative Declaration pursuant to CEQA. The Initial Study identified potentially significant effects to biological resources that could be mitigated to a less than

significant level. The applicant has agreed to proposed mitigation measures that mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of the Planning Department and is hereby incorporated by reference (PLN050434/Kay).

(b) Mitigated Negative Declaration. County staff circulated an Initial Study for the project (PLN050434/Kay) in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provides substantial evidence that the project, with the addition of Mitigation Measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk May 22<sup>nd</sup>, 2006, noticed for public review, and circulated to the State Clearinghouse from May 24<sup>th</sup>, 2006 to June 21<sup>st</sup>, 2006. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

1. Biological Survey of the Kay Property, 5295 Starr Way, by Ed Mercurio (November 6, 2004 and May 2, 2005).
2. Response to Jean Ferreira letter by Ed Mercurio regarding biological habitats and plant communities (March 20, 2006).
3. Geotechnical Investigation and Percolation Study for 5295 Starr Way, by Pacific Crest Engineering Inc. (September 2005).
4. Response to Landset letter by Pacific Crest Engineering, Inc. (February 6, 2006).
5. Personal Communication with Tom Moss of Water Resources Agency and John Hodges of Environmental Health (May 4, 2006) addressing hydrogeologic concerns raised by Geoconsultants.
6. "2004 Air Quality Management Plan" and "CEQA Air Quality Guidelines, July 2004," prepared by the Monterey Bay Unified Air Pollution Control District.
7. Fugro West North Monterey County Hydrogeologic Study, October 1995.
8. North Monterey County Comprehensive Water Resources Management Plan. Monterey County Water Resources Agency and EDAW, Inc. January 2002.
9. Letter received from Ed Mercurio regarding discussions with Fire Marshal Michael Roberson in reference to defensible space and sensitive species, March 20, 2006.

The Zoning Administrator determines that although the project could have significant impacts, mitigation can reduce these potential impacts to a level of insignificance. Therefore, a Mitigated Negative Declaration is hereby adopted by the Zoning Administrator.

(c) Mitigation Monitoring Program. A Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. The applicant/owner must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan" as a condition of project approval.

(d) Comments. During the Initial Study and Mitigated Negative Declaration circulation period, comment letters were received from Fenton & Keller accompanied by a letter from Jean Ferreira of Botanical Consulting and Services (June 21, 2006) and the California Department of Fish and Game (June 20, 2006). Comments and Staff responses are summarized below. The County has considered these comments and based on the responses finds that there is no potential for significant environmental impact:

*Fenton & Keller*

Implementation of the proposed Mitigation Measures will not ensure the long-term maintenance and protection of ESHA: No environmentally sensitive habitat will be removed as a result of the project. Over 4.1 acres of the Kay property will be put into a permanent conservation easement to ensure the long-term maintenance of the central maritime chaparral habitat. There are approximately five individual Pajaro manzanita plants within 100ft of the proposed development. As per the California Department of Fish and Game letter received on June 20, 2006, the DFG considers the proposed mitigation measures to protect and enhance the central maritime chaparral and central coast scrub communities adequate and acceptable. Furthermore, with the inclusion of conditions contained in their letter and by following the minimization measures contained in the MND, the DFG declared that project impacts should be able to be reduced to a less-than-significant level.

Consistency with Sections 20.144.040 B. and C. of the North County Coastal Implementation Plan with particular attention to habitat protection: Over 4.1 acres of the Kay property will be put into a permanent conservation easement to ensure the long-term maintenance of central maritime chaparral habitat. No central maritime chaparral habitat is proposed for removal as a result of the project. As per the Biological Survey conducted by Ed Mercurio, most of the development is proposed within the central coastal scrub community which covers approximately 20% of the property. The lot is heavily vegetated and the house has been sited in the least environmentally sensitive portion of the property. Should the house be moved from its current siting the associated leach lines, septic system, and well may require the removal of sensitive species representative of Oak woodland or central maritime chaparral.

Mitigation Measure #4: Jean Ferreira states that the fire management recommendations included in the Biological Survey conducted by Ed Mercurio on November 6, 2004 allow for the removal of any native plant as needed for fire clearance. The Biological survey clearly states the following: clearing of natural vegetation on the property should only be done in order to be in compliance with fire laws. As per Ed Mercurio's letter of March 20, 2006 in discussions with North County Fire Protection District Fire Marshal Michael Roberson, the agency is enforcing to 30 feet and educating to 100 feet this year and will be enforcing 100 feet next year. However, trees and many perennial shrubs can remain within this defensible space. Trees should be limbed up to 6 feet and shrubs such as rare,

endangered and threatened plants, can remain but should have dead and dying material removed, leaving only healthy growth.

Fire Management prescriptions and the effects on Oak Woodland: As per Ed Mercurio's letter of March 20, 2006 in discussions with North County Fire Protection District Fire Marshal Michael Roberson, the agency is enforcing to 30 feet and educating to 100 feet this year and will be enforcing 100 feet next year. However, trees and many perennial shrubs can remain within this defensible space. The fire district will allow the following to ensure protection and long term maintenance and viability of native habitat: Trees should be limbed up to 6 feet and shrubs such as rare, endangered and threatened plants, can remain but should have dead and dying material removed, leaving only healthy growth.

Exotic Plant Removal: This is addressed as a Condition of Approval # 17 as the presence of non-native species are not the direct result of project implementation.

*California Department of Fish and Game*

The acreage amount dedicated to the Scenic Conservation Easement should be clarified in the document as it is a significant commitment on the part of the applicant to demonstrate their regard for the resource: The applicant's are placing 4.1 acres into a permanent Scenic and Conservation Easement in order to enhance the long-term maintenance of the central maritime chaparral habitat. This has been clarified in the document as suggested.

Proposed mitigation measures to protect and enhance central maritime chaparral and central coast scrub communities are adequate and acceptable to DFG. Amend Monitoring Action #1B and #3B as suggested: Staff has made the suggested change.

On the site visit with DFG staff noted one stick nest, possibly for Monterey dusky-footed woodrat: In accordance with the Biological Survey conducted on November 6, 2004, no nests were noted within the project area or construction boundaries and no impacts to the Monterey dusky-footed woodrats were identified.

(e) Additional Comments.

Staff received a letter from Attorney J. William Yeates on July 17, 2006. The letter is attached as **Exhibit J**. Comments include a direct legal response to the Fenton and Keller Initial Study comment letter from June 21, 2006 (**Exhibit I**). No new environmental information was contained in the letter requiring a Staff response.

**5. FINDING: AMENDED MONITORING ACTION** – In accordance with CEQA Section 15074.1 amended Monitoring Actions #1B and #3B as suggested by the Department of Fish and Game are equivalent or more effective in mitigating or avoiding potential significant effects and that these amended monitoring actions in and of themselves will not cause any potentially significant effect on the environment.

**EVIDENCE:** (a) Amended Monitoring Action #1B includes the following: at five years following completion of the development at least 70 percent of plantings shall be surviving. If 70 percent of plantings are not surviving then replanting and monitoring shall continue until compliance is achieved.

(b) Amended Monitoring Action #3B with reference to central coast scrub includes the following: at five years following completion of the development at least 70 percent of plantings shall be surviving. If 70 percent of plantings are not surviving then replanting and monitoring shall continue until compliance is achieved.

**6. FINDING: NO VIOLATIONS** – The subject property is in compliance with all rules and regulations pertaining to zoning uses, and other applicable provisions of Title 20. Zoning violation abatement costs, if any, have been paid.

**EVIDENCE:** Sections 20.16 and 20.66 of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.

**7. FINDING: HEALTH AND SAFETY** – The establishment, maintenance, and operation of the proposed development applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

**EVIDENCE:** (a) The project as described in the application and accompanying materials was reviewed by the Planning and Building Inspection Department, Environmental Health Division, Public Works Department, North County Fire Protection District, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general. There has been no indication from these agencies that the site is not suitable for the proposed development.

(b) A Geotechnical Investigation and Percolation Study was conducted by Pacific Crest Engineering Inc. (September 2005) and includes recommended conditions that provide additional assurances regarding project safety. This report is located in the Project File PLN050434.

**8. FINDING: APPEALABILITY** – The decision on this project is appealable to the Board of Supervisors and the Coastal Commission.

**EVIDENCE:** Sections 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance (Title 20).

**EXHIBIT C  
Monterey County Planning and Building Inspection  
Condition Compliance & Mitigation Monitoring and/or  
Reporting Plan**

Project Name: Kay

File No: PLN050434

APN: 129-211-017-000

Approval by: Zoning Administrator

Date: July 27, 2006

*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
1		<p><b>PBD029 - SPECIFIC USES ONLY</b>                      The Kay Combined Development Permit (PLN050434) consists of: 1) a Coastal Administrative Permit for the construction of a 2,298 sq. ft. one-story single family residence with a 528 sq. ft. detached garage, driveway, septic system, domestic well and grading (759 cubic yards cut/fill), and a 2) Coastal Development Permit for development located within 100-feet of environmentally sensitive habitat. The property is located at 5295 Starr Way, Royal Oaks (Assessor's Parcel Number 129-211-017-000), Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action.</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

<i>Permit Cond. Number</i>	<i>Mtg. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
		No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. <b>(RMA-Planning Department)</b>				
2		<b>PBD025 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A permit (Resolution No. 050434) was approved by the Zoning Administrator for Assessor's Parcel Number 129-211-017-000 on July 27, 2006. The permit was granted subject to <b>30</b> conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of grading and building permits or commencement of the use. <b>(RMA-Planning Department)</b>	Proof of recordation of this notice shall be furnished to the Planning Department.	Owner/ Applicant	Prior to issuance of grading and building permits or start of use	
3		<b>PBD005 DEED RESTRICTION- FIRE HAZARD</b> Prior to the issuance of a building permit the applicant shall record a deed restriction which states: "This parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.144.100 of the North County Coastal Implementation Plan and per the standards for development of residential property. <b>(RMA-Planning Department)</b>	Submittal of approved and recorded Deed Restriction to the Planning Department.	Owner/ Applicant	Prior to issuance of grading and building permits or start of use	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Cleaning Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
4		<b>PBD008-SCENIC AND CONSERVATION EASEMENT</b> A 4.1 acres scenic and conservation easement shall be conveyed to the County over those portions of the property where Maritime Chaparral exists on slopes greater than 25 %. An easement deed shall be submitted to, and approved by, the Director of Planning and Building Inspection prior to the issuance of grading or building permits. <b>(RMA-Planning Department)</b>	1) Submit recorded scenic easement for review and approval by the Director of the Planning Department.  2) Conveyance to the County upon approval by the Board of Supervisors	Owner/ Applicant	Prior to Issuance of Grading and Building Permits	
5		<b>EROSION AND RUNOFF CONTROL-NON STANDARD</b> Prior to the issuance of a grading or building permit, the applicant shall submit evidence that erosion and runoff control measures have been implemented in accordance with Monterey County's Erosion Control (Chapter 16.12) and Grading (Chapter 16.08) Ordinances. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established, as per the recommendations contained in the Geotechnical Investigation and Percolation Study by Pacific Crest Engineering, Inc. (September 2005). This program shall be approved by the Director of Planning and Building Inspection. <b>(RMA-Planning Department)</b>	Submit evidence that erosion and runoff control measures have been implemented in accordance with Monterey County's Erosion Control (Chapter 16.12) and Grading (Chapter 16.08) Ordinances.	Owner/ Applicant	Prior to issuance of grading and building permits	

<i>Permit Cond. Number</i>	<i>Ming. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing/ Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
6		<b>PBD014-GRADING WINTER RESTRICTION</b> No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. (RMA-Planning Department)	None	Owner/ Applicant	Ongoing	
7		<b>PBD018(A) - LANDSCAPE PLAN AND MAINTENANCE (SINGLE FAMILY DWELLING ONLY)</b> The site shall be landscaped. At least 60 days prior to occupancy, three (3) copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. <b>The landscaping plan shall follow the recommendations contained in the Biological Survey prepared by Ed Mercurio, dated November 6, 2004. Additionally, the landscaping plan shall incorporate native trees and other indigenous vegetation for those areas disturbed by construction and for additional screening of structures.</b> The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department.	Submit landscape plans and contractor's estimate to Planning Department for review and approval.	Owner/ Applicant/ Contractor	At least three weeks prior to final inspection or occupancy	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Cleaning Condition</i>	<i>Timing</i>	<i>Verif- ication of comp- liance</i>
		All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. <b>(RMA-Planning Department)</b>				
8		<b>PBD021-LIGHTING-EXTERIOR LIGHTING PLAN</b> All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to the approval of the Director of Planning and Building Inspection, prior to the issuance of building permits. <b>(RMA-Planning Department)</b>	Submit three copies of the lighting plan to Planning Department for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
9		<b>PBD028-RESTORATION OF NATURAL MATERIALS</b> Upon completion of the development, the area disturbed shall be restored to a condition to correspond with the adjoining area, subject to the approval of the Director of Planning and Building Inspection. Plans for such restoration shall be submitted to and approved by the Director of Planning and Building Inspection prior to occupancy. <b>(RMA-Planning Department)</b>	Submit restoration plans to Planning Department for review and approval.	Owner/ Applicant	Prior to occupancy	
10		<b>PBD030-STOP WORK – RESOURCES FOUND</b> If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the	Owner/ Applicant/ Archaeo- logist	Ongoing	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verification of compliance</i>
		registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. <b>(RMA-Planning Department)</b>	project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.			
11		<b>PBD032(A) - TREE PROTECTION</b> Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. <b>(RMA-Planning Department)</b>	Submit evidence of tree protection to Planning Department for review and approval.	Owner/ Applicant	Prior to issuance of grading and building permits	
12		<b>PBD032(B) – TREE AND ROOT PROTECTION</b> Trees which are located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. <b>(RMA-Planning Department)</b>	Submit evidence of tree protection to Planning Department for review and approval.	Owner/ Applicant	Prior to Issuance of Grading and/or Building Permits	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of compli- ance</i>
13		<b>PBD034 - UTILITIES - UNDERGROUND</b> All new utility and distribution lines shall be placed underground. (RMA-Planning Department; Public Works)	None	Owner/ Applicant	Ongoing	
14		<b>PBD036 - WATER TANK APPROVAL</b> The water tank shall be painted an earth tone color to blend into the area and landscaped (including land sculpturing and fencing, where appropriate), subject to the approval of the Director of Planning and Building Inspection, prior to the issuance of building permits. (RMA-Planning Department)	Submit proposed color of water tank and landscaping to Planning Department for review and approval.	Applicant/ Owner	Prior to final inspection or occupancy	
15		<b>PBD042 – GRADING PERMITS REQUIRED</b> A grading permit is required for new private single family access driveways greater than fifty (50) feet in total length that require 100 cubic yards or more of earthwork. An over the counter (OTC) grading permit may be issued for new private single family access driveways greater than fifty (50) feet in total length that require less than 100 cubic yards of earthwork. (RMA-Planning Department)	If applicable, apply and receive the appropriate grading permit from Monterey County Building Department.	Engineer/ Owner/ Applicant	Prior to Issuance of Grading or Building Permits	
16		<b>REMOVAL OF NON-NATIVE SPECIES- NON STANDARD</b> Invasive plant species removal shall occur as identified in the Biological Survey. No new invasive species shall be planted on the property. (RMA-Planning Department)	Include removal of non-native species on landscaping plan.	Owner/ Applicant/ Contractor	At least three weeks prior to final inspection or occupancy	
17		<b>PBD012 - FISH AND GAME FEE-NEG DEC/EIR</b> Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid	The applicant shall submit a check, payable to the <i>County of Monterey</i> , to the Director of Planning and Building Inspection.	Owner/ Applicant	Within 5 working days of project approval	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
		before the Notice of Determination is filed. <b>(RMA-Planning Department)</b>				
18		<b>WR0045 WELL INFORMATION (WR)</b> Prior to the issuance of any grading or building permits, the applicant shall provide the Water Resources Agency information on the well to serve the project including a map showing the well location and any available well logs/e-logs. <b>(Water Resources Agency)</b>	Submit well information to the Water Resources Agency for review.	Owner/ Applicant	Prior to issuance of grading or building permits	
19		<b>WR0003 DRAINAGE PLAN – RETENTION (WR)</b> The applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater detention/retention facilities have been constructed in accordance with approved plans. <b>(Water Resources Agency)</b>	Submit a letter to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to final inspection	
20		<b>WR40 - WATER CONSERVATION MEASURES</b> The applicant shall provide the Water Resources Agency information on the well to: a map showing the well location and any available well logs/e-logs. <b>(Water Resources Agency)</b>	Submit well information to the Water Resources Agency for review.	Owner/ Applicant	Prior to final building permits	
21		<b>WR0008 - COMPLETION CERTIFICATION (WR)</b> Prior to final inspection, the applicant shall provide the Water Resources Agency certification from a registered civil engineer or licensed contractor that stormwater  detention/retention facilities have been constructed in	Submit a letter to the Water Resources Agency, prepared by a registered civil engineer or licensed contractor, certifying compliance with approved drainage plan.	Owner/ Applicant	Prior to final inspection	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
		accordance with approved plans. <b>(Water Resources Agency)</b>				
22		<p><b>WR40 - WATER CONSERVATION MEASURES</b></p> <p>The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:</p> <p>a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.</p> <p>b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. <b>(Water Resources Agency)</b></p>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection	
23		<p><b>FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD)</b></p> <p>Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required to provide reasonable fire safety. Environmentally sensitive areas may require</p>	<p>1) Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.</p> <p>2) Applicant shall schedule fire dept.</p>	Owner/ Applicant	Prior to issuance of grading and building permits	

<i>Permit Cond Number</i>	<i>Ming. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of compli- ance</i>
		alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. <b>(North County Fire Protection District)</b>	clearance inspection.		Prior to final building inspection	
24		<b>FIRE021 - FIRE PROTECTION EQUIPMENT &amp; SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD)</b> The residence and detached garage shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. <b>(North County Fire Protection District)</b>	1) Applicant shall enumerate as "Fire Dept. Notes" on plans.  2) Applicant shall schedule fire dept. clearance inspection.	Owner/ Applicant	Prior to issuance of building permit  Prior to final building inspection	
25		<b>FIRE026 - ROOF CONSTRUCTION</b> All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class B roof construction. <b>(North County Fire Protection District)</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Owner/ Applicant	Prior to issuance of building permit.	
26		<b>FIRE016 - SETBACKS</b> All parcels 1 acre and larger shall provide a minimum 30-foot setback for new buildings and accessory buildings from all property lines and/or the center of the road. For parcels less than 1 acre, alternate fuel modification standards or	1) Applicant shall enumerate as "Fire Dept. Notes" on plans.	Applicant	Prior to issuance of building permit	

<i>Permit Cond. Number</i>	<i>Ming Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
		other requirements may be imposed by the local fire jurisdiction to provide the same practical effect. <b>(North County Fire Protection District)</b>	2) Applicant shall schedule fire dept. clearance inspection			
27		<b>FIRE026 - ROOF CONSTRUCTION</b> All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class B roof construction. <b>(North County Fire Protection District)</b>	Applicant shall enumerate as "Fire Dept. Notes" on plans.	Owner/ Applicant	Prior to issuance of building permit	
28		<b>EH8 - WELL CONSTRUCTION PERMIT</b> Obtain a water well drilling permit from the Division of Environmental Health and construct the well. <b>(Environmental Health)</b>	Submit the Well Completion Report to the Division of Environmental Health.	Applicant	Prior to issuance of a building permit	
29		<b>EH11 - SEPTIC SYSTEM DESIGN</b> Submit plans for review and approval showing the location and design of the proposed septic system meeting the standards found in Chapter 15.20 of the Monterey County Code (Septic Ordinance) and "Prohibitions", Central Coast Basin Plan, RWQCB. <b>(Environmental Health)</b>	Division of Environmental Health must approve plans. Applicant shall obtain a permit to install the septic system.	CA Licensed Engineer /Owner/ Applicant	Prior to issuance of building permit	
30		<b>EH8 - WELL CONSTRUCTION PERMIT</b> Obtain a water well drilling permit from the Division of Environmental Health and construct the well. <b>(Environmental Health)</b>	Submit the Well Completion Report to the Division of Environmental Health.	CA Licensed Engineer /Owner/ Applicant	Prior to the issuance of a building permit	

Permit Cond. Number	Mitig. Number	Impact Addressed, and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Clearing Condition	Timing	Verifi- cation of comp- liance
	1	<p><b>Mitigation Measure #1:</b> The applicant shall plant within the disturbed area of the parcel, at least 15 one gallon Pajaro manzanita of local origin. The manzanita shall be planted at least 100 feet from any structure.</p>	<p><u>Monitoring Action #1A:</u> Submit photographic evidence of completed plantings to the Director of the Planning and Building Inspection Department for review and approval.</p> <p><u>Monitoring Action #1B:</u> To ensure the survival of the Pajaro manzanita, monitoring shall be completed by a qualified biologist prior to the commencement of construction and include reports with photographs certifying the condition of the manzanita once within three months following completion of the development, once two years after completion of the development, and once five years after the completion of the development. At five years following completion of development at least 70 percent of plantings shall be surviving. If 70 percent of the plantings are not surviving then replanting and monitoring shall continue until compliance is achieved. If plantings fail within any of the timeframes the biologist shall</p>			

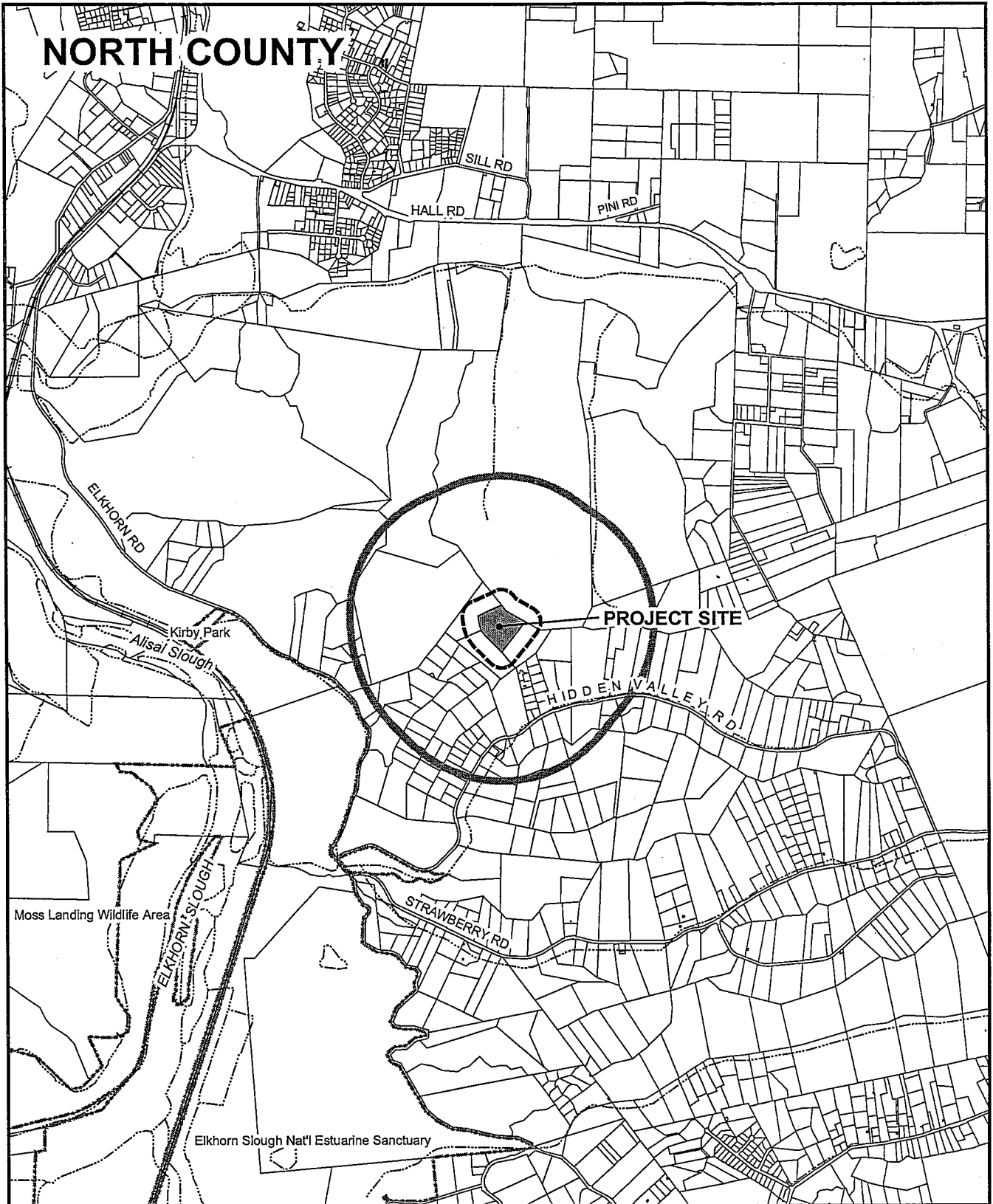
Permit Cond. Number	Mitig. Number	Impact Addressed and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Clearing Condition	Timing	Verifi- cation of compli- ance
			recommend replantings and any replantings will re-start the monitoring action. Reports shall be submitted to the Director of Planning and Building Inspection for review.			
	2	<b>Mitigation Measure#2:</b> Pajaro manzanita located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping with protective materials, avoiding fill of any type against the base and avoiding an increase in soil depth at the feeding zone or drip line of the plants.	<u>Monitoring Action #2:</u> Submit photos demonstrating compliance prior to issuance of building permits with a minimum of two follow up submissions to include just prior to final building permit sign off subject to the approval of the Director of Planning and Building Inspection.			
	3	<b>Mitigation Measure #3:</b> Restoration recommendations within the central coastal scrub plant community shall be implemented according to the Biological Survey conducted by Ed Mercurio on November 6, 2004.	<u>Monitoring Action #3A:</u> Include recommended planting(s) on landscape plan. Submit plan for review and approval by the Director of Planning and Building Inspection.  <u>Monitoring Action #3B:</u> To ensure the survival of the central coast scrub plant community, monitoring shall be completed by a			

<i>Permit Cond. Number</i>	<i>Ming Number</i>	<i>Impact Addressed and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
			<p>qualified biologist prior to the commencement of construction and include reports with photographs certifying the condition of the community once within three months following completion of the development, once two years after completion of the development, and once five years after the completion of the development. At five years following completion of development at least 70 percent of plantings shall be surviving. If 70 percent of the plantings are not surviving then replanting and monitoring shall continue until compliance is achieved. If plantings fail within any of the timeframes the biologist shall recommend replantings and any replantings will re-start the monitoring action. Reports shall be submitted to the Director of Planning and Building Inspection for review.</p>			

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verification of compliance</i>
	4	<b>Mitigation Measure #4 (SCENIC EASEMENT):</b> A scenic easement will be placed over the maritime chaparral habitat occurring on slopes greater than 25%, approximately 4.31 acres of the entire parcel.	<u>Monitoring Action #4:</u> Prior to Issuance of Grading and Building Permits the applicant shall submit approved and recorded scenic easement to the Planning and Building Inspection Department.			
	5	<b>Mitigation Measure #5 (FIRE MANAGEMENT AREA):</b> Within the 30 foot and 100 foot fire management areas the applicant shall protect chaparral habitat to the maximum extent possible by implementation of the fire management recommendations included in the Biological Survey conducted by Ed Mecurio which include maintenance trimming while precluding removal of any sensitive resources.	<u>Monitoring Action #5:</u> The owner shall minimize the trimming of Maritime chaparral to the minimum amount required by the North County Fire Protection District. The applicant shall also follow the recommendations for plant maintenance related to fire management contained in the Biological Survey conducted by Ed Mercurio on November 6, 2004 with special regard for the additional planting and monitoring of Pajaro manzanita.			
	6	<b>Mitigation Measure #6:</b> The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields,	<u>Monitoring Action #6:</u> Submit 3 copies of the engineered drainage plan to the Water Resources Agency for review and approval.			

<i>Permit Cond. Number</i>	<i>Ming Number</i>	<i>Impact Addressed, and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Clearing Condition</i>	<i>Timing</i>	<i>Verifi- cation of comp- liance</i>
		over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency.				

# NORTH COUNTY



APPLICANT: KAY

APN: 129-211-017-000

FILE # PLN050434



300' Limit

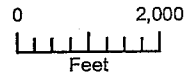


2500' Limit



City Limits

N



PLANNER: FRANK

Exhibit "D"

# Action by Land Use Advisory Committee Project Referral Sheet

Planning & Building Inspection Department  
168 W Alisal St 2<sup>nd</sup> Flr  
Salinas, California  
(831) 883-7500

Advisory Committee: North County Coastal

Please submit your recommendations for this application by Monday, December 05, 2005.

Project Title: KAY MARJORIE B  
File Number: PLN050434  
File Type: PC  
Planner: FRANK  
Location: 5295 STARR WY WATSONVILLE

**Project Description:**

COMBINED DEVELOPMENT PERMIT CONSISTING OF: A COASTAL ADMINISTRATIVE PERMIT TO ALLOW THE CONSTRUCTION OF A NEW 2,298 SQ. FT. SINGLE FAMILY DWELLING, 528 SQ. FT. DETACHED GARAGE, SEPTIC SYSTEM, NEW WELL, AND GRADING (546 C.U YDS. CUT/213 CU. YDS. OF FILL); AND A COASTAL DEVELOPMENT PERMIT TO ALLOW DEVELOPMENT WITHIN 100 FEET OF ENVIRONMENTALLY SENSITIVE HABITAT. THE PROPERTY IS LOCATED AT 5295 STARR WAY, WATSONVILLE (ASSESSOR'S PARCEL NUMBER 129-211-017-000), ROYAL OAKS AREA, NORTH COUNTY, COASTAL ZONE.

Was the Owner/Applicant/Representative Present at Meeting? Yes X No \_\_\_\_\_

Marjorie Kay (owner) present only till deliberations began, Mari & Klaus Kloeppel (applicants)

**PUBLIC COMMENT:** Carolyn Anderson commented that the time, energy and expense that are represented in this application are very impressive.

**AREAS OF CONCERN** (e.g. traffic, neighborhood compatibility, visual impact, etc.): Foundation: are 'keys' sufficient?

**RECOMMENDED CHANGES/CONDITIONS** (e.g. reduce scale, relocate on property, reduce lighting, etc.): None

**ADDITIONAL LUAC COMMENTS:** The most complete application committee has seen. Very comprehensive.

**RECOMMENDATION** (e.g. recommend approval; recommend denial; recommend continuation):

Peter Beard made motion to recommend approval with Jesse Duran seconding the motion.

**CONCUR WITH RECOMMENDATION:**

**AYES:** Peter Beard, Jesse Duran, David Evans, Joy Rosales (4)

**NOES:** 0

**ABSENT:** Kim Solano and Michele Kirby (2)

**ABSTAIN:** Marjorie Kay who walked out of room when deliberations began (1)

**MEETING ADJOURNED:** 9:45 AM

Sent by Margie Kay, Secretary of the North County Coastal LUAC  
Received via email on December 5, 2005 by Michele Friedrich, LUAC Contact



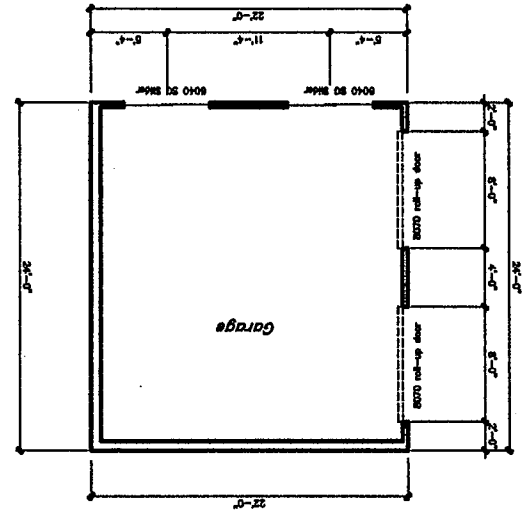




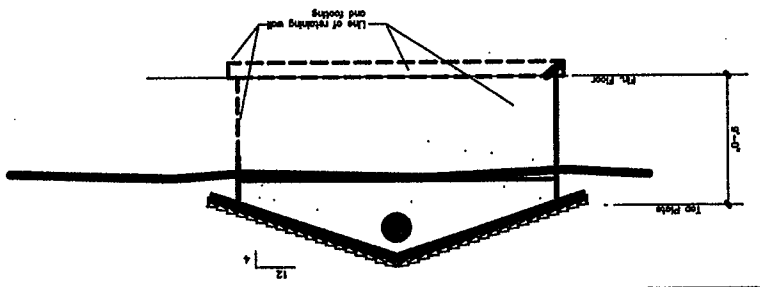
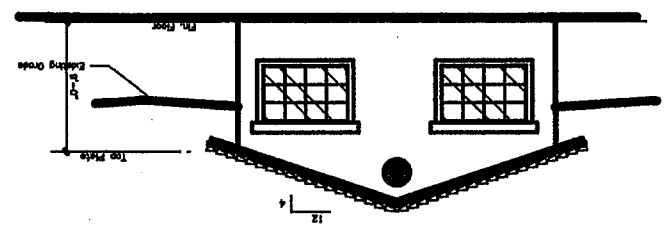
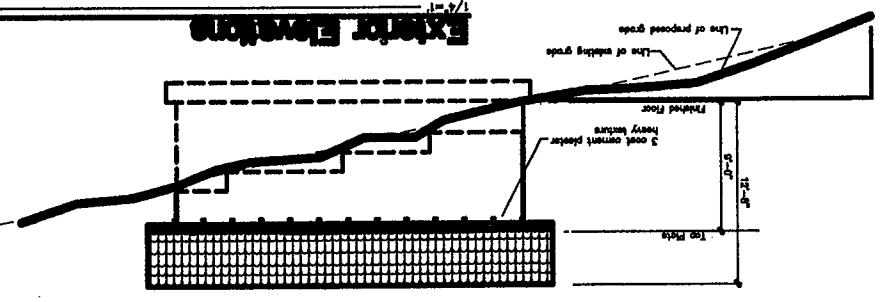
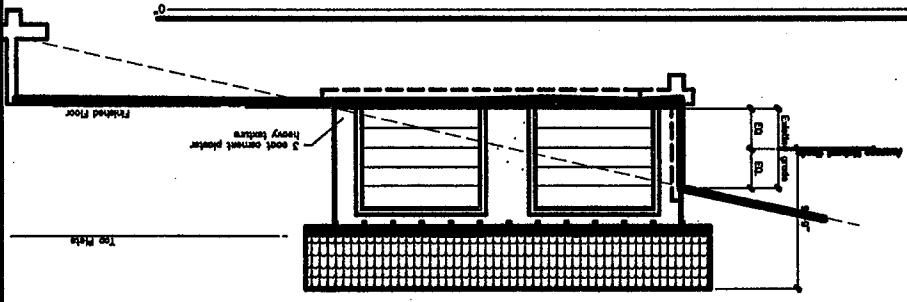
SHEET 5  
 DRAWN CADD  
 SCALE AS NOTED  
 PROJECT: New single family residence for Mrs. and Mr. Knappe  
 2000 S. 125th St. S.W.  
 ALI, # 125-511-017 PHONE: (601)-781-8763  
 SHEET TITLE: Exterior Elevations  
 DATE: 10-30-05  
 REVISION:



**Floor Plan**



**Exterior Elevations**





# Exhibit F

County of Monterey  
State of California

## MITIGATED NEGATIVE DECLARATION

**FILED**

MAY 22 2006

STEPHEN L. VAGNINI  
MONTEREY COUNTY CLERK  
DEPUTY

<b>Project Title:</b>	KAY
<b>File Number:</b>	PLN050434
<b>Owner:</b>	MARJORIE KAY
<b>Project Location:</b>	5295 STARR WAY, ROYAL OAKS, CALIFORNIA
<b>Primary APN:</b>	129-211-017-000
<b>Project Planner:</b>	SHANDELL FRANK
<b>Permit Type:</b>	COMBINED DEVELOPMENT PERMIT
<b>Project Description:</b>	Combined Development Permit (PLN050434/Kay) consisting of a Coastal Administrative Permit to allow the construction of a 2,298 sq. ft. single-family dwelling, a 528 sq. ft. detached garage, new septic system and domestic well with associated grading (546 cubic yards of cut and 213 cubic yards of fill); and a Coastal Development Permit to allow development within 100 feet of environmentally sensitive habitat.

THIS PROPOSED PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AS IT HAS BEEN FOUND:

- a) That said project will not have the potential to significantly degrade the quality of the environment.
- b) That said project will have no significant impact on long-term environmental goals.
- c) That said project will have no significant cumulative effect upon the environment.
- d) That said project will not cause substantial adverse effects on human beings, either directly or indirectly.

<b>Decision Making Body:</b>	ZONING ADMINISTRATOR
<b>Responsible Agency:</b>	COUNTY OF MONTEREY
<b>Review Period Begins:</b>	May 24, 2006
<b>Review Period Ends:</b>	June 21, 2006

Further information, including a copy of the application and Initial Study are available at the Monterey County Planning & Building Inspection Department, 168 West Alisal St, 2<sup>nd</sup> Floor, Salinas, CA 93901 (831) 755-5025

**POSTED 30 DAYS**

# MONTEREY COUNTY

PLANNING & BUILDING INSPECTION DEPARTMENT  
168 WEST ALISAL, 2<sup>ND</sup> FLOOR, SALINAS, CA 93901  
(831) 755-5025 FAX: (831) 755-9516



## NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION MONTEREY COUNTY ZONING ADMINISTRATOR

NOTICE IS HEREBY GIVEN that the Monterey County Planning and Building Inspection Department has prepared a draft Mitigated Negative Declaration, pursuant to the requirements of CEQA, for a Combined Development Permit (Kay/PLN050434) at 5295 Starr Way (APN 129-211-017-000). The project includes the construction of a single family dwelling, detached garage, domestic well and septic system. Development will occur within 100 feet of Environmentally Sensitive Habitat (Pajaro manzanita). The Mitigated Negative Declaration and Initial Study, as well as referenced documents, are available for review at the Monterey County Planning and Building Inspection Department, 168 West Alisal Street, Second Floor, Salinas, California. The Zoning Administrator will consider this proposal at a meeting on **July 27, 2006** in the Monterey County Board of Supervisors Chambers, 168 West Alisal Street, Salinas, California. Written comments on this Negative Declaration will be accepted from **May 24, 2006 to June 21, 2006**. Comments can also be made during the public hearing.

**Project Description: COMBINED DEVELOPMENT PERMIT CONSISTING OF: A COASTAL ADMINISTRATIVE PERMIT TO ALLOW THE CONSTRUCTION OF A NEW 2,298 SQ. FT. SINGLE FAMILY DWELLING, 528 SQ. FT. DETACHED GARAGE, SEPTIC SYSTEM, NEW WELL, AND GRADING (546 C.U YDS. CUT/213 CU. YDS. OF FILL); AND A COASTAL DEVELOPMENT PERMIT TO ALLOW DEVELOPMENT WITHIN 100 FEET OF ENVIRONMENTALLY SENSITIVE HABITAT. THE PROPERTY IS LOCATED AT 5295 STARR WAY, WATSONVILLE (ASSESSOR'S PARCEL NUMBER 129-211-017-000), ROYAL OAKS AREA, NORTH COUNTY, COASTAL ZONE.**

FOR ADDITIONAL INFORMATION CONTACT:  
SHANDELL FRANK, Project Planner  
Monterey County Planning & Building Inspection Department  
168 West Alisal, Second Floor  
Salinas, CA 93901  
(831) 755-5185

**For reviewing agencies:** The Planning and Building Inspection Department requests that you review the enclosed materials and provide any appropriate comments related to your agency's area of responsibility. The space below may be used to indicate that your agency has no comments or to state brief comments. In compliance with Section 15097 of the CEQA Guidelines please provide a draft mitigation monitoring or reporting program for mitigation measures proposed by your agency. This program should include specific performance objectives for mitigation measures identified (CEQA Section 21081.6(c)). Also inform this Department if a fee needs to be collected in order to fund the mitigation monitoring or reporting by your agency and how that language should be incorporated into the mitigation measure.

Distribution: (see below)

- No Comments provided
- Comments noted below
- Comments provided in separate letter

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Return to: SHANDELL FRANK  
Monterey County Planning and Building Inspection Dept.  
168 West Alisal St, 2<sup>nd</sup> Floor  
Salinas, CA 93901

From: Agency Name: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

**DISTRIBUTION**

1. State Clearinghouse (15 copies)—include Notice of Completion
2. California Coastal Commission
3. County Clerk's Office
4. Association of Monterey Bay Area Governments
5. North Monterey County High School District
6. North Monterey County Elementary School District
7. Pacific Gas & Electric
8. Pacific Bell
9. Monterey Bay Unified Air Pollution Control District
10. Monterey County Water Resources Agency
11. Monterey County Department of Environmental Health
12. Monterey County Public Works Department

# MONTEREY COUNTY

PLANNING & BUILDING INSPECTION DEPARTMENT  
168 WEST ALISAL STREET, 2<sup>ND</sup> FLOOR, SALINAS, CA 93901  
PHONE: (831) 755-5186 FAX: (831) 757-9516



## **DRAFT** **INITIAL STUDY** **MITIGATED NEGATIVE DECLARATION**

### **I. BACKGROUND INFORMATION**

**Project Title:** Kay

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**File No.:** PLN050434

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**Project Location:** 5295 Starr Way, Royal Oaks, CA

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**Name of Property Owner:** Marjorie Kay

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**Name of Applicant:** Klaus and Mari Kloeppel

---

**Assessor's Parcel Number(s):** 129-211-017-000

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**Acreage of Property:** 10.1 acres

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**General Plan Designation:** Rural Density Residential (5 – 40 ac/unit)

---

**Zoning District:** RDR/5 (CZ)

---

**Lead Agency:** Monterey County Planning & Building Inspection Department

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**Prepared By:** Shandell Frank, Associate Planner

---

**Date Prepared:** April 3, 2006

---

**Contact Person:** Shandell Frank, Associate Planner

---

**Phone Number/Email:** (831) 755-5185, franks@co.monterey.ca.us

---

## II. DESCRIPTION OF PROJECT AND ENVIRONMENTAL SETTING

### A. Project Description:

#### Background

The proposed project entails the construction of a new 2,298 square foot single-story residence and detached car garage, domestic well, storage tank, septic system and associated grading. The lot has remained undeveloped since its creation through a minor subdivision in 1972, is approximately 10.1 acres in size, gently sloping, and naturally vegetated by invasive and native species, including individual specimen of Pajaro manzanita. The proposed project was originally scheduled for hearing by the Zoning Administrator on February 9, 2006. At that time, the applicants, in an abundance of caution, asked the item to be tabled and requested Staff to complete an Initial Study.



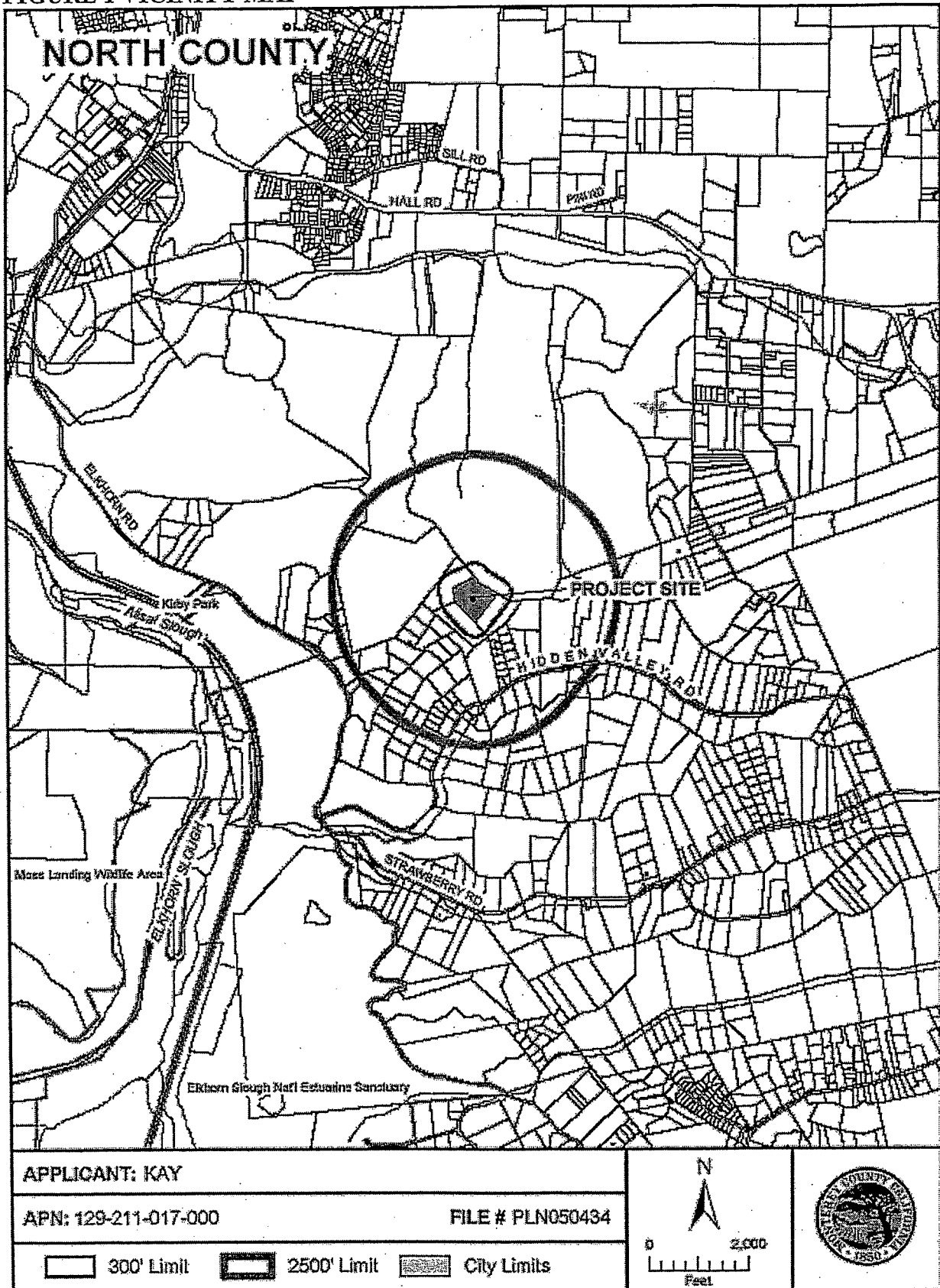
#### Proposed Project

The property is roughly square in shape with its lowest elevation and longest side fronting Starr Way. Elevations increase from southwest to northeast with the highest elevation present on the opposite side of the property. Central maritime chaparral occurs continuously along the northeastern portion of the property where no development is proposed. The project does not include a subdivision of the parcel nor development on slopes greater than 25%.

The proposed homesite is located on the southwesterly facing slope near the southern corner of the property, adjacent to Starr Way. The proposed home is a one-story, two-bedroom, two-bath home, approximately 2,298 square feet and a detached 528 sq. ft. two-car garage. The location of the house pad is approximately 120 feet north of the street frontage. The site will be accessed by minimally winding driveway designed specifically to avoid tree loss or removal. The winding nature of the driveway is also required in order to minimize grading and to keep the driveway grade at 15% or below to comply with fire access requirements.

Impervious surfaces, including the dwelling and the detached garage total 8,005 sq. ft., and would cover less than 2% of the site, compared to the maximum of 25% allowed in the zoning code (Source: IX,4). Approximately 2,826 square feet will be covered by the proposed residence and detached garage, while the remaining 5,179 square feet will include the driveway, required emergency vehicle turnaround area, retaining walls, concrete patio and entryway. The home would be served by a new domestic well and septic system. Grading needed for the home and driveway would be 546 cubic yards of cut and 213 cubic yards of fill. The parcel does not constitute ridgeline development as it is well below the ridge. The parcel is not located within the public viewshed and due to siting, existing vegetation, and design the proposed residence will not be visible from Elkhorn Slough.

FIGURE 1 VICINITY MAP



**FIGURE 2 SITE PLAN**

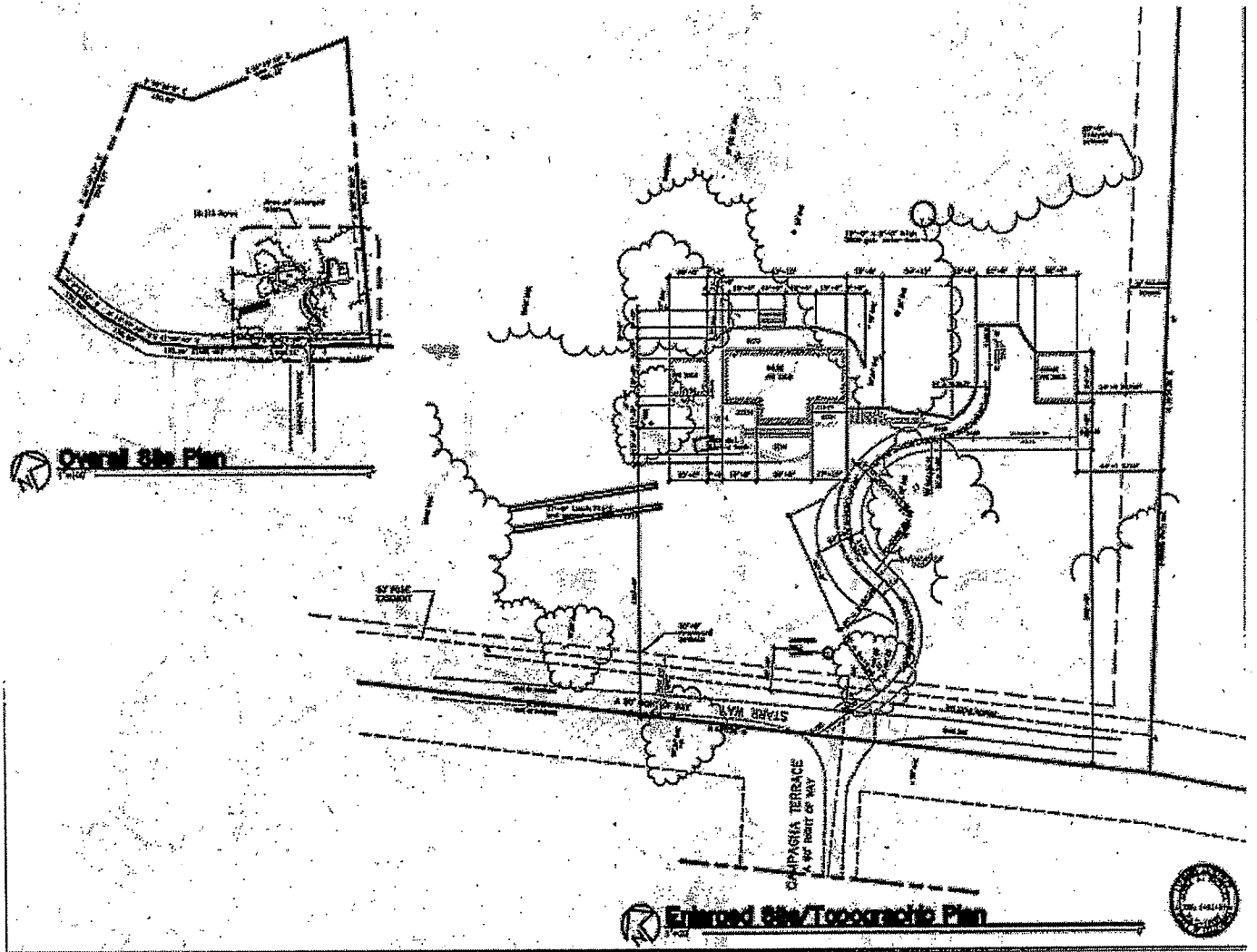
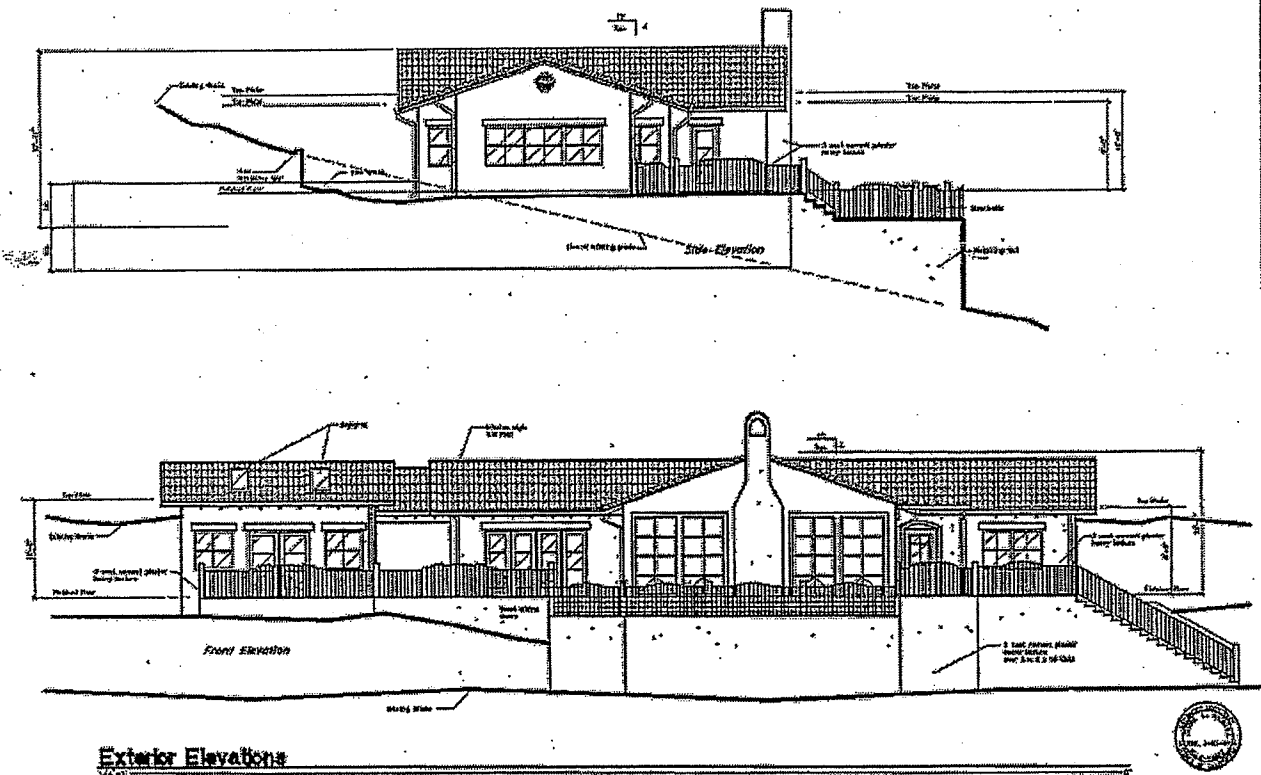
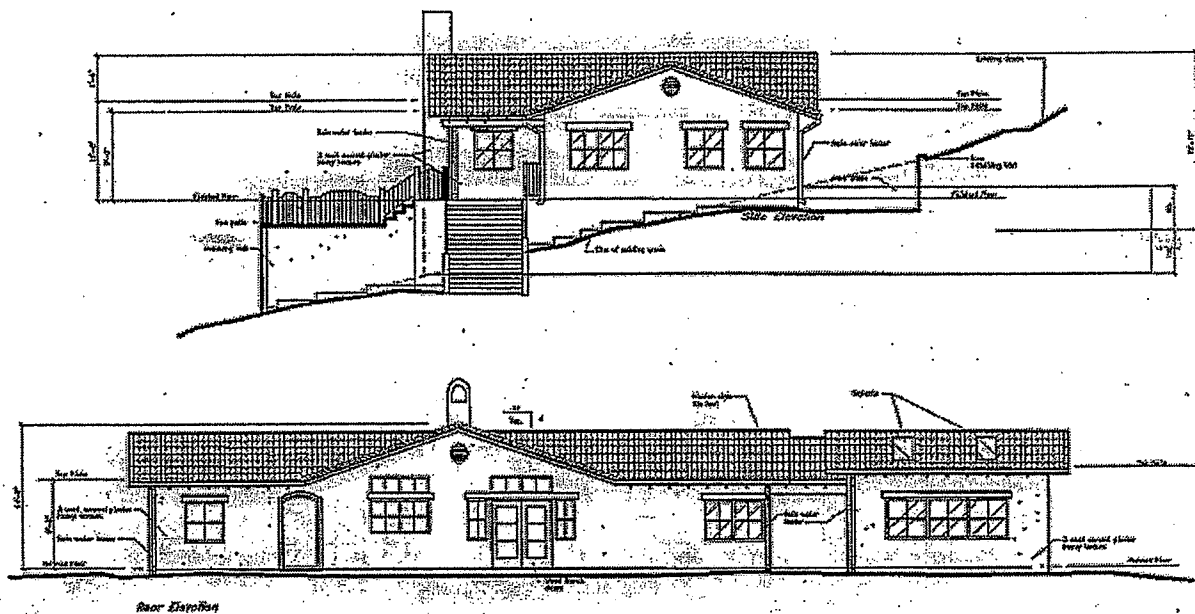


FIGURE 3 EXTERIOR FRONT ELEVATIONS



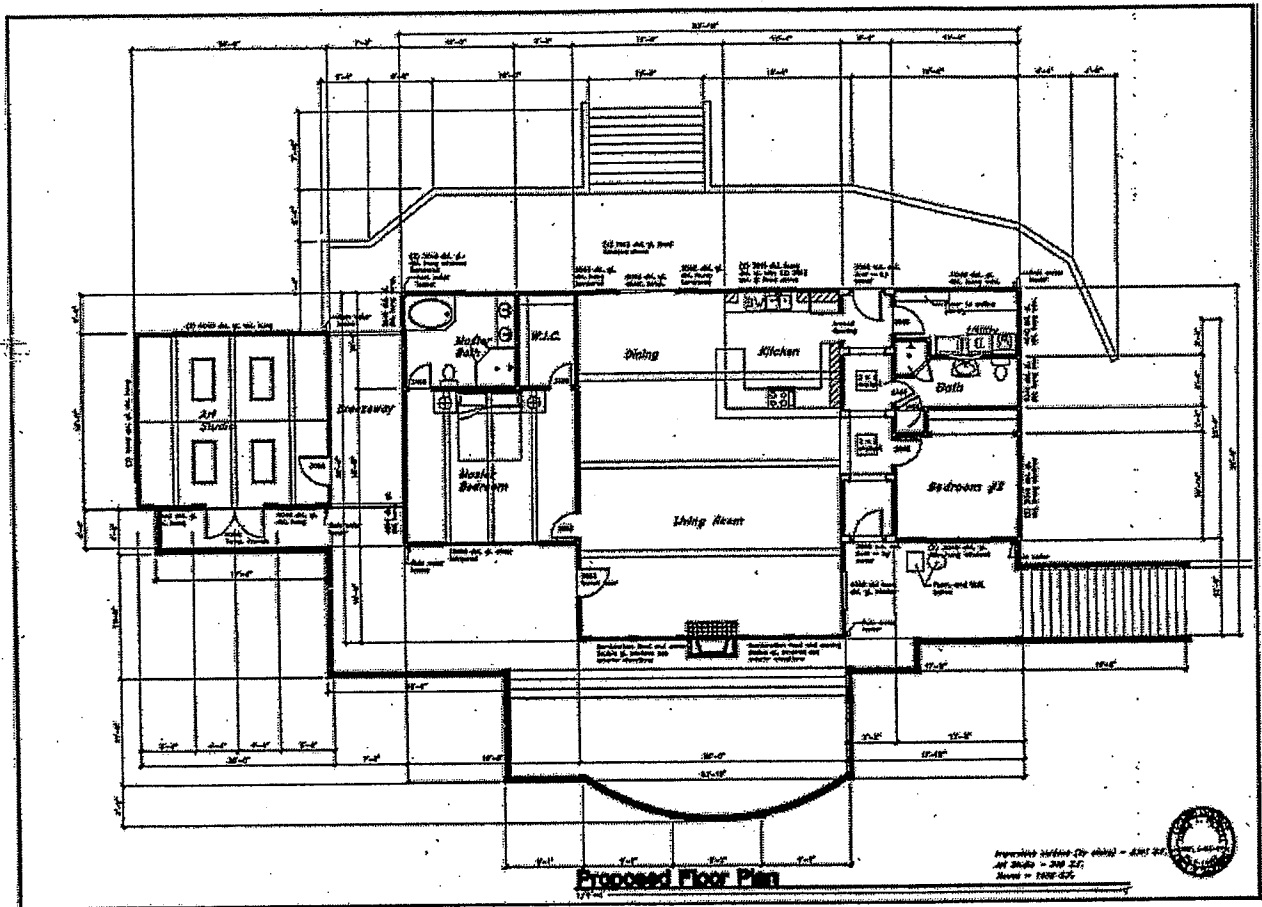
**FIGURE 4 EXTERIOR REAR ELEVATIONS**



**Exterior Elevations**



FIGURE 5 PROPOSED FLOOR PLAN



**FIGURE 6 STAKING AND FLAGGING**



## **B. Environmental Setting and Surrounding Land Uses**

The project site is located in the unincorporated portion of the North County Coastal Land Use Plan known as Royal Oaks, southeast of the City of Watsonville. The majority of adjacent parcels are zoned rural density residential, 5 acres per unit; while parcels located to the north of the property are designated rural density residential 40 acres per unit. Adjacent roadways include Elkhorn Road and Campagna Way; these are two-lane roadways designed to accommodate the potential rural residential build-out of the area (Source: IX, 2 &18). Elkhorn Slough, located approximately one mile away from the site, is the predominant natural resource feature within the planning area. The remaining surrounding land uses are residential and agricultural in nature.

The project site is currently vegetated by native and invasive species. Dominant plant communities located on the parcel include coast live oak forest, which covers approximately 50% of the property, central maritime chaparral, which covers approximately 30% of the property, and central coastal scrub which covers approximately 20 % of the property (Source: IX, 8). These plant communities are in a natural state over much of the property. Most of the proposed development will be located within the central coastal scrub plant community located on the southern quadrant of the property. Central maritime chaparral is classified as sensitive habitat and occurs continuously along the highest ridgetop across the northeastern side of the property where no development is proposed. There are no state or federally listed rare or endangered animal species known to occur on the Kay property from the California Department of Fish and Game Natural Diversity Data Base records. Furthermore, no rare, endangered, or sensitive animal species were discovered on the property during the biological survey (Source: IX, 8).

The property is located within the boundaries of the Highlands South Hydrogeologic Subarea as described in the North Monterey County Hydrogeologic Study (Fugro West Inc., October 1995). It is also in the area of benefit of the Salinas Valley Water Project ("Zone 2C") of the Monterey County Water Resources Agency. The Salinas Valley Water Project would divert water from the Salinas River and existing County reservoirs to stem salt water intrusion and represents a long term sustainable supply of water for parcels located within Zone 2C (Source: IX, 15&17). The addition of one single-family home on a legal lot of record represents a negligible impact to this subbasin (Source: IX, 15&17).

### III. PROJECT CONSISTENCY WITH OTHER APPLICABLE LOCAL AND STATE PLANS AND MANDATED LAWS

Use the list below to indicate plans applicable to the project and verify their consistency or non-consistency with project implementation:

General Plan /Area Plan	<input checked="" type="checkbox"/>	Air Quality Mgmt. Plan	<input checked="" type="checkbox"/>
Specific Plan	<input type="checkbox"/>	Airport Land Use Plans	<input type="checkbox"/>
Water Quality Control Plan	<input checked="" type="checkbox"/>	Local Coastal Program-LUP	<input checked="" type="checkbox"/>

#### General Plan / Local Coastal Program - LUP

The proposal was reviewed for consistency with the North County (Coastal) Land Use Plan and the General Plan. The proposed project was reviewed according to a number of policies as listed below. The property is located within the Rural Residential LUP land use designation, which allows between 5 and 40 acres/unit. The existing parcel is a legal preexisting lot which at 10.1 acres is above the zoning standard of 5 acres. The proposed residential use of the property will use an insignificant amount of water and measures to protect the quality of the groundwater will be required by the County Division of Environmental Health regarding septic use (Key Policies 2.5.1 and 3.2.1). The parcel is listed on County resource maps as having a low level of archaeological sensitivity (Key Policy 2.9.1).

#### Water Quality Control Plan

The project is consistent with AMBAG'S regional population and employment forecast. The Regional Water Quality Control Board incorporates existing lots of record in its preparation of regional water quality plans, making this project consistent with the regional water quality plans.

#### Air Quality Management Plan

Consistency of a project with the regional population and employment forecast will result in consistency of the project with the Air Quality Management Plan. The Monterey Bay Unified Air Pollution Control District (MBUAPCD) incorporates existing lots of record into its preparation of regional air quality plans, making this project consistent with the applicable Air Quality Plan.

#### **IV. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED AND DETERMINATION**

##### **A. FACTORS**

The environmental factors checked below would be potentially affected by this project, as discussed within the checklist on the following pages.

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Aesthetics                      | <input type="checkbox"/> Agriculture Resources              | <input type="checkbox"/> Air Quality            |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources                 | <input type="checkbox"/> Geology/Soils          |
| <input type="checkbox"/> Hazards/Hazardous Materials     | <input checked="" type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning      |
| <input type="checkbox"/> Mineral Resources               | <input type="checkbox"/> Noise                              | <input type="checkbox"/> Population/Housing     |
| <input type="checkbox"/> Public Services                 | <input type="checkbox"/> Recreation                         | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems       |   |   |

Some proposed applications that are not exempt from CEQA review may have little or no potential for adverse environmental impact related to most of the topics in the Environmental Checklist; and/or potential impacts may involve only a few limited subject areas. These types of projects are generally minor in scope, located in a non-sensitive environment, and are easily identifiable and without public controversy. For the environmental issue areas where there is no potential for significant environmental impact (and not checked above), the following finding can be made using the project description, environmental setting, or other information as supporting evidence.

- Check here if this finding is not applicable

**FINDING:** For the above referenced topics that are not checked off, there is no potential for significant environmental impact to occur from either construction, operation or maintenance of the proposed project and no further discussion in the Environmental Checklist is necessary.

##### **EVIDENCE:**

1. Aesthetics. The proposed home is typical of the area, is not visible from a public viewing area, and does not constitute ridgeline development. The site is located approximately one mile away from Elkhorn Slough and is heavily

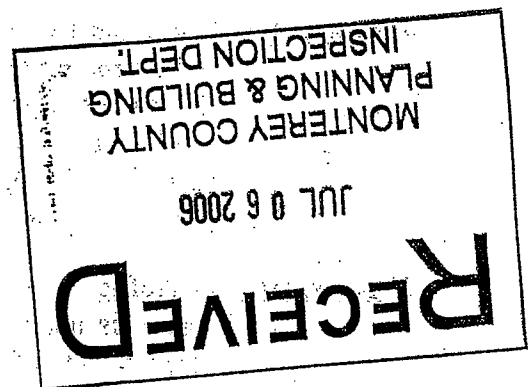
vegetated. The proposed building location is nestled among existing mature vegetation and will not be visible to those living near, or recreating on, Elkhorn Slough. (Source: 1,2)

2. Agriculture Resources. The site is not listed on the County's GIS database as farmland. According to the applicant no farming has occurred on the property in recent history. The land is designated as rural residential land in the North County Land Use Plan. No impact on agricultural resources is anticipated due to this proposal. (Source: 1, 2, 3 & 5)
3. Air Quality. The Monterey Bay Unified Air Pollution Control District (MBUAPCD) prepared the Air Quality Management Plan (AQMP) for the Monterey Bay Region. The AQMP addresses the attainment and maintenance of State and federal ambient air quality standards within the North Central Coast Air Basin (NCCAB). Grading of the project site will result in minor increases in emissions from construction vehicles and dust generation. The CEQA Air Quality Guidelines outline a threshold for construction activities with potentially significant impacts for PM-10 to be 2.2 acres of disturbance a day. As less than 2.2 acres will be disturbed by this project it has been judged not to constitute a significant impact. Generally, in the long-term, the primary source of air emissions is vehicular traffic. The development on the project site for a single family home will be in accordance with the designated zoning of the site, which is accommodated in the AQMP. Therefore, the proposed project will not have a significant adverse impact upon air quality. (Source: 1, 2,16)
5. Cultural Resources. County records identify the project site as having a low archeological sensitivity and not being located near or adjacent to an identified historical site. A standard condition of approval will also require that work on the project be stopped if cultural resources are located on site. (Source: 1, 2, 3, 5)
6. Geology/Soils. The site is listed as having a low hazard rating for liquefaction and landslides. The nearest mapped seismic fault is a potentially active fault, the Vergeles Fault, approximately 3.7 miles to the northeast. It is listed as being in a seismic hazard zone of IV, which covers much of the North County area. A listing of IV does not require a geologic study pursuant to the Coastal Implementation Plan, but as a standard County requirement the applicant will be required to submit a geotechnical (soils) report as a part of the submittal of plans for a building permit and to follow its recommendations in constructing the structure. A report was prepared in 2005 and it determined that with the implementation of its recommendations "the occupants within the residence should be subjected to an 'ordinary' level of risk from geologic hazards..." (Source: 1, 2, 3, 5,11)
7. Hazards/Hazardous Materials. The project will not involve the transport of any hazardous materials. There are no known hazards or hazardous materials associated

with this project. This parcel is identified as being within the urban/agricultural fire hazard area which indicates that wild fires are not likely. The North County Fire Protection District (NCFPD) also reviewed the project application and the proposed project will be required to adhere to the NCFPD conditions of approval. The site is not located within an Airport Land Use Plan or within five miles of an airport or private airstrip. (Source: 1, 2, 3, 5,18)

8. Land Use. The project will not disrupt, divide, or otherwise have a negative impact upon the existing neighborhood or adjacent properties. According to the North County Land Use Plan, the project site is designated for Rural Residential uses. (Source: 1, 2, 3, 5,18)
9. Mineral Resources. No mineral resources have been identified or will be affected by this project. (Source: 1, 2, 3,5,18)
11. Noise. The project is the development of a single family dwelling on an existing lot of record. The standard use of a home will not violate County noise standards as the amount of noise produced within a single family-home is generally consistent with a residential neighborhood. The project itself is not a particularly noise-sensitive use. (Source: 1,2,18)
12. Population/Housing. The proposed project would not alter the location, distribution, or density of human population in the area in any significant way, or create a demand for additional housing. (Source: 1, 2, 3 )
13. Public Services. The Monterey County Water Resources Agency, North County Fire District, Monterey County Public Works Department, Environmental Health Division, and Parks and Recreation Department have all reviewed the project. These agencies provided comments on the project, which are incorporated into the project as conditions of approval. None of these agencies indicated that this project would result in significant impacts. (Source: 1, 2, 3 )
14. Recreation. The project will not result in the reduction of existing recreational facilities within the project area. The Monterey County Parks Department reviewed the proposed project and did not identify any recreational constraints to the implementation of the proposed project. No parks, trail easements, or other recreational opportunities will be adversely impacted by the proposed project. The project will not create significant demands. (Source: 1, 2,5)
15. Transportation/Traffic. The development of a single-family dwelling on an existing lot of record is not considered a significant environmental impact. The County Department of Public Works has reviewed the project and has not recommended conditions of approval. The project is not located along a proposed trail as mapped in the County's North County Trail Plan. (Source: 1, 2, 3 ,5,18)

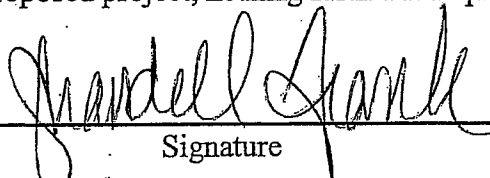
16. Utilities/Service Systems. The development of a single-family dwelling on an existing lot of record is not considered a significant environmental impact. The County Department of Public Works reviewed the project and has not recommended conditions of approval. (Source: 1, 2, 3 )



**B. DETERMINATION**

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 revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
\_\_\_\_\_  
Signature  
Shandell Frank  
\_\_\_\_\_  
Printed Name

April 3, 2006  
\_\_\_\_\_  
Date  
Associate Planner  
\_\_\_\_\_  
Title

## V. *EVALUATION OF ENVIRONMENTAL IMPACTS*

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).
- 2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) The explanation of each issue should identify:
  - a) The significance criteria or threshold, if any, used to evaluate each question; and
  - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

## VI. ENVIRONMENTAL CHECKLIST

1. AESTHETICS		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Have a substantial adverse effect on a scenic vista? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Substantially degrade the existing visual character or quality of the site and its surroundings? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

## 2. AGRICULTURAL RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

2. AGRICULTURAL RESOURCES		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (Source: 1, 2, 5,8)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract? (Source: 1, 2,4, 5 )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (Source: 1, 2, 3,5 )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Impact Analysis/Conclusion:** See Sections II and IV.

**3. AIR QUALITY**

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan? (Source: 1, 2, 3,16 )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (Source: 1, 2, 3,16 )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (Source: 1, 2, 3,16 )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in significant construction-related air quality impacts? (Source: 1, 2, 3,16 )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Expose sensitive receptors to substantial pollutant concentrations? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Create objectionable odors affecting a substantial number of people? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**4. BIOLOGICAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, 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? (Source: 1,2,3, 5,8,18)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? (Source: 1,2,3,5,8,18)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (Source: 1,2, 3, 5,8,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Source: 1,2, 3, 8)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Source:1,2,3,18)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Source: 1,2,3,8,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

The dominant plant communities on the Kay property are coast live oak forest, central maritime chaparral, and central coastal scrub (Source: IX, 8). These plant communities are in a largely natural state over much of the property. The single family residence and associated development is located primarily within the central coastal scrub plant community near the southern quadrant of the property in an area with some scattered coast live oaks. No coast live oaks will be removed as a result of the project, due to the location of the driveway and in order to adhere to current fire standards, one or more coast live oak may require trimming (Source: IX,8).

Central maritime chaparral is classified as sensitive habitat and is found primarily on the ridgetops of the Prunedale Hills. Two significant plant species which are major components of the central maritime chaparral plant community exist on the property; they are the Pajaro manzanita (*Arctostaphylos pajaroensis*) and Hooker's manzanita (*Arctostaphylos hookeri* ssp. *hookeri*) (Source: IX, 8). The Pajaro manzanita is listed by the Federal government as a species of concern and by the California Native Plant Society as rare and endangered. The Pajaro manzanita is endemic to the Prunedale hills; it does not grow naturally anywhere else. It is an upright shrub that ranges from 3 to 12 feet high, with thick leathery gray green leaves. It differs from many other manzanitas by the close clasping leaves along its branches. It is often the dominant cover species of the central maritime chaparral in its range. Pajaro manzanita exist primarily along the upper ridge of the Kay property, where no development is proposed (Source: IX, 8). Hooker's manzanita is on List 1B of the California Native Plant Society. It is only found in coastal Monterey County and a small part of coastal Santa Cruz County. There were no Hooker's manzanita found neither near the development site nor within 100-ft of any proposed structures (Source: IX, 8).

### Conclusion

**Biological Resources 4(a) – Less than significant with mitigation incorporated.** The project has been designed in a manner to avoid the removal of any trees, shrubs, or other native plant species (Source: IX, 8). However, several individual Pajaro manzanita exist within 100 feet of the proposed driveway, and there is a possibility that one of these plants may require some trimming (Source: IX, 8). The remaining Pajaro manzanita exist along the upper ridge of the property, on slopes greater than 25%, and will be placed into a Scenic Conservation Easement by the Applicant. There are no direct impacts that will occur due to placement of the project because the development will not require any manzanita removal. Indirect impacts may occur due to construction activity, maintenance and human activity on the property during and after project construction. In an effort to protect, enhance and ensure the long-term maintenance of the Maritime chaparral and central coastal scrub plant communities on the property, the following Mitigation Measures include protection from construction activities as well as additional manzanita/coastal scrub planting. Implementation of these measures will reduce potential impacts to a *less than significant* level.

**Mitigation Measure #1:** The applicant shall plant within the disturbed area of the parcel, at least 15 one gallon Pajaro manzanita of local origin. The manzanita shall be planted at least 100 feet from any structure.

**Monitoring Action #1A:** Submit photographic evidence of completed plantings to the Director of the Planning and Building Inspection Department for review and approval.

**Monitoring Action #1B:** To ensure the survival of the Pajaro manzanita, monitoring shall be completed by a qualified biologist prior to the commencement of construction and include reports with photographs certifying the condition of the manzanita once within three months following completion of the development, once two years after completion of the development, and once five years after the completion of the development. If plantings fail within any of the timeframes the biologist shall recommend replantings and any replantings will re-start the

monitoring action. Reports shall be submitted to the Director of Planning and Building Inspection for review.

**Mitigation Measure#2:** Pajaro manzanita located close to the construction site(s) shall be protected from inadvertent damage from construction equipment by wrapping with protective materials, avoiding fill of any type against the base and avoiding an increase in soil depth at the feeding zone or drip line of the plants.

Monitoring Action #2: Submit photos demonstrating compliance prior to issuance of building permits with a minimum of two follow up submissions to include just prior to final building permit sign off subject to the approval of the Director of Planning and Building Inspection.

**Mitigation Measure #3:** Restoration recommendations within the central coastal scrub plant community shall be implemented according to the Biological Survey conducted by Ed Mercurio on November 6, 2004.

Monitoring Action #3A: Include recommended planting(s) on landscape plan. Submit plan for review and approval by the Director of Planning and Building Inspection.

Monitoring Action #3B: To ensure the survival of the central coast scrub plant community, monitoring shall be completed by a qualified biologist prior to the commencement of construction and include reports with photographs certifying the condition of the community once within three months following completion of the development, once two years after completion of the development, and once five years after the completion of the development. If plantings fail within any of the timeframes the biologist shall recommend replantings and any replantings will re-start the monitoring action. Reports shall be submitted to the Director of Planning and Building Inspection for review.

**Biological Resources 4(b) – Less than significant with mitigation incorporated.** Maritime chaparral habitat was identified along the upper ridge of the property, on slopes greater than 25 % where no development is proposed (Source: IX, 8) Maritime chaparral habitat is identified as environmentally sensitive habitat within the North County Land Use Plan. The following policy within the Land Use Plan specifically addresses Maritime chaparral.

Land Use Plan Policy 2.3.3.A.2. *“Maritime chaparral is an uncommon, highly localized and variable plant community that has been reduced in North County by residential and agricultural development. ... Where new residential development is proposed in chaparral areas, it shall be sited and designed to protect the maximum amount of maritime chaparral. All chaparral on land exceeding 25 percent slope should be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself.”*

The following Mitigation Measure has been included and designed to reduce potential impacts to Maritime chaparral to a *less than significant* level

**Mitigation Measure #4 (SCENIC EASEMENT):** A scenic easement will be placed over the maritime chaparral habitat occurring on slopes greater than 25%.

Monitoring Action #3: Prior to Issuance of Grading and Building Permits the applicant shall submit approved and recorded scenic easement to the Planning and Building Inspection Department.

**Biological Resources 4(c) –No Impact.** There are no wetlands located on this parcel or adjacent parcels.

**Biological Resources 4(d) –No Impact.** Neither biological studies produced for this project nor the County's records identify this property as being located along an important corridor for the movement of any native resident or migratory, fish or wildlife species; nor does the site contain a native wildlife nursery site (Source: IX. 1,2,5,8)

**Biological Resources 4(e) – Less than significant with mitigation incorporated.** To protect persons and structures from the dangers of wildfires, the North County Fire Protection District currently enforces a 30-foot defensible space clearance zone, while educating homeowners of the upcoming CDF 100-foot defensible space requirement (Source: IX, 21). The North County Fire Protection District will begin enforcing the CDF requirement beginning next year. However, significant plants like the Pajaro manzanita within the mandatory clearance zone (30 and 100 feet) may remain as long as the vegetative growth is not too great (Source: IX, 21). These plants may however require minor trimming to remove any dead or dying material. There are no Pajaro manzanitas present within 30-feet of any of the proposed structures on the Kay property. Two individual plants do exist within 100-feet of the proposed structures and may require some trimming to meet CDF requirements next year (Source: IX, 21). Although less than significant impacts are anticipated, County policies, as quoted above, mandate maximum protection of Maritime chaparral therefore, the mitigations listed below are designed to ensure their protection. (please see discussion and conclusion under "Biological Resources 4[b]")

**Mitigation Measure #4 (FIRE MANAGEMENT AREA):** Within the 30 foot and 100 foot fire management areas the applicant shall protect chaparral habitat to the maximum extent possible by implementation of the fire management recommendations included in the Biological Survey conducted by Ed Mecurio which include maintenance trimming while precluding removal of any sensitive resources.

Monitoring Action #4: The owner shall minimize the trimming of Maritime chaparral to the minimum amount required by the North County Fire Protection District. The applicant shall also follow the recommendations for plant maintenance related to fire management contained in the Biological Survey conducted by Ed Mercurio on November 6, 2004 with special regard for the additional planting and monitoring of Pajaro manzanita .

**Biological Resources 4(f) –No Impact.** Neither this parcel, nor the Maritime chaparral habitat, is subject to an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

5. CULTURAL RESOURCES		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5? (Source: 1, 2, 5,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5? (Source: 1, 2, 5,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (Source: 1, 2, 5,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Disturb any human remains, including those interred outside of formal cemeteries? (Source: 1, 2, 5,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Impact Analysis/Conclusion:** See Sections II and IV.

6. GEOLOGY AND SOILS		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i)	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 based on other substantial evidence of a known fault? (Source:1,2,9,10) Refer to Division of Mines and Geology Special Publication 42. (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii)	Strong seismic ground shaking? (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii)	Seismic-related ground failure, including liquefaction? (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv)	Landslides? (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in substantial soil erosion or the loss of topsoil? (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**6. GEOLOGY AND SOILS**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (Source: 1,2,3, 5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (Source: 1,2,3,5,11)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Impact Analysis/Conclusion:** See Sections II and IV.

**7. HAZARDS AND HAZARDOUS MATERIALS**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (Source: 1,2,3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (Source: 1,2,3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) 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? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**7. HAZARDS AND HAZARDOUS MATERIALS**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**8. HYDROLOGY AND WATER QUALITY**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements? (Source:1, 2, 3,6,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (Source: 1, 2,3,15,17)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (Source: 1, 2, 3,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

8. HYDROLOGY AND WATER QUALITY

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? (Source: 1, 2, 3, 11,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (Source: 1, 2, 3,11,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality? (Source: 1, 2, 3, 15,17)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (Source: 1, 2,3,5,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (Source: 1, 2, 3, 5,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? (Source: 1, 2,3,5,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? (Source: 1, 2, 3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:**

**Hydrology and Water Quality 8(a) - No Impact.** The proposed residential project would not result in discharges that would be regulated or that would potentially violate water quality standards. No federal, state, or local wastewater or water discharge standards would be exceeded by this development. Septic water will be regulated by the County Division of Environmental Health. Runoff and water discharge will be controlled by condition of approval recommended by the Monterey County Water Resources Agency. Therefore, *no impacts* related to waste discharges are anticipated as a result of the project.

**Hydrology and Water Quality 8(b) - Less than Significant Impact.** The proposed single-family residence will be supplied domestic water service by an onsite well. Review by the

Monterey County Health Department, Environmental Health Division indicates that based on the scope of development proposed for this project, the site location, zoning, and size of the proposed development (.18 acres out of 10.1 acres) there were no water quantity, water quality, or septic system issues or concerns for this property requiring additional review (Source: IX,15).

Historically, groundwater has been the source for almost all of the water demand in North Monterey County and the Salinas Valley. Groundwater demand in the North Monterey County area exceeds supply, which has led to overdraft conditions, falling water levels, seawater intrusion and nitrate contamination (Source: IX,17). The North County area overlies a portion of the Salinas and Pajaro River groundwater basins. The proposed project is located with the Salinas "Highland South" sub-basin. In this sub-basin, well yields are fair to good with localized levels of high nitrates, although water quality is generally good (Source: IX, 17).

The North County (Coastal) Land Use Plan [MCC §20.144.070[E][11]] states that a development shall not be approved if it will generate a water demand exceeding or adversely impacting the safe, long-term yield of the local aquifer. According to the Fugro West North Monterey County Hydrogeologic Study (1995) there is approximately 35,460 ac/ft of water in usable storage within the subbasin. While the project would result in a minor increase in water demand associated with one new single-family home (approx. .33 acre ft per year), the increased demand can be met as evidenced by the approval and ongoing usage of wells in the immediate area and within the sub-basin as a whole (Source: IX, 15 and 20). Approximately nine wells have been permitted within this vicinity from 1990 to 2002 which have proven capacity (Source: IX, 20). Monterey County does not consider the construction of one single-family house on an existing lot of record to have an adverse impact on groundwater resources (Source: IX, 19). Additionally, the project site is located within the area of benefit of the Salinas Valley Water Project (Zone 2C). This regional project proposes modifications to existing reservoirs and associated improvements to provide groundwater recharge that will eventually address the groundwater overdraft condition. Due to the benefit of this regional project, which is currently being implemented, and the minor amount of water use, staff has concluded that the individual and cumulative projects that require individual wells do not result in significant water demand and would be consistent with County policy and ordinance. The County anticipates that the Salinas Valley Water Project would provide an additional assurance of a long-term sustainable water supply to the project area. Additionally, the County conditions of approval will require stormwater detention facilities, which will capture onsite stormwater runoff that would normally leave the area and allow it to percolate to groundwater in the location of the project (Source: IX, 15, 17 and 19).

**Hydrology and Water Quality 8(c-f) - Less than Significant Impact.** The construction of one single-family home will result in a minor increase in impervious surfaces and runoff. The project will not result in alteration to existing drainage patterns. Stormwater will be controlled through a mitigation/condition recommended by the Water Resources Agency (Source: IX, 15). This mitigation/condition will require the preparation of a drainage plan which will include detention facilities to accommodate the impact of impervious surface stormwater runoff. Therefore, impacts related to stormwater runoff and drainage would be *less than significant*.

**Mitigation Measure #5:** The applicant shall provide the Water Resources Agency a drainage plan prepared by a registered civil engineer or architect addressing on-site and off-site impacts. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. Drainage improvements shall be constructed in accordance with plans approved by the Water Resources Agency.

**Monitoring Action #5:** Submit 3 copies of the engineered drainage plan to the Water Resources Agency for review and approval.

**Hydrology and Water Quality 8(g-j) - No Impact.** The project location is not in a 100-year flood hazard area, nor is it in an area which is subject to flooding for any reason (Source: IX, 5). The property is located over six miles from the Monterey Bay and is not located near any significant inland body of water. Therefore the project site is not subject to tsunami or seiche. There are also no significant physical feature within or adjacent to the project which would provide the source of a mudflow nor were any identified in the project geotechnical report. Therefore, *no impacts* related to exposure to flood hazards are anticipated as a result of the project.

9. LAND USE AND PLANNING	Less Than Significant			
	Potentially Significant Impact	With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Physically divide an established community? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**10. MINERAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (Source: 1,2,3,5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**11. NOISE**

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (Source: 1,2,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (Source: 1,2,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (Source: 1,2,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (Source: 1,2,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (Source: 1,2,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (Source: 1,2,5,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**12. POPULATION AND HOUSING**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? (Source: 1,2,3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (Source: 1,2,3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (Source: 1,2,3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**13. PUBLIC SERVICES**

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental 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:				
a) Fire protection? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Schools? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other public facilities? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**14. RECREATION**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**15. TRANSPORTATION/TRAFFIC**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)(Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity? (Source: 1,2,3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

15. TRANSPORTATION/TRAFFIC	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (Source: 1,2,3,18)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Impact Analysis/Conclusion:** See Sections II and IV.

16. UTILITIES AND SERVICE SYSTEMS	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (Source: 1, 2, 3,6,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Source:1, 2, 3,6,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Source: 1, 2,3,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (Source: 1, 2,3, 6,15,17)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (Source: 1, 2,3,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (Source: 1, 2, 3,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? (Source: 1, 2, 3,15)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Impact Analysis/Conclusion:** See Sections II and IV.

## VII. MANDATORY FINDINGS OF SIGNIFICANCE

NOTE: If there are significant environmental impacts which cannot be mitigated and no feasible project alternatives are available, then complete the mandatory findings of significance and attach to this initial study as an appendix. This is the first step for starting the environmental impact report (EIR) process.

Does the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? (Source: 1, 2, 3,5,8)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) 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, the effects of other current projects, and the effects of probable future projects)? (Source: 1, 2, 3,8,11,15,17)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? (Source: 1, 2, 3, 8,11,15,17)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion/Conclusion:

(a). **Less than significant with mitigation.** Direct impacts will be mitigated to a less than significant level by implementing mitigations listed within this initial study which are designed to avoid, preserve, protect, and enhance environmentally sensitive habitat as described in Section IV (Biology). The project will not have a significant impact on the over-drafted North County water supply given that it is a proposal for a single residential dwelling unit on a 10.1 acre legal lot of record, and its location within the Benefit Area Zone 2C which has an identified water project designed to address over drafting in the subject area (Source: IX, 15 and 19).

(b). **Less than significant with mitigation.** Given that the project completely avoids direct loss of any sensitive habitats and enhances and protects remaining habitats over the short and long term the project will not cumulatively contribute to incremental effects of other projects on sensitive habitats in North Monterey County as described in (a) above. Given the insignificant amount of water to be consumed by the project and its location within the Benefit Area Zone 2c which has an identified water project to address over drafting in the subject area, the project will not cumulatively contribute to incremental effects on water supply in North Monterey County

(Source: IX, 15 and 19). Direct impacts will be mitigated to a less than significant level by implementing mitigations listed within this initial study which are designed to avoid, preserve, protect, and enhance environmentally sensitive habitat as described in Sections IV (Biology) and VIII (Hydrology).

**(c). No Impact.** As analyzed no substantial adverse effects on human beings exist in this project given that the project involves only the construction and maintenance of a single family dwelling on a ten acre parcel in a rural area of North Monterey County without evidence of the presence or transport hazardous materials or conditions.

## **VIII. FISH AND GAME ENVIRONMENTAL DOCUMENT FEES**

### **Assessment of Fee:**

For purposes of implementing Section 735.5 of Title 14, California Code of Regulations: If based on the record as a whole, the Planner determines that implementation of the project described herein, will result in changes to resources A-G listed below, then a **Fish and Game Document Filing Fee** must be assessed. Based upon analysis using the criteria A-G, and information contained in the record, state conclusions with evidence below.

- A) Riparian land, rivers, streams, water courses, and wetlands under state and federal jurisdiction.
- B) Native and non-native plant life and the soil required to sustain habitat for fish and wildlife;
- C) Rare and unique plant life and ecological communities dependent on plant life; and;
- D) Listed threatened and endangered plant and animals and the habitat in which they are believed to reside.
- E) All species of plant or animals listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, and the Water Code, or regulations adopted thereunder.
- F) All marine terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside.
- G) All air and water resources the degradation of which will individually or cumulatively result in the loss of biological diversity among plants and animals residing in air or water.

**De minimis Fee Exemption:** For purposes of implementing Section 735.5 of the California Code of Regulations: A *De Minimis Exemption* may be granted to the **Environmental Document Fee** if there is substantial evidence, based on the record as a whole, that there **will not** be changes to the above named resources (A-G) caused by implementation of the project. Using the above criteria, state conclusions with evidence below, and follow Planning and Building Inspection Department Procedures for filing a De minimis Exemption.

**Conclusion:** The project **WILL** be required to pay the fee.

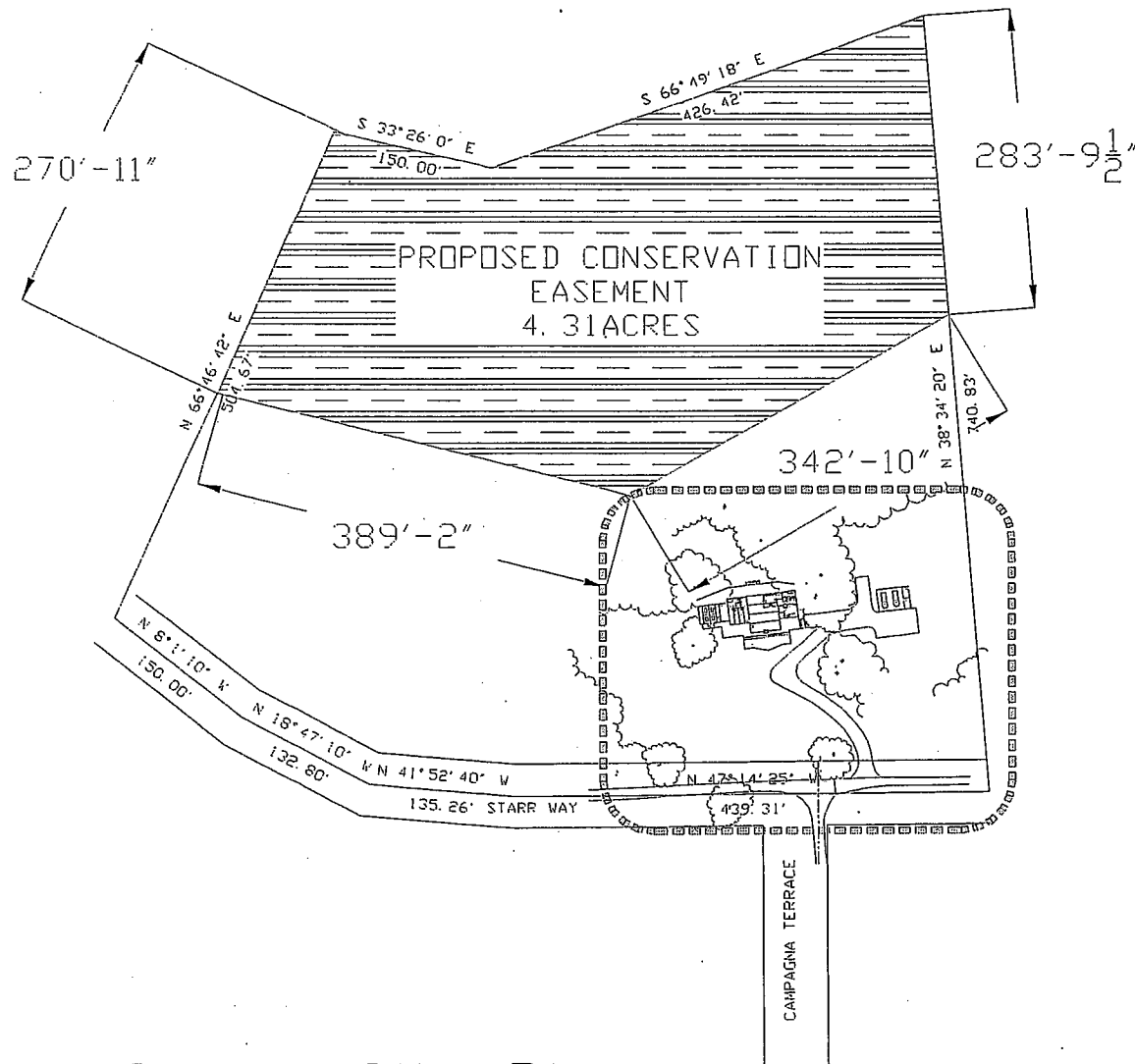
**Evidence:** Although impacts have been mitigated to a level of less than significant the project involves the removal of Maritime chaparral.

## *IX. REFERENCES*

1. Project Application and Plans (dated November 15, 2005).
2. North County (Coastal) Land Use Plan.
3. North County (Coastal) Implementation Plan.
4. Monterey County Coastal Implementation Plan Part 1 (Title 20).
5. Monterey County Planning and Building Inspection Department GIS System, Property Report for Selected Parcel – APN 1129-211-017-000.
6. Water Quality Control Plan for the Central Coast Basin.
7. Site Visit by Project Planner on July 26, 2005.
8. Biological Survey of the Kay Property, 5295 Starr Way, by Ed Mercurio (November 6, 2004/Revised July 25, 2005).
9. Letter from Jean Ferreira (January 17, 2006) addressing adequacy of Biological Survey.
10. Response to Jean Ferreira letter by Ed Mercurio (March 20, 2006).
11. Geotechnical Investigation and Percolation Study for 5295 Starr Way, by Pacific Crest Engineering Inc. (September 2005).
12. Letter from Landset Engineering to Don Chapin addressing adequacy of Geotechnical Investigation (January 16, 2006).
13. Response to Landset letter by Pacific Crest Engineering, Inc. (February 6, 2006).
14. Letter from Geoconsultants to Mr. David Sweigert addressing Hydrogeologic Concerns Related to Proposed Single-family Dwelling APN 129-211-017, 5295 Starr Way (January 26, 2006).
15. Personal Communication with Tom Moss of Water Resources Agency and John Hodges of Environmental Health (May 4, 2006) addressing hydrogeologic concerns raised by Geoconsultants.
16. “2004 Air Quality Management Plan” and “CEQA Air Quality Guidelines, July 2004,” prepared by the Monterey Bay Unified Air Pollution Control District.
17. Fugro West North Monterey County Hydrogeologic Study, October 1995.
18. Monterey County General Plan (1982) as Amended.
19. North Monterey County Comprehensive Water Resources Management Plan. Monterey County Water Resources Agency and EDAW, Inc. January 2002.
20. Monterey County Permits Plus Database.
21. Letter received from Ed Mercurio regarding discussions with Fire Marshal Michael Robberson in reference to defensible space and sensitive species, March 20, 2006.

1. Proposed Scenic Easement boundaries
2. Letter from Ed Mercurio detailing conversations with North County Fire Protection District Fire Marshal Michael Robberson regarding fire clearance requirements within Environmentally Sensitive Habitat Areas.

Conservation  
Easement  
Proposal  
APN 129-211-017



Overall Site Plan

ED MERCURIO, BIOLOGICAL CONSULTANT

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Ms. Shandell Frank  
Monterey County Planning and  
Building Inspection Department  
2620 First Avenue  
Marina, California 93933

March 20, 2006

*RE: Fire protection criteria with relation to Pajaro manzanitas for the Kay Property, 5295 Starr Way, north Monterey County, California. APN 129-211-017.*

Dear Ms. Frank:

This letter concerns fire protection criteria for the management of rare, endangered and threatened plants in relation to proposed developments on the Kay property at 5295 Starr Way, north Monterey County.

As I stated previously in my rebuttal to letter of January 17, 2006 by Jean Ferreira, from my past experience with the North Monterey Fire District, a small number of significant plants like Pajaro manzanitas within the zone of mandatory fire clearing, can usually remain as long as the amount of vegetative growth is not too great. In other words, plants can remain, but some trimming may be required.

I talked with Mr. Michael Roberson, Fire Marshal for the North Monterey Fire District about current, specific statutes on the protection of rare, endangered and threatened plants within the mandatory fire clearance zone in north Monterey County.

Mr. Roberson stated that for fire clearance to make one's "defensible space," the fire district is "enforcing to 30 feet and educating to 100 feet" this year, and will be enforcing to 100 feet next year. Anything obviously highly combustible such as dry grass, dead plants and certain shrubs such as Chamise (*Adenostema fasciculata*), etc. should be removed from the clearance zone. Trees and many perennial shrubs can remain, but: 1) breaks should be made through areas of similar plant species in one's horizontal defensible space to help keep fires from rapidly burning in one direction, 2) trees should be limbed up to 6 feet (one's vertical defensible space) and 3) shrubs such as rare, endangered and threatened plants, can remain but should have dead and dying material removed, leaving only healthy growth.

No Pajaro manzanitas are within 30 feet of any of the proposed structures on the Kay Property and two Pajaro manzanitas are within 100 feet of the proposed structures. Since the fire district is enforcing to 30 feet this year, there would be no impacts to Pajaro manzanitas from mandatory clearing to 30 feet away from proposed structures this year. Next year, with mandatory clearing to 100 feet away from proposed structures, the two Pajaro manzanitas within 100 feet of the

proposed structures can remain, but dead and dying material would have to be removed, leaving only the healthy growth on these plants. From my observation of these plants, they are healthy and this should not affect their survival.

If there is concern about unforeseen impacts during the trimming of these two Pajaro manzanitas for fire safety, I or another biologist could be employed to supervise or even to do the trimming.

Please call me if you have any questions.

Best regards,



Ed Mercurio,  
Biological Consultant

Exhibit G

FILE COPY

CHARLES R. KELLER  
RONALD F. SCHOLL  
THOMAS H. JAMISON  
MARK A. CAMERON  
JOHN S. BRIDGES  
DENNIS G. MCCARTHY  
JACQUELINE P. MCMANUS  
CHRISTOPHER E. PANETTA  
DAVID C. SWEIGERT  
VIRGINIA E. HOWARD  
SARA B. BOYNS  
SHARILYN R. PAYNE  
BRIAN E. TURLINGTON  
AMBER D. PASSNO  
CAROL S. HILBURN  
LAURA S. BARCHICK  
JAY P. MENCHACA

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TELEPHONE (831) 373-1241  
FACSIMILE (831) 373-7219

LEWIS L. FENTON  
1925-2005

FROM SALINAS  
TELEPHONE (831) 757-8937

January 27, 2006

DAVID C. SWEIGERT

DSweigert@FentonKeller.com  
ext. 202

Monterey County Planning & Building Inspection Department  
Attn: Shandell Frank  
168 W. Alisal Street, 2nd Floor  
Salinas, CA 93901

Re: Kay/Kloeppel Project (PLN 050434)

Dear Ms. Frank:

We are submitting this letter on behalf of Monterey County property owners concerned about equal treatment and "Fair Planning Practices" in Monterey County. We have reviewed the application and materials submitted for the above-referenced project ("Project") and have shared that information with various consultants for their review and comment. Based on the conclusions of these experts, we must object to the processing of the Project application without appropriate CEQA review. In light of the unusual circumstances presented by environmentally sensitive habitat and water quality and quantity issues on the Project site and in the area, review under CEQA is legally required.

Enclosed in the form of expert opinion based on review of relevant application materials is substantial evidence identifying potentially significant impacts of the Project related to biology, hydrogeology, and geotechnical/percolation issues. In addition, based on the application materials, the necessary findings cannot be made to support the ESHA setback variance requested and therefore the Project is inconsistent with ESHA provisions of the Monterey County Local Coastal Program ("LCP"). We request that a formal initial study be prepared and circulated for public and responsible agency review and comment. The initial study must, at a minimum, address biology, hydrogeology, and geotechnical/percolation issues, as well as the Project's consistency with ESHA and all other applicable policies and provisions of the LCP. Unless all potentially significant environmental impacts identified in the enclosed letters or otherwise by the initial study are fully and adequately mitigated, an Environmental Impact Report must be prepared for the Project.

We hereby request that you provide me with copies of any and all notices of any meetings and/or hearings related to the Kay/Kloeppel Project at least 10 days before any such

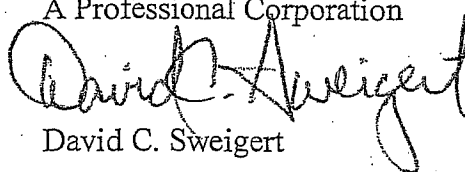
Monterey County Planning & Building Inspection Department  
January 27, 2006  
Page Two

meeting or hearing. In addition, please promptly provide me with copies of all future documents generated by the Department related to the Project application, including, without limitation, any and all agendas, staff reports, notices, and environmental documents.

Thank you for your anticipated attention to these important issues.

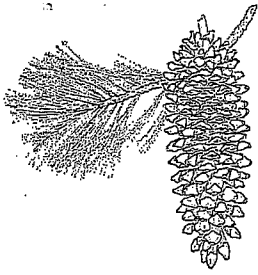
Very truly yours,

FENTON & KELLER  
A Professional Corporation

A handwritten signature in cursive script that reads "David C. Sweigert". The signature is written in dark ink and is positioned over the printed name below it.

David C. Sweigert

DCS:kmc  
Enclosures



Botanical  
Consulting  
Services

pobox 5506, carmel, ca 93921 • p & f: 831-626-3814

Restoration Plans • Biological Surveys • Monitoring & Reporting • Native Landscape Design

January 17, 2006

Fair Planning Practices (FPP)  
c/o David Sweigert  
Fenton & Keller  
P.O. Box 791  
Monterey, CA 93942-0791

Re: Kay/Kloeppel Project

Dear Mr. Sweigert,

I have reviewed the biological surveys for the Kay project at 5295 Starr Way prepared by Ed Mercurio and have considered the significant effects the project may pose to the rare plants and their habitat that exists within 100 ft of the proposed structure and the conflicts with ESHA setback requirements. Based on the information submitted with the application, the project has potential significant impacts that should be assessed pursuant to CEQA review. This is particularly true in light of the unusual circumstance created by the sensitive coastal zone habitats and the requested variance.

The Mercurio report is vague in its discussion of the isolated rare plants within 100 ft of the proposed development, making it difficult to determine the degree of significance of the potential effect. Would the potential loss of the Pajaro manzanita plants near the proposed structure, constitute a loss of a few rare plants, or a loss of rare plants and their habitat? The biological survey does not describe the habitat where the "isolated plants" of Pajaro manzanita occur near the proposed building site. I am left guessing if it is Central Coast Scrub or Coast Live Oak Forest described by Mercurio as on the property or if it is Maritime Chaparral that has become infiltrated by Coast Live Oak Woodland due to an absence of fire, which is a common case in North County.

Mercurio also fails to address the impact to ESHA of the mandatory fire management clearing within the 100 ft perimeter zone around proposed structures. (Note: January 2005, the reduced fuel zone was extended from 30 ft to 100 ft by CA Department of Forestry & Fire Protection.)

Other issues that must be addressed in a CEQA review are: how does planting an additional 15 individuals of Pajaro manzanita mitigate developing within 100 ft. of ESHA? Where are they to be planted and how will they be monitored? How are the rare plants and its habitat to be protected during construction? And after?

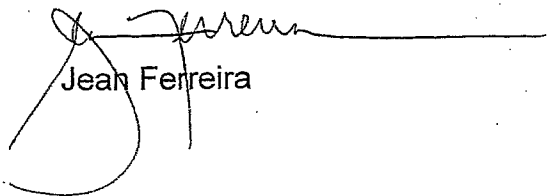


Fair Planning Practices: Kay/Kloeppel Project  
January 17, 2006  
page 2

The required 100 ft ESHA setback is a minimum and as such any variance will trigger additional impacts that must be addressed.

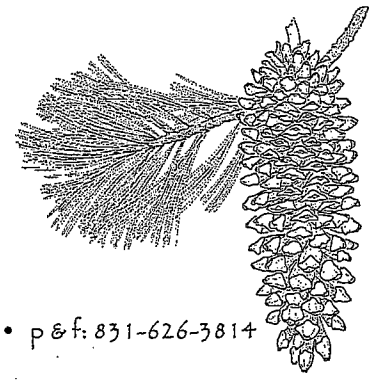
If you have any questions or comments on my findings, please contact me at (831) 626-3814 or [jf.bcs@sbcglobal.net](mailto:jf.bcs@sbcglobal.net).

Sincerely,



Jean Ferreira

11 11 06  
11 11 06  
11 11 06





ENGINEERS, INC.

ENGINEERING - LAND PLANNING  
SURVEYING - ENVIRONMENTAL CONSULTING

January 16, 2006

File No.: C-519

Fair Planning Practices (FFP)  
C/o David Sweigert  
Fenton & Keller  
P.O. Box 791  
Monterey, California 93942-0791

Project: **Kay/Kloeppel Project (APN 129-211-017)**  
5295 Starr Way  
Royal Oaks Area of Monterey County, California

Subject: **Peer Review of Geotechnical Investigation and Percolation Study**

Reference: 1. Geotechnical Investigation and Percolation Study, 5295 Starr Way, APN 129-211-017, Monterey County, California, Project No. 0576-M94-A61, prepared by Pacific Crest Engineering Inc., dated September 19, 2005.

Dear Mr. Chapin:

As you requested, Landset Engineers, Inc has performed a peer review of the above referenced Geotechnical Investigation and Percolation Study (Reference 1) for a proposed single family residence located off of Starr Way in the Royal Oaks area of Monterey County, California.

The referenced document was reviewed in accordance with the guidelines presented in:

- \* *2001 California Building Code, Chapter 18, Sections 1804.3-5 and Chapter 33, Section 3309.5*
- \* *Monterey County Code, Chapter 15.20, Sewage Disposal, dated October 1985, revised 1989.*

### **PEER REVIEW**

#### **Geotechnical Investigation (Reference 1)**

It is our opinion that the conclusions and recommendations contained in the subject geotechnical investigation portion of the report are reasonable and consistent with the current standard of practice and the requirements for such reports as outlined in the California Building Code.

**Percolation Study (Reference 1)**

It is our opinion that the work performed as outlined in the percolation study portion of the report is either inaccurate, lacking certain required data and is *inconsistent* with the requirements of Monterey County.

1. There are contradictions as to when the fieldwork was actually performed. On page 17 the report states that three percolation test holes were advanced on August 30, 2005. The boring log for percolation boring P-1 shows the date drilled as June 3, 2005, and percolation test borings P-2 & P-3 indicate that they were drilled on August 24, 2005. Furthermore, Page 17 (paragraph No. 4) of the report states that percolation testing was performed August 25, 2005.
  
2. A total of five test borings were drilled on the site (two geotechnical and three percolation) with depths ranging from 5.0 to 25.5 feet below the ground surface. The following table lists the approximate surface elevation, depth, and bottom of the boring elevation drilled on the site (in feet) as indicated from the report data and preliminary grading plan. Based on the data presented in Table 1 the consultant did not drill deep enough to satisfy the County requirement of extending the deepest boring at least 10 feet below the proposed maximum drain field depth per Section 15.20.060,I,(e),2),(a),1). Additionally the preliminary grading plan shows the proposed leachfield down slope from where the actual percolation testing was performed at surface elevations ranging from 315 to 318 feet.

**TABLE 1**  
Boring Elevations

Boring No	Approx. Surface Elevation	Depth	Approx. Bottom of Boring
B-1	330	25.5	304.5
B-2	328	21.5	306.5
P-1	324	15.0	309.0
P-2	321	10.0	311.0
P-3	320	5.0	315.0

January 16, 2006

File No.: C-519

3. Percolation rates were instantaneous to very rapid ranging from 0.4 to 1.2 minutes per inch. County Code 15.20.060, I. states that *"When percolation rates exceed 1 inch in 5 minutes, additional testing may be required to prove that there will be no contamination of domestic groundwater"*. Based on the rapid rates of percolation and lack of subsurface data from a sufficient depth, it is our opinion that the consultant has not adequately demonstrated that there is a substantive separation from groundwater for the site.

In light of the above and special habitat issues on the site, it is our opinion that the project as proposed may result in significant environmental impacts that require analysis and mitigation pursuant to CEQA.

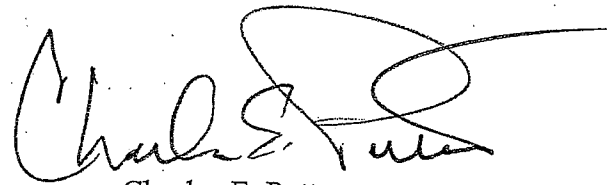
It has been a pleasure to be of service to you on this project. If you have any questions regarding the attached report, please contact the undersigned at (831) 443-6970

Respectfully submitted,

**LandSet Engineers, Inc.**



Brian Papurello  
CEG 2226



Charles E. Potter  
RCE 25705  
EXP. 12-31-07

Distribution: Addressee (1)

Doc. No.: 0601-112.LTR



## **GEOCONSULTANTS, INC.**

*Hydrogeology • Ground-Water Exploration & Development •  
Ground-Water Resources Management •*

1450 Koll Circle, Suite 114, San Jose, California 95112-4612

Phone: (408) 453-2541 Fax: (408) 453-2543

**www.geo-consultants.com**

January 26, 2006

Fair Planning Practices (FPP)  
c/o Mr. David Sweigert  
Fenton & Keller  
Attorneys at Law  
Post Office Box 791  
Monterey, CA 93942-0791

**RE: HYDROGEOLOGIC CONCERNS  
RELATED TO PROPOSED  
SINGLE-FAMILY DWELLING  
APN 129-211-017, 5295 STARR WAY  
MONTEREY COUNTY, CALIFORNIA**

Dear Mr. Sweigert:

This letter responds to the request of the FPP to assess possible environmental impacts, from a hydrogeologic viewpoint, relative to the subject project. We have reviewed the application materials, and understand that the applicant proposes to construct a single-family dwelling with detached garage on an undeveloped parcel located in the Coastal Zone of North Monterey County. The site is about one-half mile east of Elkhorn Slough. A septic system with associated drainfield, and a new water supply well are proposed as part of the development. The focus of our evaluation was to determine if the County's decision to forego a CEQA review, from the perspective of potential hydrogeologic impacts, is appropriate.

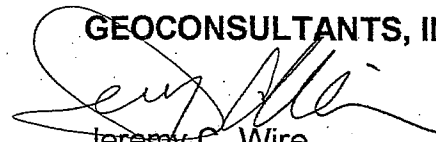
The site is located in the Highlands South hydrogeologic subarea of North Monterey County, which is in a condition of ground-water overdraft, caused by ground-water pumping in excess of recharge (Fugro West, Inc., 1995; Johnson, 1983). In the area of the proposed project, ground-water levels are at least 10 feet below sea-level elevation, and elevated chloride levels are present caused by an advancing front of sea-water intrusion (Fugro West, Inc., 1995). Although the water use by the proposed single-family dwelling would be relatively low, any development will add to long-term cumulative impact, exacerbating the effects of overdraft, with particular reference to sea-water intrusion in the area.

Accordingly, we conclude that due to the unusual circumstances associated with the project location and ground-water aquifer, and proximity to Elkhorn Slough there exists a reasonable possibility of a significant adverse effect on the environment and a CEQA review of potential hydrogeologic impacts resulting from this project is necessary. Of particular note would be the study and implementation in the project of measures to attain a "zero" balance between water extracted and on-site recharge, so there is no additional overdraft of the hydrogeologic subarea. Another issue for required evaluation, in our opinion, is the effect of nitrate loading on the ground water and adjacent wetlands of nearby Elkhorn Slough from the proposed septic system drainfield, in view of the very rapid average rate of infiltration (77 inches per hour) attained during percolation testing (Pacific Crest Engineering, Inc., 2005).

If we can be of further assistance, please contact us at your convenience.

Sincerely,

**GEOCONSULTANTS, INC.**



Jeremy C. Wire  
Hydrogeologist, HG-93

Copies: Addressee (2)


### SELECTED REFERENCES

**Fugro West, Inc., 1995:** North Monterey County hydrogeologic study, Volume 1, Water Resources, unpublished report prepared for Monterey County Water Resources Agency, 118 p.

**Johnson, M.J., 1983:** Ground water in Northern Monterey County, California; U.S. Geological Survey Water Resources Investigations Report 83-4023, 32 p.

**Pacific Crest Engineering, Inc., 2005:** Geotechnical investigation and percolation study for 5295 Starr Way, Monterey County, California; unpublished report prepared for Mr. Klaus Kloeppel, Project No. 0576-M94-A61, 37 p.

Exhibit H

Pacific Crest Engineering Inc. 

www.4pacific-crest.com

Geotechnical Group  
444 Airport Blvd, Suite 106  
Watsonville, CA 95076  
Phone: 831-722-9446  
Fax: 831-722-9158

Chemical Process Group  
195 Aviation Way, Suite 203  
Watsonville, CA 95076  
Phone: 831-763-6191  
Fax: 831-763-6195

February 6, 2006

Project No. 0576-M94-A61

Mr. Klaus Kloeppe  
122 Strawberry Road  
Watsonville, CA 95076

Subject: Response to Peer Review Letter  
5295 Starr Way, APN 129-211-017  
Monterey County, California

Dear Mr. Kloeppe,

We are in receipt of a letter designated as "Peer Review of Geotechnical Investigation and Percolation Study" dated January 16, 2006 by Landset Engineers, Inc.

Please note that although this letter is designated as a "peer review" letter, it is not signed by a State licensed Geotechnical Engineer.

We have the following comments concerning this letter:

1. The letter is addressed to a Mr. David Sweigert, an attorney with Fenton & Keller. However, the letter also appears to be addressed to "Mr. Chapin" in the salutation line of the letter. We assume this must be a typographical error on the author's part.
2. Table 1 of the authors' letter notes Boring P-1 at an elevation of 324 feet, and Boring P-3 at an elevation of 320 feet. We believe these are typographical errors in addition to Item 1 above, and that these numbers should be reversed.
3. There are typographical error's noted in Item 1 of the January 16<sup>th</sup> letter (regarding our percolation study) which are summarized below:
  - a. Page 17, first paragraph should be revised to note August 24, 2005 as the date the percolation test borings were drilled.
  - b. Boring P-1, page 29 should be revised to a drill date of August 24, 2005.

The report is correct in noting the percolation testing was performed on August 25, 2005.

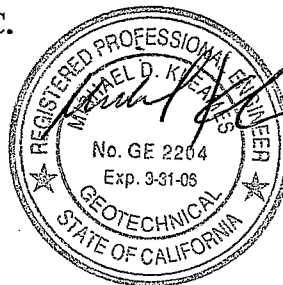
4. Item 2 of the January 16<sup>th</sup> letter correctly points out that the test borings extended to the approximate elevations indicated in Table 1 (with the correction of the typographical error noted in Item 2 above). However, Boring B-1, which extended to a bottom elevation of 304.5 feet, does extend at least 9.5 feet below the bottom of the proposed leach field trench bottom, at least for the upper leach field located at elevation 318 feet. Please keep in mind that when we perform our studies, the house footprint and proposed leach field areas are not always determined with great accuracy. We locate our test borings at locations which are accessible to our drilling equipment in areas judged to be likely for future improvements, such as leach field areas. Given the highly consistent sand stratum encountered within the test borings at all locations, we believe drilling additional test borings (for a 6-inch discrepancy) will provide no significant additional information and is not necessary.
  
5. Regarding Item 3 of the January 16<sup>th</sup> letter, the site does have a high percolation rate which is common within the Aromas sand formation as noted on page 4 of the Geotechnical report. Given the sites elevation above sea level, we believe it would be highly unlikely to encounter groundwater within the first 75 to 100 feet beneath the site. As the letter notes "*When percolation rates exceed 1 inch in 5 minutes, additional testing may be required to prove that there will be no contamination of domestic groundwater.*" We believe the key phrase in this sentence is "*may be required.*" We hope the Monterey County Environmental Health Department takes this into consideration given the single family residence proposed for this site.

Should you have any questions, we can be reached at (831) 722-9446.

Sincerely,

**PACIFIC CREST ENGINEERING INC.**

Michael D. Kleames, GE  
President/Principal Geotechnical Engineer  
GE 2204  
Expires 3/31/06



Copies: 3 – Client  
1 – Shandell Frank, Monterey County Planning Dept.

ED MERCURIO, BIOLOGICAL CONSULTANT  
647 Wilson Street, Salinas, CA 93901  
(831) 424-3497  
ed\_mercurio@yahoo.com

Ms. Shandell Frank  
Monterey County Planning and  
Building Inspection Department  
2620 First Avenue  
Marina, California 93933

March 20, 2006

**RE: Rebuttal to letter of January 17, 2006 by Jean Ferreira about my biological survey for the Kay Property, 5295 Starr Way, north Monterey County, California. APN 129-211-017.**

Dear Ms. Frank:

This letter is my rebuttal to the letter of January 17, 2006 by Jean Ferreira about the Kay project at 5295 Starr Way, north Monterey County addressed to Fair Planning Practices c/o David Sweigert.

Ms. Ferreira asks: "Would the potential loss of the Pajaro manzanita plants near the proposed structure constitute a loss of a few rare plants or a loss of rare plants and their habitat?"

First of all, as explained in my report, there is very little chance of any significant impacts to, let alone potential loss of, Pajaro manzanitas under the current development plan for this project. Second, if I understand the question correctly, how could the loss of the plants' habitat take place? Grading down to bedrock? The chance of an extreme event like that occurring is extremely remote for this project and seems out of place in this discussion. As mentioned in my report, a monitoring inspection will occur immediately prior to the start of construction. Construction plans relative to biological values will be reviewed and discussed during this inspection.

Ms. Ferreira states: "The biological survey does not describe the habitat where the "isolated plants" of Pajaro manzanita occur near the proposed building site. I am left guessing if it is Central Coast Scrub or Coast Live Oak Forest described by Mercurio as on the property or if it is Maritime Chaparral that has become infiltrated by Coast Live Oak Woodland due to an absence of fire, which is a common case in North County"

First of all, on page 4 of my report, I state: "Virtually all of the developments will be in the central coastal scrub plant community in an area with some scattered coast live oaks." Second of all, central maritime chaparral that has been replaced by coast live oak forest due to ecological succession is not central maritime chaparral that has become infiltrated by coast live oak forest. It is now coast live oak forest. A few scattered plants more characteristic of earlier stages of succession may remain in an area, but they do not constitute the former community, which is no longer present there. Biological communities gradually change in time and become different biological communities. This is called ecological succession. Following a disturbance, biological communities in an area increase in complexity over time and, in the absence of further disturbance, eventually arrive at climax community status, which is the highest state of succession that an area can support under stable ecological conditions. Coast live oak forest is one of the most common climax communities in north Monterey County, but coast live oak woodland, central maritime chaparral, central coastal scrub, and non-native grassland are also seen as climax communities in different

areas of north Monterey County with more limiting environmental conditions. Due to the lack of fire over much of the last century, much of the undisturbed natural areas of north county have climax or close to climax vegetation at this time.

Ms. Ferreira states: "Mercurio also fails to address the impact to ESHA of the mandatory fire management clearing within the 100 ft perimeter zone around proposed structures." I did not state anything about this because with a small number of significant plants like Pajaro manzanitas within the zone of mandatory fire clearing, plants can usually remain as long as the amount of vegetative growth is not too great. In other words, plants can remain, but some trimming may be required. Fire personnel will consult with property owners to facilitate the retention of significant plants within the zone of mandatory fire clearing.

Ms. Ferreira asks: "How does planting an additional 15 individuals of Pajaro manzanita mitigate developing within 100 ft. of ESHA?" This is 3:1 mitigation for impacts that are very unlikely to occur. This is more than the 2:1 mitigation, which is usual for removal of plants. Also, approximately half of the property including all of the areas of central maritime plant community and all the areas above 25% slope are to be dedicated as conservation or scenic easement. There are many hundreds of Pajaro manzanitas in these areas that will be protected in perpetuity as a mitigation for this development.

Ms. Ferreira asks: "Where are they to be planted and how will they be monitored?" As long as they are planted in areas on the property where they will thrive, what does it matter exactly where this is? As for monitoring, this is what I state in my report: "Monitoring inspections on the Kay Property will be done by a qualified biologist once immediately prior to construction, once within the three months following completion of the development, once two years after completion of the development and once four years after completion of the development. These monitoring inspections will monitor the protection of coast live oaks and other native shrubs and trees in the areas where development could impact them and will verify the planting and survival of Pajaro manzanitas, coast live oaks and plants characteristic of the central coastal scrub plant community. A report on each inspection will be submitted to the Monterey County Planning and Building Inspection Department."

Ms. Ferreira asks: "How are the rare plants and its habitat to be protected during construction? And after?" I cover much of this in the recommendations section my report. Recommendations 1, 7, 8, 10, 11, 14, and 16 deal with this, and on the monitoring inspection immediately prior to construction, specifics on protection of plants and habitats during construction on this project will be established.

I and everyone I know who is familiar with this project agrees that it is hard to imagine a project of this type on this property that would have less impacts and would preserve more sensitive habitat and significant species than this one does.

Please call me if you have any questions.

Best regards,

Ed Mercurio,  
Biological Consultant

ED MERCURIO, BIOLOGICAL CONSULTANT

647 Wilson Street, Salinas, CA 93901

(831) 424-3497

ed\_mercurio@yahoo.com

Ms. Shandell Frank  
Monterey County Planning and  
Building Inspection Department  
2620 First Avenue  
Marina, California 93933

March 20, 2006

*RE: Fire protection criteria with relation to Pajaro manzanitas for the Kay Property, 5295 Starr Way, north Monterey County, California. APN 129-211-017.*

Dear Ms. Frank:

This letter concerns fire protection criteria for the management of rare, endangered and threatened plants in relation to proposed developments on the Kay property at 5295 Starr Way, north Monterey County.

As I stated previously in my rebuttal to letter of January 17, 2006 by Jean Ferreira, from my past experience with the North Monterey Fire District, a small number of significant plants like Pajaro manzanitas within the zone of mandatory fire clearing, can usually remain as long as the amount of vegetative growth is not too great. In other words, plants can remain, but some trimming may be required.

I talked with Mr. Michael Roberson, Fire Marshal for the North Monterey Fire District about current, specific statutes on the protection of rare, endangered and threatened plants within the mandatory fire clearance zone in north Monterey County.

Mr. Roberson stated that for fire clearance to make one's "defensible space," the fire district is "enforcing to 30 feet and educating to 100 feet" this year, and will be enforcing to 100 feet next year. Anything obviously highly combustible such as dry grass, dead plants and certain shrubs such as Chamise (*Adenostema fasciculata*), etc. should be removed from the clearance zone. Trees and many perennial shrubs can remain, but: 1) breaks should be made through areas of similar plant species in one's horizontal defensible space to help keep fires from rapidly burning in one direction, 2) trees should be limbed up to 6 feet (one's vertical defensible space) and 3) shrubs such as rare, endangered and threatened plants, can remain but should have dead and dying material removed, leaving only healthy growth.

No Pajaro manzanitas are within 30 feet of any of the proposed structures on the Kay Property and two Pajaro manzanitas are within 100 feet of the proposed structures. Since the fire district is enforcing to 30 feet this year, there would be no impacts to Pajaro manzanitas from mandatory clearing to 30 feet away from proposed structures this year. Next year, with mandatory clearing to 100 feet away from proposed structures, the two Pajaro manzanitas within 100 feet of the

proposed structures can remain, but dead and dying material would have to be removed, leaving only the healthy growth on these plants. From my observation of these plants, they are healthy and this should not affect their survival.

If there is concern about unforeseen impacts during the trimming of these two Pajaro manzanitas for fire safety, I or another biologist could be employed to supervise or even to do the trimming.

Please call me if you have any questions.

Best regards,

A handwritten signature in cursive script, appearing to read "Ed Mercurio".

Ed Mercurio,  
Biological Consultant

Exhibit I

CHARLES R. KELLER  
RONALD F. SCHOLL  
THOMAS H. JAMISON  
MARK A. CAMERON  
JOHN S. BRIDGES  
DENNIS G. MCCARTHY  
JACQUELINE P. MCMANUS  
CHRISTOPHER E. PANETTA  
DAVID C. SWEIGERT  
VIRGINIA E. HOWARD  
SARA B. BOYNS  
SHARILYN R. PAYNE  
BRIAN E. TURLINGTON  
AMBER D. PASSNO  
CAROL S. HILBURN  
LAURA S. BARCHICK  
JAY P. MENCHACA  
KOREN R. MCWILLIAMS

FENTON & KELLER  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
2801 MONTEREY-SALINAS HIGHWAY  
POST OFFICE BOX 791  
MONTEREY, CALIFORNIA 93942-0791  
TELEPHONE (831) 373-1241  
FACSIMILE (831) 373-7219

LEWIS L. FENTON  
1925-2005

FROM SALINAS  
TELEPHONE (831) 757-8937

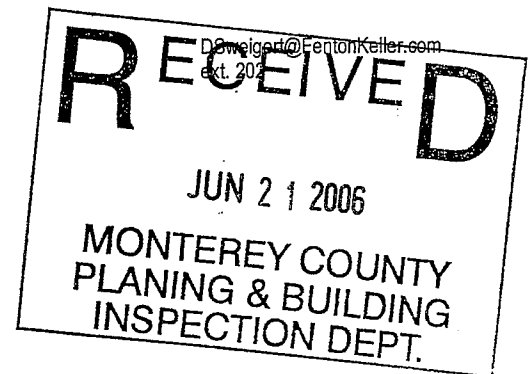
June 21, 2006

DAVID C. SWEIGERT

VIA HAND DELIVERY

Monterey County Planning & Building Inspection Department  
Attn: Shandell Frank  
168 W. Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

Re: Kay/Kloeppel Project (PLN 050434)  
Our File: 30386.26927



Dear Ms. Frank:

We submit this letter on behalf of Monterey County property owners concerned about equal treatment and "Fair Planning Practices" in Monterey County. We have reviewed the initial study for the above referenced project and find that it does not adequately address the issues raised in our January 27, 2006, letter to you (which letter, with enclosures, is attached hereto, incorporated by this reference, and made a part of this CEQA comment letter).

Enclosed is a further expert opinion from Botanical Consulting Services explaining the inadequacies of proposed environmental mitigations, particularly with regard to the protection of ESHA. In addition to failing to adequately mitigate the project under CEQA, the project is also inconsistent with LCP policies for the protection of ESHA. Please note the LCP policy focus is on the protection of habitat whereas Mr. Mercurio's focus is on plants. Specifically, LCP section 20.144.040.B and .C require impacts to be minimized. That has not been done in this case. Potentially significant impacts remain. The best Mr. Mercurio can conclude is that the Pajaro Manzanitas "can usually remain as long as the amount of vegetative growth is not too great." "Usually" is not the appropriate standard when addressing ESHA protection. Where ample room is available on the property (e.g., near the road) to comply with habitat protection requirements, as in this case, all improvements must be relocated away from the ESHA at least 100 feet.

In addition, future fire management prescriptions may have significant impact on the oak woodlands on the property and Public Resources Code section 21083.4 has not been complied with in this case.

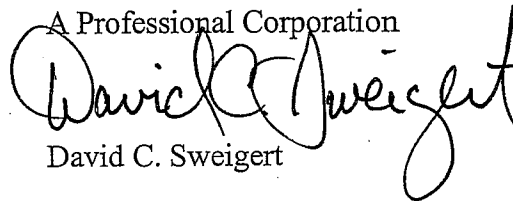
Monterey County Planning & Building Inspection Department  
June 21, 2006  
Page Two

If the building is not relocated to fully comply with LCP requirements for ESHA protection and to mitigate the environmental impacts of the project to a less than significant level, an EIR will be required for this project. In the alternative, if the building is relocated as suggested and a revised mitigated negative declaration is prepared for recirculation, please send us a copy for review and comment.

Because this project is appealable to the Coastal Commission, we have forwarded a copy of this letter to Rick Hyman in the Santa Cruz Coastal Commission office.

Very truly yours,

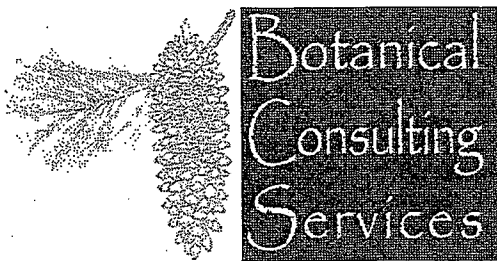
FENTON & KELLER  
A Professional Corporation



David C. Sweigert

DCS:kmc  
Enclosures

cc: Rick Hyman



pobox 5506, carmel, ca 93921 • p & f: 831-626-3814

June 19, 2006

Fair Planning Practices (FPP)  
c/o David Sweigert  
Fenton & Keller  
P.O. Box 791  
Monterey, CA 93942-0791

Re: Kay/Kloepfel Project - Review of Initial Study

Dear Mr. Sweigert,

I have reviewed the Initial Study for the Kay project at 5295 Starr Way prepared by the County of Monterey and the mitigation measures are inadequate to reduce the impacts of developing within the required 100 ft ESHA setback to a less than insignificant level.

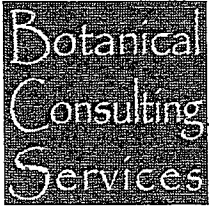
Mitigation Measure #4 defers to the fire management recommendations included in the Biological Survey (Mercurio Nov. 6, 2004) which allows for removal of any native plant as needed for fire clearance. This conflicts with LCP requirements regarding long-term maintenance of ESHA and may result in potentially significant impact. Retention and proper management of natural seedlings of the Pajaro manzanita also needs to be addressed.

Mitigation Measure #1 requires 15 Pajaro manzanita to be planted to offset impacts of developing within required 100ft ESHA setback. The MM#1 and the biological survey do not require an approved planting plan nor detail how and where the manzanita are to be planted. Project biologist, Mercurio, even states in his March 20, 2006 letter to the Project Planner, that as long as the manzanitas are planted on the property where they will thrive, it does not matter where it is. This directly contradicts the principles of ecological restoration and defeats the purpose of mitigation of natural plant community features.

To address these impacts the project could be relocated so that a minimum 100 ft ESHA setback is maintained from all improvements including grading, septic, structure, and driveway. Relocation of the house toward the road would also reduce the potentially significant impacts to the oak woodlands on the property.

Finally, the biological survey report recommended removal of all invasive exotic plant species on the parcel. This recommendation was not included in the Initial Study, and should be added to insure the continued health of the native plant communities of the Kay property, especially the maritime chaparral.

If you have any questions or comments on my recommendations, please contact me at (831)



626-3814 or [jf.bcs@sbcglobal.net](mailto:jf.bcs@sbcglobal.net).

Sincerely,

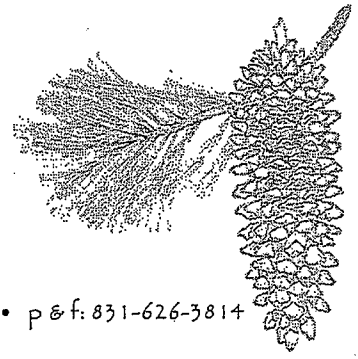
A handwritten signature in black ink, appearing to read "Jean Ferreira", with a large, stylized flourish below the name.

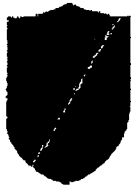
Jean Ferreira

10/10/01

INDUSTRIAL  
PLANNING & BUILDING  
MILITARY SERVICE

pobox 5506, carmel, ca 93921 • p & f: 831-626-3814





DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500

June 20, 2006

Ms. Shandell Frank, Associate Planner  
Monterey County Planning and Building  
Inspection Department  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901  
Phone (831) 755-5186  
FAX (831) 757-9516

Dear Ms. Frank:

Kloepfel Residence, 5295 Starr Way, Royal Oaks  
Initial Study and Mitigated Negative Declaration  
PLN 050434, APN 129-211-000, Monterey County

Department of Fish and Game (DFG) personnel have reviewed the Mitigated Negative Declaration (MND) for the Kay property dated April 3, 2006. The project is located in north Monterey County in the vicinity of Elkhorn Slough, at 5295 Starr Way, off Elkhorn Road and Campagna Way. The project as proposed is a single-family home on 10.1 acres. In addition to reviewing the MND, DFG staff visited the site at your request on April 19, 2006.

Central maritime chaparral occurs on the property outside the project boundary and is not proposed to be impacted by project work. Additionally the following manzanita species exist on the project site.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Hooker's manzanita	( <i>Arctostaphylos hookeri</i> )	CNPS 1B
Pajaro manzanita	( <i>Arctostaphylos pajaroensis</i> )	CNPS 1B, FSC

FSC=Federal Species of Concern, CNPS 1B = California Native Plant Society List 1B

No removal of either manzanita species is proposed for the project, however, limited trimming of Pajaro manzanita for fire safety may occur under the guidance of a qualified botanist. The MND indicates on Page 21, under the conclusion section, Biological Resources 4(a) that, "the remaining Pajaro manzanita exist along the upper ridge of the property, on slopes greater than 25 percent, and will be placed into a Scenic Conservation Easement by the Applicant." The document does not indicate how much land the scenic easement would represent. The drawing included with the MND looks like almost half the property would be designated as scenic easement. In conversations between the local DFG biologist and project proponents the amount of land proposed to be placed into scenic easement is in the range of four to five acres. This acreage amount (much of it central maritime chaparral) should be clarified in the document as it is a significant commitment on the part of the applicant to demonstrate their regard for the resource.

Ms. Shandell Frank  
June 20, 2006  
Page 2

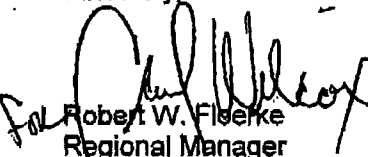
Proposed mitigation measures to protect and enhance central maritime chaparral and central coast scrub communities are adequate and acceptable to DFG. Success criteria language should be amended to include the following: On Page 21 in the MND, Monitoring Action #1B, the second to last sentence should contain the following language for success criteria at five years: "At five years following completion of development at least 70 percent of plantings shall be surviving. If 70 percent of plantings are not surviving then replanting and monitoring shall continue until compliance is achieved." The same language should be included for Monitoring Action #3B on Page 22 for the enhancement of central coast scrub.

On the site visit with DFG staff one stick nest, possibly for Monterey dusky-footed woodrat (*Neotoma fuscipes luciana*), a California species of special concern, was spotted. This nest should be investigated to see if it is within the project boundary and, if so, monitored to see if it is active. If it is active and indeed inside construction boundaries, this area shall be avoided until late August to ensure that potential young of the year are raised and sufficiently mobile to relocate. The stick nest should be disassembled prior to grading the site to give the animals time to relocate and avoid being harmed in the site clearing process.

With inclusion of the conditions contained in this letter and by following the minimization measures contained in the MND, project impacts should be able to be reduced to a less-than-significant level.

Thank you for the opportunity to comment on this project. If you have further questions, please contact Mr. Jeff Cann, Associate Wildlife Biologist, at (831) 649-7194; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,

  
For Robert W. Fierke  
Regional Manager  
Central Coast Region



# MONTEREY BAY

Unified Air Pollution Control District  
serving Monterey, San Benito, and Santa Cruz counties

AIR POLLUTION CONTROL OFFICER  
Douglas Quetin

24580 Silver Cloud Court • Monterey, California 93940 • 831/647-9411 • FAX 831/647-8501

May 25, 2006

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Dennis Norton  
Capitola

Ellen Pirie  
Santa Cruz  
County

Jerry Smith  
Monterey County

Mr. Shandell Frank, Project Planner.  
168 West Alisal Street  
Salinas, CA 93901

SUBJECT: KAY COMBINED DEVELOPMENT PERMIT

Dear Mr. Frank:

Air Quality. Page 12 of the Initial Study.

Please note that the population projections developed by AMBAG, not zoning, are used to determine if a residential project is accommodated in the Air Quality Management Plan.

The District has no other comments on this project. Thank you for the opportunity to review and comment.

Sincerely,

Jean Getchell  
Supervising Planner  
Planning and Air Monitoring Division

# Exhibit J

LAW OFFICE OF  
**J. WILLIAM YEATES**

3400 COTTAGE WAY, SUITE K  
SACRAMENTO, CALIFORNIA 95825  
TELEPHONE: (916) 609-5000  
FACSIMILE: (916) 609-5001  
www.enviroqualitylaw.com

J. WILLIAM YEATES

KEITH G. WAGNER  
JASON R. FLANDERS

July 17, 2006

Sent Via **FEDEX**

Ms. Shandell Frank  
Associate Planner  
Monterey County Planning & Building Inspection Department  
168 W. Alisal Street, 2nd Floor  
Salinas, CA 93901

Re: *Kay/Kloeppe Project (PLN 050434); Assessor's Parcel No. 129-211-017-000*

Dear Ms. Frank:

I am writing on behalf of Mari and Klaus Kloeppe the applicants for the single family residential project located at 5295 Starr Way in North County. The description of the proposed project, its location, and the proposed project's less than significant adverse effects on the existing environment are more than adequately described in the Initial Study and Mitigated Negative Declaration that was circulated for public review and comment.

During the public comment period Monterey County received a June 20, 2006 comment letter from the California Department of Fish and Game and a June 21, 2006 comment letter from David C. Sweigert with the law firm of Fenton and Keller representing unnamed Monterey County property owners "concerned about equal treatment and 'Fair Planning Practices' in Monterey County." Attached to Mr. Sweigert's letter is a letter to "Fair Planning Practices" from Jean Ferreira of Botanical Consulting Services, which raises concerns about Mitigation Measures #1 and #4 and the removal of invasive exotic plant species.

This letter responds to the communications Monterey County has received on the Initial Study and Mitigated Negative Declaration that was circulated for public review.

According to the Mitigated Negative Declaration, the applicants' project as sited and designed, and with the mitigation measures identified in this document and incorporated into the proposed project, will not have a significant effect on the environment. In other words the County staff has determined that there is no substantial evidence that demonstrates that the applicant's proposed project may have a significant effect on the existing physical environment.<sup>1</sup> Therefore, Monterey County has satisfied the requirement of the California Environmental Quality Act ("CEQA") by determining that the proposed project will not have a significant effect on the environment.<sup>2</sup>

<sup>1</sup> Pub. Resources Code, § 21064.5.

<sup>2</sup> Pub. Resources Code, § 21080, subd. (c)(1)-(2).

Ms. Shandell Frank

July 17, 2006

Page 2 of 5

The issue before the Zoning Administrator is whether the comments the County has received on the Initial Study and Mitigated Negative Declaration raise a "fair argument" that the proposed project may have a significant effect on the environment despite the County staff's determination to the contrary.<sup>3</sup> To satisfy CEQA's "fair argument" standard the commenters must put forward substantial evidence that will demonstrate that the proposed project may have a significant effect on the environment, despite its design and location and incorporation of mitigation measures. Admittedly this is a low standard, but CEQA's "fair argument" standard still requires substantial evidence of a potential significant adverse direct or indirect effect to the existing physical environment.<sup>4</sup>

CEQA defines substantial evidence to include "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact."<sup>5</sup> "Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment."<sup>6</sup>

Mr. Sweigert, on behalf of the unknown Monterey landowners seeking equal treatment and "Fair Planning Practices," relies upon the alleged expert comments of Jean Ferreira of Botanical Consulting Services. There is nothing in Ms. Ferreira's letter stating what her particular expertise may be, but for the sake of my analysis of her letter I will assume that she is indeed an expert.

Ms. Ferreira begins her letter with the claim that "the mitigation measures are inadequate to reduce the impacts of developing within the required 100 ft. ESHA setback to a less than insignificant level." The standard is "less than significant level," but I understand what she is trying to say. Despite the fact she is an expert, as proclaimed by Mr. Sweigert, an expert's opinion must be supported by fact. Ms. Ferreira fails to provide any facts to support her opinion about the inadequacy of the mitigation measures.

Next Ms. Ferreira claims, "Mitigation Measure #4 defers to the fire management recommendations included in the Biological Survey (Mercurio Nov. 6, 2004) which allows for removal of any native plant as needed for fire clearance." Even if I accept her alleged deferral, which I do not, she provides no facts and really does not even claim that Mitigation Measure #4 fails to reduce the impact of the project to a less than significant level. Instead she claims this alleged deferral "conflicts with LCP requirements." Here Ms. Ferreira is stating a legal opinion, and nowhere is there any suggestion Ms. Ferreira is a legal scholar or practicing attorney. Ms. Ferreira's unsubstantiated opinion about "conflicts with LCP requirements" is, therefore, not substantial evidence.

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<sup>3</sup> *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4<sup>th</sup> 144, 150-151.

<sup>4</sup> Pub. Resources Code, §§ 21064.5, 21080, subd. (d).

<sup>5</sup> Pub. Resources Code, § 21080, subd. (e)(1).

<sup>6</sup> Pub. Resources Code, § 21080, subd. (e)(2).

Ms. Shandell Frank

July 17, 2006

Page 3 of 5

Then Ms. Ferreira criticizes Mitigation Measure #1 because the required planting of 15 Pajaro manzanita does not include "an approved planting plan nor detail how and where the manzanita are to be planted." She further criticizes the Project biologist's comment "that as long as the manzanitas are planted on the property where they will thrive, it does not matter where it is," claiming this "directly contradicts the principles of ecological restoration and defeats the purpose of mitigation of natural plant community features." Unlike her prior unsubstantiated non-expert legal opinion, Ms. Ferreira has attempted in the criticism of Mitigation Measure #1 to stay within her alleged field of expertise. However, she misses CEQA's purpose, which is to reduce or avoid environmental harm, and again fails to provide any facts to support her opinion.<sup>7</sup>

CEQA does not require the applicants or the County to restore the project site to some claimed ecological value. Lead agencies are required to reduce the impact of a project on the existing physical environment to a less than significant level.<sup>8</sup> The CEQA Guidelines define "mitigation" to include, "[c]ompensating for the impact by replacing or providing substitute resources or environments."<sup>9</sup> For the "several individual Pajaro manzanita [that] exist within 100 feet of the proposed driveway" that may be indirectly affected "due to construction activity, maintenance and human activity," the County has required and the applicants have agreed to "plant within the disturbed area of the parcel, at least 15 one gallon Pajaro manzanita of local origin. The manzanita shall be planted at least 100 feet from any structure." In addition, the County has required a monitoring protocol "[t]o ensure the survival of the Pajaro manzanita."

Although Ms. Ferreira has criticized the statements made by the biologist within his survey, Ms. Ferreira fails to state any facts in support of her alleged expert opinion that Mitigation Measure #1 is inadequate to reduce the project's potential significant indirect effect on the individual Pajaro manzanita plants to a less than significant level.

Ms. Ferreira also claims that it is necessary to relocate the project; but, despite her unsubstantiated point of view, the law does not require the applicants' project to be relocated, since it will not have a significant adverse effect on ESHA based on the siting and design of the proposed project and incorporation of the County's mitigation measures.

Finally, Ms. Ferreira claims that the County should require the removal of all invasive exotic plant species on the parcel. The removal of invasive exotic plant species is not required to reduce the potential indirect effects of the proposed project on ESHA to a less than significant effect. CEQA requires lead agencies to reduce the effect of proposed projects on the existing physical environment. "CEQA [] does not require an environmental impact report (EIR) for a project that might be affected by preexisting environmental conditions but will not change those conditions or otherwise have a significant effect on the environment."<sup>10</sup> In this situation, the existing environment includes ESHA as well as existing invasive exotic plants species that are probably found throughout the North County region.

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<sup>7</sup> See CEQA Guidelines, § 15002, subd. (a)(1)-(4), 15021, subd. (a);

<sup>8</sup> See Pub. Resources Code, §21002.

<sup>9</sup> CEQA Guidelines, §15370, subd. (e).

<sup>10</sup> *Baird v. Contra Costa County* (1995) 32 Cal.App.4<sup>th</sup> 1464, 1466.

Ms. Shandell Frank

July 17, 2006

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Unlike the County's Initial Study and Mitigated Negative Declaration, which is supported by substantial evidence based on facts found throughout the document and further identified in documents listed in the References section of the document, Ms. Ferreira's one-page critique provides no substantial evidence to support a "fair argument" that the applicants' single family dwelling on a 10.1-acre parcel may have a significant effect on the environment.<sup>11</sup>

The June 20, 2006, letter from the California Department of Fish and Game, the state's trustee agency for fish, wildlife, and rare or endangered native plants,<sup>12</sup> is quite different from Ms. Ferreira's unsubstantiated biological comments and legal opinions. In addition to reviewing the County's Initial Study and Mitigated Negative Declaration, DFG staff visited the site on April 19, 2006. According to the state's trustee agency, the mitigation measures incorporated into the proposed project are adequate "to protect and enhance central maritime chaparral and central coast scrub communities." The Department's letter points out that the applicants have placed almost half of their parcel into a Scenic Conservation Easement to protect the Pajaro manzanita only the upper ridge of the property. The Department requested that the exact amount of the acreage to be burdened with the easement should be set forth in the Initial Study and Mitigated Negative Declaration. The actual amount is 4.1 acres; and, the applicants would support the County clarifying the document per the Department's request.

The Department also recommends the following language be added to the County's monitoring protocol for Mitigation Measures #1 and #3: "At five years following completion of development at least 70 percent of plantings shall be surviving. If 70 percent of the plantings are not surviving then replanting and monitoring shall continue until compliance is achieved."

The project applicants agree to incorporate the Department's language into the Monitoring Action paragraphs of Mitigation Measures #1 and #3.

During the site visit Department staff identified one stick nest, possibly for Monterey dusky-footed woodrat. The Department recommended that if the nest is active that construction activities be avoided until late August to allow young of the year to be raised. Then prior to grading the stick nest should be disassembled to give the animals time to relocate and avoid being harmed by the site clearing process.

Again, project applicants agree to incorporate the Department's recommendations in order to avoid any impacts on the Monterey dusky-footed woodrat.

With the inclusion of the Department's conditions and the County's minimization measures contained in the Mitigated Negative Declaration, the Department concluded that the "project impacts should be able to be reduced to a less-than-significant level."

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<sup>11</sup> See *Citizens' Committee to Save Our Village v. City of Claremont* (1995) 37 Cal.App.4th 1157, 1171-1172 (rejecting letter from architect that project would interfere with historic landscaping plans where expert's opinion was not based on fact).

<sup>12</sup> CEQA Guidelines, § 15386, subd. (a).

Ms. Shandell Frank

July 17, 2006

Page 5 of 5

Returning to Mr. Sweigert's letter, he claims that the proposed project is inconsistent with LCP policies for the protection of ESHA. Despite the facts to the contrary in the Mitigated Negative Declaration and the opinion of the state's trustee agency after its review of the County's Initial Study and Mitigated Negative Declaration and site visit, Mr. Sweigert proclaims that impacts to ESHA have not been "minimized." Finally, he further proclaims without providing any information, "future fire management prescriptions may have a significant impact on the oak woodlands." Yet, like Ms. Ferreira, his unsubstantiated opinion about minimization and speculation about fire management prescriptions is not substantial evidence of any potentially significant effects on ESHA.

I am sure that the County has treated my clients' project equally, as with all other projects within the County. I have no reason not to believe that the County has followed "Fair Planning Practices" in reviewing my clients' application and in preparing the Initial Study and Mitigated Negative Declaration. On behalf of the project applicants, Mari and Klaus Kloeppel, I urge Monterey County officials to approve my clients' application and adopt the Mitigated Negative Declaration with the additional conditions recommended by the Department of Fish and Game, and to prepare and approve a reporting and monitoring program for the changes made to the project and conditions of approval adopted in order to mitigate the proposed project's potentially significant effects on the existing environment.<sup>13</sup>

If you have any further questions about the contents of this letter, please feel free to give me a call at your convenience.

Sincerely,



J. William Yeates

cc: Mari and Klaus Kloeppel  
Hon. Louis R. Calcagno, Supervisor, Monterey County – District 2  
David C. Sweigert, Esq., FENTON & KELLER  
Jean Ferreira  
Robert W. Fleeke, Regional Manager, CDFG  
Rick Hyman, Deputy Chief Planner, California Coastal Commission

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<sup>13</sup> Pub. Resources Code, § 21081.6.