



Appeal to the Board of Supervisors or Planning Commission (County or Montecito)

APPEAL TO THE BOARD OF SUPERVISORS OR PLANNING COMMISSION (APL) on the issuance, revocation, or modification of :

- All Discretionary projects heard by one of the Planning Commissions
- Board of Architectural Review decisions
- Coastal Development Permit decisions
- Land Use Permit decisions
- Planning & Development Director's decisions
- Zoning Administrator's decisions

THIS PACKAGE CONTAINS _____

- ✓ APPLICATION FORM
- ✓ SUBMITTAL REQUIREMENTS

AND, IF ✓'D, ALSO CONTAINS _____

COUNTY OF SANTA BARBARA
 CLERK OF THE BOARD OF SUPERVISORS
 2011 JUN 3 11:19:51

South County Office 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2000 Fax: (805) 568-2030	Energy Division 123 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2040 Fax: (805) 568-2522	North County Office 624 W. Foster Road, Suite C Santa Maria, CA 93455 Phone: (805) 934-6250 Fax: (805) 934-6258	Clerk of the Board 105 E. Anapamu Street Santa Barbara, CA 93101 Phone: (805) 568-2240 Fax : (805) 568-2249
--	--	--	--

Website: www.sbcountyplanning.org

SUBMITTAL REQUIREMENTS

- _____ 8 Copies of the attached application.
- _____ 8 Copies of a written explanation of the appeal including:
- If you are not the applicant, an explanation of how you are an "**aggrieved party**" ("Any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by the other nature of his concerns or who for good cause was unable to do either.");
 - A clear, complete and concise statement of the **reasons or grounds for appeal**:
 - Why the decision or determination is consistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; or
 - There was error or abuse of discretion;
 - The decision is not supported by the evidence presented for consideration;
 - There was a lack of a fair and impartial hearing; or
 - There is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.
- _____ 1 Check payable to Planning & Development.

✓
✓
Note: There are additional requirements for certain appeals including:

- a. **Appeals regarding a previously approved discretionary permit** – If the approval of a Land use permit required by a previously approved discretionary permit is appealed, the applicant shall identify: 1) How the Land Use Permit is inconsistent with the previously approved discretionary permit; 2) How the discretionary permit's conditions of approval that are required to be completed prior to the approval of a Land Use Permit have not been completed; 3) How the approval is inconsistent with Section 35.106 (Noticing).
- b. **Appeals regarding Residential Second Units (RSUs)** – The grounds for an appeal of the approval of a Land Use Permit for a RSU in compliance with Section 35.42.230 (Residential Second Units) shall be limited to whether the approved project is in compliance with development standards for RSUs provided in Section 35.42.230.F (Development Standards).



**PLANNING & DEVELOPMENT
APPEAL FORM**

SITE ADDRESS: 1192 and 1194 East Mountain Drive, Montecito, California

ASSESSOR PARCEL NUMBER: APN 011-020-034 & 011-020-042

SIZE (acres/sq.ft.): Gross 3.23 acres Net 2.93 acres

COMPREHENSIVE/COASTAL PLAN DESIGNATION: SRR-0.33 ZONING: 3-E-1

Are there previous permits/applications? no yes numbers: 09LUP-00000-00256; Related Case No. 09ZEV-00000-00042; 09ZEV-00000-00115

(include permit# & lot # if tract)

Are there previous environmental (CEQA) documents? no yes numbers:

1. **Appellant:** Ross Bagdasarian, Jr. & Janice F. Karman Phone: (805) 969-3349 FAX: _____

Mailing Address: 1192 East Mountain Drive, Montecito, CA 93108 E-mail: _____
 Street City State Zip

2. **Owner:** Ross Bagdasarian, Jr. & Janice F. Karman Phone: (805) 969-3349 FAX: _____

Mailing Address: 1192 East Mountain Drive, Montecito, CA 93108 E-mail: _____
 Street City State Zip

3. **Agent:** Marc Appleton and Ken Mineau, Appleton & Associates, Inc., Architects

Phone: (805) 965-0304 FAX: (805) 560-6815

Mailing Address: 117 W. Micheltorena St., Santa Barbara, CA 93101 E-mail: kmineau@appleton-architects.com
 Street City State Zip

4. **Attorney:** Richard C. Monk, Hollister & Brace Phone: (805) 963-6711 FAX: (805) 965-0329

Mailing Address P. O. Box 630, Santa Barbara, CA 93102 E-mail: rcmonk@hbsb.com
 Street City State Zip

COUNTY USE ONLY

Case Number: _____	Companion Case Number: _____
Supervisory District: _____	Submittal Date: _____
Applicable Zoning Ordinance: _____	Receipt Number: _____
Project Planner: _____	Accepted for Processing _____
Zoning Designation: _____	Comp. Plan Designation _____

COUNTY OF SANTA BARBARA APPEAL TO THE :

BOARD OF SUPERVISORS

PLANNING COMMISSION: COUNTY MONTECITO

RE: Project Title Bagdasarian/Karman Site Alterations, Retaining Walls, Bridges

Case No: 09LUP-00000-00256

Date of Action: May 25, 2011

I hereby appeal the approval approval w/conditions denial of the:

Board of Architectural Review – Which Board? _____

Coastal Development Permit decision

Land Use Permit decision

Planning Commission decision – Which Commission? Montecito Planning Commission

Planning & Development Director decision

Zoning Administrator decision

Is the appellant the applicant or an aggrieved party?

Applicant

Aggrieved party – if you are not the applicant, provide an explanation of how you are and "aggrieved party" as defined on page two of this appeal form:

2011 JUN -3 AM 10:11
 COUNTY OF SANTA BARBARA
 CLERK OF THE
 BOARD OF SUPERVISORS

Reason of grounds for the appeal – Write the reason for the appeal below or submit 8 copies of your appeal letter that addresses the appeal requirements listed on page two of this appeal form:

- A clear, complete and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of the County's Zoning Ordinances or other applicable law; and
- Grounds shall be specifically stated if it is claimed that there was error or abuse of discretion, or lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made.

See Appeal Grounds attached hereto as Exhibit "A", and incorporated herein by reference.

Specific conditions imposed which I wish to appeal are (if applicable):

- a.

- b.

- c.

- d.

Please include any other information you feel is relevant to this application.

CERTIFICATION OF ACCURACY AND COMPLETENESS Signatures must be completed for each line. If one or more of the parties are the same, please re-sign the applicable line.

Applicant's signature authorizes County staff to enter the property described above for the purposes of inspection.

I hereby declare under penalty of perjury that the information contained in this application and all attached materials are correct, true and complete. I acknowledge and agree that the County of Santa Barbara is relying on the accuracy of this information and my representations in order to process this application and that any permits issued by the County may be rescinded if it is determined that the information and materials submitted are not true and correct. I further acknowledge that I may be liable for any costs associated with rescission of such permits.

Print name and sign – Firm _____ Date _____

Print name and sign - Preparer of this form _____ Date _____

Print name and sign - Applicant _____ Date _____

Marc Appleton and Ken Mineau, Appleton & Associates, Inc., Architects

Print name and sign - Agent _____ Date _____

Ross Bagdasarian and Janice Karman

Print name and sign - Landowner _____ Date _____

Richard C. Monk, Attorney at Law - Hollister & Brace

Print name and sign- _____ Date _____

Richard C. Monk

June 3, 201

EXHIBIT "A"**APPEAL GROUNDS**

1. The decision and Findings of the Montecito Planning Commission (the "MPC") regarding the extent and limits of the environmentally sensitive habitat ("ESH") on Appellants' property and the total amount of habitat removal is erroneous and not supported by substantial evidence in the record. Moreover, there is a disagreement among experts as to the limit of the ESH and the amount of habitat removal. The Montecito Community Plan ("MCP") mapping of the ESH is associated with Hot Springs Creek, not the secondary drainage around which the walls and bridges were installed. The MPC's decision and Findings erroneously interpret the entire project site as ESH with no substantial evidence to support said interpretation. Appellants retained Rachel Tierney, a qualified biologist, who concluded that the secondary drainage where the walls and bridges were installed "is separate from the main channel and is not mapped as ESH in the MCP." **Exhibit No. 1** hereto.
2. The MPC's decision and Findings mandating the removal of the walls and bridges would cause substantially more disturbance than leaving said walls and bridges intact and implementing Appellants' proposed restoration Plan. Appellants retained David Gress, a qualified arborist, who opined that "removing the completed rock features of the project could result in greater damage to the trees and is not recommended. Alternative measures can be taken to minimize the impacts from development." **Exhibit No. 2** hereto.
3. Appellants' proposed Restoration Plan incorporates input from a local professional horticulturist, biologist, an arborist, and a respected architectural firm. These professionals collectively opine that the Restoration Plan would be beneficial over baseline conditions. The Appellants' proposed Restoration Plan would include removal of invasive exotic *Arundo Donax* in the Hot Springs Creek corridor, even though Appellants did not plant this invasive exotic therein. Appellants' proposed Restoration Plan was initially very positively received by Planning & Development Staff in verbal communications with Appellants' development team.
4. Appellants' proposed Restoration Plan would not only decrease the amount of remaining lawn, but would restore a great amount of area around the existing walls and bridges.

5. Appellants' proposed plant palette for the Restoration Plan was carefully selected by a local qualified horticulturist and includes a number of local native plants.
6. Appellants retained David Gress, a qualified arborist, and have consented to his recommendation to replant a total more than fifty (50) Coast Live Oak saplings and eighty (80) California Sycamores to mitigate impacts of the development, even though Appellants have planted in excess of one hundred (100) trees on their property over the years, including Sycamores.
7. Appellants' proposed Restoration Plan would implement thirteen (13) additional tree protection measures to protect and enhance oaks and sycamores on the Project site.
8. The benefits of the amount of off-site restoration that could be achieved with in-lieu fees exceed the benefit of removing the walls and bridges and limiting restoration to Appellants' property. Moreover, the walls are less than six (6) feet in height. The Montecito Land Use & Development Code does not require permits for walls under six (6) feet when they are not located in an ESH.
9. Appellants advised the MPC that they would also perform the following additional mitigations if this would achieve a full and final resolution of the alleged zoning violation:
 - Remove five (5) of the shallower tree wells
 - Remove the six (6) at grade stone borders
 - Remove three (3) segments of the retaining walls totaling approximately 123 liner feet, even though the Hydrology Study prepared by Bengal Engineering and concurred in by County Flood Control indicates that these walls do not adversely affect flooding downstream. (See attached site plan presented to County Planning & Development Department November 23, 2010 and amended May 25, 2011.) Appleton & Associates Letter of May 20, 2011, **Exhibit No. 3** hereto.
 - Relocate some of the oak and sycamore trees currently proposed within the rock stock pile area to the area "within the tributary creek or within the upland area between creeks, where the majority of the trees were removed," as suggested by County Planning & Development Staff. *Id.*

10. Early meetings between the Appellants and Appellants' agents and the County led the Appellants to believe that additional time and money put toward restoration could result in an after-the-fact approval by the County.

The following policies of the Montecito Community Plan ("MCP") and regulations of the Montecito Land Use and Development Code ("MLUDC") were addressed in the MPC's decision denying the Appeal of the Director's Decision and in the Findings. Appellants' Responses are set forth below the policies.

MCP Policy (BIO-M-1.7) Structures with riparian habitat. *No structures shall be located within a riparian corridor except: public trails that would not adversely affect existing habitat; dams necessary for water supply projects; flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety, or other development where the primary function is for the improvement of fish and wildlife habitat and where this policy would preclude reasonable development of a parcel. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible to minimize the impact to the greatest extent.*

MLUDC § 35.428.040.K.2. Prohibition on development within a riparian corridor. *No structure shall be located within a stream corridor except:*

- a. *Public trails that would not adversely affect existing habitat;*
- b. *Dams necessary for water supply projects;*
- c. *Flood control projects where no other method for protecting existing structures in the floodplain is feasible, and where the protection is necessary for public safety;*
- d. *Other development where the primary function is for the improvement of fish and wildlife habitat; and*
- e. *Within the Inland area, other development where this requirement would preclude reasonable development of a lot.*

Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible to minimize the impact to the greatest extent.

Response As reported in Ms. Tierney's *Biological Assessment and Impact Analysis for 1192 East Mountain Drive (Exhibit No. 4 hereto)*, "The secondary drainage, with the exception of the extreme southern and northern extremities of the property, is not included within the ESH designation. In 2001, as in present time, this feature does not exhibit the characteristics of a "riparian woodland corridor" for the following reasons. The size of the drainage signifies that its capacity remains very low compared to the main fork. Further, this secondary drainage is dry most of the year. And, even during the record heavy rainfall that occurred during December 2010, there was only about one (1) foot of water in said drainage at its peak, which dissipated in about three (3) days. Secondly, vegetation, including non-native grasses and other decidedly upland plants, had matured within the lowest part of the bed, suggesting that the drainage may only carry flows on a very occasional basis and possibly only on very wet years. This section is also not identified as ESH on the County Map

(Figure 21, County of Santa Barbara, 1992), which is in agreement with this interpretation of the drainage not being high quality habitat at the time the map was created (1992)." Based on this interpretation, the structures are not within the Riparian corridor.

The implementation of the proposed Restoration Plan, shown graphically in the Appleton & Associates Restoration plan sets dated June 8, 2010, and discussed in Rachel Tierney's *Biological Assessment and Impact Analysis for 1192 East Mountain Drive* and supplemented by Dave Gress' *Arborist Report: Bagdasarian/Karman Site Alterations* will enhance the riparian functioning of the affected area as well as improve habitat value as mentioned in item 35.428.040.K.2.d above, along both Hot Springs Creek and the secondary drainage, even though Appellants did no work whatsoever in Hot Springs Creek.

With the suggested plantings of the Gress and Tierney reports mentioned above, approximately 200 new Coast Live Oak and California Sycamore trees will be planted, for a net benefit over previous conditions totaling approximately 150 new saplings and trees. Appellants' restoration plan proposes a mitigation area ("Restoration Area") of 3.31 acres which represents three, and in the case of the rock wall, five times the total area disturbed (1.07 acres). There are 1.79 acres available on-site for restoration. The remainder of the 3.31 required mitigation area (1.52 acres) would be purchased in lieu of on-site restoration. The amount charged per acre would be based upon the compensation cost that would otherwise be necessary to restore, enhance, create or preserve habitat with similar functions or values to the one affected. The fee would be banked in an account to be managed by the agency that will be overseeing the Project. Tierney, Restoration Plan, 1192 East Mountain Drive, April 12, 2011, pp. 1, 10-11 (**Exhibit No. 5** hereto). Thus, the restoration plan will result in a net benefit to both the subject parcel and another site. Removal of the walls and bridges would introduce additional disturbance to the area and work conversely to the stated goal of "minimizing impact to the greatest extent."

This case falls within the exceptions to MCP Policy **BIO-M-1.7**, and **MLUDC § 35.428.040.K.2** which expressly allow other development and structures including, without limitation, bridges within a riparian corridor where its prohibition "would preclude reasonable development of a lot." Appellants' parcel at 1194 East Mountain Drive, which is the alleged violation parcel, has an existing approximately 1,500 square foot house, a garage and a maintenance building located on it. This parcel is a separate legal lot from the main house parcel at 1192 East Mountain Drive. The alleged unpermitted alterations, retaining walls, bridges and riparian vegetation removal within the alleged ESH area are on a portion of the 1194 East Mountain Drive parcel. Appellants' desire to access and use the alleged "island" area of this parcel, which consists of approximately one quarter (1/4) of the total area of said parcel, for recreational purposes and for visual enjoyment. The MPC's decision precludes reasonable access to and use of the "island" area of this legal lot.

MLUDC § 35.428.040.K.4 *Riparian protection measures – Inland area. Riparian protection measures shall be based on the project's proximity to riparian habitat and the project's potential to directly or indirectly damage riparian habitat through activities related to a Land Use Permit such as grading, brushing, construction, vehicle parking, supply/equipment storage, or the proposed use of the property. Damage could include vegetation removal/disturbance, erosion/sedimentation, trenching, and activities which hinder or prevent wildlife access and use of habitat. Prior to issuance of a Land Use Permit, the applicant shall include a note on the grading and building plans stating the following riparian habitat protection measures:*

a. *A setback of 50 feet from either side of top-of-bank of the creek, that precludes all ground disturbance and vegetation removal; and*

b. That protective fencing shall be installed along the outer buffer boundary at the applicant's expense prior to initiation of any grading or development activities associated with a Land Use Permit. Storage of equipment, supplies, vehicles, or placement of fill or refuse, shall not be permitted within the fenced buffer region.

MCP Policy BIO-M-1.3.1 *Setback or buffer required.* All applicants proposing new development within 100 feet of an Environmentally Sensitive Habitat (ESH), shall be required to include setbacks or undeveloped buffer zones from these habitats as part of the proposed development except where setbacks or buffer zones would preclude reasonable development of the parcel. In determining the location, width and extent of setbacks and buffer zones, staff shall refer to the Montecito Biological Resources Map as well as other available data (e.g., maps, studies, or observations). If the project would result in potential disturbance to the habitat, a restoration plan shall be required. When restoration is not feasible onsite, offsite restoration may be considered.

MCP Policy (BIO-M-1.6) *Buffer requirement.* Riparian vegetation shall be protected as part of a stream or creek buffer. Where riparian vegetation has previously been removed, (except for channel cleaning necessary for free-flowing conditions as determined by the County Flood Control District), the buffer shall allow the reestablishment of riparian vegetation to its prior extent to the greatest degree possible. The restoration of degraded riparian areas to their former state shall be encouraged.

MCP Policy (BIO-M-1.3.2) *Habitat Restoration Plan for zoning violations.* In the event that activities considered to be zoning violations result in the degradation of an Environmentally Sensitive Habitat (ESH), the applicant shall be required to prepare and implement a habitat restoration plan. Degraded or disturbed portions of an ESH area outside of a formal landscaping plan shall be restored with appropriate native species to offset increased development and increased human and domestic animal presence.

MLUDC § 35.428.040.K.5 *Onsite restoration required – Inland area.* Onsite restoration of any project-disturbed buffer or riparian vegetation within a creek shall be mandatory. A riparian revegetation plan, approved by the Director, shall be developed by a County approved biologist (or other experienced individual acceptable to the Director) and implemented at the applicant's expense. The revegetation plan shall use native species that would normally occur at the site prior to disturbance. The plan shall contain planting methods and locations, site preparation, weed control, and monitoring criteria and schedules.

Response The subject secondary drainage is neither a stream nor a creek within the meaning of **MCP Policy (BIO-M-1.6)** because it rarely has water in it. Further, as noted in Rachel Tierney's response to Melissa Mooney's comments, the secondary drainage is not mapped ESH area. As shown in Ms. Tierney's response, the walls and bridges appear to be more than 50 feet from the edge of the ESH associated with Hot Springs Creek.

As observed by Ms. Tierney in the *Biological Assessment and Impact Analysis for 1192 East Mountain Drive*, (**Exhibit No. 4** hereto) "there were no impacts to the main fork of Hot Springs Creek, other than loss of adjacent trees." Tree replacement is proposed in both Ms. Tierney's concept restoration plan as part of that report, as well as by Mr. Gress in his *Arborist Report: Bagdasarian/Karman Site Alterations*. Additionally, a Restoration plan for the entire area of disturbance has been proposed to the County to mitigate impacts to trees and apparent loss of ESH

during installation of a portion of the lawn area. Ms. Tierney used the Montecito Biological Resources Map as suggested by this policy and aerial photo interpretation to support her conclusion.

As part of the overall Restoration Plan, Appellants propose to restore 1.79 acres on the site through planting of trees, removal of non-native mustards, thistles and Arundo and hydroseed a variety of oak woodland species including California Poppy, Purple needlegrass, California Sagebrush, and mugwort amongst others. The Plan treats the restoration area in three zones: Zone 1 being a triangle section of the property in the southeast corner of the property for "Local native restoration"; Zone 2 for native restoration located along the secondary drainage; and Zone 3 for riparian restoration along Hot Springs Creek, and a lawn renovation in the area of the existing lawn.

The locally native restoration areas (Zones 1 and 2) would include planting of the coast live oaks and western sycamores, as well as use of species such as toyon, wild rye, sumac, California rose, western blackberry, hummingbird sage, creeping snowberry, California sagebrush, California poppy, deer weed, coast goldenblush, black sage and purple needlegrass amongst others.

In Zone 3, Hot Springs Creek and its banks, the Restoration Plan includes removal of the highly invasive, non-native Arundo donax, even though Appellants did not plant this invasive exotic therein.

The lawn renovation area would be renovated to include several elements and a plant palette appropriate for the site as proposed by Carol Bornstein with collaboration from Rachel Tierney. First, a 'woodland walk' including such plants as the Pacific Coast iris, coral bells, virgins bower, coastal wood fern, yerba Buena and creeping snowberry. Second, a naturalistic meadow with plants such as white sage, monkeyflower, pink yarrow, deergrass, purple sage, blue-eyed grass and the like. Third, groundcovers would be incorporated including canyon grey sagebrush, coyote brush, strawberry, hummingbird sage and woodmint. Hedges and Screens would also be incorporated including plants such as California Lilac, Toyon, California wax murtle, coffeeberry, lemonadeberry and sage brush. Focal points would include California buckeye, bush anemone, California lilac, western redbud and western elderberry amongst other.

With the suggested plantings of the Gress and Tierney reports mentioned above, approximately 200 new Coast Live Oak and California Sycamore trees will be planted, for a net benefit over previous conditions totaling approximately 150 new saplings and trees. Appellants' restoration plan proposes a mitigation area ("Restoration Area") of 3.31 acres which represents three, and in the case of the rock wall, five times the total area disturbed (1.07 acres). There are 1.79 acres available on-site for restoration. The remainder of the 3.31 required mitigation area (1.52 acres) would be purchased in lieu of on-site restoration. The amount charged per acre would be based upon the compensation cost that would otherwise be necessary to restore, enhance, create or preserve habitat with similar functions or values to the one affected. The fee would be banked in an account to be managed by the agency that will be overseeing the Project. Thus, the restoration plan will result in a net benefit to both the subject parcel and another site. Tierney, Restoration Plan, 1192 East Mountain Drive, April 12, 2011, pp. 1, 10-11 (**Exhibit No. 5** hereto). Appellants have had preliminary discussions with both the Land Trust for Santa Barbara and The Carpinteria Creek Watershed Coalition. According to Ms. Tierney's report, "both organizations have experience with this form of funding and both have upcoming restoration projects within riparian woodland habitats."

MCP Policy BIO-M-1.15, BIO-M-1.15.1) *To the maximum extent feasible, specimen trees shall be preserved. Specimen trees are defined for the purposes of this policy as mature trees that are healthy and structurally sound and have grown into the natural stature particular to the species. Native or non-native trees that have unusual scenic or aesthetic quality, have important historic*

value, or are unique due to species type or location shall be preserved to the maximum extent feasible.

MCP Policy (BIO-M-1.16) *Native tree preservation. All existing native trees regardless of size that have biological value shall be preserved to the maximum extent feasible, regardless of their size.*

MCP Policy (BIO-M-1.17) *Oak tree protection. Oak trees, as they are particularly sensitive to environmental conditions, shall be protected to the maximum extent feasible. All land use activities, including agriculture shall be carried out in such a manner as to avoid damage to native oak trees.*

Response As discussed above, David Gress, a local qualified Arborist, prepared a report including recommendations for tree replacement and additional protection measures for the remaining trees on site (**Exhibit No. 2** hereto). His professional opinion is that "removing the completed rock features of the project could result in greater damage to the trees and is not recommended. Alternative measures can be taken to minimize the impacts from development." Approximately 200 trees will be replanted between those proposed as mitigation for trees lost per Rachel Tierney's *Biological Assessment and Impact Analysis for 1192 East Mountain Drive* (**Exhibit No. 4** hereto) and those recommended to be planted as mitigation for impacts to remaining trees on site by Mr. Gress. In addition to those approximately 200 trees, Mr. Gress outlined, and Appellants consented to conform to an additional 13 tree preservation techniques to "minimize the disturbance and impact to the [remaining] trees" and "for the maintenance and preservation of the trees and any additional work on the project if permitted." Thus, an approval of the project would result in a great deal of new plantings and protection of trees. Further, Appellants spend a minimum of \$10,000 to \$20,000 annually for the pruning, trimming and maintenance of their trees.

Land Use Element Hillside and Watershed Protection Policies

1. *Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

2. *All developments shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Response Pre-project topographical information is limited and of poor quality, therefore the total amount of grading to achieve the current topography is unknown. Generally speaking, however, the grading that would have occurred to create the flat lawn area consisted, by Appellants' account, of removing large boulders and largely keeping the existing contours. The walls and bridges were installed along the slopes of an existing secondary drainage, and therefore the amount of grading associated with their construction is reported to have been minimal. In order to remove the subject structures, however, a great deal of additional disturbance would need to occur which would further alter the site topography.

Flood Hazard Area Policies

The intent of the Flood Hazard Area policies is to avoid exposing new developments to flood hazards and reduce the need for future flood control protective works and resulting alteration of stream and wetland environments by regulating development within the 100 year flood plain.

1. All development, including construction, excavation, and grading, except for flood control projects and non-structural agricultural uses, shall be prohibited in the floodway unless off-setting improvements in accordance with HUD regulations are provided. If the proposed development falls within the floodway fringe, development may be permitted, provided creek setback requirements are met and finish floor elevations are above the projected 100-year flood elevation, as specified in the Flood Plain Management Ordinance.

2. Permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works, i.e., dams, stream channelizations, etc.

C. Permit and processing requirements.

1. Referral and determination. Prior to the approval of a Coastal Development Permit (Section 35.472.050) or Land Use Permit (Section 35.472.110) or a Zoning Clearance in compliance with Section 35.472.190 (Zoning Clearances), all development subject to the FA [Flood Hazard] overlay zone shall be referred to the Flood Control District for a determination as to whether the development is subject to the requirements of County Code chapter 15A. If the Flood Control District determines that the proposed development is subject to Chapter 15A, the development shall comply with the requirements of Chapter 15A. If the Flood Control District determines that the proposed development is not subject to Chapter 15A, the development is exempt from the requirements of Chapter 15A.

Response While the Hot Springs Creek watershed may "generate heavy debris flows," the upstream section of the secondary drainage does not appear connected to Hot Springs Creek, and, as reported by Appellants, does not experience a large amount of stormwater or debris even in heavy rainfall events. Even during the record heavy rainfall that occurred during December 2010, there was only about one (1) foot of water in said secondary drainage at its peak, which dissipated in about three (3) days. The secondary drainage and Creek do connect only at the confluence at the very southern edge of the property at the culvert under East Mountain Drive. Ms. Tierney's Exhibit contained within the response to Ms. Mooney's comments (**Exhibit No. 1** hereto) indicate that a connection between the secondary drainage and Hot Springs Creek at the northern end of the property as shown on the County's mapping does not exist.

MCP Policy FD-M-2.1

Groundwater recharge. Development shall be designed to minimize the threat of onsite and downstream flood potential and to allow recharge of the groundwater basin to the maximum extent feasible.

Response At great expense, Appellants had Bengal Engineering perform a Hydrology Study, which Study concludes that Appellants' gravity walls and bridges do not change water flow and could remain in-place without negatively impacting downstream neighboring properties. Bengal's Final Study was submitted to County Flood Control District on April 29, 2011. County Flood Control District Staff reviewed the Study and confirmed its conclusion that the walls and bridges do not interfere with the 100-year flood water elevation and that the bridges are consistent with the standards of the

County's Floodplain Management Ordinance. Nevertheless, Planning & Development Department and the MPC are demanding that all of the bridges and walls be removed.

Further, with the removal of invasive exotics proposed for Hot Springs Creek, native species will be able to establish in their place, improving the stream health and functioning and likely benefiting downstream water quality as it relates to erosion and sediment load of stormwater.

As discussed above, the upstream section of the secondary drainage does not appear to be connected to Hot Springs Creek, and as reported by Appellants, does not experience a large amount of stormwater or debris even in heavy rainfall events. The secondary drainage and Creek connect only at the confluence at the very southern edge of the property at the culvert under East Mountain Drive. Ms. Tierney's Exhibit contained within the response to Ms. Mooney's comments (**Exhibit No. 1** hereto) indicate that a connection between the secondary drainage and Hot Springs Creek at the northern end of the property as shown on the County's mapping does not exist.

MLUDC § 35.428.040 – Environmentally Sensitive Habitat (ESH) Overlay Zone

A. Purpose and intent. The Environmentally Sensitive Habitat Area (ESH) overlay zone is applied to areas with unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources. This overlay zone is intended to:

- 1. Protect and preserve specified areas in which plant or animal life or their habitats are either rare or especially valuable because of their role in the ecosystem, and that could be easily disturbed or degraded by human activities and developments; and*
- 2. Ensure that each project permitted in the overlay zone is designed and carried out in a manner that will provide maximum protection in sensitive habitat areas.*

B. Applicability.

- 1. Determination of applicability. The zoning map shall guide determining whether this overlay zone applies to any area of land or water. If a particular lot or lots within an ESH overlay zone are determined by the Director not to contain the pertinent species or habitat, the regulations of this overlay zone shall not apply.*
- 2. Identification of newly documented sensitive habitat areas. If an environmentally sensitive habitat area is identified by the Director to be located onsite during permit application review, but the habitat area does not have an ESH overlay zone designation, the applicable requirements of Subsection C through Subsection O below, shall apply. The Director will periodically update the zoning map to apply the ESH overlay zone to the new habitat areas and applicable setback areas (including the 250-foot area around the habitat).*

Response As previously discussed, Appellants and their agents disagree with the extent of the ESH as determined by P&D Staff and the MPC. As noted in Rachel Tierney's response to Melissa Mooney's comments, the secondary drainage is not mapped ESH area. As shown in Exhibit 1 of Ms. Tierney's response, the walls and bridges appear to be more than 50 feet from the edge of the ESH associated with Hot Springs Creek. Exhibit 1 attached to Ms. Tierney's response shows this graphically. According to Ms. Tierney's conclusions, the total amount of area converted to lawn after installation of the walls and bridges that could be considered ESH was 0.1 acres. Moreover,

Appellants advised the MPC that they intend to replace the lawn in this area with native grasses. Appleton & Associates Letter of May 20, 2011, **Exhibit 6** hereto.

A | The MPC's Denial and Findings Constitute an Abuse of Discretion, a Denial of Appellants' Right to Procedural Due Process of Law and a Denial of Equal Protection Under the Law. | A

The hearing before the MPC was not a fair hearing within the meaning of California Code of Civil Procedure Section 1094.5(b) because the MPC made its decision without hearing evidence from Appellants' expert witnesses who were present to offer such evidence. This rush to judgment by the MPC constitutes a denial of Appellants' right to procedural due process under the Fifth Amendment to the United States Constitution and Article 1, § 7 of the California Constitution.

B | The MPC's and County's decision and Findings also deprived Appellants of their procedural due process and equal protection rights because the MPC and the County have unlawfully and selectively enforced the aforesaid MCP policies and MLUDC regulations against Appellants in contrast to other owners of properties proximate to Appellants' parcels who have done similar acts on said proximate properties without enforcement actions being brought against them. | B

C | The MPC's Decision and Findings Constitute a Regulatory Taking of a Large Portion of Appellants' Property | C

Both the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, § 19 of the California Constitution require that government may not take private property — either by physical confiscation or by regulation — without paying the owner "just compensation." The MPC's and County's decisions and Findings and the application of the aforesaid MCP policies and MLUDC regulations to Appellants' properties have effected a taking of a substantial portion of Appellants' property in violation of Appellants' rights under the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Section 19 of the California Constitution because the MPC and the County have denied Appellants any reasonable access to and use of the "island" area of the 1194 East Mountain Drive parcel which constitutes approximately one quarter (1/4) of the total area of said parcel. The MPC and the County have done so without the payment of just compensation. As the U.S. Supreme Court has stated:

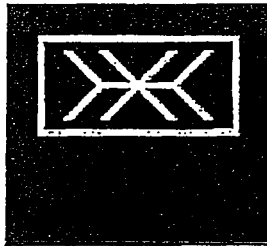
"... [W]here the government . . . regulates the use of property, compensation is required . . . if considerations such as the purposes of the regulation or the extent to which it deprives the owner of the economic use of the property suggest that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole." (*Yee v. City of Escondido* (1992) 503 U.S. 519; *Hensler v. City of Glendale* (1994) 8 Cal. 4th 1.)

In the instant case, the application of the aforesaid MCP policies and MLUDC regulations to Appellants' properties have singled out Appellants to bear a burden that should be borne by the County and its taxpayers as a whole.

The MPC and the County have interfered with and undermined Appellants' reasonable investment-backed expectations that they would be permitted to have reasonable access to and the use and enjoyment of the "island" area of the 1194 East Mountain Drive parcel, which constitutes approximately one quarter (1/4) of the total area of said parcel.

For all the reasons set forth above, the MPC's decision is erroneous and constitutes an abuse of discretion because said decision is not supported by the Findings and the Findings are not supported by the evidence and therefore such decision constitutes an unfair and impartial hearing. Further, the MPC's and the County's decision and Findings constitute a denial of Appellants' right to procedural due process of law, a denial of equal protection under the law, and a regulatory taking of a large portion of Appellants' property without the payment of just compensation as required under the U.S. and California Constitutions.

RACHEL
TIERNEY



CONSULTING

George Anderson

January 6, 2009

RECEIVED

AUG 05 2010

SANTA BARBARA COUNTY
PLANNING & DEVELOPMENT

Response to County Biologist (Melissa Mooney) Memorandum dated 11/19/2009

Regarding: Biology Assessment and Impact Analysis (June 15, 2009)
1192 Mountain Drive (Bagdasarian/Karmen property)

Melissa's main points revolve around 2 issues:

- 1) **The location of the ESH, as determined in my report. (See Co. biologist discussion item 2, bottom of page 3, under *Contents of Biological Surveys*)**
- 2) **The way the total area of restoration needed for mitigation was calculated. (See Co. biologist discussion item 5, bottom of page 4, under *Contents of Biological Surveys*)**

1) The location of ESH before the "project"¹, as determined in my report

Vegetation in 2009 and 2001 is illustrated in Figure 2 (page 11 of Bio report). To determine the location of ESH before the project, I included the entire creek from bank to bank plus any *riparian habitat* (Ca. Sycamore-CLO) extending over the top of bank. (This is how I originally mapped the ESH areas for the MCP in 1991).

I mapped the identical vegetation for 2009. I determined how much of the ESH in 2001 (before the "project") was removed by 2009, which was very little (4,474 sq ft). All of this area was situated outside of the top of bank. I also included any buffer (measure 50 feet from the top of bank) that was removed (20,000 sq ft). These areas are listed in Table 4 (page 23).

¹ The year 2001 was picked as a point of reference because this was the first year the "project", or the development in this area appeared in the aerials.

Post Office Box 1113
Santa Barbara
California
93102

E-mail
ractier@yahoo.com

The County maintains that the entire site was ESH. I believe my interpretation is accurate. My interpretation closely matches the ESH mapped in the MCP. Figure 1 shows the creek and tributary as it is illustrated in the MCP (and the USGS). This figure also shows the actual location of the drainage in question. The drainage in question is *not* the tributary that is included as ESH in the MCP. This drainage is not part of the creek until its confluence with the main channel at E. Mountain Drive. It is separate from the main channel *and it is not mapped as ESH in the MCP*. The vegetation mapped from the 2001 aerial aligns with this interpretation.

2) The way the total area of restoration needed for mitigation was calculated.

The County says the area of restoration required by the CDFG and the County (which I maintain is separate and does not overlap – see the map attached to this memo) cannot be satisfied concurrently. This may be more problematic to defend.

I maintain that the County, but not the CDFG, regulates the habitat disturbed along the main fork of the creek. Because disturbance is entirely outside of the top of bank, CDFG would not have jurisdiction over this area.

I also maintain that the habitat disturbed within the secondary drainage is regulated by the CDFG, that it is not ESH nor is it within the ESH buffer. The two disturbance areas are distinct. I concluded that the mitigation required by the County would satisfy the amount of mitigation required by the CDFG, which is slightly less than that required for the County (1.68 acres versus 1.63 acres). I did not add them together.

Other Discrepancies under “Additional Comments” page 5:

1) Seems to be simple misunderstanding of my tables and figures and one typo on my part.

2) Co. says that the current classification of ruderal (weedy) and ornamental for vegetation currently within secondary drainage, is not correct because: a) oaks were present in this drainage in 2001, b) riparian vegetation is located upstream of the drainage and c) one cut sycamore was noted during the site visit.

I do not understand why the conditions *upstream and in a separate tributary system* are used to analysis present vegetation in this drainage, and also why conditions in 2001 can be used to influence the current condition.²

² Vegetation in 2001 in this area is identified as oak forest and individual trees. I maintain that the oaks, with the exception of two small trees seen in the 2001 aerial, which may be shrubs and not oaks, are located well outside of the top of bank. The tree canopies overhang the bank more in 2001 than in 2008 (see Figure 3), but they are not in the drainage.

I believe the vegetation within the secondary drainage is correctly identified as "ruderal and ornamental," because the dominant species (or percent cover) is made up of weeds and garden escapes. Some planted ornamentals are also present. If the channel has a few small oak trees and one sycamore with no native understory this would not change the vegetation description, which is *overwhelmingly* dominated by non-natives. I was not aware of the cut sycamore mentioned in the memo.

3) Similar to item 1. I can add County mapped ESH to both figures and it will support my findings.

4) ESH and CDFG jurisdictions do not necessarily overlap, as CDFG will take jurisdiction over all drainages. The County ESH description includes drainages with riparian vegetation. I maintain that the secondary drainage, with the exception of the extreme northern and southern limits, did not, and do not, have riparian vegetation. The extreme northern and southern limits are included in the calculation for ESH and buffer.

5) no comment

6) See discussion in #1 on page 1 of this Memo. The secondary drainage is *not* mapped as a blue line stream.

7) no comment

8) no comment

9) and 10) See discussion in item 2, above.

11) no comment.

Also: County letter asks for 10:1 tree replacement. I had 3:1 using 24 inch boxed trees. The fewer, large tree has been exchanged for a greater number of smaller trees.

Exhibit 1

2008



Mandatory connection shown in MCP - this section is not present.

50'

50'



EST mapped in Bro. Assessment.
Follows EST mapped in MCP.

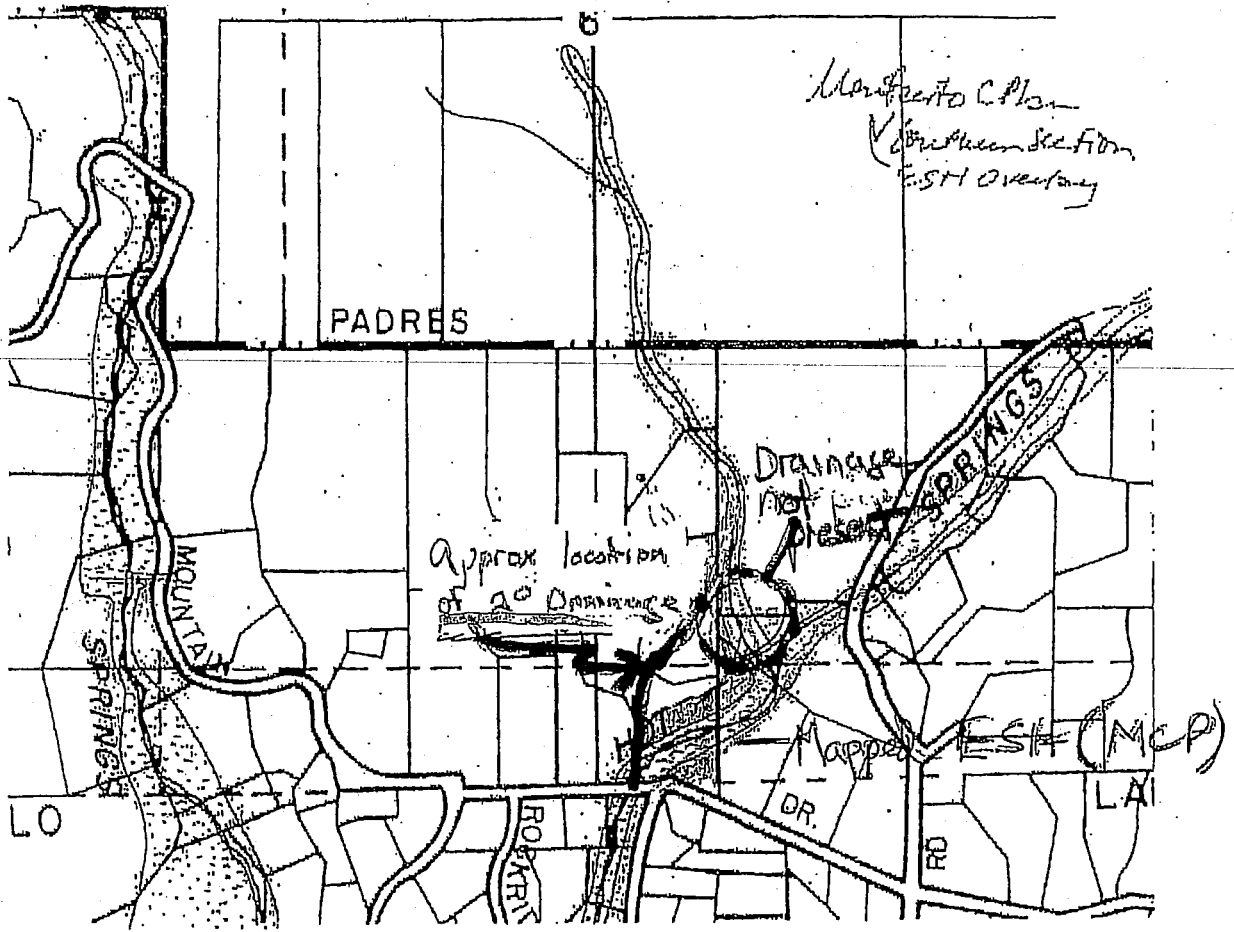


Exhibit 2

MCP mapped ESTH

#2

ARBORIST REPORT

Bagdasarian/Karman Site Alterations
Case No. 09LUP-00000-0025 and
Case No. 09ZEV-00000-00042

1192-1194 EAST MOUNTAIN DRIVE
MONTECITO, CALIFORNIA

May 25, 2010

PREPARED FOR:

Ross Bagdasarian
1192 East Mountain Drive
Montecito, CA 93108

RECEIVED

AUG 05 2010

SANTA BARBARA COUNTY
PLANNING & DEVELOPMENT

PREPARED BY:

David R. Gress, Consulting Arborist
P.O. Box 5086
Santa Barbara, CA 93150
(805) 969-5293

ARBORIST REPORT

1192-1194 EAST MOUNTAIN DRIVE, MONTECITO, CA 93108

May 25, 2010

1.0 INTRODUCTION/SCOPE

This report has been prepared to assess the potential impacts the after-the-fact project will have on all protected and specimen trees located within or near the project area, including all grading, walls, and landscaping.

The report includes all of the following:

- a. An inventory of the affected trees.
- b. Numbering of trees inventoried, showing trees and their corresponding numbers on the site plan.
- c. Current health of the trees inventoried with Diameter Breast Height (DBH at 54" above ground) for each tree. If the tree is in a diseased state, suspected Disease is given.
- d. The percentage of the "dripline + 5 feet" impacted by the after-the-fact development measured and shown on site plan.
- e. Assessment of all apparent or foreseeable effects that the after-the-fact development had, or may have, on the protected trees. Proposed measures to minimize disturbance to the trees from this development.

PROJECT DESCRIPTION

The project involved: a) the grading and leveling of a 31,864 square foot irrigated lawn area and; b) and the construction of rock walls, tree wells and two (2) pedestrian bridges.

Within the project area there are twenty-one (21) Coast Live Oaks (*Quercus agrifolia*) and one (1) California Sycamore, that have had grading and rock walls, wells and/or pedestrian bridges constructed within the trees' critical root zones (dripline +5 feet). There were also six (6) California Sycamores (*Platanus racemosa*) in the drainage area that appear to have been cut down within the last year and resprouting with multiple vigorous shoots..

There are eight (8) Coast Live Oak trees located within or adjacent to the project area that have had rock work constructed within the trees' CRZ as part of the original landscaping of the residential construction on the property approximately 20 years ago, and therefore, not included this study and report.

2.0 TREE INVENTORY AND ASSESSMENT

The tree inventory and assessment was made on 9/8 and 9/9/09, and include the 21 Coast Live Oaks (*Quercus agrifolia*) and 1 California Sycamore (*Platanus racemosa*) that are in the project area. Six (6) sycamores had been cut down were counted, and the health of the new shoots assessed.

The trees have been numbered and located on the attached site plan.

The inventory includes:

- Diameter of the tree trunks at 54 inches above the ground.
- Assessment and rating of the trees for health, structure and aesthetic contributions. Rated 1-5, with 5 being the best.
- An estimate of the percentage of the Critical Root Zone ("CRZ"—dripline+5 ft.) impacted by the project. The work that was completed about 20 years ago has not been included in the estimate.
- Assessment of general condition of the trees and the presence of insects and diseases.
- Assessment of the apparent and foreseeable effects that the after-the-fact development has had or may have on the protected trees.

The Tree Inventory data is presented in **Appendix A**.

GENERAL TREE ASSESSEMENT

The larger oak trees (24 +in. diameter) in the inventory are estimated to be at least 100 years old. The bark and large limbs of the older trees exhibit the effects of fire from Coyote Fire (1964). These effects include abnormal bumps on the bark and old scar damage on the undersides of large limbs.

The trees have had a thorough pruning within the last year. The trees appear to have been thinned too much, based on the new sprout growth originating on trunks and larger limbs. The new growth appeared to be healthy and should be allowed to fill in the canopy for 2-3 years before any being pruned again.

The root collars and areas around the base of the trunks have been maintained to be free of weeds and are mulched.

3.0 TREE IMPACT ASSESSMENT

The 3 potential impacts to the protected trees from the after-the-fact development include:

1. Grading cuts and fill soil within critical root zones (CRZ).
2. Construction of rock walls, wells and bridges.
3. Irrigation within the root collar areas.

GRADING CUTS AND FILL SOIL

The impacts from grading cuts and fill soil within the critical root zones relate directly to the amount and location of the grade changes that were made. The percentage of CRZ area that experienced significant grade changes was estimated to determine the possible current and long-term impacts to the trees. Significant grade changes over 25% of the CRZ are normally considered a potential threat to the normal health and longevity of the trees and therefore would require mitigation.

The soil conditions of the site also have a major influence on the degree of impact from these grade changes. The soil on the site is a transition from the Milpitas fine sandy loam to Maymen fine sandy loam. This soil is comprised of a sandy loam soil and subsoil with increased rock to a depth of 24 inches. The lower subsoil is comprised of various sized sandstone with massive sandstone bedrock. The soil type is important because it allows for excellent drainage and water percolation. These soil characteristics would mitigate some of the negative impacts of oxygen deprivation and poor drainage normally associated with fill over tree roots.

The rock tree wells and walls were constructed to maintain the natural grade within 2-3 feet of the tree trunks. This is beneficial to preserving tree health because it prevents soil from coming into contact with the lower trunk and root collar. When this happens, in conjunction with high soil moisture, the result is a combination of root fungus (*Phytophthora*) proliferation and anaerobic bacteria that will rot the bark and cambium tissue and effectively girdle the tree.

The soil conditions on the site and the construction of tree wells would explain the continued survival and good health of the 8 trees that had fairly significant grade changes within the trees' CRZ over 20 years ago. It is not uncommon for oak trees to retain a healthy appearance while having root decay from fill soil, especially in irrigated conditions. The trees can have healthy foliage up until the weakened roots fail and the tree falls. The trees should be inspected annually for root collar decay to ensure the safety of the trees where significant fill grade changes exceed 25% of the CRZ.

Since the longer term impacts from grade changes and fill that exceed 25% of the CRZ are likely to result in reduced tree longevity, for the purposes of this report this percentage will be the threshold for recommending mitigation for trees with these impacts.

ROCK WALLS/TREE WELLS/BRIDGE CONSTRUCTION

The rock work completed to date consists of rock walls, tree wells and foot bridges in close proximity to 21 oak trees. Most of this work was done by hand by the onsite staff. These structures have setbacks from the tree trunks that range from 24 to 48 inches. Normally the recommended setback would be much greater, depending on the size of the trees.

The trenching required for the construction of these features would have required the cutting of some tree roots. While it appears that care was taken to not injure the trees in the construction process, root loss within the CRZ is inevitable and was estimated as part of the percentage of impact to the CRZ in the tree assessment.

IRRIGATION WITHIN TREE ROOT COLLAR AREAS

The oak trees adjacent to the lawn area are impacted by the sprinkler irrigation installed in the lawn. While some irrigation can be beneficial during drought conditions, there is a danger of activating the oak root fungus (*Phytophthora*) in the soil. This is a particular problem when the spray from the sprinklers hits any portion of the trunk or root collar. It is therefore vitally important to design and adjust the sprinklers so that the spray is outside the tree wells and at least 3 feet from the root collar of the trees. The soil conditions on the site offer more favorable conditions for irrigation, however, the risk of oak root fungus becoming active increases with regular summer irrigation in the CRZ.

IMPACT SUMMARY

Based on the field survey, there are twenty-one (21) Coast Live Oak trees and one (1) California Sycamore in the project area. In addition there were six (6) small (<6 inch diameter) California Sycamores that were cut down and are resprouting in or near the secondary drainage area. The critical root zones of six (6) of the oaks had percentage impacts of 25% or greater. This degree of soil disturbance could result in health and structural problems and could shorten the expected longevity of the trees.

Mitigation for the six (6) impacted oak trees and six (6) sycamore trees that were cut should conform to the standard County mitigation for removal of protected trees. This mitigation is normally replanting with 10 sapling trees from local seed sources for each tree being mitigated. All mitigation planting should be done in conjunction with the riparian habitat mitigation plan.

Removing the completed rock features of the project could result in greater damage to the trees and is not recommended. Alternative measures can be taken to minimize the impacts from the development.

MITIGATION RECOMMENDATIONS

The following mitigation recommendations are for the 6 Coast Live Oak trees that had impacts of 25% or greater to the critical root zones, and 6 California Sycamores that were removed. It does not include the 11 removed oak trees that were referenced in the Biological Assessment and Impact Analysis by Rachel Tierney dated 6/15/09.

TREE PLANTING MITIGATION

Species	#Mitigated	Replanting Requirements
Coast live oak (<i>Quercus agrifolia</i>)	6	60 saplings(1gal.)
California Sycamore (<i>Platanus racemosa</i>)	6	60 saplings(1 gal.).

All trees to be propagated from local seed sources.

TREE PRESERVATION

The following mitigation recommendations are made to: a) provide measures to minimize the disturbance and impact to the trees; and, b) provide recommendations for the maintenance and preservation of the trees and any additional work on the project if permitted.

- 1) Adjust all sprinkler irrigation so that water does not hit any oak tree trunks or come within the oak tree wells. Water spray should be a minimum of 36 inches from oak tree trunks.
- 2) Install drain pipes in the downhill side of the rock tree wells around trees #8 and #18. The drain should be installed so that water will drain out of the tree well and discharge from the bottom of the rock wall.
- 3) Any new tree pruning should be done in a manner that maintains even foliage cover and shade for large limbs and trunks. No more than 20% of live foliage should be removed from an oak tree in any given year, unless necessary for tree safety. All pruning work should be performed by a licensed commercial tree company/individual approved and directed by a Certified Arborist.
- 4) All oak trees that have fill soil and impacts exceeding 25% of the CRZ should be inspected annually by a Certified Arborist to determine the condition of the root collar and structural support of the tree.
- 5) All further work within the Critical Root Zones (CRZ) of existing oak trees should be performed only as approved or directed by a Certified Arborist.

- 6) Any oak tree roots encountered in digging and trenching that are one inch or greater should be cleanly cut. Excavation within the drip line of oak trees should be performed with hand tools.
- 7) Prior to beginning the completion of the wall project, temporary protective fencing shall be installed at least 5-feet outside the CRZ of oak tree #15, as feasible, to the satisfaction of the Project Arborist. All construction activity shall be prohibited within the fenced area.
- 8) Fencing should remain in place throughout the wall construction, except as allowed temporarily by the Project Arborist for necessary work or access.
- 9) No impervious surfacing should be placed within the CRZ of oak trees, except as approved in project plans.
- 10) Where vertical excavations and trenching exposes tree roots, the exposed face of the trench should be covered with burlap and kept damp to limit desiccation of the root zone until permanent backfill is placed.
- 11) The Project Arborist should direct the removal of invasive plants within 4 feet of any oak tree trunks and make sure that the root collars of the trees remain clear and uncovered. New landscaping and irrigation should not be placed in these cleared areas to prevent crown rot and root fungus diseases.
- 12) A Certified Arborist should work with the designated landscape maintenance person to provide on-going tree protection throughout the duration of the project phases. The primary focus of tree protection maintenance on site will be checking the protective barrier fencing. Other maintenance activities to maintain the health and vigor of the existing site trees will be directed by the Project Arborist, including irrigation, fertilization, and pest control, if necessary.
- 13) A Certified Arborist should be present during the course of any grading, or excavation in the CRZ of protected trees.

DEFINITIONS

"Canopy" – the entire extent of tree branches and foliage

"Dripline" - the outer edge of a tree's branching and foliage at ground level.

"Critical Root Zone" (CRZ) – The area within the tree's dripline plus 5 feet extending beyond the dripline.



David R. Gress, Certified Arborist WE-0500A

APPENDIX A

TREE INVENTORY - Bagdasarian/Karman Site - 1192 & 1194 East Mountain Drive								5/25/10
TREE NO.	SPECIES	TRUNKS(S)	TRUNK DIA(S)	RATINGS			NEW	COMMENTS
				HEALTH	STRUCTURE	AESTHETICS	%CRZ IMPACTED	
1	Quercus agrifolia	1	17"	4	2	3	5%	
2	Quercus agrifolia	1	18"	4	4	4	5%	
3	Quercus agrifolia	1	24"	4	4	4	60%	
4	Quercus agrifolia	1	24"	4	4	4	50%	
5	Quercus agrifolia	1	22"	3	2	3	20%	Large trunk wound & cavity
6	Quercus agrifolia	1	24"	3	2	4	5%	Old root collar decay (25%)
7	Quercus agrifolia	1	20"	4	4	4	10%	
8	Quercus agrifolia	1	34"	4	4	4	40%	
9	Quercus agrifolia	1	14"	4	4	3	<5%	
10	Platanus racemosa	1	14"	4	3	3	<5%	Minor decay at trunk base
11	Quercus agrifolia	1	14"	4	4	4	5%	
12	Quercus agrifolia	1	28"	4	4	4	5%	
13	Quercus agrifolia	1	8"	3	2	2	0%	
14	Quercus agrifolia	1	28"	4	3	4	50%	
15	Quercus agrifolia	1	30"	4	4	4	50%	
16	Quercus agrifolia	1	6"	2	3	2	20%	
17	Quercus agrifolia	1	30"	4	4	4	60%	
18	Quercus agrifolia	2	24", 28"	4	4	4	20%	
19	Quercus agrifolia	4	16", 12", 12", 8"	4	4	4	15%	
20	Quercus agrifolia	1	20"	4	3	4	20%	
21	Quercus agrifolia	2	22", 17"	4	4	4	20%	
22	Quercus agrifolia	1	18"	4	4	4	20%	

SIX (6) OAK TREES WITH 25% OR GREATER IMPACT TO CRZ: #3, #4, #8, #14, #15, #17

BAGDASARIAN/KARMAN SITE - ARBORIST REPORT SITE PLAN

1192 - 1194 EAST MOUNTAIN DRIVE

5/25/10

APN 011-020-042
PARCEL 1 OF
145 RS 5G
(BAGDASARIAN)

Proposed Lot
Line Adjustment

Critical Root Zone

Secondary
Drainage

Tree
Dripline

Hot Spring Creek

Top of
Bank

Top of
Bank

Trunk Base

CENTERLINE 10' TRAIL
EASEMENT PER P.M. NO.
12,872

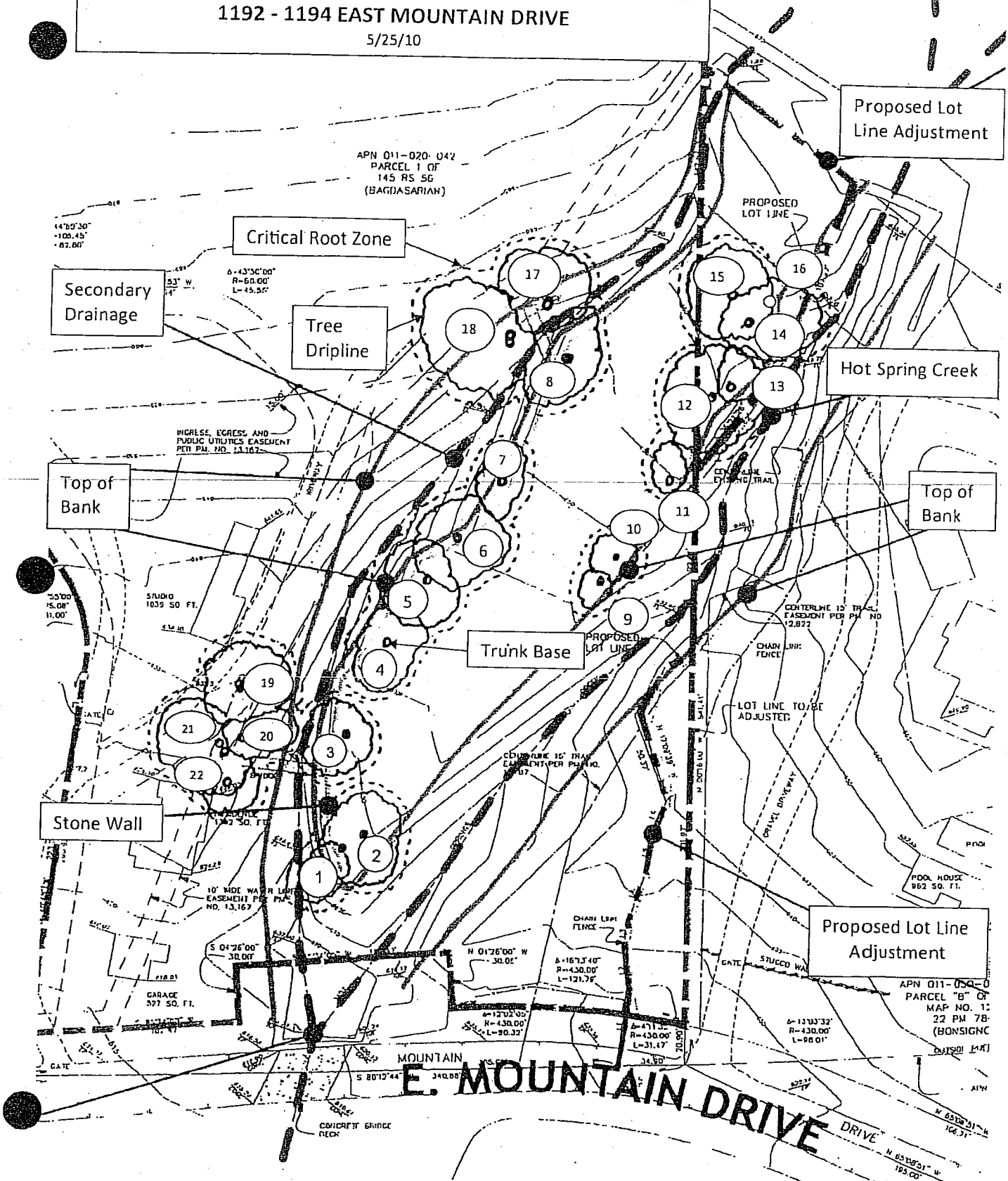
LOT LINE TO BE
ADJUSTED

Stone Wall

Proposed Lot Line
Adjustment

APN 011-050-0
PARCEL "B" OF
MAP NO. 1:
22 PM 78-
(BONSIGNC
OUTSIDE EAT)

E. MOUNTAIN DRIVE



ITEMS

APPLETON & ASSOCIATES INC
Architects

MEETING
DATE: 5-25-11

117 W. Micheltorena
Santa Barbara
CA 93101

May 20, 2011

TEL 805 965 0304
FAX 805 560 6815

RE: Staff Memorandum to Montecito Planning Commission

Dear Chairman and Commissioners,

On behalf of Mr. Bagdasarian, we wish to present the following requests and clarifications for your consideration to the Staff Memorandum dated May 13, 2011.

Staff Recommendation and Procedures

We request the Montecito Planning Commission not take action for Denial regarding Case No. 10APL-00000-00016 and Case No. 09LUP-00000-00256 items 1 through 4.

We agree to the statement- alternatively, refer back to staff if the Montecito Planning Commission takes other than the recommended action for appropriate findings, conditions and CEQA review.

This would allow Mr. Bagdasarian and Planning & Department staff the opportunity to resolve Case No. 09LUP-00000-00256 with your guidance and further design input in light of the results of the Hydrology Study which indicates the constructed site walls and bridges do not adversely affect flooding downstream, to which Flood Control concurs.

Background

Assuming this is part of a final resolution, Mr. Bagdasarian is agreeable to "removal of five of the shallower tree wells, six at grade stone boulders, and three segments of the retaining wall totaling approximately 123 linear feet" even though the Hydrology Study indicates that these do not adversely affect flooding downstream. (See attached site plan presented to P&D November 23, 2010 and amended May 25, 2011)

Additionally, assuming this is part of a final resolution, Mr. Bagdasarian will relocate some of the Oak and Sycamore trees currently proposed within the rock stock pile area to the Planning & Development suggested area "within the tributary creek or within the upland area between creeks, where the majority of the trees were removed".

Subsequent Unpermitted Development Activities

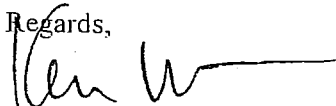
Regarding Case No. 09BDV-00000-00021

Please note that, no work has been done in this area since the Montecito Planning Commission visit except to complete the finish tile on the base of the fountain slab and replant the existing grass.

An ESH mapping of this area was submitted in the June 15, 2009 Biology Report which indicates the wall and fountain are outside of the ESH boundary.

As a closing note, I would like to let the commission know, that in our recent meeting with Planning & Development there was no mention that there would be a staff recommendation for denial. The impression we were given was to seek your guidance. The language and conclusions of the staff report seem to run counter to the general tone and discussion of the meeting and is very unsettling.

Regards,

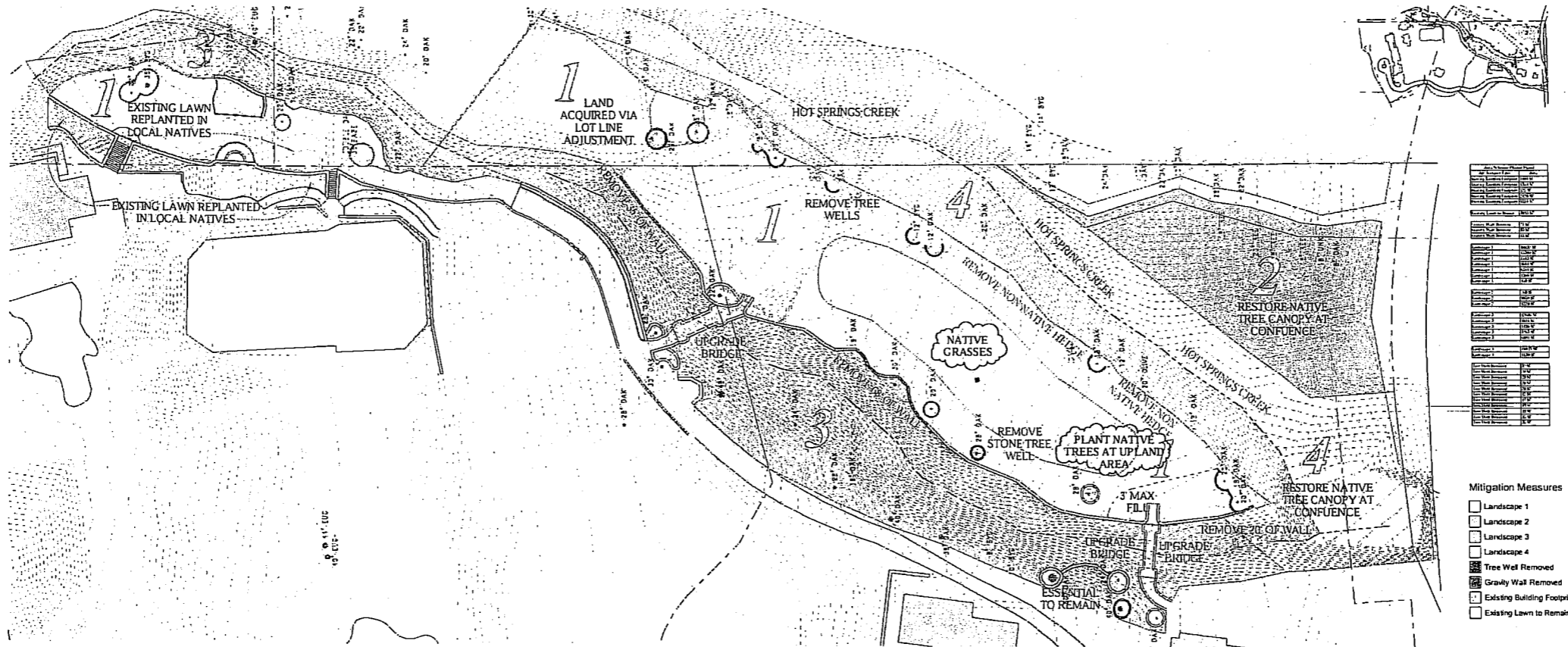


Ken Mineau for Appleton & Associates

RECEIVED

MAY 20 2011

S.B. COUNTY
PLANNING & DEVELOPMENT



Item	Quantity	Notes
1" OAK	10	
2" OAK	10	
3" OAK	10	
4" OAK	10	
5" OAK	10	
6" OAK	10	
7" OAK	10	
8" OAK	10	
9" OAK	10	
10" OAK	10	
11" OAK	10	
12" OAK	10	
13" OAK	10	
14" OAK	10	
15" OAK	10	
16" OAK	10	
17" OAK	10	
18" OAK	10	
19" OAK	10	
20" OAK	10	
21" OAK	10	
22" OAK	10	
23" OAK	10	
24" OAK	10	
25" OAK	10	
26" OAK	10	
27" OAK	10	
28" OAK	10	
29" OAK	10	
30" OAK	10	
31" OAK	10	
32" OAK	10	
33" OAK	10	
34" OAK	10	
35" OAK	10	
36" OAK	10	
37" OAK	10	
38" OAK	10	
39" OAK	10	
40" OAK	10	
41" OAK	10	
42" OAK	10	
43" OAK	10	
44" OAK	10	
45" OAK	10	
46" OAK	10	
47" OAK	10	
48" OAK	10	
49" OAK	10	
50" OAK	10	
51" OAK	10	
52" OAK	10	
53" OAK	10	
54" OAK	10	
55" OAK	10	
56" OAK	10	
57" OAK	10	
58" OAK	10	
59" OAK	10	
60" OAK	10	
61" OAK	10	
62" OAK	10	
63" OAK	10	
64" OAK	10	
65" OAK	10	
66" OAK	10	
67" OAK	10	
68" OAK	10	
69" OAK	10	
70" OAK	10	
71" OAK	10	
72" OAK	10	
73" OAK	10	
74" OAK	10	
75" OAK	10	
76" OAK	10	
77" OAK	10	
78" OAK	10	
79" OAK	10	
80" OAK	10	
81" OAK	10	
82" OAK	10	
83" OAK	10	
84" OAK	10	
85" OAK	10	
86" OAK	10	
87" OAK	10	
88" OAK	10	
89" OAK	10	
90" OAK	10	
91" OAK	10	
92" OAK	10	
93" OAK	10	
94" OAK	10	
95" OAK	10	
96" OAK	10	
97" OAK	10	
98" OAK	10	
99" OAK	10	
100" OAK	10	

Mitigation Measures

- Landscape 1
- Landscape 2
- Landscape 3
- Landscape 4
- Tree Well Removed
- Gravelly Wall Removed
- Existing Building Footprint
- Existing Lawn to Remain

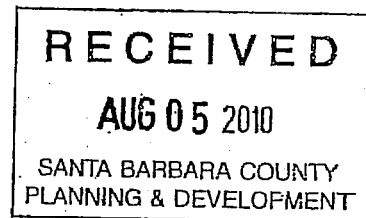
Bagdasarian Restoration
 November 23, 2010
 revised May 25, 2011

#3

**BIOLOGICAL ASSESSMENT
AND IMPACT ANALYSIS**

**1192 East Mountain Drive
Montecito, California**

May 25, 2010



Prepared by:

Rachel Tierney Consulting
P. O. Box 1113
Santa Barbara, CA 93102
(805) 957--1100

TABLE OF CONTENTS

	Page
1.0 Introduction	1
1.1 Purpose and Scope of this Report.....	1
1.2 Personnel, Survey Dates, Methods and Nomenclature.....	2
2.0 Environmental Setting.....	3
2.1 Characteristics of Surrounding Area	3
2.2 Site Description.....	3
3.0 Plant and Wildlife Resources	5
3.1 Plant Communities	6
3.2 Wildlife	10
3.3 Sensitive Plants and Animals	11
3.3.1 Sensitive Plants.....	11
3.3.2 Sensitive Animal Species	14
3.3.3 Wildlife of Freshwater Streams.....	14
4.0 Projects Impacts on Pre-Existing Habitat	16
4.1 Regulatory Setting.....	16
4.1.1 Montecito Community Plan Policy Overview.....	16
4.1.2 County and State Oversight of Resources	17
4.2 Location of ESH/Buffer and Vegetation Changes Resulting From Non-Permitted Activities.....	19
4.2.1 Where is the "Pre-Violation" Location of ESH and Buffer	19
4.2.2 What are the Vegetation Changes Resulting From Non-Permitted Activities	20
4.2.3 Other Impacts Resulting from Recent Work in the Area	20
5.0 Impact Summary and Conceptual Mitigation Plan	22
5.1 Impact Summary and Mitigation Requirements.....	22
5.2 Conceptual Mitigation Plan	24
6.0 References.....	30
Figure 1: Topographic Map of Site (2009) and Vicinity Map.....	4
Figure 2: Vegetation Map	9
Figure 3: 2001 and 2008 Aerial Photograph Comparison of ESH and Buffer	21
Figure 4: Available Onsite Restoration Areas	23
Table 1: Plant Communities - Two Classification Systems.....	6
Table 2: Sensitive Plants.....	12
Table 3: Special-Status Animals Expected to Occur in the Project Area	15
Table 4: Summary of Impacts and Mitigation Requirements – Santa Barbara County and California Department of Fish and Game	28
APPENDIX A: Sensitive Animal Discussion	

1.0 INTRODUCTION

1.1 PURPOSE AND SCOPE OF THIS REPORT

Preparation of this report is a result of non-permitted work adjacent to Hot Springs Creek at 1192 East Mountain Drive, Montecito, California. A Correction Notice, issued on March 16, 2009, stopped all work until a valid land use and grading permit could be obtained. The non-permitted work entailed creating a 31,864 square foot (0.73 acres) irrigated lawn between the main branch of Hot Spring Creek and a secondary, western fork. The area was apparently grubbed, graded and leveled. Rocks from the site were used to construct a vertical wall lining both banks of the secondary fork, two pedestrian bridges across this drainage, and several stone-lined tree-wells and tree retaining walls.

The Montecito Community Plan (Santa Barbara County 1992) outlines specific goals and policies designed to protect important resources, or Environmentally Sensitive Habitat (ESH), within the planning area. One of the resources included within the ESH designation is "riparian woodland corridors" a habitat that is present along Hot Spring Creek.

The primary purpose of this study is the following:

1. Establish the original location of the ESH boundary prior to the non-permitted work near the creek and the secondary drainage.
2. Determine the extent of disturbance to ESH or buffer vegetation. Determine if any part of the non-permitted conversion of habitat to irrigated lawn is located within areas that were previously part of the ESH or the buffer.
3. Calculate the acreage required for mitigation of disturbed habitat. Locate potential onsite restoration areas and off-site in-lieu fee mitigation depositories.

This report also includes an assessment of biological resources occurring within and around the site, a discussion regarding the potential of sensitive plants and animals occurring within the area and an evaluation of the affects of the project on these resources.

1.2 PERSONNEL, SURVEY DATES, METHODS AND NOMENCLATURE

Personnel and Survey Dates: Rachel Tierney conducted ground surveys on February 17 and 18, March 3 and 12, May 22 and June 3, 2009. The focus of the surveys was the area of recent non-permitted work: east of the secondary drainage to Hot Springs Creek, from the eastern property line to the southern property line. The secondary drainage was walked from the eastern edge of the property to East Mountain Drive, where it converges with the main branch of Hot Springs Creek. Surveys of the main branch of the creek were made at several locations along the eastern property boundary. An area for potential restoration located in the southwestern portion of the site was also visited.

Paul Collins conducted a brief survey of Hot Springs Creek on June 3, 2009 to identify any potential red-legged frog habitat.

Methods: Color aerial photographs from 2001 through 2008 (April 17, 2001; May 20, 2003; September 6, 2005 and April 15, 2008) were viewed to determine changes to vegetation and or other features in the area of non-permitted activities. All photographs were enlarged to 1" = 50 feet scale and where of excellent clarity.

Vegetation Maps A comparison of the 2008 aerial and current conditions (individual trees and ground cover) was made in the field. Each tree along the top of bank of Hot Springs Creek (and thus the actual border of the current riparian canopy) was compared with the 2008 aerial. All trees along the secondary drainage were likewise marked on the 2008 aerial. All differences were noted on a topographic map. After this assessment, a vegetation map of the current condition could be made using the 2008 aerial. Vegetation was likewise map from the 2001 aerial.

Changes in Vegetation To determine if any changes occurred within the general area of non-permitted work between 2008 and the present, the canopy cover noted in the 2008 aerial photograph was compared to vegetation in the 2001 aerial.¹ A clear plastic overlay of the 2008 trees and plant community distribution was then placed over the 2001 aerial. A light table was used to help identify any trees or other vegetation "textures" that were missing or altered in any of the later aerial photographs. Changes in vegetation were highlighted on the aerials and shown on the vegetation maps.

Location of Pre-Project ESH The location of the ESH prior to disturbance was determined by the location of the riparian community in the 2001 aerial.

¹ The 2001 aerial were chosen because no work in the area was evident in that photograph. A later aerial could have also been used.

Aquatic Survey: A site visit was made by Paul Collins the morning of June 3, 2009 between 8:30 and 10:00 am to examine standing pools of water present along the reach of Hot Springs Creek that borders the eastern side of the Project site. The reach of this creek from its junction with Mountain Drive to the northern edge of the project site was examined during this site visit. All pooled water present along this reach of Hot Springs Creek was carefully examined for the presence of amphibian larvae and for aquatic dependent reptiles. A long-handled dip net was used to sample tadpoles observed in the deeper pools to determine the species of frogs that were present along this reach of the creek.

Nomenclature for plants follows the Jepson Manual (Hickman 1993). Habitat or plant community classification follows the system described in A Manual of California Vegetation (Sawyer Keeler-Wolf, 1995) and a community treatment produced by the California Department of Fish and Game (CDFG, 2003). Nomenclature for wildlife follows Jennings (1987) for reptiles and amphibians, Baker et al. (2003) for mammals, and American Ornithologists' Union (1982) with its more recent supplements for birds.

2.0 ENVIRONMENTAL SETTING

2.1 CHARACTERISTICS OF THE SURROUNDING AREA

The parcel is located in the lower foothills of Montecito within the urban boundary. The Los Padres National Forest boundary lies north of the site.

Hot Springs Creek, including Cold Springs Creek, its western fork, and Montecito Creek, (the lower reach) is one of the five main drainages with the planning area, along with Sycamore, Oak, San Ysidro, and Romero Creeks. Hot Springs Creek collects flows from the foothills surrounding Montecito Peak, converging with Cold Springs Creek between Ashley and Sycamore Canyon Roads, where it is renamed Montecito Creek. Flows then continue south under East Valley Road to the Pacific Ocean. The entire Montecito/Cold Springs/Hot Springs Creek system of the Santa Ynez Mountains drains 3,890 acres (Santa Barbara Flood Control District, 2007).

2.2 SITE DESCRIPTION

The site consists of two parcels (APN's 011-020-042 and 011-020-034) totaling 7.9 acres. A lot line adjustment is planned to minimally alter the boundary along the western border. This adjustment is shown in all Figures and are included in the calculations for impacts and mitigations.

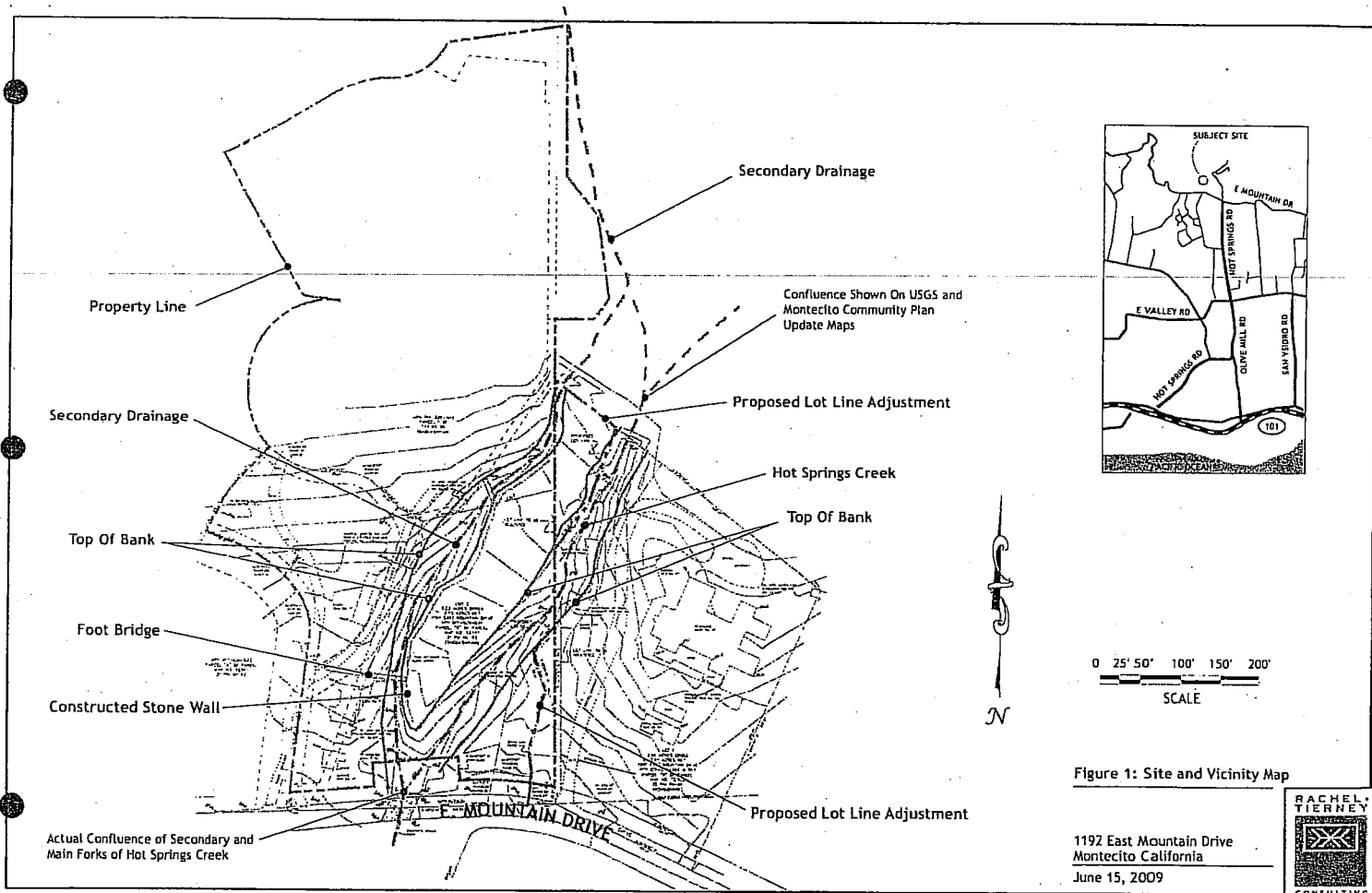


Figure 1: Site and Vicinity Map

1192 East Mountain Drive
 Montecito California
 June 15, 2009



With the exception of the area east of the secondary drainage, all parts of the property are fully developed containing a residence, guesthouse, tennis court and extensive landscaping.

Elevations range from about 600 feet above sea level to 750 feet above sea level. Hot Springs Creek, running along the eastern boundary, typically contains seasonal flows that create pools with an abundance of clear flowing water during winter and spring months. These pools become stagnant and dry up in most locations during the summer months (a large pool located just north of East Valley Road may retain water all summer). Substrata vary from small cobbles up to very large boulders, creating pools and riffles, which were seen along this reach of the creek. The creek was running at the time of the February and March early surveys but had ceased flowing in May and June.

The secondary and main fork of Hot Springs Creek converge immediately north of East Mountain Drive, forming a narrow "peninsula" where the lawn was installed (See Figure 1). Interestingly, on the USGS (Santa Barbara Quadrangle) and on the county's ESH Map, this confluence is shown converging further upstream just east of the property line and adjacent to the tennis court. (Figure 21: Montecito Community Plan, Santa Barbara County, 1992).

Soils in the area consist of Milpitas stony fine sandy loam (United States Department of Agriculture, 1981). Unlike many situations along major creeks, this particular soil profile does not flank the stream, following along the meander, but covers a large (about 300 acres), almost circular area that spans from Montecito Creek to Oak Creek and from just north of East Valley Road to north of East Mountain Drive.

The soil is extensive on "terraces dissected by drainages" with a surface layer of fine sandy loam and loam to about 24 inches followed by a clay subsurface layer. Surface and subsurface layers contain water-rounded cobbles, stones and boulders (6 inches to 8 feet in diameter), possibly a remnant of prehistoric floodplains.

3.0 PLANT AND WILDLIFE RESOURCES

This section describes the plants and animals found onsite or, in the case of animals, expected to use the site and neighboring parcels. Only the plant communities located within the area of the recent non-permitted activities are addressed.

A list of **sensitive plant species** potentially occurring on site was compiled by conducting a search of all records of sensitive species contained by the California Native Plant Society, including State and Federally-listed species, for the USGS quadrangle where the site is located (Santa Barbara) and a nearby quadrangle (Carpinteria). Plants that are restricted to habitats that are not found on site, such as beachfront dunes or estuaries, were omitted from

this list. The current California Natural Diversity Database (CNDDDB) records for the Santa Barbara and Carpinteria quadrangles are also included. Again, those species that are restricted to habitats not found on site are omitted from this list. The preliminary research provided a list of sensitive species that may occur within the project site.

Information pertaining to the distribution of **sensitive wildlife** on, and in the immediate vicinity of, the property was obtained from a variety of sources: (1) Previous studies from the project area; (2) the California Natural Diversity Database (CNDDDB); and (3) sensitive wildlife databases maintained at the Santa Barbara Museum of Natural History (SBMNH).

3.1 PLANT COMMUNITIES

Plant communities or vegetation types found on the site in 2001 and currently are classified under two systems, which are listed in Table 1 and mapped on Figure 2. The division between

TABLE 1: PLANT COMMUNITIES: COMPARISON OF TWO CLASSIFICATION SYSTEMS	
A Manual of California Vegetation (Sawyer and Keeler-Wolf, 1995)	California Terrestrial Natural Communities (CDFG, 2003)
<i>Arroyo Willow Series</i>	<i>Black Cottonwood / Willow Riparian Forest #61.320.00</i>
<i>California Sycamore series</i>	<i>California Sycamore – Coast Live Oak Forest (#61.312.01)</i>
<i>Coast Live Oak</i>	<i>Coast Live Oak, Individual Trees (#71.060.00)</i>
Secondary Drainage:	No Corresponding Natural Plant Community

each community is not always distinct. Plant species identified onsite are listed in the community description. The plant community identified as “non-native grassland within the peninsula in the 2001 aerial is not included in the community discussion since the vegetation type cannot be verified.

Arroyo Willow Series
Black Cottonwood / Willow Riparian Forest

As the name implies, black cottonwoods (*Populus balsamifera*), red and arroyo willow (*Salix laevigata*; *S. lasiolepis*) dominant in the tree canopy layer of this community. These species are located in a narrow line immediately adjacent to the active Hot Springs Creek stream channel.

Dominant understory species are western bracken fern (*Pteridium aquilinum*), mugwort (*Artemisia douglasiana*), and poison oak (*Toxicodendron diversilobum*). A common weed along Montecito creeks, and a native of Mexico, ironweed (*Ageratina adenophora*), is abundant on the lower banks and near the invert. In some locations along this stretch of the creek, black cottonwood and arroyo willow approach the top of bank.

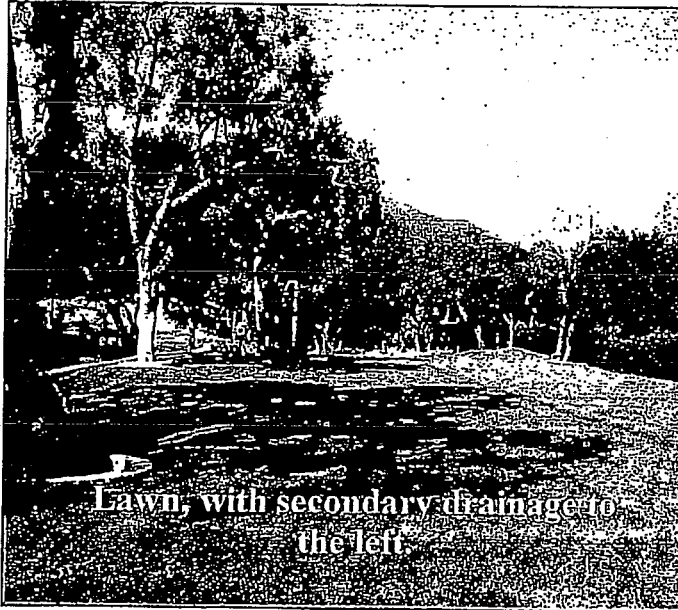


California Sycamore Series
California Sycamore/ Coast Live Oak Forest

Coast live oaks (*Quercus agrifolia*) and California sycamore (*Platanus racemosa*) are found on the upper banks of Hot Springs Creek at this location. Dominant understory species noted were mugwort (*Artemisia douglasiana*), poison oak (*Toxicodendron diversilobum*), western bracken fern (*Pteridium aquilinum*), lemonadeberry (*Rhus integrifolia*), canyon sunflower (*Venegasia carpesioides*) and the invasive German ivy (*Senecio mikanioides*). Non-native *Pittosporum* and *Eucalyptus* are scattered. A twenty-foot diameter cluster of the highly invasive giant reed (*Arundo donax*) is established in the western bank just outside of the property

boundary, and several smaller clusters were noted downstream. A hedge of *Myoporum*, and introduced ornamental, is planted along the top of bank.

Coast Live Oak, Individual Trees



Coast live oak (*Quercus agrifolia*) trees are studded along the edge of the installed lawn as well as on the mid- to top of bank of the secondary drainage. These trees are pruned, healthy and well balanced. Tree wells (for surrounding grade increases) or retaining walls (for surrounding grade reductions) were recently installed around a number of the mature oaks. Little natural understory is present. Several oaks along the main branch of Hot Spring Creek extend into the lawn.

Secondary Drainage: Ruderal and Ornamental Plantings

The general appearance of this feature is a half landscaped, weedy dry creek bed. This grouping does not lend itself to any classification alliance. Non-permitted improvements to the upper bank include a vertical rock wall on sections of both side of the drainage and two pedestrian bridges.

Vegetation within the secondary drainage is a mixture of planted ornamental, woody groundcover, invasive groundcover and common weeds often seen on



Vegetation Map 2009

Vegetation Map 2001

LEGEND

NATURAL PLANT COMMUNITIES

Coast Live Oak

Forest and Individual Trees

Heavily Pruned (2009)

Riparian

California Sycamore - Coast Live Oak

Black Cottonwood - Willow (estimate for 2001)

Scoured Bed

Non-Native Grassland

Landscape

Ruderal with Minor Ornamental Planting

Bare Ground

Irrigated Lawn

Rock Stockpile Area

Trees Removed Since 2009

Location of ESH

Top Of Bank

Flow Line

Property Line

Trail Easement

0 25' 50' 100' 150' 200'

SCALE



E. MOUNTAIN DRIVE

E. MOUNTAIN DRIVE

Figure 2: Vegetation

1192 East Mountain Drive
 Montecito California
 June 15, 2009



disturbed banks. A few native tree saplings and occasional native shrubs from various natural plant communities were also noted. Planted species along the mid and upper banks include a low *Ceanothus* cultivar and possibly *Dimorphotheca* sp. Invading ground covers are periwinkle (*Vinca major*), garden nasturtium, ornamental morning glory (*Ipomoea* sp.), bindweed (*Convolvulus arvensis*) and English ivy (*Hedera helix*). Other weedy species noted are fennel (*Foeniculum vulgare*), sweet alyssum (*Lobularia maritima*), umbrella plant (*Cyperus alternifolius*) and yellow clover (*Melilotus officinalis*).

Several small saplings of coast live oak and California sycamore were seen at the invert of the bed, as were small pepper trees (*Schinus molle*). Non-native annual grasses (*Bromus*, *Avena*) were common throughout. Native species were limited to occasional California blackberry, coyotebrush (*Baccharis pilularis*), mugwort and hummingbird sage (*Salvia spathacea*).

3.2 WILDLIFE

Wildlife Within Hot Springs Creek and the Adjacent Riparian Habitat

The creek and adjacent vegetation provide a mix of shaded and unshaded areas, along with good cover in the form of creekside vegetation. Water was running at the time of the earliest field surveys and there were occasional pools up to several feet deep. Hot Spring Creek provide breeding and foraging habitat for a number of amphibians and reptiles such as Pacific treefrog and California treefrog. Other amphibians and reptiles expected to frequent



Deep pools provide late spring water for wildlife and

understory found under riparian woodland that borders Hot Springs Creek include black-bellied slender salamander, ensatina, arboreal salamander, western fence lizard, western skink, southern alligator lizard, ringneck snake, mountain kingsnake, and western rattlesnake (Collins 2008).

The woodland that borders Hot Springs Creek is frequented by a wide diversity of birds that utilize this area for nesting, perching and foraging. Birds that are expected to use this habitat include Cooper's hawk, red-tailed and red-shouldered hawks, mourning dove, band-tailed pigeon, great horned owl, northern

pygmy-owl, Anna's hummingbird, black-chinned hummingbird, acorn woodpecker, hairy woodpecker, Nuttall's woodpecker, olive-sided flycatcher, western wood-pewee, Pacific-slope flycatcher, black phoebe, American crow, western scrub-jay, violet-green swallow, oak titmouse, bushtit, canyon wren, house wren, American robin, hermit thrush, warbling vireo, orange-crowned warbler, yellow warbler, yellow-rumped warbler, common yellowthroat, Wilson's warbler, black-headed grosbeak, spotted towhee, song sparrow, dark-eyed junco, and house finch (Collins 2008).

Mammals that frequent the understory of riparian woodlands include: Virginia opossum, ornate shrew, broad-footed mole, brush rabbit, Botta's pocket gopher, deer mouse, California mouse, big-eared woodrat, coyote, northern raccoon, striped skunk, bobcat, and mule deer. In addition to providing habitat, the riparian zone along Hot Springs Creek also serves as a travel corridor for a number of larger mammals such as Virginia opossum, coyote, bobcat, mountain lion, black bear, striped skunk, northern raccoon, ringtail, and mule deer. Species move up and down this creek corridor as they disperse from scrub and woodland habitats found along the south facing slopes of the Santa Ynez Mountains down into urban and oak woodlands found in the greater Montecito area (Collins, 2008).

3.3 SENSITIVE PLANTS AND ANIMALS

For the purposes of this analysis, a "sensitive biological resource" refers to any rare, threatened, or endangered plant or animal species, or those species considered regionally declining by local authorities. Habitats are also considered sensitive if they exhibit a limited distribution, have high wildlife value, contain sensitive species, or are particularly susceptible to disturbance. The potential for occurrence of sensitive resources is based on site characteristics and the known regional distribution and habitat affinities of the species.

3.3.1 SENSITIVE PLANTS

A list of sensitive plant species recorded within the California Natural Diversity DataBase (CNDDB) and the California Native Plant Society database, List 1 through 4, for the Santa Barbara and Carpinteria USGS quadrangles appears in Table 2.

Table 2: Sensitive Plants
(CNDDDB 2009; CNPS List 1-3, 2009; Santa Barbara and Carpinteria Quadrangles)

Scientific	Family	Life form	Blooming	Communities	CNPS	Expected? Known within 5 miles of Project Vicinity?
<i>Atriplex coulteri</i> (Coulter's saltbush)	Chenopodiaceae	Perennial herb	Mar -Oct	Coastal scrub; Valley and foothill grassland	List 1B	Not expected in the area of development.
<i>Baccharis plummerae</i> (Plummer's baccharis)	Asteraceae	Lanky shrub	Aug-Oct	Shaded canyons and Riparian woodlands.	List 4	CNPS Data Base record for Santa Barbara County. Known both east and west of site outside of a 5 mile radius (per. ob.)
<i>Calochortus catalinae</i> (Catalina mariposa lily)	Liliaceae	Perennial herb (bulb)	Apr-May	Coastal scrub; Valley and foothill grassland	List 4	Not expected in the area of development.
<i>Calochortus weedii</i> var. <i>vestus</i> (Late-flowering mariposa lily)	Liliaceae	Perennial herb (bulb)	Jun-Apr	Chaparral; Cismontane, woodland; Riparian	List 1B	CNDDDB record within a 1 mile radius centered 1.5 miles east of site. Also 3 miles west of site.
<i>Caulanthus californicus</i> (California jewelplant)	Brassicaceae	Annual	Feb-May	Grassland	List 1B	Not expected in the area of development.
<i>Centromadia parryi</i> ssp. <i>australis</i> (southern tarplant)	Asteraceae	Annual	May-Nov	Grasslands	List 1B	Not expected in the area of development.
<i>Chorizanthe polygonoides</i> var. <i>longispina</i> (Long-spined spineflower)	Polygonaceae	Annual	Apr-Jul	Chaparral; Coastal scrub, Grassland	List 1B	Not expected in the area of development.
<i>Delphinium umbracolorum</i> (Umbrella spigelowyer)	Ranunculaceae	Perennial herb	Apr-Jun	Cismontane woodland	List 1B	CNDDDB record located 5 miles northwest of site.
<i>Fritillaria ojaiensis</i> (Ojai fritillary)	Liliaceae	Perennial herb (bulb)	Feb-May	Broadleaf forest; Chaparral	List 1B	CNPS Data Base record for Santa Barbara County.
<i>Galium cliftonsmithii</i> (Santa Barbara bedstraw)	Rubiaceae	Trailing subshrub	Apr-Jun	Chaparral; Cismontane woodland	List 4	CNPS Data Base record for Santa Barbara County.
<i>Horkelia cuneata</i> ssp. <i>puberula</i> (Mesa horkelia)	Rosaceae	Perennial herb	Feb-Jul(Sept)	Chaparral; Cismontane woodland; Coastal scrub	List 1B	CNDDDB record within a 1 mile radius centered 1.5 miles east of site.
<i>Lasthenia conjugens</i> (Contra Costa goldfields)	Asteraceae	Perennial herb	Mar-Jun	Cismontane woodland; Grassland	List 1B	Not expected in the area of development.
Scientific	Family	Life	Blooming	Communities		Expected?

		form			CNPS	Known within 5 miles of Project Vicinity?
<i>Layia heterotricha</i> (Pale yellow Layia)	Asteraceae	Annual	Mar-Jun	Cismontane woodland; Coastal scrub; Grassland	List 1B.	Not expected in the area of development.
<i>Lonicera subspicata</i> var. <i>subspicata</i> (Santa Barbara honeysuckle)	Caprifoliaceae	Trailing shrub	May-Aug (Dec-Feb)	Chaparral; Cismontane woodland; Coastal scrub	List 1B	Very common in coastal areas of Santa Barbara County. Not seen during survey. CNDDDB record within a 1 mile radius centered 1.5 miles east of site.
<i>Micropus amphibolus</i> (Mt. Diablo cottonweed)	Asteraceae	Annual	Mar-May	Broadleaf forest; Chaparral; Cismontane woodland; Grassland	List 3	Not expected in the area of development.
<i>Monolopia congdonii</i> (San Joaquin woollythreads)	Asteraceae	Annual	Feb-May	Grassland	List 1B	Not expected in the area of development.
<i>Pseudognaphalium leucocephalum</i> (White rabbit tobacco)	Asteraceae	Perennial herb	Aug-Nov (Jul-Dec)	Chaparral; Coastal scrub, Grassland; Riparian woodland	List 2	Not expected in the area of development
<i>Ribes amarum</i> var. <i>hoffmannii</i> (Hoffmann's gooseberry)	Grossulariaceae	Perennial deciduous shrub	Mar-Apr	Chaparral; Riparian woodland	List 3	Known from Oak Creek 1/2 mile east of site (per. ob.)
<i>Sanicula hoffmannii</i> (Hoffman's sanicle)	Apiaceae	Perennial herb	Apr - Jun	Shaded woodlands	List 4	Known from Rattlesnake and Mission Canyons
<i>Thelypteris puberula</i> var. <i>sonorensis</i> (Sonoran maiden fern)	Thelypteridaceae	Fern	Jan - Sept	Meadows, seeps, streams	List 2	CNDDDB record within a 1 mile radius centered 3 miles east of site (Romero Canyon?).

California Native Plant Society

- List 1A: Plant Presumed Extinct in California
- List 1B: Plants Rare, Threatened or Endangered in California or Elsewhere
- List 2: Plants Rare in California but More Common Elsewhere
- List 3: Plants About Which More Information is Needed - A Review List
- List 4: Plants of Limited Distribution - A Watch List

Plants that are restricted to habitats that are not found on site, such as beachfront dunes, estuaries, or chaparral were omitted from this list.

No plant that is either listed or a candidate for listing under the State or Federal Endangered Species Act has been found within the project site region, or is expected to occur onsite or in the area.

3.3.2 SENSITIVE ANIMAL SPECIES

A detailed discussion of sensitive animals that may use the site or nearby areas is contained in Appendix A. A summary of that information is found in Table 3.

3.3.3 WILDLIFE OF FRESHWATER STREAMS

Hot Springs Creek stream maintains an intermittent flow along the reach that borders the property and appears to dry up during below normal rainfall years. The floor of this drainage has a rock-boulder and cobble substrate that results in the development of small to medium-sized (0.5-2.5 feet deep) sour pools. The lower third of this stream segment was dry at the time of the site visit while the upper two thirds of this stream segment had a shallow freshwater flow present. Standing pools of freshwater that were present along the floor of this creek segment during the site visit were only 0.5 to 1.5 feet deep. In wet years this stream maintains a surface flow even through the summer and fall dry season. The only aquatic dependent wildlife species observed in Hot Springs Creek adjacent to the project site during the field survey was Pacific-Chorus Frog (*Pseudacris regilla*). All tadpoles seen and examined were of this widely distributed species. No adult or larvae of Coast Range Newts (*Taricha torosa*) or large-sized Ranid tadpoles (e.g. 2.5-3.5 inches in length) were seen in any freshwater pools present along this reach of Hot Springs Creek. The largest tadpoles were 1.5 inches in total length, which is well within the size range for Pacific and California Chorus Frogs (*P. regilla* and *P. cadaverina*). All tadpoles captured during this survey were from Pacific Chorus Frogs. No turtles or snakes were seen during the field survey.

No special status wildlife species were observed during the field reconnaissance survey nor were any documented records found of sensitive wildlife for the immediate vicinity of the project site. However, several sensitive aquatic dependent wildlife species are expected to occur in Hot Springs Creek including Coast Range Newts (*Taricha torosa*), California Red-legged Frog (*Rana aurora draytonii*), Southwestern Pond Turtle (*Clemmys marmorata*), and Two-striped Garter Snake (*Thamnophis hammondi*) (Santa Barbara Museum of Natural History 2009, Storrer 2005, Tierney and Storrer 1990).

Table 3: Special-Status Animals Expected to Occur in the Project Area

Common Name	Scientific Name	Special Status	Potential of Occurrence On Site
FISH			
Steelhead rainbow trout	<i>Oncorhynchus mykiss</i>	CSC/FE	Low. Barrier occurs south of Mountain Drive.
AMPHIBIANS			
California red-legged frog	<i>Rana aurora draytonii</i>	CSC/FT	Low. Survey conducted on-site found no appropriate habitat, although this species is known to occur in Hot Springs /Cold Spring Creek area and Cinqfoil Creek. May occur upstream.
Coast Range Newt	(<i>Taricha torosa</i>)	CSC/None	Likely Known to occur in a number of perennial creeks in the Montecito area, including Hot Springs Creek. May occur upstream.
REPTILES			
Southwestern pond turtle	<i>Clemmys (=Emmys) marmorata pallida</i>	CSC/None	Moderate Known to occur in a number of creeks in the Montecito area upstream.
Two-striped garter snake	<i>Thamnophis hammondi</i>	CSC/None	Likely Known to occur in a number of perennial creeks in the Montecito area, including Hot Springs Creek. May occur upstream.
BIRDS			
Cooper's hawk	<i>Accipiter cooperii</i>	Local Concern	High Known to nest in several wooded canyons in Montecito
Warbling vireo	<i>Vireo gilvus</i>	Local Concern	High Known to occur along Hot Springs Creek.
Yellow warbler	<i>Dendroica petechia brewsteri</i>	CSC/None	High Known to occur along Hot Springs Creek

Status Codes

FE = Listed as "Endangered under the Federal Endangered Species Act

FT= Listed as "Endangered under the Federal Endangered Species Act

CSC = CDFG California Special Concern Species

4.0 PROJECTS IMPACTS ON PRE-EXISTING CONDITIONS

4.1 REGULATORY SETTING

4.1.1 Montecito Community Plan Policy Overview

The following biological policies and development standards are drawn from the Montecito Community Plan (Santa Barbara County, 1992). These policies were created to protect sensitive habitat such as streams and native trees and provide a basis of the county's policies.

Environmentally Sensitive Habitat (ESH) overlay for riparian woodland corridors.

Policy BIO-M-1.1 Designate and provide protection to important or sensitive environmental resources and habitats in the inland portion of the Montecito Planning Area (MPA).

Policy BIO-M-1.3 ESH areas within the MPA shall be protected, and where appropriate enhanced.

Dev. Standard BIO-M-1.3.1 All applicants proposing new development within 100 feet of an ESH shall be required to include setbacks or undeveloped buffer zones from these habitats as part of the proposed development of the parcel. In determining the location, width and extent of setbacks and buffer zones, staff shall refer to the Montecito Biological Resources map as well as other available data (e.g., maps, studies, or observations).

If the project would result in potential disturbance to the habitat, a restoration plan shall be required. When restoration is not feasible onsite, off-site restoration maybe considered.

Policy BIO-M-1.8 The minimum buffer strip for development near streams and creeks in Rural Areas is 100 feet from top of bank and for streams in Urban Areas, 50 feet². The buffer area shall be indicated on all grading plans. All ground disturbance and vegetation removal shall be prohibited in the buffer area.

Individual Coast Live Oaks

Policy BIO-M-1-15 To the maximum extent feasible, specimen (mature healthy) trees shall be preserved.

² The subject property is located in the Urban Area of the Montecito Planning Area.

Policy BIO-M-1-16 To the maximum extent feasible, all existing native trees shall be preserved.

Dev Standard BIO-M-1.16.1 Where native trees of biological value may be impacted by new development, a tree protection Plan shall be required.

Policy BIO -M-1-17 Oak trees shall be protected to the maximum extent feasible.

4.1.2 County and State Oversight of Resources

Habitat: Riparian

Black Cottonwood / Willow Riparian Forest
California Sycamore – Coast Live Oak Forest

Riparian vegetation is important on a regional basis and is particularly sensitive to disturbance. All riparian habitats support the highest diversity and abundance of wildlife. This is due in part to the complex nature of this community. The area closest to the actively running stream, in this case, the Black Cottonwood / Willow Riparian Forest, anchors the bank and protects the creek from excess pollution loading, erosion and the subsequent loss of healthy downstream pool and riffle structure. The tree canopy on the bank shades flowing water and reduces water temperature. Protruding roots and fallen branches along the stream edge provides refuge for aquatic species from predators and fast currents. Many species of wildlife that live in other vegetation communities visit the stream to drink or feed.

Regulation

State: Pursuant to Section 1602.2 of the Fish and Game Code, the CDFG has jurisdiction over activities that affect the “bed, channel, or bank of any river, stream, or lake that has or benefits fish or wildlife”. At this particular site, work within the secondary drainage (rock walls, pedestrian bridges, and ornamental plantings within the drainage would trigger the need for a retroactive Agreement.

County The eastern portion of the site is identified as an Environmental Sensitive Habitat (ESH) area, in the Montecito Community Plan Update (and is identified on the Biological

Resources Map, Figure 21) due to the presence of Hot Springs Creek and associated riparian vegetation (Santa Barbara County, 1992).

Setbacks: The Montecito Community Plan calls for a *minimum* 50-foot setback (buffer) from the top of bank of streams within the Urban Area. (Policy Bio-M-1.8). There has been some ongoing confusion as to whether the setback from ESH is set at 50 feet from the top of bank or 50 feet from the outer edge of the riparian canopy.

Habitat: Coast Live Oak (*Quercus agrifolia*): Individual trees

Oak habitats and individual trees are protected by the County of Santa Barbara (Santa Barbara County, 1992). Oaks are very slow growing, long-living trees that are sensitive to alterations in their immediate environment. Utilization of oak as a fuel source and as prime agricultural land began early after European colonization. Since then, many of the oak resources have been removed for agriculture and urban development. It appears that throughout California, the establishment of new individuals within a stand is below that required for stand maintenance. Although the causes are not fully understood, grazing practices and competition with non-native understory species may be contributing to a decline in oak recruitment.

The understory of oaks, comprised of native shrubs, vines and herbaceous perennial and annual species, provides additional food and cover for wildlife. It is the combination of the oak trees and understory resources that, together, provide a complex habitat for wildlife with cover, nesting and den sites, food, and shade.

The understory shrubs and broadleaf native herbs are not present at this site. Individual oaks dot the edges of the lawn and line the secondary drainage. These mature trees continue to provide roosting and nesting habitat for wildlife.

State: CDFG jurisdiction under Section 1602.2 of the Fish and Game Code includes streamside (riparian) habitat on top of banks as well as the drainage itself, which includes the adjacent coast live oak trees.

County: Removal of mature coast live oak trees within ESH and ESH buffer requires mitigation typically set at 10:1 replacement ratio.

4.2 LOCATION OF ESH/BUFFER AND VEGETATION CHANGES RESULTING FROM NON-PERMITTED ACTIVITIES

Aerial photographs from 2001 through 2008³ were viewed to confirm the condition of the drainages and surrounding areas prior to the recent work in this area. Comparing the 2008 aerial with individual tree and other habitat in the field created a map of current vegetation. Ground surveys also helped identify “textures” of particular trees to enable a more accurate detection of species on the photographs. A vegetation map of 2001 was created from an aerial of that year. Any changes (removal of vegetation) from 2001 to the present were determined by comparing the two vegetation maps. (See Methods Section 1.2).

4.2.1 Where is the Pre-Violation Location of the ESH and Buffer

The Montecito Community Plan Update, Biological Resources Map, Figure 21 (County of Santa Barbara 1992), identifies the general location of ESH boundaries within the planning area. However, the scale of the map in the Community Plan precludes its use without field confirmation of exact boundaries. For the purpose of this report, the location of the edge of the riparian canopy, as shown on the 2001 aerial determined the pre-violation boundary of the ESH.

Main Branch: The location of the riparian woodland corridor (and thus ESH) in the area of the grading violation prior to any work associated with the project can be seen in Figure 2: Vegetation Map (2001). The western edge of the California Sycamore – Oak (a riparian plant community) in 2001 would delineate the original western boundary of ESH. This delineation is also mapped in Figure 3: Aerial Photograph Comparison of ESH and Buffer.

Secondary Drainage: The secondary drainage, with the exception of the extreme southern and northern extremities of the property, is not included within the ESH designation. In 2001, as in present time, this feature does not exhibit the characteristics of a “riparian woodland corridor” for the following reasons. The size of the drainage signifies that its capacity remains very low compared to the main fork. Secondly, vegetation, including non-native grasses and other decidedly upland plants, had matured within the lowest part of the bed, suggesting that the drainage may be only carry flows on a very occasional basis and possibly only on very wet years. This section is also not identified as ESH on the County Map (Figure 21, County of Santa Barbara, 1992), which is in agreement with this interpretation of the drainage not being high quality habitat at the time the map was created (1992).

³ The dates the photographs were flown are: April 17, 2001; May 20, 2003; September 6, 2005 and April 15, 2008.

The pre-violation ESH boundary identified for this report crosses over to the secondary drainage just south of the eastern property line, close to where the two forks converse (See Figure 3). The 2001 aerial displays sycamore-oak woodland at this location, and although much of it is now removed, some remnant of the habitat is discernable in the 2008 photograph.

Presently the understory immediately adjacent to the small drainage at this point still contains a high number of native (but overwhelmingly upland) species from this point upstream. typically found flanking ephemeral streams. These include [coast live oak, lemonadeberry, mountain mahogany (*Cercocarpus betuloides*), mugwort and canyon sunflower. Downstream at this time, the secondary drainage is devoid of most native understory and also appears more barren from aerial views.

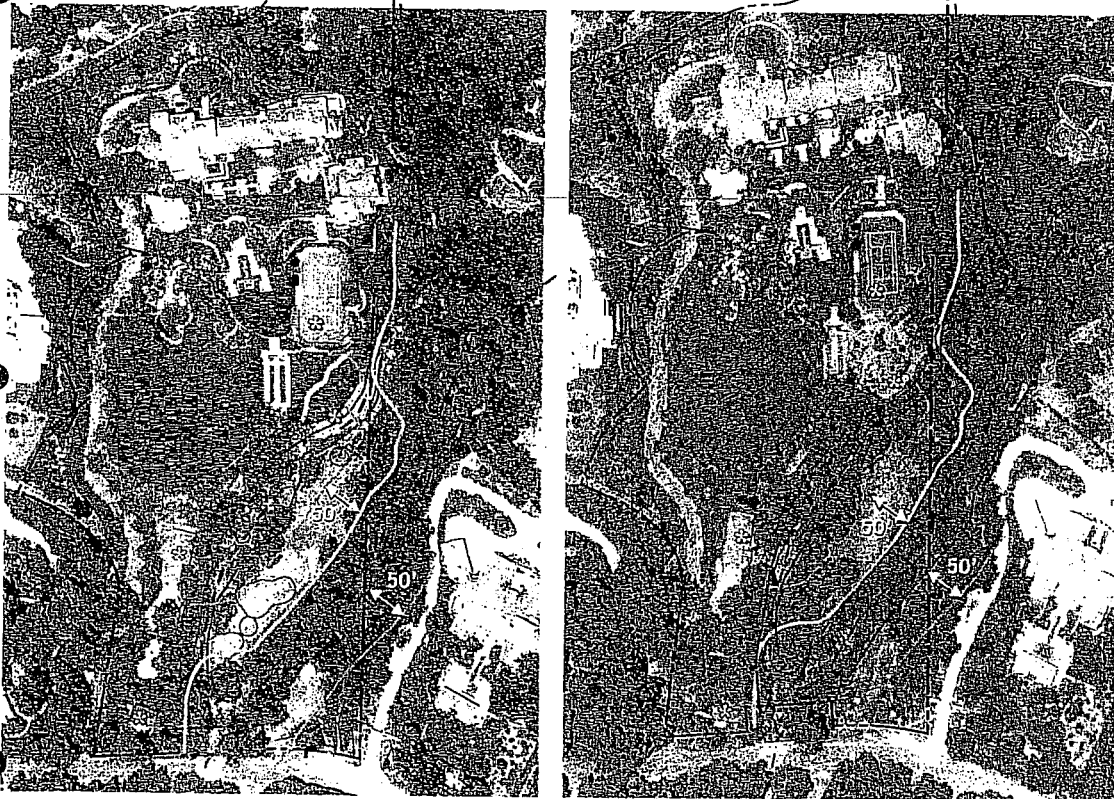
Buffer: The buffer, also illustrated in Figure 3, is measured 50 feet from the top of bank in section of the creeks where the ESH applies. In some places this buffer would encompass areas of the property that were developed prior to September 15, 1992, the date the Montecito Community Plan was ratified. Development within the buffer would not be subject to the Plan policies. These buffer areas are omitted on Figure 3. The confusion over whether or not the setback is measured from the top of bank or the edge of the riparian canopy is a moot point in this situation, as the position of the buffer in either case would overlap.

4.2.2 What are the Vegetation Changes Resulting From Non-Permitted Activities

To determine if any changes (losses) to vegetation occurred within the general area of non-permitted work, the presence of canopy cover noted in the 2008 aerial photograph was compared to individual trees and other vegetation the field. Each tree along the top of bank of Hot Springs Creek (and thus the actual border of the current riparian canopy) was compared with the 2008 aerial. All trees along the secondary drainage were likewise marked on the 2008 aerial. A clear plastic overlay of the existing trees was then made and compared to the 2001 aerial. A light table was used to help identify any trees or other vegetation "textures" that were missing or altered in the latter aerial photographs.

2008

2001



LEGEND

- Location of ESH
- Location of 50' Buffer (Buffer not extended into area developed prior to Montecito Community Plan)
- Flow Line
- Top of Bank
- Property Line
- Trees Removed Between 2001 and 2009
- Structures west of secondary drainage developed prior to Montecito Community Plan Update (1992)

0 25' 50' 100' 150' 200'
SCALE



Figure 3: 2001 and 2008 Aerial Photographs Comparison of ESH and Buffer

1192 East Mountain Drive
Montecito California
June 15, 2009



Onsite changes in vegetation were noted in the southern portion of the "peninsula" and in the northern extent of the eastern property line (See Figures 2 and 3). The vegetation converted to lawn or removed for other reasons since 2001 can be seen in Figure 3.

Other impacts include rock walls and two pedestrian bridges that were constructed along the upper banks of the secondary drainage. Comparisons of aerial photographs from 2001 suggest that several small trees (or shrubs?) were removed from the drainage. Ornamental species have been planted in limited areas.

Partial tree wells were placed around a number of mature oak trees along the upper banks of the secondary drainage. Changes in grade required deep wells built around two coast live trees⁴ and circular retaining walls (which cut off all feeding roots) around two additional large oak trees. A discussion of potential impacts to and mitigation for existing oak trees are covered in the Arborist Report (D. Gress, 2010).

5.0 IMPACT SUMMARY AND CONCEPTUAL MITIGATION PLAN

5.1 IMPACT SUMMARY AND MITIGATION REQUIREMENTS

Impacts of concern to the County and to the California Department of Fish and Game (CDFG) are listed separately in Table 4. In some cases they overlap. Under the County impacts are the acreage of ESH and buffer converted into lawn (0.56 acres) and the number of coast live oaks and California sycamores removed within these sensitive areas. Listed under the CDFG summary are number of trees removed since 2001 (identical to the number in the County tally) and disturbance to the secondary drainage.⁵

Due to differences in mitigation ratios, "temporary" and "permanent" impacts were separated. Mitigation requirements were calculated using standard ratios for each agency.

⁴ By the owners account, several oak trees located east of the utility building south of the guest house have had these wells for over ten years. These trees are flourishing.

⁵ There were no impacts to the main fork of Hot Springs Creek, other than loss of adjacent trees

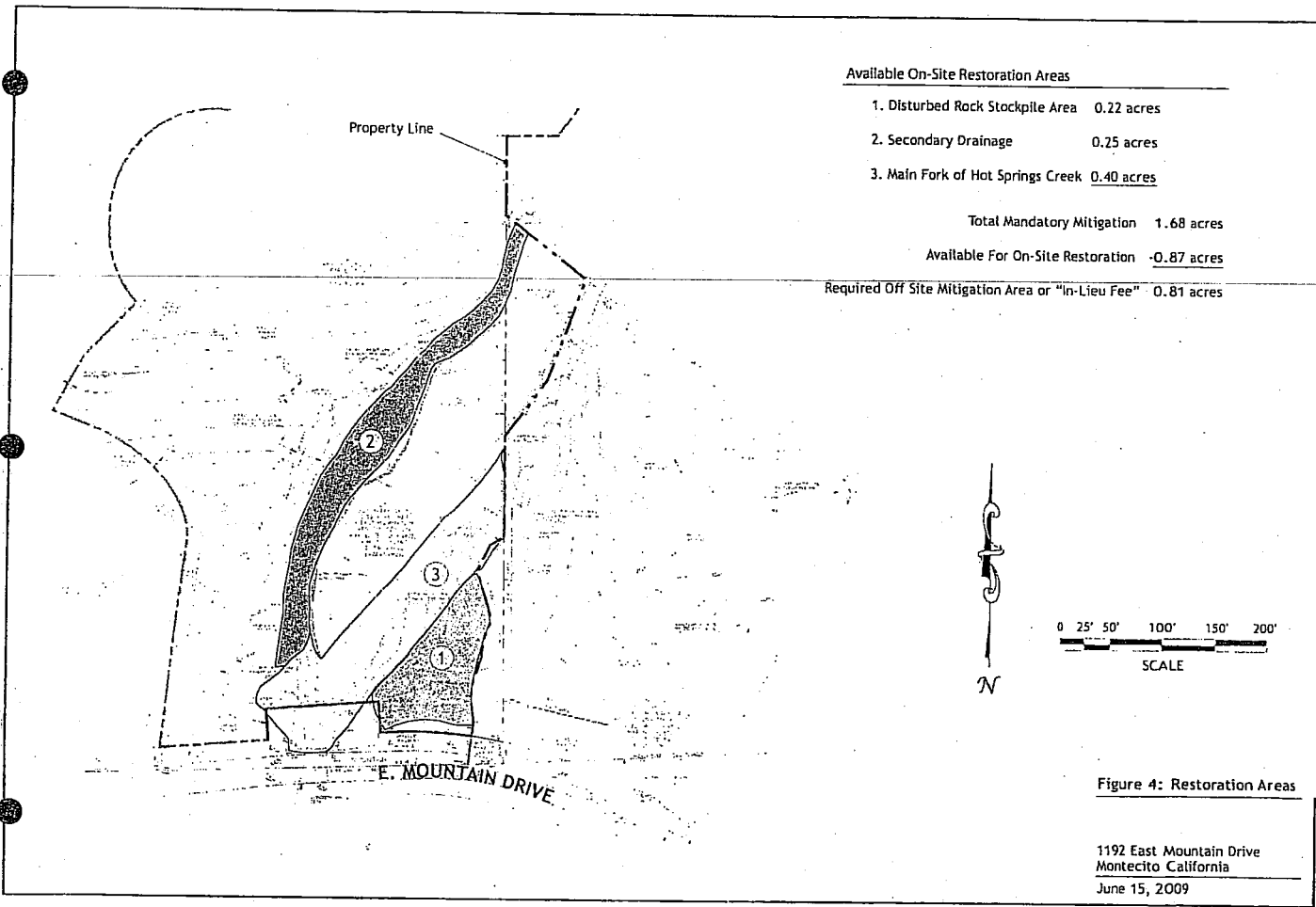


Figure 4: Restoration Areas

1192 East Mountain Drive
 Montecito California
 June 15, 2009



5.2 CONCEPTUAL MITIGATION PLAN

Mitigation requirements are presented in Table 4. A total of 3.31 acres of restored riparian or oak habitat is required to mitigate disturbance or loss of ESH, buffer and impacts to the secondary drainage (See Table 4). A combination of on-site restoration and off-site "in-lieu fee" mitigation is suggested.

Restoration Areas Available Onsite - about 0.87 acres

Figure 4 identifies the three on-site restoration areas.

1. Disturbed Rock Stockpile Area (0.22 acres)

Current Condition

Rocks removed from the "peninsula" not used to construct the wall along the secondary drainage were stockpiled in an area adjacent to the Hot Springs Creek trail easement in the southeastern portion of the property. Most of the remaining rock has been removed, leaving a bare opening within an oak and sycamore forest. Little understory is now present around the peripheral woodland of the stockpile area and mustards and some thistle are established.

Conceptual Restoration Plan: California Sycamore - Oak Woodland

- The site would be used to plant the required replacement trees (33 15-gallon coast live oaks and 18 California sycamore saplings, all grown from locally collected stock.
- Understory species would be planted under the existing woodland.
- Preliminary species list:
 - California Rose (*Rosa californica*)
 - California blackberry (*Rubus ursinus*),
 - Fuchsia Flowered Gooseberry (*Ribes speciosum*)
 - Snowberry (*Symphoricarpos mollis*)
 - Mexican elderberry (*Sambucus mexicana*)
 - Laurel sumac (*Rhus laurina*)
 - Toyon (*Heteromeles arbutifolia*)
 - Wild Ryegrass (*Leymus condensatus*)
 - Hummingbird Sage (*Salvia spathacea*)
 - Canyon Sunflower (*Venegasia carpesioides*)

- Remove non-native mustards and thistles and manage for weeds throughout monitoring period.
- Seed bare ground (with no duff now present) with native mix:

SEED MIX FOR SYCAMORE – OAK WOODLAND

MIN. PURITY & GERMINATION	LBS/ACRE	SPECIES
30/60	2	Yarrow (<i>Eriophyllum confertiflorum</i>)
75/75	2	California Poppy (<i>Eschscholzia californica</i>)
95/85	4	Succulent Lupine (<i>Lupinus succulentus</i>)
NAN.	4	Mugwort (<i>Artemisia douglasiana</i>)
85/30	30	Plantain (<i>Plantago insularis</i>)
95/85	2	Purple needlegrass (<i>Nassella pulchra</i>)
95/80	10	California Brome (<i>Bromus carinatus</i>)
95/85	8	Nuttall's Fescue (<i>Vulpia microstachys</i>)
50/70	3	Sawtooth Goldenbush (<i>Hazardia squarrosus</i>)
15/50	3	California Sagebrush (<i>Artemisia californica</i>)
50/70	3	Coast Goldenbush (<i>Haplopappus venetus</i>)
90/60	3	Deerweed (<i>Lotus scoparius</i>)
70/50	3	Black Sage (<i>Salvia mellifera</i>)
TOTAL	77 LBS/AC	

GENERAL HYDROSEED SPECS

Two Step Application (to keep seed in touch with soils and protect from birds)

- Apply seed mix with 500 lbs per acre "Hydropost" (75%) and fiber mulch (25%).
- Apply second coat (without seed) of 1,500 lbs per acre "Hydropost" (75%) and fiber mulch (25%) plus 150 lbs/acre tackifier.

2. Secondary Drainage

(0.25 acres)

Current Condition

The narrow open drainage contains a thick cover of invasive ground cover with some ornamental woody ground cover. A few native tree saplings and occasional native shrubs from various natural plant communities were also noted [California blackberry, coyotebrush (*Baccharis pilularis*), mugwort and hummingbird sage (*Salvia spathacea*)]. Planted species along the mid and upper banks include a low *Ceanothus* cultivar and possibly *Dimorphotheca* sp; Invading ground covers are periwinkle (*Vinca major*), garden nasturtium, ornamental morning glory (*Ipomoea* sp.), bindweed (*Convolvulus arvensis*) and English ivy (*Hedera helix*). Other weedy species noted are fennel (*Foeniculum vulgare*), sweet alyssum (*Lobularia maritima*), umbrella plant (*Cyperus alternifolius*) and yellow clover (*Melilotus officinalis*) with non-native annual grasses (*Bromus*, *Avena*) were common throughout. Mature, heavily-pruned coast live oaks overhang from upper slopes.

Conceptual Restoration Plan

- Remove all invasive weeds and ornamentals, including planted and naturalized species.
- Line banks, starting about 3 feet up from low point of bed, with native species. Any species listed above could be used.

3. Main Fork of Hot Springs Creek

(0.40 acres)

Current Condition: The stretch of Hot Spring Creek above East Mountain Drive is a well preserved perennial stream with a healthy multi-layered vegetation structure. Restoration opportunities are limited to removal of *Arundo donax*, a highly invasive large grass that increases flood and fire hazards. No other restoration opportunities are available.

Conceptual Restoration Plan: Several methods using herbicides are used to remove *Arundo*. All require several years of follow-up treatments. The employment of a professional outfit, with experience in *Arundo* removal, is recommended. Techniques include a fall-period foliar spray followed by spring biomass removal and "cut and daub" in which the tall grass is cut to a few feet in height and then each plant is painted with a strong herbicide solution.

Remainder of Required Mitigation: Off-Site or "In-Lieu Fee" Mitigation

An "in-lieu fee program may occur in circumstances where on-site mitigation is not available. The permittee provides funds to a single sponsor, generally a public agency or non-profit organization in-lieu of on-site mitigation. The sponsor is then required to conduct the compensatory mitigation. In this case, the remaining amount of required mitigation acreage, about 2.44 acres, would be purchased in lieu of on-site restoration.

The fee amount (\$35,000/acre) is based upon the compensation costs that would otherwise be necessary to restore, enhance, create or preserve habitat with similar functions or values to the one effected. The fee is banked in an account to be managed by the agency that will be overseeing the project.

Discussions with two agencies regarding the potential use of funding for sites are in the preliminary stages: The Land Trust for Santa Barbara and The Carpinteria Creek Watershed Coalition. Both organizations have experience with this form of funding and both have upcoming restoration projects within riparian woodland habitats.

The Land Trust for Santa Barbara acquires and protects land with natural, agricultural, scenic, recreational and/or historical significance through fair market transactions. In 1997, the Land Trust accepted a conservation easement on the San Ysidro Oak Woodland, a 44-acre Open Space Preserve created when the Ennisbrook subdivision was proposed in Montecito. It contains an extensive oak woodland and Monarch butterfly eucalyptus grove along San Ysidro Creek. A potential project for the "in-lieu fee" mitigation would be slated to fund additional restoration (planting and weed control) within this Open Space.

The Carpinteria Creek Watershed Coalition was founded in 2001 to improve conditions that will allow healthy steelhead stocks to recover in the creek. Projects completed to date include *Arundo* treatment, wire revetment and bank repair and removal of four steelhead barriers. The area surrounding the removed fish barriers has not yet been restored. A potential project for funding with an "in-lieu fee" mitigation would be soil stabilization, revegetation and monitoring in these four areas.

TABLE 4: Summary of Impacts and Mitigation Requirements - HABITAT RESTORATION SANTA BARBARA COUNTY AND CDEG			
SANTA BARBARA COUNTY REQUIREMENTS	QUANTITY	TOTAL IMPACT	MITIGATION
ESH and Buffer			
Converted to Lawn	4,474 sq. ft.		
Conversion of ESH to Lawn			
Conversion of Buffer to Lawn	20,000 sq. ft.		
Total Impacts to ESH and Buffer		24,474 sq. ft. = 0.56 acre	0.56 acres of ESH and buffer X 3 = 1.68 acres
CDEG REQUIREMENTS	QUANTITY	MITIGATION	CDEG REQUIREMENTS
Impacts to Secondary Drainage			Impacts to Secondary Drainage
Degradation of Habitat (Temporary Impact)	20,038 sq. ft. = 0.46 acres	3:1 Replacement for Temporary Impacts 0.46 acres X 3 = 1.38 acres	
Rock Wall (Permanent impact)	550 feet length X 4 feet bank = 2,200 sq. ft. = 0.05 ac	5:1 Replacement for Permanent Impacts 0.05 acres X 5 = 0.25 acres	
Total Impacts to Secondary Drainage			1.38 acre (temporary impact mitigation)+ 0.25 acre (permanent impact mitigation) = 1.63 acre
TOTAL REQUIRED MITIGATION			1.63 ac.+ 1.68 ac. = 3.31 acres

**TABLE 4: Summary of Impacts and Mitigation Requirements - Native Tree Removal and Restoration
SANTA BARBARA COUNTY AND CDEC (Continued)**

<i>Approximate Number of Trees Removed Within the Vicinity of the ESH, Buffer and Secondary Drainage</i>	Number Removed	Mitigation ratio and replacement size	Replacement number
Coast Live Oaks			
Coast live oaks removed from ESH	2		
Coast live oaks removed from buffer	6		
Oaks removed outside of ESH and buffer	3		
<i>Potentially impacted outside of ESH and buffer⁶</i>	See below		
Total Number of Impacted Coast Live Oaks	11 oaks	3:1 replacement (15-gallon)	33 oaks
California Sycamores			
California sycamores removed from ESH	4		
California sycamores removed from buffer	2		
Total Number of Impacted California Sycamores	6 Sycamores	3:1 replacement	18 sycamores

⁶ Potential impacts from construction of tree wells and tree retaining walls are addressed in the arborist report (D. Gress, 2010).

6.0 REFERENCES

- Belluomini, L. 1980. Status of the Ringtail in California. Nongame Wildlife Investigation Project W-54-R-12, Job I-8, Progress Report.
- Bulgera, J B., N. J. Scott Jr, R. B. Seymour. 2003. Terrestrial Activity And Conservation Of Adult California Red-Legged Frogs *Rana Aurora Draytonii* In Coastal Forests And Grasslands. US Geological Survey, Western Ecological Research Center, Piedras Blancas Field Station, Post Office Box 70, San Simeon, CA 93452.
- Burger, W. L. 1950. New, Revived, and Reallocated Names for North American Whiptailed Lizards, Genus Cnemidophorus. The Chicago Academy of Sciences Natural History Miscellanea No. 65.
- California Department of Fish and Game. 2009. Special Lists: Plants, Animals, and Natural Communities. Available at the CDFG web site.
<http://www.dfg.ca.gov/whdab/html/lists.html>
- _____. 2008. Biogeographic Data Branch, California Natural Diversity Database. Santa Barbara and Carpinteria Quadrangles.
- _____. 2003 The Vegetation Classification and Mapping Program. List of California Terrestrial Natural Communities Recognized by the California Natural Diversity Database. September 2003 Edition.
- California Native Plant Society. 2009. Inventory of Rare and Endangered Vascular Plants of California. Available at the CNPS web site.
www.cnps.org/rareplants/inventory/6thEdition.htm
- California, State of. 1986. CEQA: California Environmental Quality Act. Statutes and Guidelines 1986. Office of Planning and Research, Sacramento, California.
- Collins, P. (various). Curator of the Santa Barbara Museum of Natural History. Unpublished sightings records, SBMNH.
- DeLisle, H., G. Cantu, J. Feldner, P. O. O'Conner, M. Peterson, and P. Brown. 1986. The Distribution and Present Status of the Herpetofauna of the Santa Monica Mountains of Los Angeles and Ventura Counties, California. Southwestern Herpetologists Society Special Publication No. 2: 1-94.

- Garret, K. L., and J. Dunn. 1981. Birds of Southern California. Status and Distribution. Los Angeles Audubon Society. pp 408.
- Grinnell, J., and A. H. Miller. 1944. The Distribution of Birds of California. Pacific Coast Avifauna 27:1-608.
- Gress, D. 2010. Arborist Report. Bagdasarian/Karmen Site Alteration. 1192 - 1194 East Mountain Drive. October 15, 2009.
- Hall, E.R. 1981. Mammals of North America. 2 vols. Ronald Press, New York, NY.
- Hickman, J. 1993. The Jepson Manual; Higher Plants of California. University of California Press, Berkeley and Los Angeles.
- Holland, R. 1987. Preliminary Description of the Terrestrial Natural Communities of California. Nongame Heritage Program, California Department of Fish and Game, Sacramento, California.
- Hunt, L. E., and P. Lehman. 1992. Vertebrate Resources at Emma Wood State Beach and the Ventura River Estuary, Ventura County, California: Inventory and Management. Report prepared for California Department of Parks and Recreation, California Coastal Conservancy, and City of San Buenaventura.
- Ingles, L. 1965. Mammals of the Pacific States. Stanford Univ. Press, Stanford, CA.
- Jennings, M. R. 1987. Annotated Checklist of the Amphibians and Reptiles of California. Special Publication No. 3. Southwestern Herpetologists Society, Van Nuys, CA. 48 pp.
- Jennings, M. R., and M. P. Hayes. 1994. Amphibian and Reptile Species of Special Concern in California. Final Report Submitted to The California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, CA.
- Jennings, M. R., M. P. Hayes, and D. C. Holland. 1992. A Petition to the U. S. Fish and Wildlife Service to Place the California Red-legged Frog (*Rana aurora draytonii*) and the western Pond Turtle (*Clemmys marmorata*) on the List of Endangered and Threatened Wildlife and Plants. Unpublished Report 21pp.

- Lehman, P. 1982. The Status and Distribution of the Birds of Santa Barbara County, California. Masters Thesis, University of California, Santa Barbara, CA.
- _____. 1983. Chapter 4. The Vertebrate Fauna of the Streams. A. Birds. pp. 9. *in* Onuf, C. P. (ed.). The Proposed Corps of Engineers Flood Control California: Inventories of the Biological Resources of the Affected Creeks and a Preliminary Analysis of Possible Effects Including the Goleta Slough. Prepared for the U. S. Army Corps of Engineers.
- McGurty, B. M. 1988. Natural History of the California Mountain Kingsnake *Lampropeltis zonata*. Pp. 73-88, *in* (H. F. DeLisle, P. R. Brown, B. Kaufman, and B. M. McGurty, eds). Proceedings of the Conference on California Herpetology. Southwestern Herpetologists Society, Los Angeles, California.
- Meade, Daniel. 1999. Monarch Butterfly Overwintering Sites in Santa Barbara County, California. Althouse and Meade, Inc. 1135 Stoney Creek Rd. Paso Robles, CA 93446. Prepared for the County of Santa Barbara. November 1999.
- Meserve, P. L. 1974. Ecological Relationships of Two Sympatric Woodrats in a California Coastal Sage Scrub Community. *Journal of Mammalogy* 55(2):442-447.
- Rathbun, G. B., N. Siepel, and D. Holland. 1992. Nesting Behavior and Movement of Western Pond Turtles, *Clemmys marmorata*. *The Southwestern Naturalist* 37(3): 319-324.
- Rathbun, G. B., K. Worcester, D. Holland, and J. Martin. 1991. Status of Declining Aquatic Reptiles, Amphibians, and Fishes in the Lower Santa Rosa Creek, Cambria, California. Prepared for Greenspace, A Land Trust, Cambria, Ca. 21 pp.
- Remsen, J., Jr. 1978. Bird Species of Special Concern in California. California Department of Fish and Game. Nongame Wildlife Investigations, Wildlife Branch Administrative Report. Number 78-1.
- Santa Barbara County. 1992 Montecito Community Plan Update. Resource Management Department. September 15, 1992
- Santa Barbara County Flood Control District, 2007. Montecito Creek Routine Maintenance Addendum To The Program EIR For Santa Barbara County Flood Control Routine Maintenance

- Schoenherr, A. A. 1976. The Herpetofauna of the San Gabriel Mountains, Los Angeles County, California, including Distribution and Biogeography. Special Publication of the Southwestern Herpetologist's Society.
- Santa Barbara Museum of Natural History. 2009. Sensitive Wildlife Sighting and Specimen Database.
- Sawyer, J. and T. Keeler-Wolf. 1995. A Manual of California Vegetation. California Native Plant Society Publication.
- Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.
- ~~Smith, C. 1976. A Flora of the Santa Barbara Region, California. Santa Barbara Museum of Natural History.~~
- Stebbins, R. C. 1954. Amphibians and Reptiles of Western North America. New York: McGraw Hill.
- _____. 1985. A Field guide to western reptiles and amphibians. 2nd ed., Houghton-Mifflin Co., Boston.
- Stoecker Ecological, 2002. Steelhead Assessment and Recovery Opportunities in Santa Barbara County. June, 2002.
- Storrer, J. 2005. Results of California Red-legged Frog (*Rana aurora draytonii*) surveys on Montecito Creek, Santa Barbara County, California (COMB Reference PW-12). Letter report prepared for Cachuma Operation and Maintenance Board, Santa Barbara, Ca. 8 pp.
- Sweet, S. (various). Professor of herpetology, University of California at Santa Barbara. Unpublished field sightings.
- Tate, J. Jr. 1986. The Blue List for 1986. American Birds 40(2):227-236.
- Tierney R. 2008. Biological Assessment. Goerner Residence (APN 011-010-008) 1017 Hot Springs Road Montecito, California. June 6, 2008

- Tierney, R., and J. Storrer. 1990. Montecito Planning Area Biological Resources Study Santa Barbara, California June 28, 1990. Prepared for The County of Santa Barbara Comprehensive Planning Department. 34 pp.
- United States Department of Agriculture, 1981. Soil Survey of Santa Barbara County, California. South Coastal Part. Soil Conservation Service and Forest Service in Cooperation with University of California Agriculture Experiment Station.
- United States Fish and Wildlife Service (USFWS). 1983. Planning Aid Report. September 1983. Santa Barbara County Streams, California. Report Prepared for U. S. Army Corps of Engineers. 22 pp.
- _____. 1986. Fish and Wildlife Coordination Act Report, Santa Barbara County Streams Flood Control Project, Santa Barbara County, California. Prepared for U. S. Army Corps of Engineers, Los Angeles District. 80 pp.
- _____. 2002a. U.S. Listed Flowering Plant Species Report by Taxonomic Group. USFWS /TESS web site. http://ecos.fws.gov/webpage/webpage_vip_listed.html?&code=F&listings=0#Q19
- _____. 2002b. U.S. Listed Wildlife Species Report by Taxonomic Group. USFWS /TESS web site.
- Willett, G. 1933. A revised list of the birds of southwestern California. Pacific Coast Avifauna No. 21.
- Williams, D. F. 1986. Mammalian Species of Special Concern in California. Wildlife Management Division Administrative Report 86-1.
- Winn, P. 2009. Arborist Report for 975 Hot Spring Road, Montecito, California. 2009
- Zeiner, D. C. et al. (editors). 1988. California's Wildlife. Volume I. Amphibians and Reptiles. California Department of Fish and Game, Sacramento.
- _____. 1990. California's Wildlife. Volume III. Mammals. California Department of Fish and Game, Sacramento.
- Zweifel, R. G. 1974. *Lampropeltis zonata*. Catalogue of American Amphibians and Reptiles. 174.1-174.4.

APPENDIX A: Sensitive Animal Discussion

FISH

Steelhead rainbow trout (*Oncorhynchus mykiss*)

State/Federal Status: CSC/FE

National Marine Fishery Service identified the south coast, including Montecito Creek, as "critical habitat" for steelhead in 2005. Steelhead were once abundant in coastal streams and rivers from Alaska southward to Baja California. They use nearly every accessible California coastal waterway. However, water diversion, stream channelization and other water reclamation activities have virtually eliminated steelhead runs from coastal streams south of San Luis Obispo County in California.

Coastal rainbow trout exhibit two life history strategies: resident rainbow trout, which live their entire lives in freshwater, and the anadromous steelhead, which mature in the ocean and spawn in freshwater. It is common to find populations exhibiting both life history strategies within the same river system. Adult rainbow trout are typically smaller than adult steelhead.

The southern California form is a winter-run species. During the winter, when freshwater outflows from the river are sufficient to breach estuarine sandbars and maintain an open channel to the ocean adults ascend the river to spawn. This typically occurs between December and May. After spawning, most adults return to the ocean. Hatchling steelhead emerge from the spawning gravels in March and April after an incubation period of 19-80 days depending on water temperature. Juvenile steelhead typically spend one year in the river, although some may remain for up to four years. They migrate back to the ocean during periods of high flow in winter and spring where they remain for 1-2 years.

Occurrence in the project area: Historic runs of anadromous trout are reported from upstream Montecito Creek. A 2002 report, prepared for the Conception Coast Project and with funding from the California Department of Fish and Game and W.P. McCaw Foundation, noted that the Santa Barbara Flood Control Channel (debris dam) at Montecito Creek near Cass Dorinda is a "keystone barrier," and was high on their list of regional priorities for implementing upstream steelhead passage projects (Stoecker Ecological, 2002).

Rainbow trout have been reported in Cold Springs Creek. However, it is not certain whether these are anadromous. "Steelhead," were reported in a 2007 maintenance report from the Santa Barbara Flood Control District just north of the barrier. These were also most likely not anadromous due to the barrier to ocean travel.

AMPHIBIANS

California red-legged frog (*Rana aurora draytonii*)

State/Federal Status: CSC/FT

This frog has been recently listed as threatened by the USFWS because of extensive loss of populations due to habitat alteration and the introduction of non-native, predatory fishes and amphibians. The California red-legged frog has sustained a 70 percent reduction in its geographic range in California as a result of several factors acting singly or in combination (Jennings et al. 1992). Monterey (32), San Luis Obispo (36) and Santa Barbara (36) counties support the greatest number of currently occupied drainages.

The California red-legged frog is the largest native frog in the western United States. It ranges in length from 4 to 13 centimeters (1.5 to 5.1 inches) (Stebbins 1985). The abdomen and hind legs of adults are largely red; the back is characterized by small black flecks and larger irregular dark blotches with indistinct outlines on a brown, gray, olive, or reddish background color.

The California red-legged frog occupies a fairly distinct habitat, combining both specific aquatic and riparian components. The largest densities of California red-legged frogs are associated with deep-water pools with dense stands of overhanging willows (*Salix* spp.) and an intermixed fringe of cattails (*Typha latifolia*) (Jennings 1987). Well-vegetated terrestrial areas within the riparian corridor may provide important sheltering habitat during winter. California red-legged frogs estivate in small mammal burrows and moist leaf litter as far as 100 feet from water in adjacent dense riparian vegetation (Jennings and Hayes 1994).

Occurrence in the project area: Red legged frogs were found in August, 2002 within Cinquefoil Creek, a small drainage with a series of small to medium sized man-made ponds (CNDDB, 2008). This location is situated about 1/3 mile north of the confluence of Cold and Hot Springs Creek and 1/3 of a mile south of the project site. The stretch of creek adjacent to the site is not expected to provide summer habitat: flowing water would taper off and pools would dry up most years in late spring or early summer. However, red-legged frogs are known to travel overland during winter migration periods over 1/2 mile (Bulgera, 2003). Red-legged frogs may frequent this area of the creek system during the wet winter months.

Coast Range Newt (*Taricha torosa torosa*)

State/Federal Status: CSC/None

The coast range newt is a California Department of Fish and Game "Species of Special Concern". During the dry season of the year, from April through September, coast range newts are confined to deeper pools and ponds along perennial segments of south coast streams. It is during this time of year that newts mate and that their aquatic larvae develop. By late September the larvae metamorphose into miniature adults and follow the adults into terrestrial habitats that surround the breeding pools. They spend the wet months of the year, November through March, foraging in the understory of chaparral and oak woodlands that occur within 0.5 mile of their breeding sites. During this time of the year adults tend to spend the daylight hours in subterranean refuges and emerge at night following rains to feed. Newts will seek cover under rocks, logs or in mammal burrows, rock fissures, or man-made structures such as wells (Zeiner et al., 1988; Stebbins, 1985).

Although widespread in California, they have been declining in southern Santa Barbara County and are now confined to the upper reaches (higher gradient segments) of perennial drainages along the north and south facing slopes of the Santa Ynez Mountains. In the past, this species occurred along the lengths of most perennial streams on the south coast from sea level to near their headwaters. Today, primarily as a result of increased siltation from orchards and other developments, urban developments adjacent to streams, and Flood Control channel clearing activities, coast range newts are now rare along the coastal plain segments of perennial streams. Most newt populations are now confined to deeper pools in the upper reaches of perennial streams located on U. S. Forest Service lands in southern Santa Barbara County.

Occurrence in the project area: Coast range newts have been observed in upper San Jose, Maria Ygnacio, Mission, Rattlesnake, Cold Springs, Hot Springs, and San Ysidro Creeks, and in Lillington Canyon and Rincon Creek behind Carpinteria (SBMNH Sensitive Wildlife sighting database, Tierney and Storrer, 1990). Newts are expected to occur in deeper pools found in Hot Springs Creek. This stretch of the creek would not provide the perennial ponds needed during the summer months.

Southwestern Pond Turtle (*Clemmys (=Emmys) marmorata pallida*)

State/Federal Status: CSC/None

The southwestern pond turtle is a California Department of Fish and Game "Species of Special Concern." This turtle occurs throughout southern California, including parts of the Mojave Desert (Stebbins, 1985). They are a freshwater aquatic turtle that frequents slow-moving water in creeks, streams, rivers, ponds, reservoirs, lakes, and marshes. Their preferred habitat

includes standing or slow-moving water that forms pools at least 1 meter deep and 2 meters in diameter along with some sort of bank cover, such as vegetation, tree roots, or rip rap boulders (Holland 1991; Rathbun et al., 1992). Pond turtles also require basking sites to haul out onto, such as emergent vegetation, rocks, logs, or mud banks (Holland 1991; Rathbun et al., 1992). Although they are mostly aquatic, pond turtles do move to upland areas for egg laying in the spring and overwinter in underground burrows in adjacent upland habitats. In Santa Barbara County, this species appears to prefer quiet backwater in lakes, ponds, and low-flowing streams and creeks, which have a dense growth of aquatic vegetation, a diverse aquatic invertebrate fauna, and protected basking sites.

During the past century western pond turtles have been extirpated from many areas of Santa Barbara County due to loss of habitat, habitat fragmentation with its concomitant effects on population survivability, over exploitation, spread of exotic predators such as bullfrogs and large mouth bass, and pollution. Groundwater pumping and water diversions for urban and agricultural uses, channelization of water courses for flood control, and urban and agricultural expansion have eliminated a substantial amount of western pond turtle habitat, especially deep perennial pools. Conversion and/or alteration of lands that border streams, rivers and/or ponds where pond turtles occur have also contributed to the decline of this species. Western pond turtles are known to move up to 0.3 miles from streams to lay their eggs (Rathbun et al., 1992). With western pond turtles requiring a long, relatively wide corridor (e.g. 0.30 mile on each side of a water course) of undisturbed habitat for successful oviposition and incubation (Rathbun et al., 1992), the reason for this species being classified a "Species of Special Concern" becomes clear.

Historically, western pond turtles probably occurred along most watercourses and back-water areas of estuaries in central and southern California. Today, the primary habitats for this species are small-to-medium sized streams in foothill areas, man-made ponds, and modified watercourses such as canals and reservoirs (Jennings et al., 1992). Pond turtles have been recorded from a number of perennial streams along the south coast of Santa Barbara County between Canada del Cojo and Rincon Creek (SBMNH sensitive wildlife specimen and sighting database). Pond turtles are also abundant in the City of Santa Barbara in Laguna Channel, a highly altered conduit that runs from East Yanonali Street to Cabrillo Boulevard.

Occurrence in the project area: The nearest extant locales to the project site for this species are in deep perennial pools of Cold Springs Creek above Mountain Drive (Tierney and Storrer, 1990), in Carpinteria Creek downstream of Foothill Road, and along Rattlesnake Creek (SBMNH sensitive wildlife specimen and sighting record database). This species is expected to occur in perennial sections along Hot Springs Creek north of the project area.

Two-striped Gartersnake (*Thamnophis hammondi*)

State/Federal Status: CSC/None

Two-striped gartersnakes occur in perennial streams, ponds and lake margins from about Salinas in Monterey County south into Baja California (Stebbins, 1985). Historically they were widely distributed throughout southern California occurring along most streams and rivers in the region. However, during the past 50 years, its populations have declined dramatically throughout central and southern California due primarily to degradation, loss and fragmentation of instream freshwater habitat from flood maintenance practices and developments, and increased predation from introduced predators, such as bullfrogs and largemouth bass. Today this species tends to be confined to the higher gradient segments of streams along the south coast. This species is a CDFG "Species of Special Concern" and does not have any other state or federal listing status.

This highly aquatic species prefers semi-permanent and permanent freshwater and is generally found near permanent water such as along streams that have rocky beds bordered by riparian woodlands or other streamside growth (Stebbins, 1985). This gartersnake also utilizes stock ponds, lakes, reservoirs, and other man-made water sources. It appears to prefer deep, relatively slow-moving waters in small coastal streams that have a plentiful supply of prey such as tadpoles, frogs, or fish. This gartersnake is active from late February through September with peak activity occurring in June (DeLisle et al., 1986). Mating occurs from March through April with a single litter of up to 25 young born during August and September (Stebbins, 1985). By late September this species enters hibernation, generally retreating into rock crevices and animal burrows that are located out of reach of high winter floods. Two-striped gartersnakes feed on a wide variety of vertebrate prey including tadpoles, frogs, fish, fish eggs, earthworms, and small mammals (Stebbins, 1954; 1985).

Occurrence in the project area: Two-striped gartersnakes have been reported from the upper reaches of many of the perennial streams found along the south coast of Santa Barbara County. In the project area, this species has been recorded from upper Mission, Rattlesnake, Cold Springs, Hot Springs, San Ysidro and Carpinteria Creeks (SBMNH sensitive wildlife specimen and sighting database). There are two records on the CNDDDB : one in Rattlesnake Canyon 2.75 miles to the northeast and one in San Ysidro Canyon 3.5 miles north northwest of the site. This snake is expected to occur along Hot Springs Creek upstream of the site and may frequent the riparian area onsite.

Cooper's Hawk (*Accipiter cooperi*)

Status: Local Concern

Although Cooper's hawks were not included on a recent update Bird Species of Special Concern in California report (Shuford and Gardali 2008), they are considered to be of local concern by regional wildlife biologists based on their restricted breeding distribution in Santa Barbara County.

According to Lehman (1982, 1994), Cooper's hawks are an uncommon to fairly common transient and winter visitor to wooded habitats throughout Santa Barbara County. Along the South Coast they are an uncommon localized breeder principally in foothill canyons (Lehman 1994). The largest number of Cooper's hawks occurs during the fall and early winter (September-January), when fall migrants arrive to winter in Santa Barbara County (Lehman 1994). During this time of year they can be found in a variety of wooded habitats, including oak, riparian, and urban woodlands. During the breeding season Cooper's hawks tend to be associated with oak and riparian woodlands in foothill canyons along the south-facing slopes of the Santa Ynez Mountains. Prior to the 1950s, Cooper's hawks were much more widespread as a breeder in lowlands of Santa Barbara County, with confirmed breeding records from Carpinteria, Cold Springs Canyon, Montecito, Santa Barbara, and northern Goleta (Lehman 1994). During the past two decades, Cooper's hawks appear to have begun to adapt to South Coast urban woodlands (eucalyptus), where they have recently been reported to have nested in the Montecito area (J. Lentz pers. comm.).

Occurrence in the project area: There are a number of recent breeding records for Cooper's Hawks in the Montecito area (Watershed Environmental 2005). During the summer of 1994, Cooper's Hawks were suspected to have nested above Mountain Drive in Coyote and San Ysidro Canyons (SBMNH sensitive wildlife specimen and sighting database). In the spring of 1997, a pair of Cooper's Hawks was observed in San Ysidro Canyon (SBMNH sensitive wildlife specimen and sighting database) and adults were seen exhibiting breeding behavior along Bella Vista Drive in Montecito (J. Lentz pers. comm.). In 2001 Cooper's Hawks nested in eucalyptus in Romero Canyon at the junction of Bella Vista Rd, off Mountain Drive in Montecito, and in a sycamore tree near Riven Rock Road off Hot Springs Canyon (J. Lentz pers. comm.). A juvenile was observed on August 13, 1999 in Romero Canyon (J. Lentz pers. comm.), which suggests that the species bred successfully at this location. In the spring of 2004 Cooper's Hawks nested in an unnamed arroyo off Hyde Rd near 215 Mountain Drive, approximately 300 yards from the northwest corner of the Westmont Campus property line (S. Hill and B. Reitherman pers. comm.). Adult Cooper's Hawks were reported in the general vicinity of the 2004 nest site in spring 2005 but an active nest was not located (B. Reitherman pers. comm.).

These recent records suggest that Cooper's Hawks are nesting in woodlands found in the Montecito area and as such should be expected to also occur along Hot Springs Creek in the vicinity of the proposed project site. Most of the recent confirmed nesting records in the Montecito Planning Area are of birds that have nested in eucalyptus trees (J. Lentz pers. comm.). No Cooper's hawks were observed at the project site during the March 2008 field survey. However, they are expected to forage in riparian and oak woodlands on this property and may occasionally use trees that border Hot Springs Creek for roosting and possibly even nesting.

Warbling Vireo (*Vireo gilvus*)

Status: Local Concern

The Warbling Vireo is a species of local concern, which has no federal or state status. Prior to the 1950's, this species was a common nester throughout much of California (Grinnell and Miller, 1944; Willett, 1933). Today it is a very uncommon to rare localized breeder along the South Coast and a rather common breeder along the North Coast of Santa Barbara County (Lehman, 1982; 1994). Loss of requisite oak-riparian woodland breeding habitat along with heavy nest parasitism by brown-headed cowbirds (*Molothrus ater*) are thought to be the primary factors responsible for the decline in warbling vireo populations in southern California (Garrett and Dunn, 1981; Lehman, 1982).

Occurrence in the project area: In Santa Barbara County, warbling vireos are an uncommon to locally common summer resident breeder (Lehman, 1982). They reside in riparian and oak-riparian woodlands and are known to nest along many of the region's coastal streams. Warbling vireos are also known to nest along many of the larger streams in the South Coast Region (Lehman, 1982; Tierney and Storrer, 1990). In the project area, it has been reported nesting in upper Mission and Rattlesnake Creeks, in Montecito, and along Carpinteria and Rincon Creeks (Lehman 1982, 1994). Tierney and Storrer (1990) reported that it probably nests along most of the perennial streams in the Montecito Planning area. This species was heard upstream of the project site last year and probably nests in suitable oak and oak-riparian woodland habitat found along Hot Springs Creek in the project area (Tierney, 2008). It is also expected to forage in oaks on this property during migration.

Yellow Warbler (*Dendroica petechia*)

State/Federal Status: CSC/None

The yellow warbler is a CDFG Species of Special Concern (Shuford and Gardali 2008) and is considered by local wildlife biologists to be of local concern. The yellow warbler has declined regionally in the same manner as the warbling vireo, although not to the same degree (Lehman, 1982; 1994). Yellow warblers are a common spring and fall migrant in wooded and brushy habitats in the Santa Barbara Region (Lehman, 1982). They are an uncommon to locally common summer visitor to well-developed riparian woodlands in the Santa Barbara Region.

Occurrence in the project area: This species is known or expected to nest in small numbers in riparian woodlands along some of the larger perennial streams on the south coast such as Mission, Rattlesnake, Montecito, Oak, Romero, San Ysidro, and Carpinteria Creeks (Lehman 1994; Tierney and Storrer, 1990). This species was heard upstream of the project site last year. Yellow warbler are known to nest in willow-cottonwood vegetation as well as other habitat (Shuford and Gardali, 2008), which occurs within the project site (Tierney, 2008). Yellow Warblers are also expected to forage during spring and fall migration in woodland habitats found on the Hot Springs project site.

RECEIVED

APR 13 2011

**S.B. COUNTY
PLANNING & DEVELOPMENT**

RESTORATION PLAN

**1192 East Mountain Drive
Montecito, California**

APRIL 12, 2011

DRAFT

Prepared by:

Rachel Tierney Consulting
P. O. Box 1113
Santa Barbara, CA 93102
(805) 957--1100

TABLE OF CONTENTS

DRAFT

1.0 Introduction	1
1.1 Summary	1
1.2 Surrounding Environment	2
1.3 Site Conditions	2
2.0 Conditions, Impacts, Goals and Plan Concept	4
3.0 Off Site or In Lieu Fee Mitigation	11
4.0 Planting Plan	12
4.1 Rock Stockpile Area	12
4.2 Secondary Drainage and Western Slope	13
4.3 Hot Springs Creek	14
4.4 The "Island"	15
5.0 Restoration Specifications	16
5.1 Planting Locations and Procedures	16
5.2 Weed Removal Specifications	16
(Timing, Removal methods for perennials, <i>Arundo donax</i> , vines, herbaceous weeds and herbicide restrictions)	
5.3 Initial Irrigation Requirements	21
6.0 Maintenance	21
6.1 Irrigation	21
6.2 Weed Control	22
7.0 Monitoring and Reporting	22
(Component of monitoring, Annual reports)	
8.0 References	25

FIGURE 1: Vicinity Map, Restoration Area and Mitigation Requirements	3
FIGURE 2: Restoration Plan for the Secondary Tributary and West Slope	6
FIGURE 3: Restoration Plan for the Rock Stockpile Area	7
FIGURE 4: Restoration Plan for the "Island" and Hot Springs Creek	9
TABLE 1: Impacts and Mitigation Requirements	10
TABLE 2: Plant Material for the Rock Stockpile Area	12
TABLE 3: Seed Mix for the Rock Stockpile Area	13
TABLE 4: Plant Material for the Secondary Tributary	14
TABLE 5: Plant Material for Hot Springs Creek	14
TABLE 6: Conceptual Plant List for the "Island"	15
TABLE 7: General Weeding Schedule	19
TABLE 8: Performance Criteria and Monitoring Schedule	24

1.0 INTRODUCTION

DRAFT

1.1 SUMMARY

This Restoration Plan provides instructions for native habitat restoration of disturbed riparian and adjacent habitat along Hot Springs Creek, Montecito, California. Habitat disturbance was the result of non-permitted work at 1192 East Mountain Drive, Montecito, California, which creating an irrigated lawn (0.73 acres), and other improvements between the main branch of Hot Spring Creek and a secondary, western fork. The entire site consists of two parcels (APN's 011-020-042 and 011-020-034) totaling 7.9 acres. Ross Bagdasarian and Janice Karman are the responsible parties for implementing the Plan.

The area was apparently grubbed, graded and leveled. Rocks from the site were used to construct vertical walls lining both banks of a secondary fork, two pedestrian bridges across this secondary drainage, and several stone-lined tree-wells and tree retaining walls. Other boulders and rock were relocated to a stockpile area on the east side of the Creek.

Restoration extends beyond the boundaries of these direct impacts, netting a beneficial outcome when compared to baseline conditions. The Plan contains input from local professional horticulturists, biologists and arborists. Included are provisions for exotic species removal, the reintroduction of native trees and understory, and maintenance and monitoring specifications. The proposed mitigation area (restoration area) of 3.31 acres represents three, and in the case of the rock wall, five¹ times the total area disturbed (1.07 acres). There are 1.79 acres available on-site for restoration. The remaining 1.52 acres would be purchased in lieu of on-site restoration. This "in-lieu" fee program solves the problem of not having enough available area on-site to meet the required mitigation acreage. In these circumstances, the permittee provides funds to a single sponsor, generally a public agency or non-profit organization, in-lieu of on-site mitigation. The sponsor is then required to conduct the compensatory mitigation.

For the purpose of this restoration effort, on-site areas are separated into four sections:

1. Secondary Drainage and Western Slope
2. Rock Stockpile Site
3. Hot Springs Creek
4. "Island"

¹ The California Department of Fish and Game often asks for mitigation in the amount of five times the area *permanently* removed. Temporarily disturbed areas are most often mitigated with three times the area disturbed.

1.2 SURROUNDING ENVIRONMENT

DRAFT

The parcel is located in the lower foothills of Montecito within the urban boundary. The Los Padres National Forest boundary lies north of the site. Hot Springs Creek, (which includes its western fork: Cold Springs Creek, and its lower reach: Montecito Creek) is one of the five main drainages within the planning area, along with Sycamore, Oak, San Ysidro, and Romero Creeks. Elevations range from about 600 feet above sea level to 750 feet above sea level. Hot Springs Creek, running along the eastern boundary, typically contains seasonal flows and pools with an abundance of clear flowing water during winter and spring months.

Soils in the area consist of Milpitas stony fine sandy loam (United States Department of Agriculture, 1981). Unlike many situations along major creeks, this particular soil profile does not flank the stream, following along the meander, but covers a large (about 300 acres) area. Surface and subsurface layers contain water-rounded cobbles, stones and boulders (6 inches to 8 feet in diameter), possibly a remnant of prehistoric floodplains.

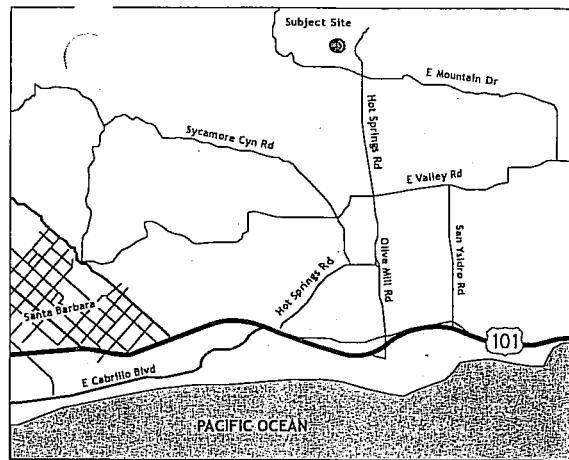


1.3 SITE CONDITIONS

With the exception of the area east of the secondary drainage, all parts of the property are fully developed containing a residence, guesthouse, tennis court and extensive landscaping. The main area of disturbance is contained within what is named “the Island” in this report (See Figure 1). The “Secondary Tributary” contains new vertical rock walls and two rock bridges. Vegetation on the slopes (top of bank to top of bank) is weedy. A *Ceanothus* cultivar and other irrigated groundcovers currently landscape the gentle “West Slope” of the tributary. Disturbance at the “Rock Stockpile” area is limited to an opening where the boulders were stored, but otherwise this area is a relatively undisturbed open oak woodland. No damage to Hot Springs Creek occurred. Restoration work on the Creek banks is included for mitigation purposes.

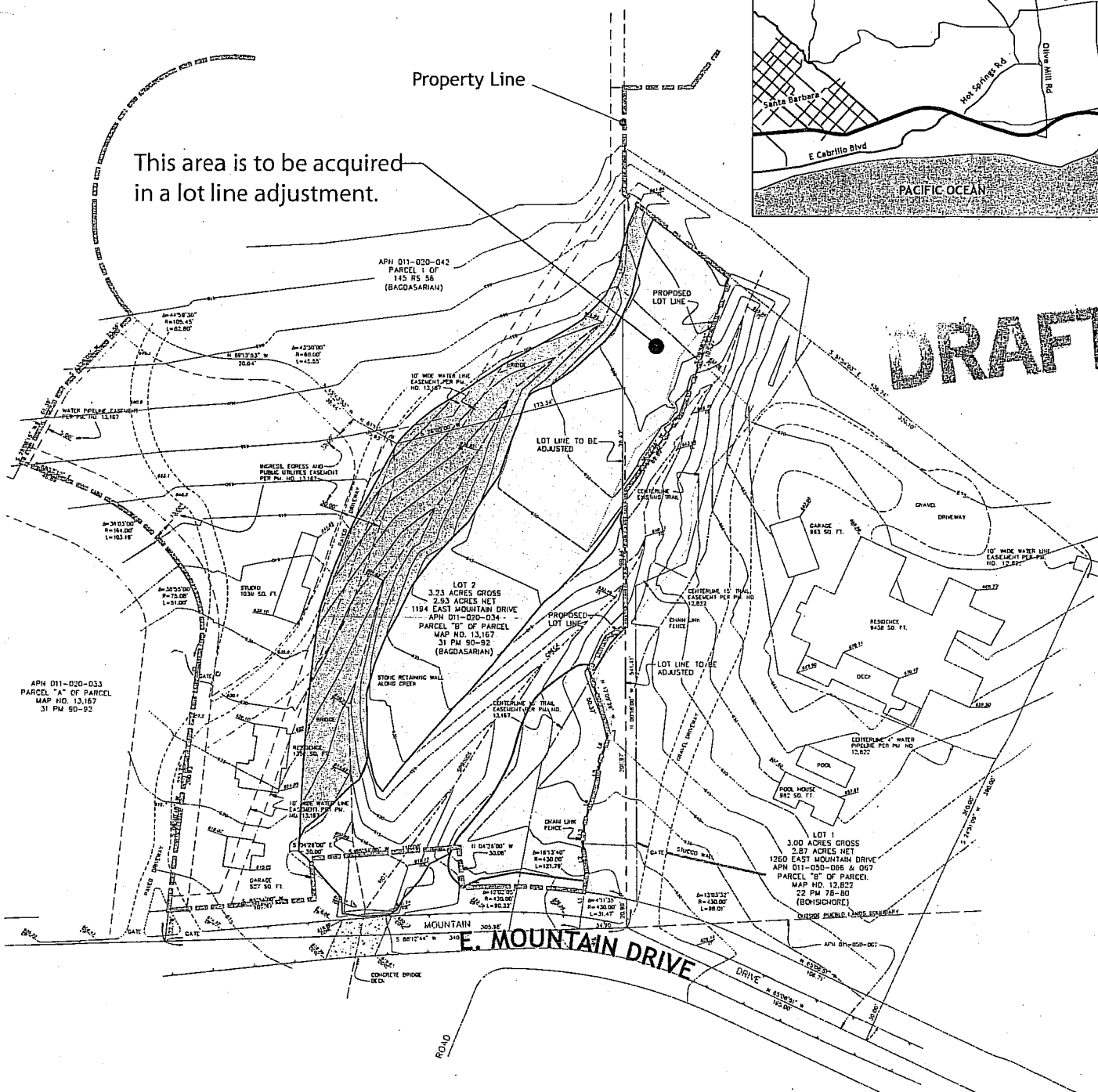
0 25' 50' 100' 150'

SCALE



This area is to be acquired in a lot line adjustment.

DRAFT



Available On-Site Restoration Areas

- "Island" 0.73 acres
- Disturbed Rock Stockpile Area 0.22 acres
- Secondary Drainage and West Slope 0.44 acres
- Main Fork of Hot Springs Creek 0.40 acres

Total Mandatory Mitigation 3.31 acres

Available For On-Site Restoration (-)1.79 acres

Required Off-Site Mitigation Area or "In-Lieu Fee" 1.52 acres

Figure 1: Vicinity Map, Restoration Area and Mitigation Requirements

RACHEL TIERNEY



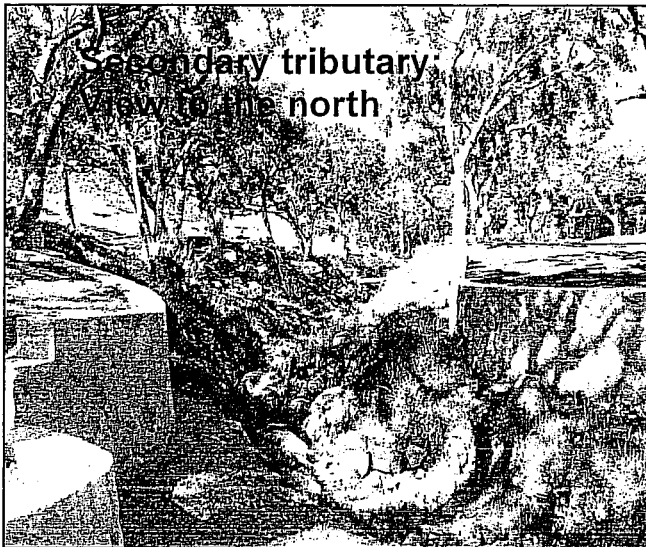
CONSULTING

1192 East Mountain Drive
Montecito California

April 12, 2011

2.0 CONDITIONS, IMPACTS, GOALS AND PLAN CONCEPT

DRAFT



A brief description of each of the four restoration areas follows, along with impacts (if any) due to recent non-permitted activities and a synopsis of the restoration effort. Table 1 lists the impacts and required mitigation. A total of **3.31 acres** of restored riparian or oak habitat is required to mitigate disturbance or loss of ESH, buffer and impacts to the secondary drainage. A combination of on-site restoration (1.79 acres) and off-site (1.52 acres) “in-lieu fee” mitigation is required to meet this amount.

1. Disturbed Rock Stockpile Area (approx. 0.22 acres available for restoration)

Current Condition

Rocks removed from the “Island” and not used to construct the wall along the secondary drainage were stockpiled in an area adjacent to the Hot Springs Creek trail easement, in the southeastern portion of the property. Most of the rock has been removed, leaving a bare opening within an oak and sycamore forest. Little understory is present around the peripheral woodland of the stockpile area and mustards and some thistle are established. The stockpiling did not cause this lack of understory. This area lies outside of the ESH or ESH buffer and is not included in the impact tally.

Non-Permitted work

Boulder stockpile. This area lies outside of the ESH and ESH buffer.

Goals

Replant the stockpile area and enhance the existing woodland with additional trees and shrubs, while leaving openings in the expected grow-out limit.

Conceptual Restoration Plan:

Most of the required replacement trees (28 out of the required 33 coast live oaks and all 18 required California sycamore), would be planted here. Plant material would be grown from locally collected stock. Understory species would be planted within the existing woodland and openings.

2. Secondary Drainage and West Slope (approx. 0.44 acres available for restoration)

Current Condition

Vegetation in the secondary drainage is a mixture of planted ornamental, woody groundcover, invasive herbaceous groundcover and common weeds. Invading groundcovers are periwinkle (*Vinca major*), garden nasturtium, ornamental morning glory (*Ipomoea sp.*), bindweed (*Convolvulus arvensis*) and English ivy (*Hedera helix*). Other weedy species noted are fennel (*Foeniculum vulgare*), sweet alyssum (*Lobularia maritima*), umbrella plant (*Cyperus alternifolius*) and yellow clover (*Melilotus officinalis*), with non-native annual grasses (*Bromus, Avena*) common throughout.

A few native tree saplings and occasional native shrubs from various natural plant communities were also noted [California blackberry, coyotebrush (*Baccharis pilularis*), mugwort (*Artemisia douglasiana*) and hummingbird sage (*Salvia spathacea*)]. Mature, heavily pruned coast live oaks overhang from upper slopes. Planted species along the mid and upper banks include a low *Ceanothus* cultivar and possibly *Dimorphotheca sp.*; The general appearance of this feature is a half landscaped, weedy dry creek bed.

Non-permitted work

Improvements to the upper bank include a vertical rock wall on sections of both side of the drainage and two pedestrian bridges. The short slopes of the tributary top of bank to top of bank are included in the calculations of disturbance, as is the gentle western slope above the top of bank, now planted in non-native and native *Ceanothus* cultivar groundcover.

Goals

Greatly increase habitat value of area. Replace native cultivar and non-native groundcover on an extensive, gentle slope above the drainage. Add native shrubs along the tributary banks, staying above the apparent bank full, or washout line.

Conceptual Restoration Plan

Restoration of the drainage and western slope would begin with removing invasive weeds and ornamentals. This would included both planted and naturalized species. Shorter native

DRAFT



Lowest Elevation
 Washout Area
 Western Slope
 Top of Bank
 to
 Top of Bank

E. MOUNTAIN DRIVE

Plant Material

Top of bank to top of bank *Goal: Create a natural, shrub dominated habitat placing material in loose clusters fitting into openings of the steep, short slopes.*

	Approximate No. (1 gal containers unless stated)
California encelia (<i>Encelia californica</i>)	200 3-4 ft centers
California Fuchsia (<i>Epilobium canum</i>)	50 3 ft centers
Purple Sage (<i>Salvia leucophylla</i>)	150 3-4 ft centers
Wild Ryegrass (<i>Leymus condensatus</i>)	30 3-4 ft centers

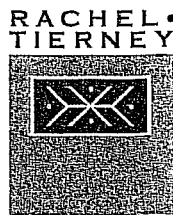
West Slope *Goal: Maintain a formal appearance using native species. Blanket entire slope with groundcover (blackberry).*

Western blackberry (<i>Rubus ursinus</i>)	1500 (liners at 2' ctrs)
---	--------------------------

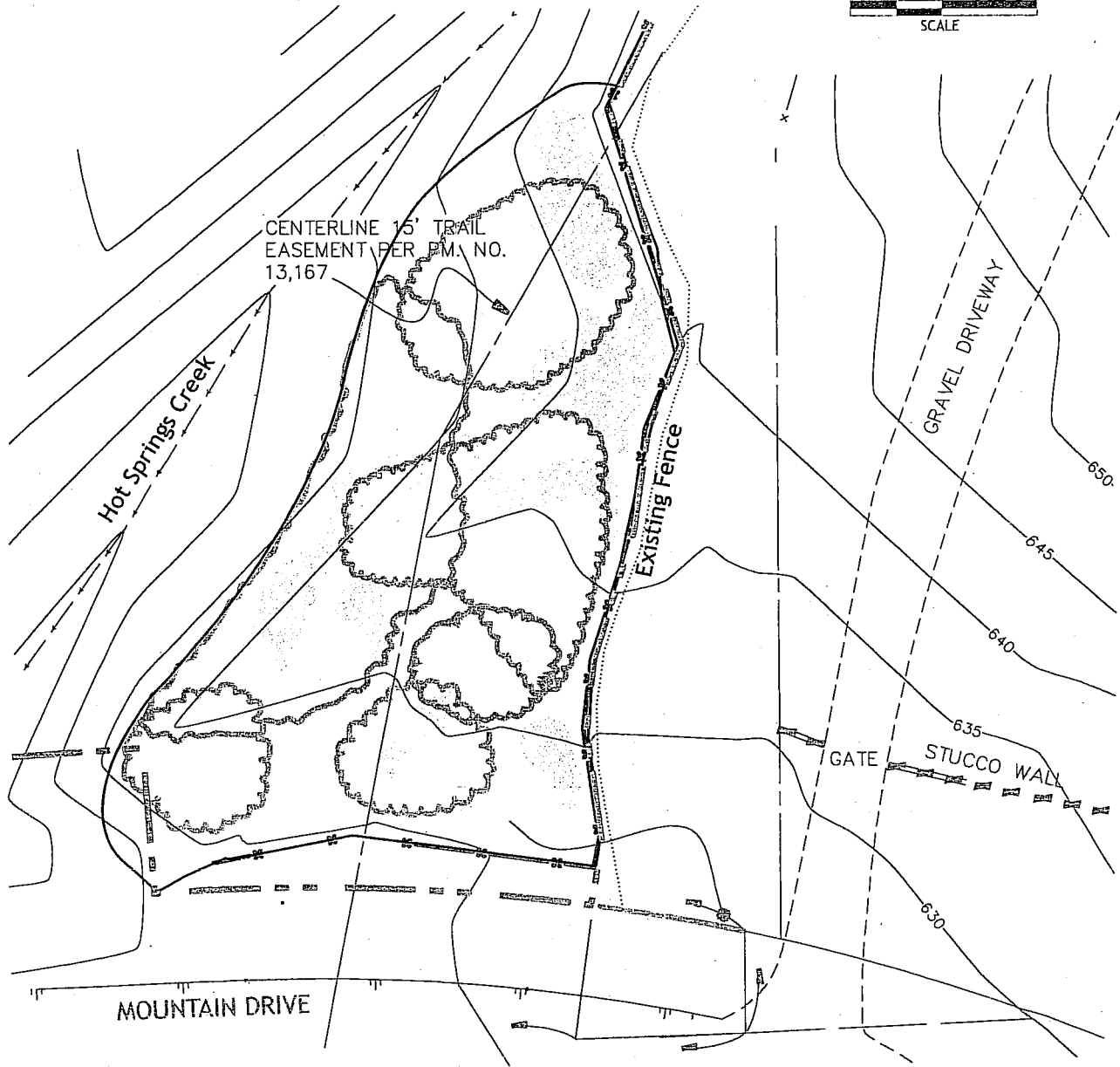
DRAFT

Figure 2: Secondary Tributary & West Slope

1192 East Mountain Drive
 Montecito California
 April 12, 2011



0 25' 50' 100'
SCALE






Goal: Remove boulders brought to site; add oaks and sycamores to fulfill replacement requirements; fill in native shrubs under existing and expected canopy allowing for openings at maturity.

DRAFT

Plant Material

Approximate No. (1 gal containers unless stated)

Trees Eventually increase screening from Hot Springs Trail

-  Coast live oak (*Quercus agrifolia*) 26
-  California sycamore (*Platanus racemosa*) 18
-  Existing Tree Canopy

Shrubs Set out in natural appearance with clusters & openings.

- California Rose (*Rosa californica*) 200 (liners @ 3' ctrs)
- Coffeeberry (*Rhamnus californica*) 25
- Fuchsia Flowered Gooseberry (*Ribes speciosum*) 6
- Mexican elderberry (*Sambucus mexicana*) 15
- Laurel sumac (*Rhus laurina*) 20

Figure 3: Rock Storage Area

1192 East Mountain Drive
Montecito California
April 12, 2011

**RACHEL
TIERNEY**



CONSULTING

shrubs would be planted on the short banks of the secondary tributary, above the expected washout zone, which is visible in the field. The west slope, now planted with cultivars and non-natives, would be replanted with native groundcovers.

The rock walls would remain. Removing the walls would cause more disturbance than leaving them intact and implementing the Restoration Plan on the degraded slopes of the secondary drainage. The project Arborist concluded that “removing the completed rock features of the project could result in greater damage to the trees and is not recommended (Gress, 2010).

3. Main Fork of Hot Springs Creek (approx. 0.40 acres available for restoration)

Current Condition

The stretch of Hot Springs Creek above East Mountain Drive is a well-preserved perennial stream with a healthy multi-layered vegetation structure.

Non-Permitted work

None.

Goals

Eradicate *Arundo donax* and prevent, or reduce, its spread.

DRAFT

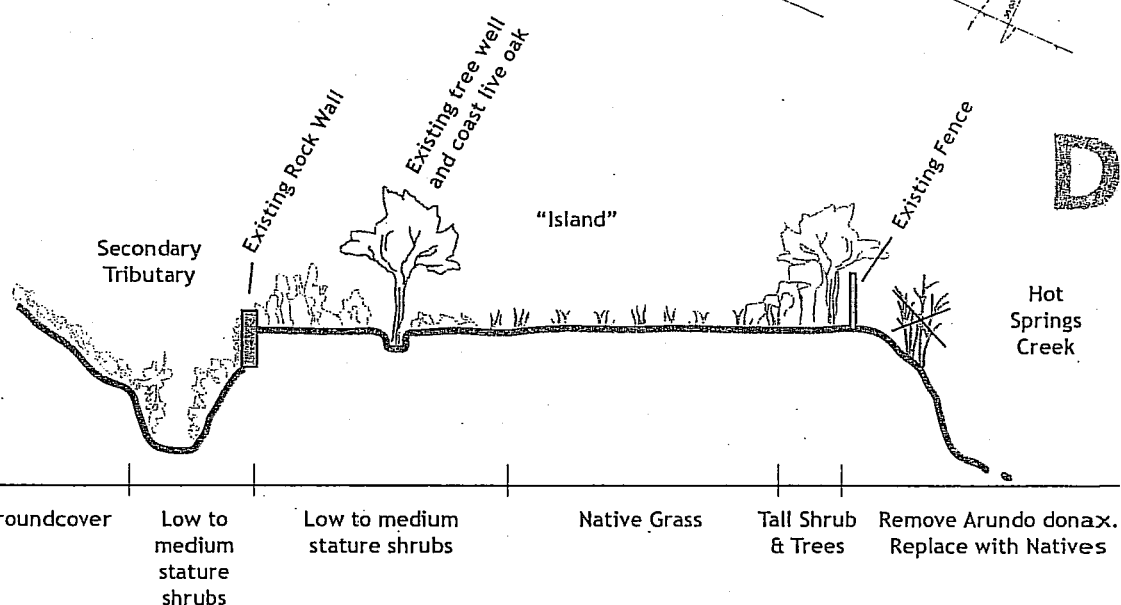
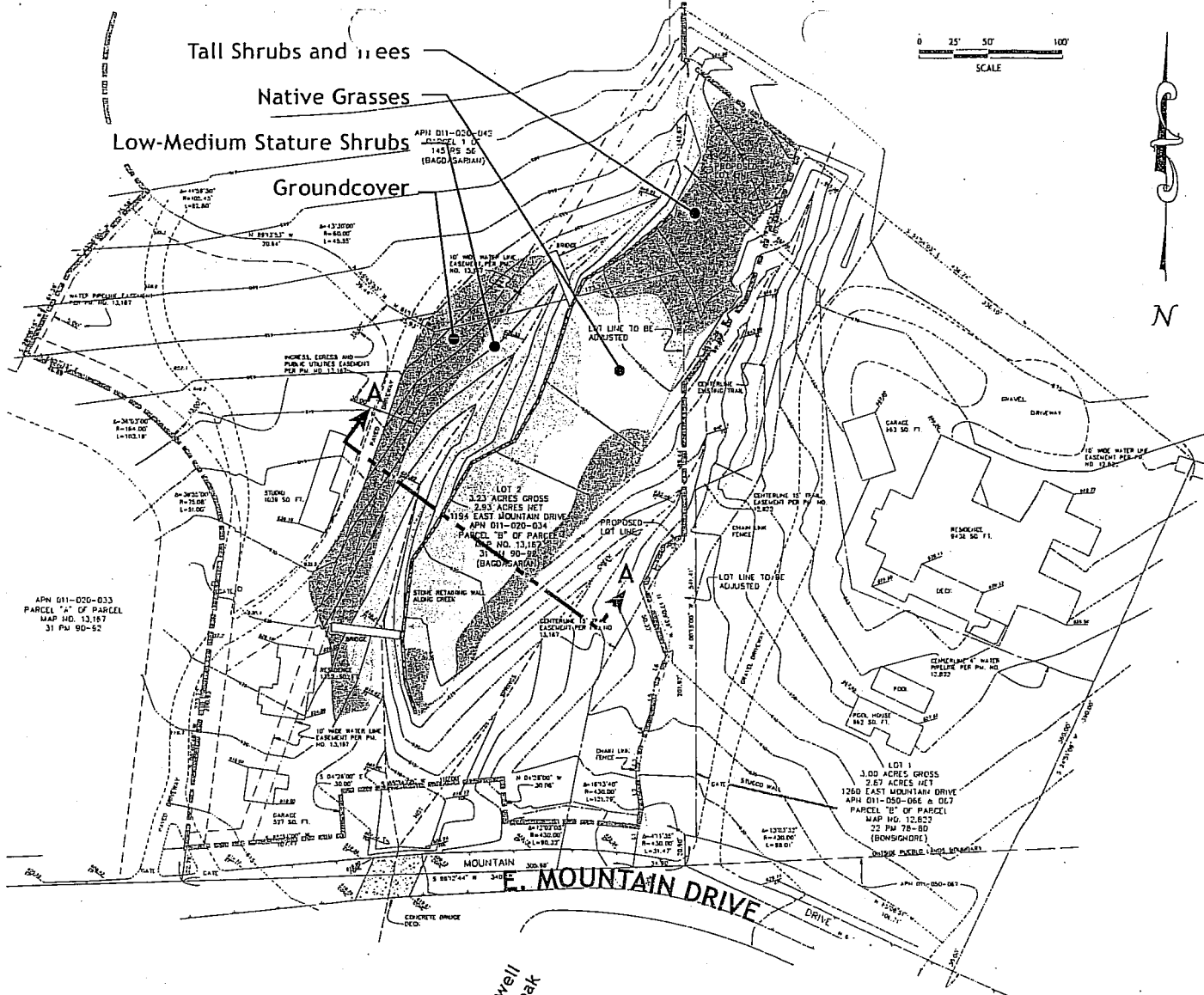
Conceptual Restoration Plan

Restoration opportunities are limited to removal of *Arundo donax*, a highly invasive large grass that increases flood and fire hazards. Openings created by this eradication would be filled in with native species.

4. “Island” (approx. 0.73 acres available for restoration)

Current Condition

This is the primary disturbance site. The area is now open and park-like, from the secondary drainage east to the top of bank of Hot Springs Creek. Coast live oak (*Quercus agrifolia*) trees are studded along the edge of the installed lawn as well as on the mid to top of bank of the secondary drainage. These trees are heavily pruned and healthy. Wells (for surrounding grade increases) or retaining walls (for surrounding grade reductions) protect a number of these oaks. Understory planting is absent.



DRAFT

REFER TO PLANT LIST IN TEXT

Figure 4: Island Cross-Section

1192 East Mountain Drive
 Montecito California
 April 12, 2011

RACHEL TIERNEY

 CONSULTING

Non-permitted work

Grading and installation of irrigated lawn within an ESH or ESH buffer; construction of stone walls within a natural water channel (secondary tributary).

Goals

Completely alter the vegetation by replacing the lawn with native trees, shrubs and native grasses. The area will retain the look of a deliberately designed landscape, but will contain only native species.

Conceptual Restoration Plan: The addition of native container plants and seed is expected to increase habitat values **beyond pre-project levels**. Riparian trees and large shrubs would be placed along the top of bank at Hot Springs Creek. Smaller shrubs would be positioned on the western side of the area, tumbling down into the secondary tributary. Various sized shrubs would be scattered in a naturalized format, mimicking the natural transition from woodland to scrubland. An open meadow or grassland would be restored in the center of the now irrigated lawn. Plant species would include grasses, shrubs and trees commonly found in the area.

DRAFT**TABLE 1: IMPACTS AND MITIGATION REQUIREMENTS**

AREA	IMPACT ²	REQUIRED MITIGATION ³	AVAILABLE FOR ON-SITE MITIGATION
Rock Stockpile	None	None	0.22 ac.
2 ^o Drainage / West Slope	0.51 ac.	1.63 ac.	0.44 ac.
Hot Springs Creek	None	None	0.40 ac.
"Island"	0.56 acre	1.68 ac.	0.73 ac.
	1.07 acres	3.31 acres	1.79 acres
Totals	Impacts to ESH or buffer	Required for mitigation	Available on-site Off-site shortfall
			1.52 ac.

² Impacts noted are those within an ESH or ESH buffer.

³ Calculations follow Santa Barbara County and California Department of Fish and Game requirements. See Tierney, 2010 (Table 4) for calculation details.

3.0 OFF-SITE OR “IN-LIEU FEE” MITIGATION

The proposed mitigation of area of 3.31 acres represents three, and in the case of the rock wall, five ⁴times the total area disturbed (1.07 acres). There are 1.79 acres available on site for restoration. The remainder of the 3.31 required mitigation area (1.52 acres) would be purchased in lieu of on-site restoration.

The amount charged per acre would be based upon the compensation costs that would otherwise be necessary to restore, enhance, create or preserve habitat with similar functions or values to the one affected. The fee would be banked in an account to be managed by the agency that will be overseeing the project.

Discussions with two agencies regarding the potential use of funding for sites are in the preliminary stages: The Land Trust for Santa Barbara and The Carpinteria Creek Watershed Coalition. Both organizations have experience with this form of funding and both have upcoming restoration projects within riparian woodland habitats.

The Land Trust for Santa Barbara acquires and protects land with natural, agricultural, scenic, recreational and/or historical significance through fair market transactions. Locally, the Land Trust accepted a conservation easement in 1997 on the San Ysidro Oak Woodland, a 44-acre Open Space Preserve created when the Ennisbrook subdivision was proposed in Montecito. It contains an extensive oak woodland and Monarch butterfly eucalyptus grove along San Ysidro Creek. A potential project for the “in-lieu fee” mitigation could be slated to fund additional restoration (planting and weed control) within this Open Space.

The Carpinteria Creek Watershed Coalition was founded in 2001 to improve conditions that will allow healthy steelhead stocks to recover in the creek. Projects completed to date include *Arundo* treatment, wire revetment and bank repair and removal of four steelhead barriers. The area surrounding the removed fish barriers has not yet been restored. A potential project for funding with an “in-lieu fee” mitigation would be soil stabilization, revegetation and monitoring in these four areas.

DRAFT

⁴ The California Department of Fish and Game often asks for mitigation in the amount of five times the area *permanently* removed. Temporarily disturbed areas are most often mitigated with three times the area disturbed.

4.0 PLANTING PLANS

4.1 ROCK STOCKPILE AREA

1. Remove non-native mustards and thistles. (See *Weed Removal Specifications* for details).
2. Install a drip irrigation system giving 1 gallon per minute to each plant and manage for weeds throughout monitoring period. (See *Irrigation Specifications* for details).
3. Plant Material: Species shall be planted from one-gallon containers. The layout shall be determined in the field just before planting.
4. Seed bare ground (with no duff now present) with native mix (Table 3)

TABLE 2: PLANT MATERIAL FOR THE ROCK STOCKPILE AREA

SPECIES	NUMBER (1-gallon)	APPROXIMATE SPACING
Trees		
Coast live Oak (<i>Quercus agrifolia</i>)	26	10-20 feet
Western Sycamore (<i>Platanus racemosa</i>)	18	10-20 feet
Vines / Groundcovers		
California Rose (<i>Rosa californica</i>)	30	3 ft centers
Western blackberry (<i>Rubus ursinus</i>)	40	2-3 ft centers
Low to Medium Shrubs/Grasses		
Fuchsia Flowered Gooseberry (<i>Ribes speciosum</i>)	8	4-6 feet
Wild Ryegrass (<i>Leymus condensatus</i>)	20	3 feet
Canyon Sunflower (<i>Venegasia carpesioides</i>)	5	2-4 feet
Tall Shrubs		
Mexican elderberry (<i>Sambucus mexicana</i>)	8	8-10 feet
Laurel sumac (<i>Rhus laurina</i>)	8	8-10 feet
Toyon (<i>Heteromeles arbutifolia</i>)	10	8-10 feet
Coffeeberry (<i>Rhamnus californica</i>)	8	8-10 feet

DRAFT

TABLE 3: SEED MIX FOR THE ROCK STOCKPILE AREA

Minimum Purity/Germ.	Lbs/Acre	Species
30/60	2	Yarrow (<i>Eriophyllum confertiflorum</i>)
75/75	2	California Poppy (<i>Eschscholzia californica</i>)
95/85	4	Succulent Lupine (<i>Lupinus succulentus</i>)
NA.	4	Mugwort (<i>Artemisia douglasiana</i>)
85/30	30	Plantain (<i>Plantago insularis</i>)
95/85	2	Purple needlegrass (<i>Nassella pulchra</i>)
95/80	10	California Brome (<i>Bromus carinatus</i>)
95/85	8	Nuttall's Fescue (<i>Vulpia microstachys</i>)
50/70	3	Sawtooth Goldenbush (<i>Hazardia squarrosus</i>)
15/50	3	California Sagebrush (<i>Artemisia californica</i>)
50/70	3	Coast Goldenbush (<i>Haplopappus venetus</i>)
90/60	3	Deerweed (<i>Lotus scoparius</i>)
70/50	3	Black Sage (<i>Salvia mellifera</i>)
TOTAL	77 LBS/AC	

Figure 2 illustrates the basic planting design for the rock stockpile site.

DRAFT

4.2 SECONDARY TRIBUTARY

1. Remove non-native vines, perennials and annual mustards and thistles. Manage for weeds throughout monitoring period. (See *Weed Removal Specifications* for details).
2. Install a drip irrigation system, supplying 1 gallon per minute to each plant. (See *Irrigation Specifications* for details).
3. Container Material: The following species shall be planted from one-gallon containers. The layout shall be determined in the field just before planting.

FIGURE 4: PLANT MATERIAL FOR THE SECONDARY TRIBUTARY

SPECIES	NUMBER (1-gallon)	APPROXIMATE SPACING
Vines / Groundcovers (West Slope)		
California Rose (<i>Rosa californica</i>)	30	3 ft centers
Western blackberry (<i>Rubus ursinus</i>)	100	2-3 ft centers
Low to Medium Shrubs/Grasses		
California Encelia (<i>Encelia californica</i>)	70	5 - 6 feet
Wild Ryegrass (<i>Leymus condensatus</i>)	20	3 - 4 feet
Purple Sage (<i>Salvia leucophylla</i>)	60	5 - 6 feet

4.3 HOT SPRINGS CREEK

DRAFT

Arundo donax shall be removed from the creek banks following the procedures outlined in Section 2.4, below. Of utmost importance is painting the stumps immediately after they are cut.

The following species shall be used to fill in the openings created by the removal:

FIGURE 5: PLANT MATERIAL FOR HOT SPRINGS CREEK

Approximate Number (1-gal)

Mexican elderberry (<i>Sambucus mexicana</i>)	5
Laurel sumac (<i>Rhus laurina</i>)	4
Toyon (<i>Heteromeles arbutifolia</i>)	5

4.4 THE "ISLAND"

DRAFT

Unlike the other areas, a formal Landscape Plan will illustrate the planting locations for all species. This Plan is currently in development and consists of native trees, shrubs, groundcovers and native grasses (See Figure 4). A conceptual list of species follows. All maintenance and monitoring requirements apply to this area, as well as all other areas.

TABLE 6: CONCEPTUAL PLANT LIST FOR THE "ISLAND"

A. Hedges - The list encompasses plants that are useful as an informal hedge or screen. Those marked with an * can be sheared into a formal hedge if desired. A mixture of several species would lend a naturalistic effect to the planting.

Baccharis pilularis, coyote brush*	Malosma laurina, laurel sumac
Ceanothus megacarpus, bigpod ceanothus	Prunus ilicifolia, holly leaf cherry*
Ceanothus spinosus, greenbark ceanothus	Rhamnus californica, coffeeberry*
Cercocarpus betuloides, mountain mahogany*	Rhus integrifolia, lemonadeberry*
Heteromeles arbutifolia, toyon*	Sambucus mexicana, western elderberry

B. Plants with colorful flowers - This list includes shrubs, vines, and annual[*] and perennials.

Achillea millefolium, common yarrow	Mimulus aurantiacus, sticky monkeyflowers
Clematis lasiantha, chaparral clematis	Ribes malvaceum, chaparral currant
Clematis ligusticifolia, creek clematis	Ribes speciosum, fuchsia-flowered gooseberry
Eriophyllum confertiflorum, golden yarrow	Rosa californica, California wild rose
Eschscholzia californica, California poppy*	Salvia spathacea, hummingbird sage
Isocoma menziesii, coast goldenbush	Sidalcea malviflora, checkerbloom
Keckiella cordifolia, climbing penstemon	Sisyrinchium bellum, blue-eyed grass
Lonicera hispidula var. vacillans, Ca. honeysuckle	Solanum xanti, Chaparral nightshade
Lotus scoparius, deerweed	Venegasia carpesioides, canyon sunflower
Lupinus succulentus, succulent lupine*	Zauschneria californica, California fuchsia

C. Groundcovers - The growth form and height of these plants varies considerably but all are typically less than 2 feet tall, including the flower stalks. All spread by rhizomes, whereas the Dryopteris is clump forming and would need to be planted *en masse* to create a groundcover effect. None are suitable as walk-on groundcovers.

Dryopteris arguta, coastal wood fern	Solidago californica, California goldenrod
Rubus ursinus, wild blackberry	Stachys bullata, wood mint
Salvia spathacea, hummingbird sage	Symphoricarpos mollis, creeping snowberry
Satureja douglasii, yerba buena	

5.0 RESTORATION SPECIFICATIONS

5.1 PLANTING LOCATIONS AND PROCEDURES

DRAFT

With the exception of the "Island," the actual placing of the plants will be done in the field. Spacing given is for guidance only. Within the "Rock Stockpile" and "Secondary Tributary" areas, plants will be grouped in irregular clusters leaving openings. The groundcover for the West Slope of the tributary will be set out to produce full cover. The "Island" shall be arranged in the pattern illustrated in the Planting Plan for this area (in progress).

Specific planting sites will be identified with colored pin flags just prior to planting. Material can be successfully set out at any time of year as long as irrigation is immediately provided and increased if needed (see below). Plants shall be inspected for proper root development before planting. Container material and planting holes shall be well watered just prior to planting. Planting holes shall be twice the diameter and at least 6 inches deeper than the container. Holes shall be backfilled with native soil and 4 slow release Gro-power fertilizer tablets (or equivalent) per seedling. Fertilizer shall not come in contact with seedlings. Mulch (wood chips or other organic material) shall be applied around the planting areas to help retain soil moisture. Mulch should be 3-4 inches deep when first applied and extend in a 3-foot diameter around the tree or shrub.

5.2 WEED REMOVAL SPECIFICATIONS

Weed management will be an ongoing process during the monitoring period and **must be conducted before seed is set** on a regular basis to reduce the infestation. Perennial plants (herbs, shrubs, vines and trees) require total removal either by manually uprooting plants or herbicide use. Annual plants do not require removal if the flowering stalk is removed just before seed is set.

Any ground disturbance brought about by pulling up a plant and stirring up even a few inches of soil will enable buried seeds that may have been produced years before to reach light and successfully germinate. Also, the removal of any plant creates openings on the ground that space-hogging invasives occupy so readily. **Therefore the best tactic in weed removal is to disturb as little ground as possible.**

In the case of herbaceous perennials or woody species, digging up the plant is unavoidable unless a herbicide is used and the material is allowed to decompose in place. When dealing with annuals or biennials, removing immature flowers (before seed is set) is preferred to removing the entire plant.

TIMING

DRAFT

Since most annual weeds will produce copious seed, the trick is to remove the source before the seed is released into the soil. For annual species, or biennial plants (those plants that complete their vegetative life cycle in two seasons, usually flowering in the second year), there is no need to remove the plant itself because it will die at the end of the season. The focus is on eliminating the season's crop of seed. This can be accomplished by cutting the plant back to remove all flowering stalks as they approach maturity. Timing is crucial. If the reproductive parts are removed too early, the plant may send up a second recruitment. If the stalks are cut too late, seed may have already matured and the weeding effort will only facilitate dispersal. Any opportunity of *not* disturbing the soil should be taken.

Chemical and manual weed removal will be employed. Manual removal can be used where infestation is light, or when annual plants can be cut down just before seed matures. A weed whacker does the job quickly for annuals.

REMOVAL METHODS FOR PERENNIAL AND WOODY PLANTS

Chemical treatment will be necessary with extensive stands of perennial weeds. If seeds have matured, hand removal, bagging and disposal of seed heads will be the first operation required. Full foliar coverage is required for an effective kill. A second herbicide treatment is often required. All maintenance personnel who will be applying herbicide in natural areas must be trained specifically in the use of these chemicals.

REMOVAL METHODS FOR *ARUNDO DONAX*

This is a large perennial grass, visually similar to bamboo, which forms clonal clumps to 20' in height. The primary means of spread is by uprooted rhizomes taking root in new locations during storms. During spring and early summer cut stems to 6" in height, immediately treat stumps with 30 % Roundup and remove stems from site. Best results seem to coincide with early spring cutting/spraying. Check for regrowth from rhizomes in 8 - 12 weeks. Cut regrowth when two feet tall or taller and immediately treat stumps with 30% solution. If regrowth occurs again, then wait until following spring to cut and treat. **The first cutting should occur in spring and second cutting should occur before mid summer.**

EXOTIC VINE REMOVAL

DRAFT

German Ivy, Periwinkle, Nasturtium and any other exotic vine invading the site shall be removed during the initial restoration effort and during the 5-year monitoring period. *Small patches can be removed by hand. Begin weed removal in spring before seed is set.* The only chemicals approved for use in the riparian buffer are glyphosate-based chemicals (trade name Rodeo or Roundup Pro). The surfactant can be harmful to fish, so only aquatic-approved additives are used with Rodeo, which is approved for use around aquatic environments. The contractor shall **spot spray target exotic vegetation** with a spray formulation of Rodeo or Roundup Pro following manufacturer's instructions. All native vegetation shall be avoided. Treat when vines are flowering, typically from February into spring.

1. Hand pull vines, or completely cut vines growing up native trees from rooted portions.
2. Spray rooted portions (leaves) with a 2% solution of Roundup Pro (or 1.5% solution of Rodeo), 0.5% surfactant by volume (0.66 ounce surfactant per gallon water) and a brightly colored dye. Full foliar coverage is required for the most effective kill. Spot spray any ivy entangled with blackberry and other small native shrubs.
3. Allow treated vines to turn brown and remove from site, pulling out as much rooted material as possible. Wait several weeks (depending on the season) until missed plants can be identified. Treat aboveground plants and pull live roots. German ivy roots are bright purple. The roots are easily identified. *Systematically* move through infested areas spot spraying. Do not rush this stage. Repeat three to four times during the first season until eradication is completed. The use of herbicide should not be required after this initial effort.

HERBACEOUS WEED REMOVAL

Restoration and long-term habitat value within the restoration area will directly depend on an aggressively executed weed eradication program. Increased ground disturbance could initiate an influx of weeds. Since weed populations can increase exponentially, beginning slowly, then doubling and redoubling, an aggressive attack during the early stages of infestation is mandatory. **Exotics must be removed before seed matures.** Exact dates for removal cannot be given because plants will develop at slightly different times each year, depending on rainfall and temperatures. However, in most years species will be at the right stage for removal in April or early May.

TABLE 7: GENERAL WEEDING SCHEDULE

DRAFT

March	Begin to monitor for annual weed production in late March.
April	Continue monitoring for annual weeds in early April. Note the appearance of flower heads. Cut back when most flowers have opened and some fruits have just begun to form. Fruits mature very quickly. Cut early so the seeds do not become viable.
May - June	Cut and paint nonnative trees. Continue to cut late-blooming annual plants. Check for regrowth of plants cut earlier in the year.
July - September	Look for emergence of sweet fennel (perennial) and cut off the flowering stalk to prevent seed production and treat with herbicide. Check for other late-blooming, annual flowers. Cut all annual plants low to ground to prevent regrowth of flowering stalks.
October - November	Check for scattered late-blooming weeds and treat either by removing or cutting plant. Manually remove small sapling myoporum, tobacco tree, and fennel. The species may also be removed at other times of the year.
October - December	Seed any large patch of disturbed ground with prescribed seed mix for the area to prevent new weed introduction. Seed just before or during the early part of the rainy season (November - December), rather than the end of the wet season or in the dry season. This will reduce the loss of seed by rodent and bird predation and wind. Rake seed in lightly. A thin layer of straw mulch (allowing about 1/3 of bare ground to remain uncovered) will help retain moisture as seed germinates.

HERBICIDE RESTRICTIONS

DRAFT

The only chemicals approved for use are glyphosate-based chemicals (trade name Rodeo or Roundup Pro). The active ingredient, glyphosate, in Roundup Pro is identical to Rodeo. However Roundup Pro contains a surfactant to aid in penetration of leaves or waxy plant cuticles. This may be applied by several types of application equipment under the following conditions: 1) A backpack sprayer for medium to large sized areas; 2) For cut stumps -- hand held spray bottle (spritzer); 3) In wetland plants -- a backpack sprayer with nozzle adjusted to low volume directed spray under low pressure, or hand held spray bottle; and 4) For live trees prior to falling - stump injector. The concentration of the Rodeo or Roundup Pro in the spray formulation will vary by species and is contained in the specifications. All of the formulations of Rodeo or Roundup Pro shall contain a brightly colored blue or purple dye. Additional surfactant shall be added to the Roundup Pro mixture at 0.5% surfactant (0.66 ounces surfactant per gallon of formulation). Surfactant used with Rodeo must be 50% active and aquatic approved.

The following restrictions shall apply:

- No spraying other than with a hand held spray bottle shall be allowed when wind speed exceeds 5 m.p.h.
- No spraying shall be allowed within 24 hours after rainfall or when rainfall is expected within the following 24 hours.
- No non-target plants shall be contaminated by spray drift.
- No spray drift shall be allowed outside the natural area.
- Target plants shall not be disturbed until the Rodeo or Roundup Pro has taken effect (approximately 3-8 weeks depending on the time of year). Consult the project monitor if there is any question as to the timing of clearing following spraying.
- All non-native and native trees scheduled for removal shall be flagged or otherwise identified prior to removal.
- Non-native woody material shall be chipped on site and used as mulch around any plantings.

5.3 INITIAL IRRIGATION REQUIREMENTS

DRAFT

All planted material, including acorns, container material and cuttings, shall be drip irrigated. The system shall be in place **immediately** following planting. Each container plant shall receive one, 1-gallon emitter. Plants shall be watered during planting by filling the planting basin twice. Irrigation should be delivered about once a week for at least one year. Depending on the season's rainfall, irrigation can then be reduced to once every two weeks after this initial establishment period, or tapered off slowly after two years. Plants cannot be released from monitoring until irrigation has ceased for at least one full year.

Although all of the species used in the restoration program will eventually be able to grow and reproduce without supplemental water, all container material and cuttings must be irrigated for a number of years to establish healthy root systems. All irrigation will be installed above ground. Regular irrigation will continue for at least 2 years, and then slowly taper off over a year's period. Water needs will change throughout the year. Higher winds and temperature (and the resulting increased evapo-transpiration rate) will necessitate increases in irrigation. Cool temperatures and natural precipitation will reduce irrigation needs. Watering shall be performed in the early morning or late afternoon. The watering schedule is best determined by on-site maintenance staff, via observation of plant response and in consideration of seasonal climatic conditions.

6.0 MAINTENANCE

6.1 IRRIGATION

Since the frequency and duration of rains in the Santa Barbara area is not reliable, it is recommended that water received from precipitation be augmented by irrigation. This is especially important if transplants are set out early in the fall. Without a backup-irrigation system, an unseasonably warm, dry spell during the first few months after transplanting can very easily kill the plants. The rainfall will determine the frequency of supplemental watering for that year. The irrigation system shall be checked once a month for breaks and clogs.

6.2 WEED CONTROL

Irrigation will, unfortunately, increase the growth of weeds. Full site weeding should be conducted at least four times a year. However, weeding should occur as dictated by the specific species that are infesting the site. Additional weeding at other times during the year may be necessary.

DRAFT

It is important to destroy undesirable species before they have set seed. This interruption of the reproductive cycle will sharply reduce the need for future weed control. Careful attention to the ripening periods of each species is necessary for this method to be effective. Weed whacking, or removing undeveloped flowering stalks before seed is set, is recommended, as this method will least disturb the soil. Turning (or disturbing) the soil will increase weed growth by bringing up buried seed to within the first few inches below ground level.

7.0 MONITORING AND REPORTING

An independent monitor, knowledgeable in planting and maintenance methods, shall be contracted by the applicant to monitor the restoration effort and subsequent maintenance period. The monitor shall also report to Santa Barbara County Planning and Development until plants are self-sustaining. Monitoring guidelines (performance criteria), scheduling and reporting information are outlined below.

COMPONENTS OF MONITORING

To evaluate the success of the Plan and to weigh the need for weeding, changes to the irrigation timetable or replanting, a monitoring schedule, performance criteria and contingency actions are presented in Table 8. Monitoring will continue for at least three years, or until all performance criteria have been met. Success rates falling under the stated minimum may signal the need for a second or third revegetation effort. Performance values and the schedule may be modified based upon the actual responses of the particular site and with approval from regulatory agencies.

The purpose of the monitoring is to:

1. Assure, through periodic visits, that plants are thriving and determine if changes to the irrigation regimen or site protection are needed.
2. Ascertain when weeding should occur and notify appropriate parties. (Weeding shall be conducted throughout the entire year.)
3. Perform annual survey and quantify survival. Determine if additional planting will be required to meet the minimum success standards (performance criteria). Data, gathered to determine vegetation establishment, will be collected annually in the spring, when flowering is evident and the maximum number of weed species are likely to be present.

DRAFT

Monitoring methods need not be elaborate. A simple tally and general health index of container materials and evidence of reproduction (flowering) will provide adequate information to determine if replanting is required or if restoration standards have been met. Testing procedures will be described and standardized in the first annual report and specified in each subsequent report. Follow-up monitoring may be needed to ensure that recommendations have been carried out. If revegetation standards are not met or closely approached during the initial three-year monitoring period, remediation through further revegetation efforts and extended monitoring may be required.

ANNUAL REPORTS

The monitoring biologist will produce a report each year after completion of the spring field data collection. Collation of data production of the report will be completed by August 1 of each year following the spring comprehensive survey. The report will be submitted to the County of Santa Barbara, CDFG and the property owner.

The annual reports will present the summation of vegetation monitoring data and general notes to describe the current state of each restoration area in terms of plant survival, reinvasion by exotic species, the presence of disease and insect pests, the development of habitat potential and the summation of maintenance activities performed during the previous year.

Performance standards will be compared against the vegetation field data, and the areas will be rated as to their performance. Remedial action required for the coming year will be detailed. A set of photographs taken at set points within each area will be included.

DRAFT

TABLE 8: PERFORMANCE CRITERIA AND MONITORING SCHEDULE

FEATURE	PLANTED SHRUBS AND TREES
Goals	<ul style="list-style-type: none"> • A survival rate of no less than 75% after three to five years.
Frequency	<ul style="list-style-type: none"> - 1st year following planting: Monthly. (11 reconnaissance surveys; one comprehensive survey in late spring/early summer, data collection and annual report.) - 2nd year following planting: Every three months. (Reconnaissance survey 3 times per year; comprehensive survey, data collection and annual report in the spring.) - 3rd to 5th year following planting: Every four months. (Reconnaissance survey 2 times per year; comprehensive survey, data collection and spring annual report.)
Criteria	<ul style="list-style-type: none"> - End of 1st growing season, survival is at least 85% of original planting. - End of 2nd - 5th growing season, survival is no less than 75% of the original planting with evidence of flowering.
Contingency Action	<ul style="list-style-type: none"> • <i>Replant</i> if values fall below expectations. Replant and monitor until material is established and weaned from irrigation for at least one full year.
FEATURE	WEED CONTROL
Goals	<p><i>Short-Term:</i> Boost establishment of native species by reducing competition. <i>Long-Term:</i> Reduce the abundance of undesirable plant species within the site.</p>
Frequency	<p>During reconnaissance and comprehensive surveys, as described above. Weeding to occur throughout the year, before fruit is set. Cut and paint <i>Arundo</i>, exotic vines and trees as needed.</p>
Criteria	<p>Zero tolerance of broad-leaved weeds after each eradication treatment. Naturalized grasses will be tolerated. Weed growth will ultimately not interfere with native plant establishment or reproduction.</p>
Contingency Action	<p>Continue to monitor and weed (with little or no ground disturbance) as necessary.</p>

DRAFT

8.0 REFERENCES

Gress, D. 2010. Arborist Report. Bagdasarian/Karmen Site Alteration. 1192 - 1194 East Mountain Drive. May 2010.

Hickman, J. 1993. The Jepson Manual; Higher Plants of California. University of California Press, Berkeley and Los Angeles.

Smith, C. 1976. A Flora of the Santa Barbara Region, California. Santa Barbara Museum of Natural History.

Tierney R. 2010. Biological Assessment and Impact Analysis for 1192 East Mountain Drive. Montecito, California. October 15, 2010.

United States Department of Agriculture, 1981. Soil Survey of Santa Barbara County, California. South Coastal Part. Soil Conservation Service and Forest Service in Cooperation with University of California Agric

AGENDA ITEMS

APPLETON & ASSOCIATES INC
Architects

ITEM #: _____ 1 _____
MEETING _____
DATE: _____ 5-25-11 _____

117 W. Micheltorena
Santa Barbara
CA 93101

TEL 805 965 0304
FAX 805 560 6815

May 20, 2011

RE: Guidance from the Montecito Planning Commission

Dear Chairman and Commissioners,

Unfortunately, both Marc Appleton and I are unable to attend, due to family commitments, so we are taking this opportunity to inform the Commission of the progress that has taken place over the past months and to write down our thoughts for your consideration and deliberation. The purpose of today's hearing, as indicated by Planning & Development, is to seek your further guidance based on County Flood Control's acceptance of the Hydrology Study conclusion that the walls and bridges do not interfere with the 100-year flood water elevation and the bridges are consistent with the minimum standards of the County's Floodplain Management Ordinance.

Since our site visit and the first Montecito Planning Commission Hearing, we have met with Planning & Development and County Flood Control on three occasions. The first meeting, at the Commission's direction, was to establish criteria for Mr. Bagdasarian and County officials to continue to move this issue forward to resolution and follow the recommendation of staff stating that in order for the Commission to consider allowing the as built site gravity walls and hand built bridges to remain (grant an after the fact Land Use and Building Permit) a Hydrology Study is needed to be provided by a qualified Engineer.

Director Glenn Russell and Director Planning Services Dianne Black led the discussion and informed the group of the necessity of a Hydrology Study. With the guidance of Flood Control, and through the efforts of Bengal Engineering, the Hydrology Study would inform this Commission whether the gravity walls and bridges, as constructed, posed any danger to downstream residences as raised during the Montecito Planning Commission Hearing. This needed to be established with scientific data as provided by FEMA through computer simulation.

A draft Hydrology Study was developed shortly after this meeting, based on locally available information, as the official data from FEMA was being collected. The FEMA data arrived at the end of January and with this official data, Bengal Engineering, produced a draft Hydrology Study and submitted it to Planning & Development and County Flood Control for initial comment.

The draft Hydrology Study was inconclusive given the accuracy of on-site topography. Bengal Engineering called a meeting, on-site, to illustrate to our team why the report was inconclusive and requested additional survey data be collected. Based on Mr. Bagdasarian's own observations over many years and given the record high volume of rain recorded in December which only resulted in a water level of 1 foot, it was obvious that the Hydrology computer simulation needed better topography data in order to create an accurate simulation. Penfield and Smith survey crew mobilized and provided the additional survey cross sections as needed.

In April a second draft Hydrology Study was submitted. In addition, and at the encouragement of Planning & Development, Mr. Bagdasarian requested Rachel Tierney, to propose a formal "Restoration Plan" based on the initial conceptual Restoration Report written in June of 2009.

With this new additional information, Planning & Development arranged a meeting and recommended that Flood Control and Bengal Engineering tie up the remaining loose ends of the draft Hydrology study and seek further guidance from the Montecito Planning Commission based on the Hydrology findings. The conclusion of the Hydrology Study illustrated that the gravity walls and bridges do not interfere with

RECEIVED
MAY 20 2011

the 100 year flood water elevation and are consistent with the minimum standards of the Counties Floodplain Management Ordinance. Flood Control staff has confirmed these conclusions.

Given the amount of time required to assemble the FEMA data, both Marc Appleton and I felt it was important to refresh our memories of the first Montecito Planning Commission site visit and Hearing, clarify Mr. Bagdasarian's goals and actions and point out thoughts and additional information that may be important to your deliberations. I have included an appendix on page 4 for reference.

First and foremost, Mr. Bagdasarian would like to clearly state that he never intended to circumvent any Planning Policy. He wanted to maintain and use his personal property in a manner that he felt was appropriate and within the guidelines of his community. He has actively secured all of the necessary permits on his property as illustrated by the permits issued to him since taking ownership. (Grading and New Residence, Entry Wall, see appendix) He purchased this property 27 years ago, nearly 10 years before Environmentally Sensitive Habitat ever existed.

Mr. Bagdasarian clearly did not understand that common "landscape maintenance and sitework improvements" would necessitate a Land Use Permit. As Mr. Bagdasarian explained at the October 27, 2010 MPC hearing, he did not know that portions of his property had been mapped ESH in connection with the Montecito Plan 10 years after he purchased it and he disagrees with the County's position that such land constitutes ESH. Further, in our experience, it is not generally known by most property owners that a Land Use Permit or Building Permit is required in order to create a walkway, plant grass, trim a tree, build a rock landscape wall or even a pedestrian bridge if portions of their property is designated ESH. Most owners are not aware, like Mr. Bagdasarian, where or what an ESH overlay is.

Marc Appleton felt it was important to research this for himself and to illustrate this point to me, he took me on a cross country hike of the main Hot Springs Creek in Riven Rock. As we made our way up stream, and on private property, it is very apparent that most if not all of the property owners continually "maintain" their creek edge and actively secure the base of oak trees teetering on collapse. These activities are ongoing even to the extent of maintaining and repairing loosened rocks within the streambed itself. The point of this walk was not to report these owners, but to illustrate that the actions of Mr. Bagdasarian are not out of the ordinary or beyond the realm of routine practice. Mr. Bagdasarian's actions are actually on a much smaller secondary drainage, and it is important to note that he has not done any rockwork on the main Hot Springs creek which also flows through his property.

Mr. Bagdasarian's goal, as he has stated, was simply to enhance the lower portion of his site and make it accessible and visually pleasing. The methods that he directed his landscape staff were in keeping with all of the historical methods on his property and used throughout Montecito. Stone gravity walls and tree wells actually create and enhance the Montecito character and are commonly recommended by the Montecito Board of Architectural review. His site walls are hand built from locally occurring rocks and retain less than many of the stone walls of this character in Montecito. He did not build any site walls greater than 6 feet, which do not require a structural engineer, cantilevered foundations or building permit, unless of course, it is in ESH which, in this case, had been incorrectly mapped.

When Mr. Bagdasarian became aware that portions of this lower site was land owned by his neighbor on the opposite side of the creek, he enlisted Penfield & Smith to prepare the necessary documents to secure a Lot Line Adjustment. He negotiated the terms and conditions with his neighbor and submitted this to the County Planning Department for permission. At no time did Penfield & Smith, a consulting firm familiar with detailed Planning Policy, alert him that he had "unpermitted structures". The violation from the County Grading Department was actually issued after this submission of the application for the Lot Line Adjustment which took many months to prepare. Mr. Bagdasarian had made the Lot Line Adjustment a matter of Public Record and through this process had already subjected his property to County Planning & Development review. Since the violation issued by the Grading Department, Mr.

Bagdasarian has made every effort to provide any and all documents requested by Planning & Development and has spent nearly one quarter of a million dollars doing so (see Appendix).

For us, another important point to be made is when Appleton & Associates joined this project, it had been portrayed that Mr. Bagdasarian was "turned in." This seems to be an unfair characterization and creates the false impression that he was knowingly in violation. From our experience, the discussion and corrective measures that have been suggested by Planning & Development to date are overly harsh and punitive and are a result of this characterization. We believe that the proposed replanting to native species is an appropriate response.

In Mr. Bagdasarian's view, and in the spirit of cooperation and compromise, he has taken the advice of a County approved Biologist (Rachel Tierney) and a noted Native Landscape Horticulturalist (Carol Bornstein) and proposes to replant all of the disturbed areas with local natives and augmented with in-lieu fees as proposed by and acceptable to Fish & Game. This proposal supports many of the Montecito planning policies, such as appropriate site materials, local native drought tolerant planting and erosion control to name a few. Mr. Bagdasarian has always been a good steward of the land and hopes that he has provided all of the requested documents for a fair compromise and resolution that accomplishes both his and the communities goals.

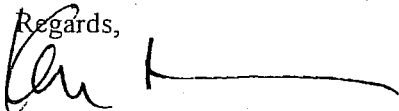
Therefore, we respectfully request your Commission give:

guidance and direction to staff to draft a motion for approval within the framework of the existing Montecito Planning Policy

One last issue that was discussed with Mr. Bagdasarian and Director Glenn Russell is to help minimize the cost and time on continued consultant fees to resolve this matter and work towards resolution in an efficient manner. He assured Mr. Bagdasarian that this is the Planning & Department's goal also and this issue will be addressed as we move forward.(see appendix).

Thank you for your deliberation and please accept our appreciation in advance for your fair minded discussion and community service.

Regards,



Ken Mineau for Appleton & Associates

cc Marc Appleton
Ross Bagdasarian
Richard Monk

Appendix

Permits History

(in chronological order)

1983 Grading Permit and New Residence	1989 Storage Building
1985 Entry Wall	1989 Fire Hydrant
1987 Grading Permit	1989 Pool
1988 Maintenance Building, Gate and Posts	1999 Residential Addition

Active Permits

(in chronological order)

2009 Lot Line adjustment	2009 Site Alteration, Retaining Walls & Bridges
--------------------------	---

Active Violation

(in chronological order)

2009 Illegal Grading & Vegetation Removal

Documents and Reports since 2009

(in chronological order)

Planning & Development	28,377
Site Survey, Permit Research and Representation by Penfield & Smith	65,477
Biology Report 1 and 2	20,280
Conceptual Planting Plan	3,906
Hydrology Study	9,800
Restoration Plan	4,500
Arborist	960
Legal Counsel	42,266
<u>Permitting, Landscape and Planting Representation</u>	<u>48,018</u>
Estimated Total as of May 5, 2011	\$223,584

Permits Required

(Owner is actively pursuing)

- 2009 Lot Line adjustment – adjusts property line for access without entering neighbor's property
- 2009 Grading Permit > 50 cy – Soil greater than 50 cu yards of was moved by small tractor
- 2009 Bridge Permit – 2 bridges were constructed by hand
- 2009 Landscape walls retaining greater 6' – None were built so no permit necessary

Permits Not Required

(unless as determined by Planning & Development)

- Landscape removal unless within Environmentally Sensitive Habitat (ESH)
- Landscape Walls below 6' unless within Environmentally Sensitive Habitat (ESH)