

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**

**Prepared on:** 4/10/03

**Department Name:** P&D

**Department No.:** 053

**Agenda Date:** 4/15/03

**Placement:** Departmental

**Estimate Time:** 1 hour

**Continued Item:** NO

**If Yes, date from:**

**Document FileName:**

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**TO:** Board of Supervisors

**FROM:** Dianne Meester, Interim Director

**STAFF CONTACT:** Jackie Campbell, Supervising Planner (568-2076)  
Lisa Hosale, Planner (568-2007)  
Development Review Division

**SUBJECT:** **Pinecliff Homeowners Association Appeal of the Zoning Administrator's Approval of a Coastal Development Permit with Hearing**  
**Case Nos. 02CDH-00000-00021 and 03APL-00000-00001**  
**APN 009-420-CA at 1500 Miramar Beach in the Montecito Area of the First Supervisorial District**

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**Recommendations:**

That the Board of Supervisors consider the appeal of Robert Kooyman, agent for the owner Pinecliff Homeowners Association, of the Zoning Administrator's December 2, 2002 decision to approve a Coastal Development Permit with Hearing (02CDH-00000-00021) to validate the unpermitted removal of a previously existing Monterey Cypress tree from the County Road Right-of-Way, with a condition to require installation of a replacement 48" box Monterey Cypress tree. Staff recommends that the Board of Supervisors:

- a. Adopt the required findings for the project specified in Attachment A, including CEQA findings.
- b. Deny the above referenced appeal (03APL-00000-00001), thereby upholding the Zoning Administrator's approval of the Coastal Development Permit with Hearing 02CDH-00000-00021, and
- c. Accept the CEQA Exemption, included as Attachment B, pursuant to CEQA Section 15304 [Minor Alterations to Land].
- d. Grant de novo approval of the Coastal Development Permit with Hearing 02CDH-00000-00021, subject to the conditions of approval included in Attachment C.

**Alignment with Board Strategic Plan:**

The recommendations are primarily aligned with actions required by law or by routine business necessity.

**Executive Summary and Discussion:**

The previously existing tree was a mature Monterey Cypress that straddled the property line between the Pinecliff Property and the County Road Right of Way for Eucalyptus Lane, located within the Appeals Jurisdiction of the Coastal Zone. Because of its size and location, removal of the tree required a Coastal Development Permit with Hearing (CDH) from P&D and a Road Encroachment Permit from Public Works. The Pinecliff Homeowner's Association had the tree removed without obtaining either of the necessary permits prior to the removal.

The case was forwarded to Development Review Division staff from the Zoning Enforcement Division after identification of the zoning violation. In order to remedy the violation, Zoning Enforcement staff required Pinecliff to obtain an after-the-fact CDH to validate removal of the previously existing tree.

The CDH application submitted by Pinecliff states that the tree was unhealthy and unsound. Pinecliff states that the tree was partially uprooted, causing it to list at a 45 degree angle, and that the tree had dropped a major limb onto the nearby public beach access and a nearby residence in approximately January 2001. Due to this reported instability, Pinecliff claimed and the Zoning Administrator found that the tree was permitted to be removed in order to address health and safety concerns.

However, no arborist report was produced prior to the tree's removal and no qualified professional had examined the tree to determine if it was, in fact, unhealthy and unsound. Furthermore, numerous residents and a representative from the Montecito Association claim through letters, phone calls, and testimony at the ZA Hearing that the tree was healthy and therefore the Zoning Administrator should not have approved the permit validating the tree's removal. Supporters of the previously existing tree state that it was not uprooted, but had grown naturally at 45 degree angle due to environmental constraints. One community member hired an arborist to evaluate the stump of the previously existing tree. Although the arborist made tentative findings in support of the tree's health, he concluded that since he did not inspect the tree prior to its removal, he could not reliably comment on its health or whether it posed a hazard prior to its removal.

This conflicting testimony was considered in staff and the Zoning Administrator's evaluation of the CDH application. Your Board, as well, will have to weigh conflicting information about the tree's health to determine if the Zoning Administrator's approval of an after-the-fact CDH was appropriate, given the required findings which must be made to approve the permit. If your Board is able to make the required finding regarding the health and safety issue in order to approve the permit, the next step is for your Board to determine if Montecito Community Plan

policy BIO-M-1.15 applies to the project. If your Board agrees with staff and the Zoning Administrator that this policy is applicable, then you must confirm whether the Zoning Administrator appropriately applied the policy in requiring the replacement of the tree with a new 48" box tree in the same general location, or as now proposed by the applicant, whether replacement with a 24" box tree would suffice. A discussion of each of these issues follows.

## Findings

In order to permit removal of a tree from the Coastal Zone, specific findings set forth in Section 35-140.3 [Tree Removal] of Article II must be made, in addition to the standard CDH findings. The Zoning Administrator made the following finding to approve an after-the-fact permit for removal of the Pinecliff tree, that *the trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property* (Sec.35-140.3.4). Although no arborist report was produced for the previously existing tree, Pinecliff stated in their application and the Zoning Administrator found that the tree was listing at a 45 degree angle and had dropped a major limb onto a nearby residence and the public beach access in the fairly recent past. The Zoning Administrator found that the tree had been weakened by previous storms and therefore had the potential to cause imminent danger to persons or property. If this finding had not been made by the ZA or is not made by your Board, it would be necessary to deny the after-the-fact CDH and return the case to Zoning Enforcement for other remedy.

## Application of Policies

Pursuant to Article II, Sec. 35-169.6.1, in order to approve a CDH, a project must comply with all applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan. In particular, the Montecito Community Plan includes Policy BIO-M-1.15 which states:

*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.*

The previously existing tree may not have been a specimen tree due to conflicting testimony over its health status. However, P&D considers it a native California tree that had high scenic and aesthetic qualities, as it was a mature Monterey Cypress which had been located adjacent to the coast, a public beach access, and Eucalyptus Lane (public) for several decades. The tree's location lent to its importance to the coastal public viewshed, and the species type is associated with coastal California. In addition, coastal views and aesthetic resources near trails and public roads are offered a high level of protection under Coastal Act Policy 30251 and Montecito Community Plan Policy VIS-M-1.3. In order to be consistent with these policies, P&D found that it was necessary for Pinecliff to replace the tree with a new Monterey Cypress tree in the

same general location and attached a condition of approval to the permit describing this requirement.

**Coastal Act Policy 30251:** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.*

As the location of the previously existing mature tree was adjacent to a popular beach access point in Montecito, the tree contributed to the scenic and visual qualities of the Miramar Beach area. In order to protect this publicly important resource, a condition of approval has been attached to the permit requiring the replanting of a new Monterey Cypress tree in the same general location as the previously existing tree in order to find the project consistent with this policy.

**Montecito Community Plan Policy VIS-M-1.3:** *Development of property should minimize impacts to open space views as seen from public roads and viewpoints.*

Miramar Beach is a public access point to the coast and the location of the tree made it visible from this public viewpoint. Replanting a new Monterey Cypress tree in the same general location would restore this public view consistent with this policy.

**Coastal Act Policy 30211:** *Development shall not interfere with the public's right of access to the sea...*

Tree removal operations occurred in close proximity to the adjacent public beach access. Removal of the previously existing tree likely had a temporary negative impact on public access to the sea. Likewise, installation of the replacement tree will have a temporary negative impact on the public's ability to use this access. However, the project will not have a significant impact on the public's right of access to the sea, as tree removal and replacement activities will be short term. In addition, the previously existing tree may have been partially uprooted, causing it to list at a 45 degree angle. The tree had dropped a major limb onto the access in approximately January 2001. The previously existing tree posed a greater risk to the access due to its reported instability as compared to the temporary tree removal/replacement activities. This project has been conditioned to provide posted notice at three locations near the beach access to warn the public of the date, time, and duration of tree replacement activities at least one week prior to the commencement of such activities. Therefore, the project can be found consistent with this policy.

In addition to the policy analysis provided above, the replacement tree requirement is consistent with past administrative practice, where replacement trees have been required to mitigate the loss of trees that have been removed throughout the County, whether healthy or unhealthy. As discussed above, the staff recommended and the Zoning Administrator found that it was necessary to require a replacement tree in order to approve the permit.

## APPELLANT ISSUES

- 1) The Staff and Hearing Administrator found that the tree was clearly a safety hazard as testified by witnesses, tree experts, and even the county employee, John Margadonna.**

P&D recommended and the Zoning Administrator required a replacement tree because the previously existing tree was a mature Monterey Cypress tree located adjacent to the coast and a public beach accessway. This tree contributed to coastal visual resources from the nearby public road (Eucalyptus Lane) and public recreation areas. Being mature, the tree also had biological value. The Zoning Administrator found that a replacement tree would be appropriate to provide consistency with the County's visual and biological policies associated with the tree's removal. Although Pinecliff Homeowner's Association states that the tree was unhealthy and unsound, no arborist report was produced prior to the tree's removal to corroborate these statements. The possible safety hazard posed by the previously existing tree does not prevent the requirement for a replacement tree to provide policy consistency with the tree's unpermitted removal.

- 2) There was testimony that the tree removal helped give Pinecliff homeowners a better view. This testimony is completely false as one can see from inspecting the site.**

Public hearings afford community members an opportunity to speak on various issues related to a project. At the public hearing on December 2, 2002, a member of the community did voice the above stated opinion, that removal of the Monterey Cypress tree improved views from the Pinecliff property. However, this opinion did not influence staff's recommendations to the Zoning Administrator, which were based on policy. County policies do not protect or address private views, such as the view from the Pinecliff property. A Montecito Architectural Guideline calls for the *consideration* of private views, however, this is a Guideline only (III.C.2). The project, which would validate removal of the previously existing tree and require installation of a replacement tree, would not impact any views from the Pinecliff property that are protected or addressed by County Policies. Therefore, views from the Pinecliff property did not dictate staff's policy analysis for the CDH, or the recommendation to require a replacement tree.

- 3) County employee John Margadonna gave verbal permission saying, "as long as it is not an oak tree, then we could take it out."**

Removal of a mature tree from the County Road Right-of-Way requires a CDH from P&D and a Road Encroachment Permit from Public Works. To obtain these permits, Pinecliff Homeowners Association must comply with the policies and conditions of both departments. Mr. Margadonna is an employee in the Public Works Department with

jurisdiction over the Road Encroachment Permit for removal of the tree only: he is not the Public Works Department tree expert who was out of the office at the time nor does he recall his statements regarding the removal. P&D examines a wide range of land use issues, including environmental impacts, in the CDH process. These issues are not addressed by Public Works. P&D found that, in order to approve a CDH for removal of the tree, a replacement tree was necessary to find the project consistent with applicable policies.

- 4) **Planting a new 48" tree is not wise for the following reasons:**
- a) **The location is on a slope, which would cause danger of erosion to the homeowners below on Miramar Beach.**
  - b) **In that location, there are water lines, gas lines, electric lines, telephone lines, etc. that would be disrupted by excavation.**
  - c) **48" trees are not as viable a candidate for transplanting as smaller trees- it could easily die.**
  - d) **The expense of this could easily top \$4,000. Estimate \$2,400 for the tree plus fence removal, crane excavation, etc.**

In Attachment D of the Zoning Administrator Staff Report (Site Plan), P&D designates a large area along Eucalyptus Lane where the replacement tree could be planted. Condition #15 of the CDP states that *a P&D approved arborist shall determine the most appropriate location for the 48" box Monterey Cypress tree within the designated replacement area depicted on the Site Plan . . . All tree installation activities shall be monitored by the arborist to ensure the health and stability of the tree.* This condition has been modified as follows to reflect the applicant's willingness to plant a 24" box tree instead of the previously required 48" tree as discussed below.

*Prior to issuance of the CDP, a P&D-approved arborist shall determine the most appropriate location for the replacement Monterey Cypress tree within the designated replacement area depicted on the Site Plan dated April 15, 2003. The designated replacement area is located in the southwest corner of the parcel along Eucalyptus Lane in the same general location as the previously existing tree. All tree installation activities shall be monitored by the arborist to ensure the health and stability of the tree. The applicant shall be responsible for all costs associated with the arborist's review and monitoring.*

Furthermore, if evidence of subsurface utility lines is provided to the arborist, this information would be considered in the arborist's decision of where to precisely locate the replacement tree along Eucalyptus Lane. As the previously existing tree was a mature, scenic tree, a large replacement tree was required. In fact, prior to the December 2, 2002 hearing, the Zoning Administrator consulted with the County Urban Forester who indicated that a 48" box would be a large and viable size for the replacement tree. It is appropriate for the applicant to pay for all costs associated with replacing the tree in

order to approve the permit, find the project consistent with the applicable policies and to remove the zoning violation from the property.

**5) As an alternative, we offer the planting of trumpet vines around the existing telephone pole, as was done around the bases of the palm trees on Cabrillo Boulevard, with great success.**

The Zoning Administrator considered this request but concluded that a replacement Monterey Cypress tree would be appropriate. Since the time of the continued hearing, the agent for the applicant contacted County Counsel and indicated the applicant is willing to plant a 24" box Monterey Cypress in the designated location. While staff would prefer to see a larger tree planted to replace the tree that was removed, a 24" box tree would at least replace the previous tree with one of some size that could grow into the stature of the previous tree over time.

**Zoning Ordinance Consistency**

The site is zoned multi-family residential (DR-12, Design Residential), the purpose of which is to provide areas for residential development in a wide range of densities, housing types, and design, and to create open space within new residential development. The proposed project, which includes removal of a previously existing Monterey Cypress tree, would be consistent with the purpose of the parcel's Design Residential zoning. The project, with the requirement for a replacement tree, would be consistent with all applicable policies of Article II, and the DR-12 zone district does not include any restrictions on the installation/removal of trees. This Coastal Development Permit would be consistent with the approved Development Plan for this property, provided of all the required findings can be made as discussed above and included in Attachment A.

**Mandates and Service Levels:**

Pursuant to the Article II Zoning Ordinance, a decision of the Zoning Administrator may be appealed to the Board of Supervisors by the applicant or an aggrieved person. The Zoning Ordinance also requires that the appellant state specifically in the appeal wherein the decision by the Zoning Administrator is not in accord with the provisions and purposes of the Article or wherein it is claimed that there was an error or an abuse of discretion by the Zoning Administrator. In this case, the appellant has appealed the decision of the Zoning Administrator to approve Case No. 02CDH-00000-00021 with the condition to install a 48" box replacement tree.

Pursuant to Government Code Section 65091, mailed notice required to property owners within 300 feet of the project, including the real property owners, project applicant and local agencies expected to provide essential services, shall be done at least ten days prior to the hearing.

**Fiscal and Facilities Impacts:**

No filing fee was required for this appeal, as the project is ultimately appealable to the Coastal Commission. Costs associated with unfunded appeals to the BOS are included in Planning & Development's approved budget.

**Special Instructions:**

Clerk of the Board shall complete noticing for the project in the Santa Barbara News-Press and shall complete the mailed notice of the project at least ten days prior to the hearing (mailing labels previously provided).

Clerk of the Board shall file and post the notice of exemption.

Clerk of the Board shall forward a copy of the Minute Order to Planning & Development, attn: Hearing Support Staff.

Planning and Development will prepare all final action letters and notify all interested parties of the Board of Supervisors' final action.

**Concurrence:**

None.

ATTACHMENTS:       A) Findings  
                          B) Notice of Exemption  
                          C) Coastal Development Permit, with Conditions of Approval  
                          D) Site Plan dated April 15, 2003



## ATTACHMENT A: FINDINGS

### 1.0 CEQA FINDINGS

Find that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15304 [Minor Alterations to Land]. See Attachment B “Notice of Exemption” for details and support documentation.

### 2.0 ADMINISTRATIVE FINDINGS

2.1 Pursuant to Section 35-169.6.2 of the Article II Zoning Ordinance, a Coastal Development Permit within a Geographic Appeals Area shall only be issued if all of the following findings are made:

2.1.1 *Those findings specified in Section 35-169.6.1 as follows:*

*a. That the proposed development conforms to 1) all applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provision of this Article and/or the project falls within the limited exception allowed under Section 35-161.7.*

As discussed in the Board of Supervisors Staff Report for the April 15, 2003 hearing, the proposed project can be found consistent with all applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan and Montecito Community Plan. As discussed in this staff report, the proposed project can be found consistent with all regulations of the Article II Zoning Ordinance. Therefore, this finding can be made.

*b. That the proposed development is located on a legally created lot.*

The previously existing tree was located partially within the Pinecliff Homeowners Association parcel, and partially within the County Right of Way for Eucalyptus Lane. The Pinecliff Homeowners Association parcel is considered a legally created lot as it has been developed pursuant to permits issued by the County of Santa Barbara. The lot was created in TM 10,992. The County Right of Way for Eucalyptus Lane is also considered a legal parcel owned by the County of Santa Barbara. Therefore, this finding can be made.

*c. That the subject property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of Article II, and such zoning enforcement fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures under Section 35-160 et seq.*

The Approval and Issuance of this Coastal Development Permit will clear the Zoning Violation for unpermitted removal of the previously existing Monterey Cypress tree from the Pinecliff property and the County Road Right of Way. Other than the subject of this

permit, the Pinecliff Homeowners Association property is in compliance with all laws, rules, and regulations pertaining to zoning uses, setbacks, and other applicable provisions of Article II. The County Road Right of Way for Eucalyptus Lane is also in compliance with the requirements of Article II. Therefore, this finding can be made.

- 2.1.2 *The development does not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.*

The proposed project would not significantly obstruct public views to and along the coast, as it is minor in nature. The project would allow the removal of a previously existing tree, and installation of a replacement tree of the same species in the same general location. Therefore, this finding can be made.

- 2.1.3 *The development is compatible with the established physical scale of the area.*

The proposed project would allow the removal of a previously existing tree, and installation of a replacement tree at the south corner of a residentially developed parcel. This minor project would not affect the property's compatibility with the established physical scale of the area. Therefore, this finding can be made.

- 2.1.4 *The development is in conformance with the public access and recreation policies of this Article and the Coastal Land Use Plan.*

As discussed in this staff report to the Board of Supervisors for the April 15, 2003 hearing, the proposed project would be consistent with public access and recreation policies of the Coastal Land Use Plan. As discussed in this staff report, the project would be consistent with all policies of Article II. Therefore, this finding can be made.

- 2.2 Pursuant to Section 35-140.3 of the Article II Zoning Ordinance, a Coastal Development Permit for the removal of trees shall only be issued if the following finding is made:

- 2.2.1 *The finding specified in Section 35-140.3.4 as follows:*

*d. The trees are so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.*

The previously existing tree was removed from the County Road Right-of-Way without the proper permits. Although an arborist report was not produced for the previously existing tree prior to its removal, the tree was listing at a 45 degree angle and had dropped a major limb in approximately January 2001 which hit a nearby house on Miramar Beach and blocked the adjacent public beach access. As the tree had been weakened by previous storms and was growing at a 45 degree angle, it had the potential to cause imminent danger to persons or property. Therefore, this finding can be made.

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**ATTACHMENT B: NOTICE OF EXEMPTION**

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Board of Supervisors

Based on a preliminary review of the project, the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

Case Name: Pinecliff Tree Removal APN: 009-420-CA

Case No.: 02CDH-00000-00021

Location: Located south of the Union Pacific Railroad and east of Eucalyptus Lane

Project Description: The applicant proposes to validate the unpermitted removal of a previously existing Monterey Cypress tree from the County Road Right of Way. The applicant would install a Monterey Cypress tree in the southwest corner of the parcel along Eucalyptus Lane. The replacement tree would be located in the same general location as the previously existing tree. No grading would be required for the project. Access to the project site would continue to be from Eucalyptus Lane, a paved public roadway.

Exempt Status:

<u>      </u>	Ministerial	<u>      </u>	Statutory
<u>  X  </u>	Categorical Exemption	<u>      </u>	Emergency Project
<u>      </u>	No Possibility of Significant Effect [§ 15061(b,3)]		

Cite specific CEQA Guideline Section: 15304 [Minor Alterations to Land]

Reasons to support exemption finding: The project may be found exempt from environmental review pursuant to Section 15304 of the Guidelines for Implementation of the California Environmental Quality Act (CEQA). This section allows minor alterations in the condition of vegetation which do not involve the removal of *healthy*, mature, scenic trees to be exempt from environmental review. The previously existing tree was listing at a 45 degree angle and had recently lost a large limb contributing to its less than healthy status. The loss of the tree as a visual and biological resource would be addressed by the requirement to install a replacement Monterey Cypress tree in the same general location. The project would not require any grading, would not increase the number of Average Daily Trips (ADT) or Peak Hour Trips (PHT), and would not require any improvements to access roads. The project would not affect the availability of public services. Therefore, the project is consistent with this categorical exemption from CEQA and no further environmental review is required.

\_\_\_\_\_  
County Representative

\_\_\_\_\_  
Date

Date File of County Clerk



**Exhibit A**  
**Project Description & Conditions of Approval**  
**02CDH-00000-00021**

**PROJECT DESCRIPTION**

1. This *Coastal Development Permit* is based upon and limited to compliance with the project description and other conditions of approval set forth below. Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require modification to 02CDH-00000-00021 and further review. Deviations without the above described approval will constitute a violation of permit approval.

**The project description is as follows:**

**The applicant proposes to validate the unpermitted removal of a previously existing Monterey Cypress tree from the County Road Right of Way. The applicant would install a replacement Monterey Cypress tree in the southwest corner of the parcel along Eucalyptus Lane. The replacement tree would be located in the same general location as the previously existing tree. No grading would be required for the project. Access to the project site would continue to be from Eucalyptus Lane, a paved public roadway.**

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas, and landscape areas, and the protection and preservation of resources shall conform to the project description above, the hearing exhibits and conditions of approval set forth below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

**PROJECT SPECIFIC CONDITIONS**

2. The applicant shall provide a weatherproof posted notice at three locations near the beach access at the end of Eucalyptus Lane to warn the public of the date, time, and duration of tree replacement activities at least one week prior to commencement of such activities.
3. All site preparation and noise generating tree installation activities shall be limited to the hours between 7:00 AM and 4:00 PM, weekdays only. No tree installation activities shall occur on state holidays (e.g. Labor Day, Thanksgiving). Tree installation equipment maintenance shall be limited to the same hours.
4. The generation of fugitive dust shall be minimized during tree installation activities by observing the following:
  - a. Minimize the amount of disturbed area
  - b. Utilize water and other dust palliatives; and
  - c. Revegetate/stabilize area as soon as possible.

5. The replacement Monterey Cypress tree shall be installed within 60 days of permit issuance in the same general location as the previously existing tree. The tree shall be maintained in this location unless Planning & Development authorizes its removal.
6. Any proposed changes to the project shall require review and approval by Planning and Development.
7. If the Zoning Administrator determines at a noticed public hearing that the permittee is not in compliance with any conditions of this permit pursuant to the provisions of section 35-169.9 of Article II of the Santa Barbara County Code, the Zoning Administrator may, in addition to revoking the permit pursuant to said section, amend, alter, delete or add conditions to this permit.
8. The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
9. The use and/or construction of the building or structure, authorized by this approval cannot commence until the Coastal Development Permit has been issued. Prior to the issuance of the Coastal Development Permit, all of the project conditions that are required to be satisfied prior to issuance of the Coastal Development Permit must be satisfied. Plans accompanying this Coastal Development Permit shall contain all project conditions.
10. Prior to issuance of the Coastal Development Permit, the applicant shall pay all applicable P&D permit processing fees in full.
11. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this Coastal Development Permit. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
12. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
13. If the applicant request a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.
14. The replacement Monterey Cypress tree shall be planted in the southwest corner of the parcel along Eucalyptus Lane, in the same general location as the previously existing tree. If the replacement tree is planted in the County Road Right of Way, the applicant shall obtain a Road Encroachment Permit from Public Works prior to issuance of this Coastal Development Permit.
15. Prior to issuance of the CDP, a P&D-approved arborist shall determine the most appropriate location for the replacement Monterey Cypress tree within the designated

replacement area depicted on the Site Plan dated April 15, 2003. The designated replacement area is located in the southwest corner of the parcel along Eucalyptus Lane in the same general location as the previously existing tree. All tree installation activities shall be monitored by the arborist to ensure the health and stability of the tree. The applicant shall be responsible for all costs association with the arborist's review and monitoring.

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