

Attachment C

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NOTICE OF APPEAL

Monterey County Code
Title 19 (Subdivisions)
Title 20 (Zoning)
Title 21 (Zoning)

RECEIVED
MONTEREY COUNTY

2017 APR 27 PM 2:57

CLERK OF THE BOARD

(Signature)

DEPUTY

No appeal will be accepted until a written decision is given. If you wish to file an appeal, you must do so on or before April 27, 2017 (10 days after written notice of the decision has been mailed to the applicant). Date of decision April 17, 2017.

1. Please give the following information:

- a) Your name Highlands Covenants Group (represented by Pamela Silkwood)
- b) Phone Number 831-373-4131
- c) Address 26385 Carmel Rancho Blvd., Ste 200 City Carmel Zip 93923
- d) Appellant's name (if different) _____

2. Indicate the appellant's interest in the decision by checking the appropriate box:

- ☐ Applicant
- ☒ Neighbor
- ☒ Other (please state) Group of neighbors

3. If you are not the applicant, please give the applicant's name:

4. Indicate the file number of the application that is the subject of the appeal and the decision making body.

- | | File Number | Type of Application | Area |
|---------------------------|------------------|-----------------------------|-------------------------|
| a) Planning Commission: | _____ | | |
| b) Zoning Administrator: | <u>PLN140483</u> | <u>Combined Dev. Permit</u> | <u>Carmel Highlands</u> |
| c) Subdivision Committee: | _____ | | |
| d) Administrative Permit: | _____ | | |

5. What is the nature of the appeal?

- a) Is the appellant appealing the approval ☒ or the denial ☐ of an application? (Check appropriate box)
- b) If the appellant is appealing one or more conditions of approval, list the condition number and state the condition(s) being appealed. (Attach extra sheets if necessary).

6. Check the appropriate box(es) to indicate which of the following reasons form the basis for the appeal:

- ☐ There was a lack of fair or impartial hearing; or
- ☐ The findings or decision or conditions are not supported by the evidence; or
- ☐ The decision was contrary to law.

You must next give a brief and specific statement in support of each of the bases for appeal that you have checked above. The Board of Supervisors will not accept an application for appeal that is stated in generalities, legal or otherwise. If the appellant is appealing specific conditions, you must list the number of each condition and the basis for the appeal. (Attach extra sheets if necessary).

Please see Exhibit A.

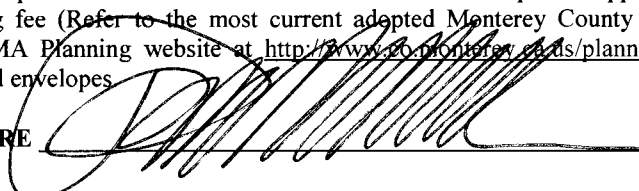
7. As part of the application approval or denial process, findings were made by the decision making body (Planning Commission, Zoning Administrator, Subdivision Committee or Director of Planning). In order to file a valid appeal, you must give specific reasons why the appellant disagrees with the findings made. (Attach extra sheets if necessary).

Please see Exhibit A.

8. You are required to submit stamped addressed envelopes for use in notifying interested persons that a public hearing has been set for the appeal. The Resource Management Agency – Planning will provide you with a mailing list.

9. Your appeal is accepted when the Clerk of the Board's Office accepts the appeal as complete on its face, receives the filing fee (Refer to the most current adopted Monterey County Land Use Fees document posted on the RMA Planning website at http://www.co.monterey.ca.us/planning/fees/fee_plan.htm) and stamped addressed envelopes

APPELLANT SIGNATURE



DATE 4-27-17

ACCEPTED

DATE

(Clerk to the Board)

LAW OFFICES
HORAN LLOYD A PROFESSIONAL CORPORATION
26385 CARMEL RANCHO BLVD SUITE 200
CARMEL, CA 93923

1ST CAPITAL BANK
Monterey Branch
300 Bonifacio Plaza Monterey, CA 93940
831-284-4070
90-4461/1211

4/27/2017

PAY TO THE
ORDER OF **MONTEREY COUNTY**

\$ **1,728.07

DOLLARS

One Thousand Seven Hundred Twenty-Eight and 07/100*****

MONTEREY COUNTY
168 WEST ALISAL ST.,
SALINAS, CA 93901



[Signature]
AUTHORIZED SIGNATURE

MEMO

LAW OFFICES
MONTEREY COU

ORIGINAL
OFFICIAL RECEIPT

COUNTY OF MONTEREY

RECEIVED FROM *Horan Lloyd* DATE *4/27/2017*

STREET
CITY *Appeal of the*
FOR *Zoning Administrator*

OFFICE	MAIL	FIELD	CASH	CHECK	OTHER
PREVIOUS BALANCE				1728 07	
AMOUNT PAID				1728 07	
NEW BALANCE					
ON ACCOUNT NO.				THE AMOUNT OF \$ 1728 07	

CENTRAL VALLEY BUSINESS FORMS (550) 851-3500
505687
REC'D. BY *[Signature]*
FORM #111-71

491

Exhibit A
Appeal of ZA Resolution 17-025
CE020247/PLN140483
161-B Spindrift, Carmel Highlands

A. Background

This project is to remedy a serious code violation (CE020247; “Violation”). As included in the County records for the Violations, the property owner of the above-reference property (“Subject Property”) attempted to drill a well without appropriate approvals and permits by illegally constructing a massive road for the drill rig and excavating an enormous disposal pit for the purpose of disposing/burying waste created from the well drilling. Photographs of the Violations, some of which are part of the Monterey County Planning and Building Department records, are included herein as **Exhibit A**.

When the County became aware of the illegal activities and issued Violations against the Subject Property, the property owner walked away abandoning massive piles of waste which were left uncovered, unsecured, and unattended for several years.

In late 2014/early 2015, the applicant, represented by Tina Hannas De Fretias (“Applicant”), misinformed the Carmel Highlands Land Use Advisory Committee (“LUAC”) of the above history of Violations despite the photo documentation in the County records, which were conveniently withheld from her presentation. Additionally, Highlands Covenants Group (“HCG”), presented substantial evidence in the record that the property owner has consistently participated in unapproved and reckless clearing and grubbing of the Subject Property which the Applicant also misrepresented to the LUAC. For the sake of providing more clarity on this issue and to demonstrate the damage to the Subject Property’s wetlands and riparian habitats and species of concern caused by the property owner’s illegal activities, HCG retained Dr. Jeffrey Froke, who prepared a report entitled, *Assessment of Biological and Habitat Resources Associated with 161-B Spindrift, Carmel, CA*, dated April 11, 2017 (**Exhibit B**; “Dr. Froke’s Biological Report”).

Moreover, neither the Applicant nor the County acknowledged the existence of the wetlands on the Subject Property until HCG pointed that out and was finally heard by the County staff subsequent to the LUAC hearing. The misrepresentation resulted in an uninformed recommendation of approval of the project by the LUAC.

The Zoning Administrator (“ZA”) also decided on this project without being fully informed by the County staff. The County staff failed to recognize the riparian woodland on the Subject Property. They did not address the project’s potential to impact species of special concern identified at the property. It has been HCG, not the County staff, who have been protective of the environmentally sensitive habitat areas (“ESHA”) at the Subject Property.

The County staff must fulfill its responsibility by performing additional due diligence to ensure that the project is consistent with the Coastal Act, Carmel Area Land Use Plan, Carmel

Area Coastal Implementation Plan, Monterey County Code, CEQA, and the California Water Code. Since this project is to remedy a Violation, the most appropriate action is to return the Subject Property back to its riparian woodland habitat.

B. Incomplete and Flawed Wetland Delineation

Although the Applicant grudgingly had a wetland delineation report prepared by Zander and Associates ("Applicant's Wetland Report"), after HCG convinced the County staff that wetlands do in fact exist at the Subject Project, it is clear that the delineation is incomplete and flawed. Coastal Act section 30121 defines "wetland" as "lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens." (Emphasis added.)

For establishing the boundary of a wetland the California Coastal Commission relies on section 13577(b)(1), Title 14 of the California Code of Regulations which states, in relevant part, as follows:

[T]he upland limit of a wetland shall be defined as:

- a. The boundary between land with predominantly hydrophytic cover and land with predominately mesophytic or xerphytic cover;
- b. The boundary between soil that is predominantly hydric and soil that is presedominantly nonhydric; *or*
- c. In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.

In using the above criteria, Dr. Froke's Biological Report makes clear that there is "a pattern of surface and subsurface hydration that is more complex than has been suggested by the available biological reports (Ballerini) and wetland field notes (Zander Associates.)" The report further states the following:

Ruderal or natural, the suggest complexity and across-site variability of plant growth strongly indicate the necessity of a detailed covered map that is tied to the actual edaphic structure of the property. To my understanding, the level of resource study so far evidenced falls short of usual expectations for a coastal property in the Carmel Plan area.

Interestingly, this County, which appears to "punish" the Violation by allowing the Applicant to drill a well, took an aggressive position for a contiguous and upland property (APN 241-252-007) owned by Joshua Hageman ("Hageman Property") for a well proposed on that property ("Hageman Project"). For the Hageman Project, the County properly required an Initial Study to be prepared and adopted a mitigated negative declaration consistent with CEQA.

The Coastal Commission's comment to the Hageman Project's initial study, included as **Exhibit C**, clearly supports the position that the boundaries for coastal wetlands ("Coastal Wetland") must include flooded or saturated lands and lands subject to periodic inundation. In their comment, the Coastal Commission stated the following:

Clearly, the LCP regards areas subject to temporary inundation wetlands, and avoidance of impact to the resource is preferable to mitigation of impacts.

The Applicant's Wetland Report does not consider the hydrological condition of the Subject Property when delineating the wetlands. As noted in the Surface Watershed Area map prepared by Weber, Hayes & Associates, included as **Exhibit D**, significant portions of the Subject Property and adjacent/upland Hageman Property are "periodically or permanently covered with shallow water" and thus, fall within the definition of "wetland" under the Coastal Act. Specifically, the Subject Property is situated at the center of two major drainage corridors. The steep Santa Lucia Mountains to the west combined with the substantial Peter Pan watershed result in actively flowing tributaries that disperse onto the northern area of the Subject Property. This Coastal Wetland is separate and distinct from the wetland identified in the southern and eastern area of the Subject Property. Even the Applicant's plans show a water body (3' deep and 3' wide) along the northern property boundary and within the 100-foot setback from the well. However, the plans are deceptive in that they do not show the tributaries of the waterbody which "periodically or permanently" cover the northern area of the Subject Property creating a Coastal Wetland.

It is worth noting that during the major Carmel Highlands floods of 1998/1999 and during the storms this winter in 2017, the subject streambed flowed more like a river than a stream as this particular watercourse is a main course for large portions of the Peter Pan watershed. Particularly during the damaging flood events of 1998/1999, the subject streambed located on the northern boundary of the Applicant's property, overwhelmed the then undersized drainage culvert at Spindrift Road resulting in mudflows and severe flooding. Please see the impacts to the neighboring properties caused by this storm event included as **Exhibit E**. With the approval of the County and CalTrans, the said culvert was subsequently upgrade from an 18-inch drainage outlet to a 54-inch drainage outlet bolstered by concrete flood walls.

Not only did the Applicant fail to delineate the wetland in the northern area of the Subject Property, they also provided an incomplete delineation of the wetland in the southeastern area of the Subject Property. In fact, the wetland in this southeastern area magically stops at the border of the septic drain field, despite the fact that the natural topology lends itself to water flowing downhill to the west to a known area of depression at the Subject Property. Based on the topography, the wetland likely extends through the septic drain field to the drain culvert that releases to the Carmel Bay Area of Special Biological Significance ("ASBS"). Why the wetland, as delineated, stops in an uphill location, rather than a depression, remains a mystery. More likely, this wetland in the southern eastern area of the Subject Property is likely to extend further westward because that area is "covered periodically or permanently with shallow water" (i.e., meets the definition of Coastal Wetland).

In sum, the Applicant's delineation does not consider the Coastal Act's definition of wetland and thus, is flawed and unsupportable. The delineation completely fails to include the

Coastal Wetland in the northern area of the Subject Property. It also fails to fully delineate the Coastal Wetland located in the southwestern area of the Subject Property. In fact, the Coastal Wetland covers most of the Subject Property and the delineation must reflect the same.

C. Failed to Meet Setback from Riparian Habitat/Woodland

The Zoning Administrator asked the Planner, and the Planner could not adequately answer, the project's impact on the Subject Property's riparian habitat. The Applicant's own plans show an active flowing watercourse (3'-deep and 3'-wide) located in the northern area of the Subject Property and within the 100-foot setback of the proposed well. There are also many other tributaries to this watercourse within 50 feet of the proposed well site. Yet, the County staff failed to recognize the project's potential to impact the riparian habitat.

As described in Dr. Froke's Biological Report, the Subject Property clearly comprises riparian woodlands that require protection. Riparian woodlands occur along both perennial and intermittent streams in nutrient-rich soils. The numerous small streams that converge onto the Subject Property provide the right environment for great biodiversity, but for the Violation that had caused invasives to take over the property. Yet, instead of restoring this ESHA, the County is allowing the Subject Property to be further damaged through further disturbance (e.g., road created for the drill rig).

Specific Policy 2.3.4.1 (under the heading *Riparian Corridors and Other Terrestrial Wildlife Habitats*) of the Carmel Area Land Use Plan and section 20.146.040.C.2.c of the Carmel Area Coastal Implementation Plan state in relevant part the following:

Riparian plant communities shall be protected by establishing setbacks consisting of a 150-foot open space buffer zone on each side of the bank of perennial streams and 50 feet on each side of the bank of intermittent streams, or the extent of riparian vegetation, whichever is greater. No new development, including structural flood control projects, shall be allowed within the riparian corridor.

Whether natural or man-made, the California Coastal Commission has interpreted drainages with riparian corridors to require protection as ESHA. (See, e.g., Appeal Number A-2-HMB-12-005). The well, in its proposed location, does not meet the 50 to 150-foot setback requirements.

The Violation must be remedied by returning the Subject Property back to riparian woodlands to protect sensitive species, including the Yellow Warblers and Coast Range Newts described in detail in Paragraph D below.

D. Species of Special Concern Identified on the Property

As further evidence of the wetland and riparian (woodland) habitats existing at the Subject Property, nesting Yellow Warblers and Coast Range Newts were identified on the Subject Property by Dr. Froke. The Yellow Warbler is listed as a Bird Species of Special Concern and Coast Range Newt is listed as a Species of Special Concern by the California Department of Fish and Wildlife.

Appendix G of the CEQA Guidelines asks the following question, which must be answered in the affirmative and trigger environmental review under CEQA:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Yet, despite the presence of wetlands, riparian woodland habitat, Yellow Warbler and Coast Range Newts, the County staff refuses to perform environmental review in violation of CEQA. Why does the property subject to a Violation get a free pass when the Hageman Project required an initial study?

E. The Project is Subject to Environmental Review Under CEQA.

The County staff has prematurely considered a categorical exemption for this Project. There is a reasonable possibility of a significant effect on the environment due to unusual circumstances (14 CCR §15300.2(c)), in particular due to the presence of ESHAs and based on the potential for nitrate and sedimentation loading into the ASBS from activities proposed at the Subject Property. The Violations had clearly caused waste discharges to the ASBS. The project would also pose cumulatively considerable impacts to ESHAs and to ASBS. (14 CCR § 15300.2(b).) Thus, exceptions to a categorical exemption apply and the County cannot rely on a categorical exemption to bypass CEQA. Precedence has been set by the Hageman Project. The Hageman Project is a similar project in the same habitat area. Why bring vulnerability to the County under CEQA when the Applicant testified at the hearing that she is willing to have an initial study prepared?

Under CEQA, only those projects having no significant effect on the environment are categorically exempt from CEQA review. (Cal. Pub. Res. Code §§ 21080(b)(9), 21084(a); *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal. App. 4th 1098, 1099.) CEQA sets an extremely low threshold for requiring environmental review. If there is a possibility that the project *may* have a significant effect, the agency must undertake an initial threshold study, and if the project is one which may have a significant effect on the environment, an Environmental Impact Report is required. (*Salmon Protection & Watershed Network v. County of Marin, supra*, 125 Cal. App. 4th 1099.)

The “whole of an action” must be considered to evaluate direct and reasonably foreseeable indirect impact. (14 CCR §15378(a).) The whole of the action here is residential development. This well application is only one component of a larger project. The illegally drilled well has already demonstrated sufficient water quantity as alleged by the Applicant. So this application is merely to memorialize the prior illegal activity, without any real consequence for the illegal action.

CEQA does not allow a project to be chopped up in smaller pieces in order to avoid environmental review. Moreover, simply because the “whole of the action” is a single family residential dwelling unit, does not automatically exempt the project from further environmental

review. A categorically exempt project, like a single-family residence, loses its exempt status where the project may impact on an environmental resource of critical concern where designated, mapped, and officially adopted pursuant to law by federal, state, or local agencies. (Cal. Code Regs. tit. 14, § 15300.2(a); *Salmon Protection & Watershed Network v. County of Marin*, *supra*, 125 Cal. App. 4th 1099.) A CEQA exemption is also inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. (Cal. Code Regs. tit. 14, § 15300.2(b); *Salmon Protection & Watershed Network v. County of Marin*, *supra*, 125 Cal. App. 4th 1099.)

Yet, unlike the Hageman Project, whereby the County staff properly required the whole of the action (see, e.g., **Exhibit F**), the County staff is not requiring plans of the residential development to determine if such development can in fact occur on the Subject Property while still meeting all of the required setbacks and while being protective of the ESHAs.

The County must reevaluate the project based on the foregoing and require, at a minimum, an Initial Study that considers the whole of action (i.e., residential development), as it had done for the Hageman Project.

F. Septic System in an Area of Inundation Would Result in Waste Discharge to ASBS

Allowing a septic system in an area of inundation that has the potential to dispose of waste, particularly nitrates, directly to the Carmel Bay ASBS and to ecological reserves is a significant concern. ASBS and ecological reserves are protected from point and nonpoint sources of pollution in the Carmel Area Land Use Plan. (Key Policy 2.4.3.3.) California Water Code section 13260(a) states that the discharge of any waste is prohibited unless the discharger “file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board.” Water Code section 13050(d) defines “waste” as “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of disposal.” Should the septic system as currently shown on the Applicant’s plans be allowed to proceed, there is a real concern that illegal discharge of waste would be released to the Carmel Bay ASBS and to ecological reserves.

G. California Coastal Commission’s Appellate Jurisdiction

We support the ZA’s position that this project to remedy the Violations is subject to the appellate jurisdiction of the Coastal Commission, which is consistent with the Coastal Act. Although the Coastal Act delegates significant Coastal Development Permit (“CDP”) authority to local government after LCP certification, the Commission also retains an important and on-going appellate oversight role over coastal developments in specific geographic areas and certain types of development to assure the effective implementation of LCPs with respect to issues of statewide concern under the Coastal Act. Certain local CDP decisions thus may be appealed to the Coastal Commission. Specifically, Coastal Act section 30603(a) provides the following:

(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(3) Developments approved by the local government ... that are located in a sensitive coastal resource area.

Coastal Act section 30625 allows for the appeal of local CDPs to the Commission by a permit applicant, any aggrieved person, or any two members of the commission. The development of the well is proposed in a sensitive coastal resource area and thus, subject to the appellate jurisdiction of the Coastal Commission.

Specifically, given that the Subject Property comprises ESHAs and the project to remedy the Violations would pose significant impact to ESHAs, the project is subject to the appellate jurisdiction of the Coastal Commission. In particular, the following sensitive resources at the Subject Property provide the basis for the Coastal Commission to assert appellate authority:

- 1) The Subject Property contains known archeological resources. The Carmel Area Coastal Implementation Plan section 20.146.090.A expressly requires a Coastal Development Permit for development proposed within 750 feet of a known archaeological resource. Section 20.146.090 states as follows: "Development proposed within 750 feet of a known archaeological resource, as identified through the survey report or as shown on current County resource maps or other available information, shall be required to obtain a Coastal Development Permit." CDPs are appealable to the Coastal Commission.
- 2) The project to remedy the violation is located within 100 feet of waterways and riparian habitats. Monterey County Code section 20.86.080.A.2 expressly authorizes appeal of the any project approvals located within 100 feet of any wetland, estuary or stream. The Applicant's site plan indicates an active stream within 100 feet from the proposed well development site.
- 3) The Subject Property is located within Pine and Cypress forest as shown in Map C of the Carmel Area Land Use Plan. These trees are specifically identified as ESHA in the Carmel Area Coastal Implementation Plan. (Section 20.146.040.).
- 4) The Subject Property comprises riparian woodlands which provides a habitat for species of concern including the Yellow Warbler and Coast Range Newts.

These sensitive coastal resources require protection by the California Coastal Commission. That is the reason for the Commission's appellate jurisdiction.

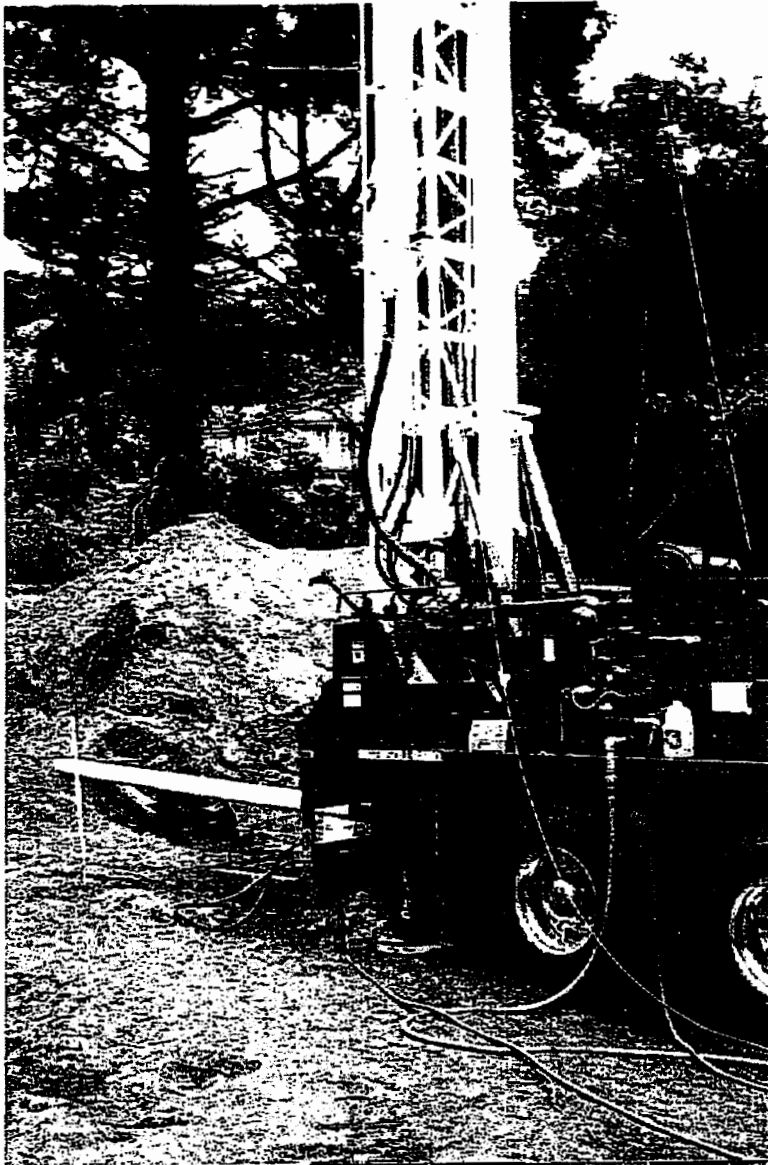
For the foregoing reasons, we support the ZA's position that the project to remedy the Violations is subject to the appellate jurisdiction of the California Coastal Commission.

Closing

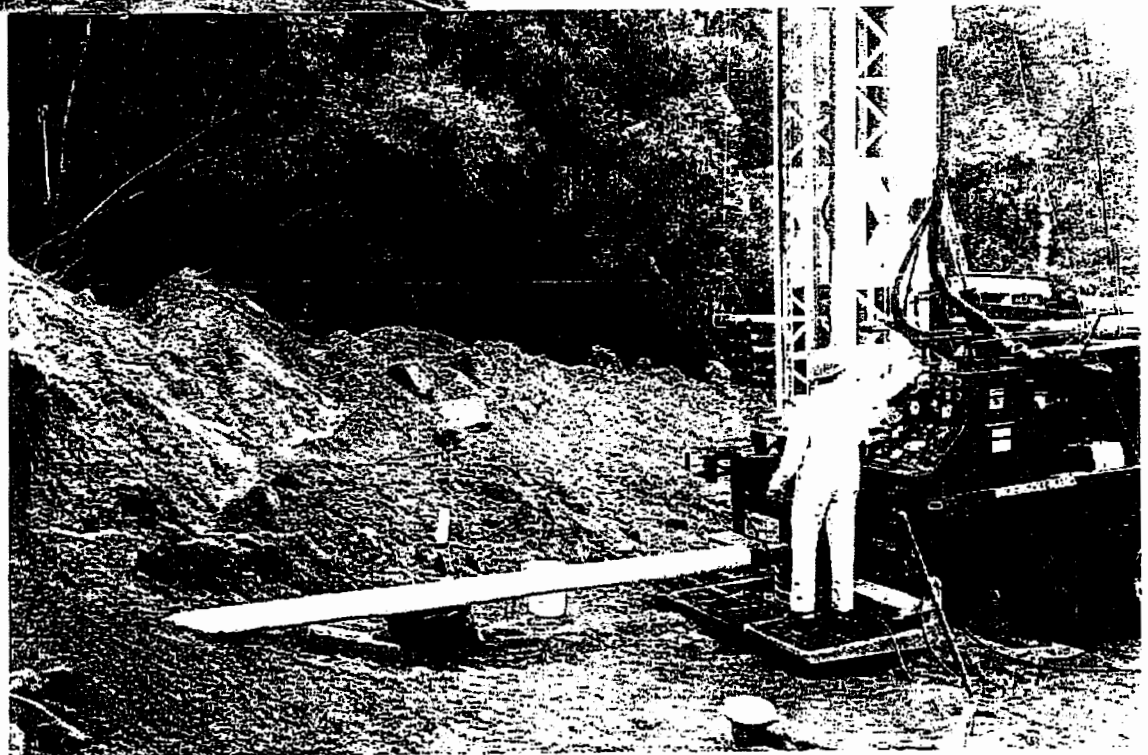
In sum, the application submittals for this project to remedy the Violations is far from being complete for proper decision making. There must be additional due diligence performed in order for the project to be found consistent with the Coastal Act, Carmel Area Land Use Plan, Carmel Area Coastal Implementation Plan, Monterey County Code, CEQA, and the California Water

Code. In the end, the most appropriate remedy for this Violation is to return the Subject Property back to its riparian woodland habitat.

Exhibit A



1-4-72
The purpose of this
investigation was
to determine the
effect of the
drilling operation
on the surrounding
environment. The
results of the
investigation are
presented in the
following report.





(Faint handwritten notes)

6/25/07



RECEIVED

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MONTEREY COUNTY
PLANNING & BUILDING
INSPECTION DEPT.



02-047

Exhibit B

Jeffrey B. Froke, Ph.D., 3158 Bird Rock Road, Pebble Beach, CA 93953

Date: 25 April 2017
To: Pamela Silkwood, Esq., Horan|Lloyd, Carmel, CA
From: Jeffrey B. Froke, Ph.D.
Subject: **ASSESSMENT OF BIOLOGICAL AND HABITAT RESOURCES ASSOCIATED
WITH 161-B SPINDRIFT, CARMEL, CA**

Ms. Silkwood,

This letter conveys my assessment of biological resources associated with the hillside property at 161-B Spindrift. In addition to field observations — made exclusively from offsite vantage points — I reviewed a series of documents prepared by the owner/applicant's contractors, specifically Zander Associates and Mr. Fred Ballerini. These I found to be deficient for being dated and failing to fully and currently describe the extent and context of wetland and riparian habitats that are present and that are occupied by special-status biota. Here, my purpose is to point-out key shortcomings of the applicant's reportage and inform County and possibly Coastal staffs of resources and policies that would bear greater scrutiny than appears to have been the case, thus far. In particular, it appears that the project would not be exempt from CEQA as it poses significant and possibly unmitigated effects on special-status resources..

Objective: This letter-report ought to improve — but not answer or satisfy — the public's ecological understanding of the Spindrift landscape, particularly the predominant if overlooked biological and geomorphological features of the subject property and its immediate vicinity. Such an understanding of basic and local resources might help public officials to determine an appropriate level and type of development, particularly while the owner's current proposal for a residence and extensive infrastructure is afloat.

Information Basis: To prepare this report, I accessed site information from the following sources:

1. First-hand observation and photographs of the site and its vicinity from roadside vantage points along Cabrillo Highway and Spindrift Road (five visits during October-November 2015 and April 2017);
2. Public documents, e.g., those attached to the County's application/hearing package for PLN140483; e.g., arborists' reports (Rob Thompson), and a biologist's two reports (Fred Ballerini); cover letter from Tina Hannas-DeFrias (15 June 2016) w/ attached wetland field notes and preliminary report by Leslie and Michael Zander (Zander Associates); Zander's sampling notes are dated 01 October 2015.
3. My own and public-domain ground photographs and aerial images (e.g., Google Earth Pro; MoCo Accessor's Map Page; CA Coastal Records Project); miscellaneous agencies' local and regional maps.

Summary Data (refer to PLN140483 for details):

- Subject Ownership: Spindrift View Partners LLC, aka Robert Ching
- Address: 161-B Spindrift Road, Carmel, Monterey Co., CA
- Monterey County APN: 241-191-005-000
- Coordinates (d): lat 36.496000° / lon -121.937960°
- Elevation Range: 30 ft (~85-115 ft ASL)
- Slope: Westerly ~ 5-15 pct
- Soils: *Pfeiffer sandy fine loam* and *Sheridan coarse sandy loam* (County of Monterey GIS and NRCS, Soil Survey of Monterey County, California; note that Zander Associates identified soils to be *Santa Ynez fine sandy loam*).
- Areal coverage: 58,323 ft² (1.34 ac)

Geographic Context:

The site is landward (0.60 mi N/NE) of Yankee Point in an area historically developed as the *Carmel Riviera* and partial to the Carmel Highlands; site is 2.10 mi S/SE of Point Lobos and 6.33 mi SSE of Cypress Point (Pebble Beach), which is significant as the westernmost point-of-land in the southern half of the state, just below the very mid-point of coastal California.

Land Use Planning Context:

MoCo Plan Area: Coastal Zone/Carmel Land Use Plan; Current Land Use: Vacant
Development setting: Estate and low-density SF residential (1931 - present)
Zoning: LDR/1-D (CZ)

Vegetation Cover:

The site is essentially ruderal and vegetation cover is largely disturbed with a greater proportion (>50 pct) of nonnative plant species: Poison Hemlock (*Conium maculatum*) and Common Mustard (*Brassica rapa*) herbaceous complex; Monterey Cypress (*Hesperocyparis macrocarpa*) arboreal with Bigleaf Periwinkle (*Vinca major*) understory; extensive Sydney Golden Wattle (*Acacia longifolia*) w/ mixed woody and herbaceous complex (Western Poison Oak, *Toxicodendron diversilobum*; California Blackberry, *Rubus ursinus*); Tasmanian Bluegum (*Eucalyptus globulus*) arboreal and riparian complex; and a substantial tall shrub cover dominated with California Coffeeberry (*Frangula californica*) and small numbers of Coast Live Oak (*Quercus agrifolia*) and Monterey Pine (*Pinus radiata*).

Drainages, named and unnamed:

The Cabrillo Highway (SR-1), E of the site represents the westerly boundary of an unnamed surface watershed (heretofore, the Peter Pan WS, ~ 57.40 ac) that affects a major part of the subject site: drainage onto the site is from combined ground percolation and surface flows directed toward the site by two under-road culverts crossing Cabrillo Highway. (Figure 2, drainage on topo); the combined 2-part watershed is interim of the larger Wildcat Creek (N) and Malpaso Creek (S) watersheds. A large part of the contiguous Hageman property (S) drains onto the subject site over a slope @ 13-15 pct.

Illustrations:

Figures 1-6, below, illustrate and summarize the geographic, hydrographic and vegetation cover context of the subject site, as observed in the field and from public domain imagery. This assessment does not discuss or review a technical hydrogeological report as may have been provided to the County (DEH?) by the owner, but is unseen.

Figure 1, below, indicates the location and at-scale geometries of the subject site in the Carmel Land Use Plan Area (Spindrift View Partners, PLN140483) (from County of Monterey).

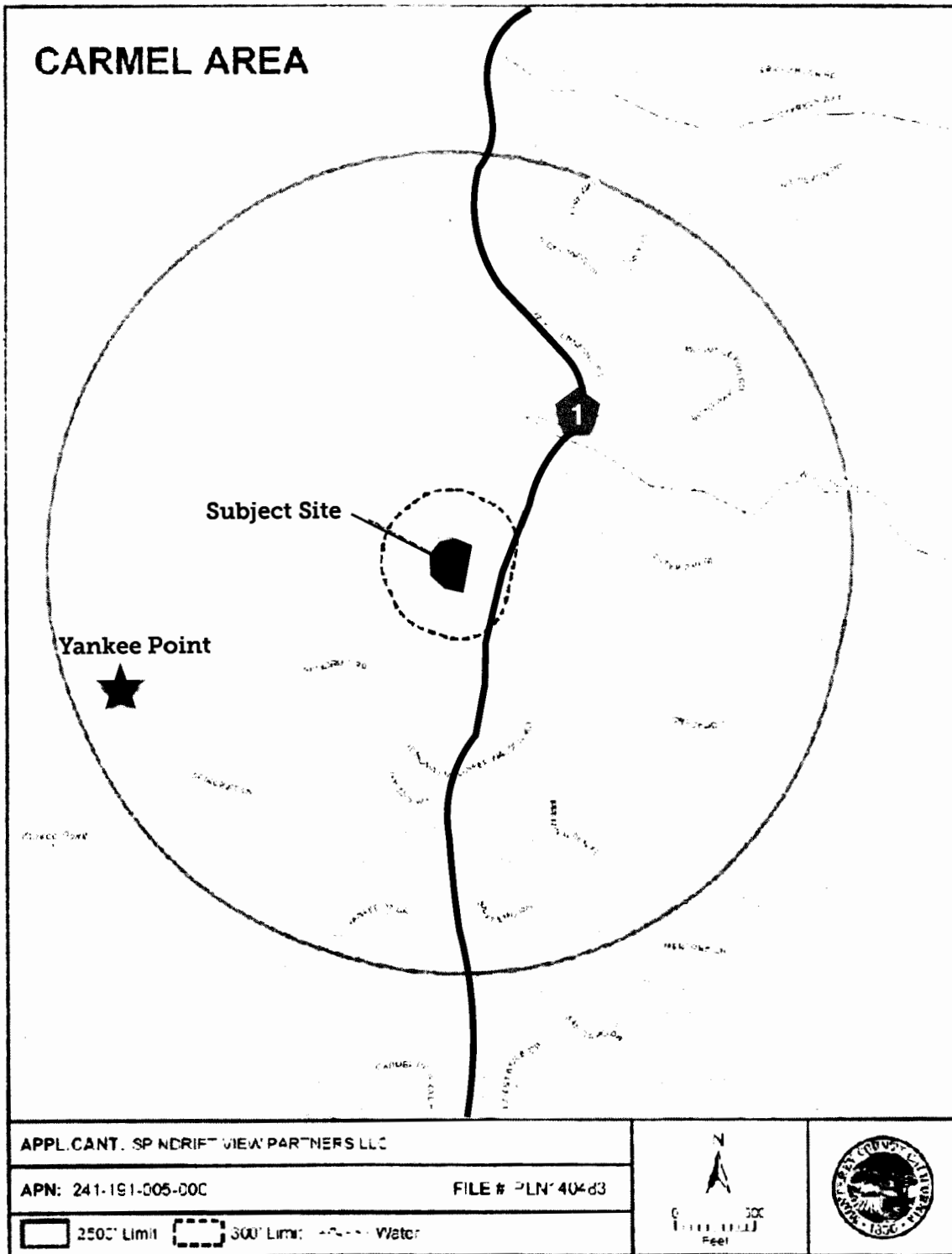


Figure 2, below, illustrates the subject property and its vicinity in the context of the Peter Pan watershed.

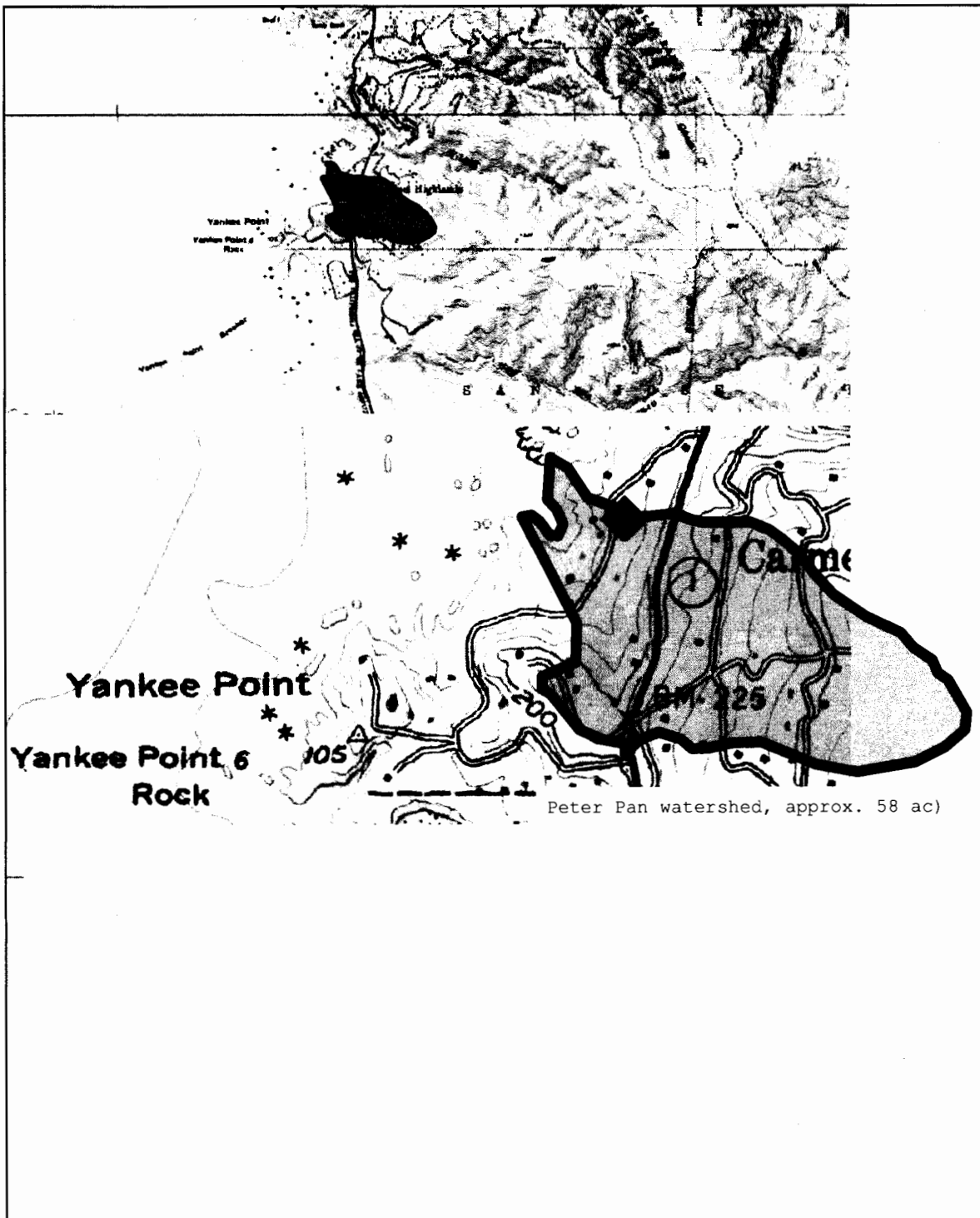


Figure 3, below, summarizes the surface hydrography of the subject property and its vicinity, as determined by field observations made in 2015 and 2017. The deeply incised and active riparian channel that in part defines the N boundary of the subject parcel (from observed field staking of property line) is heavily vegetated with riparian vegetation and dense arboreal cover.

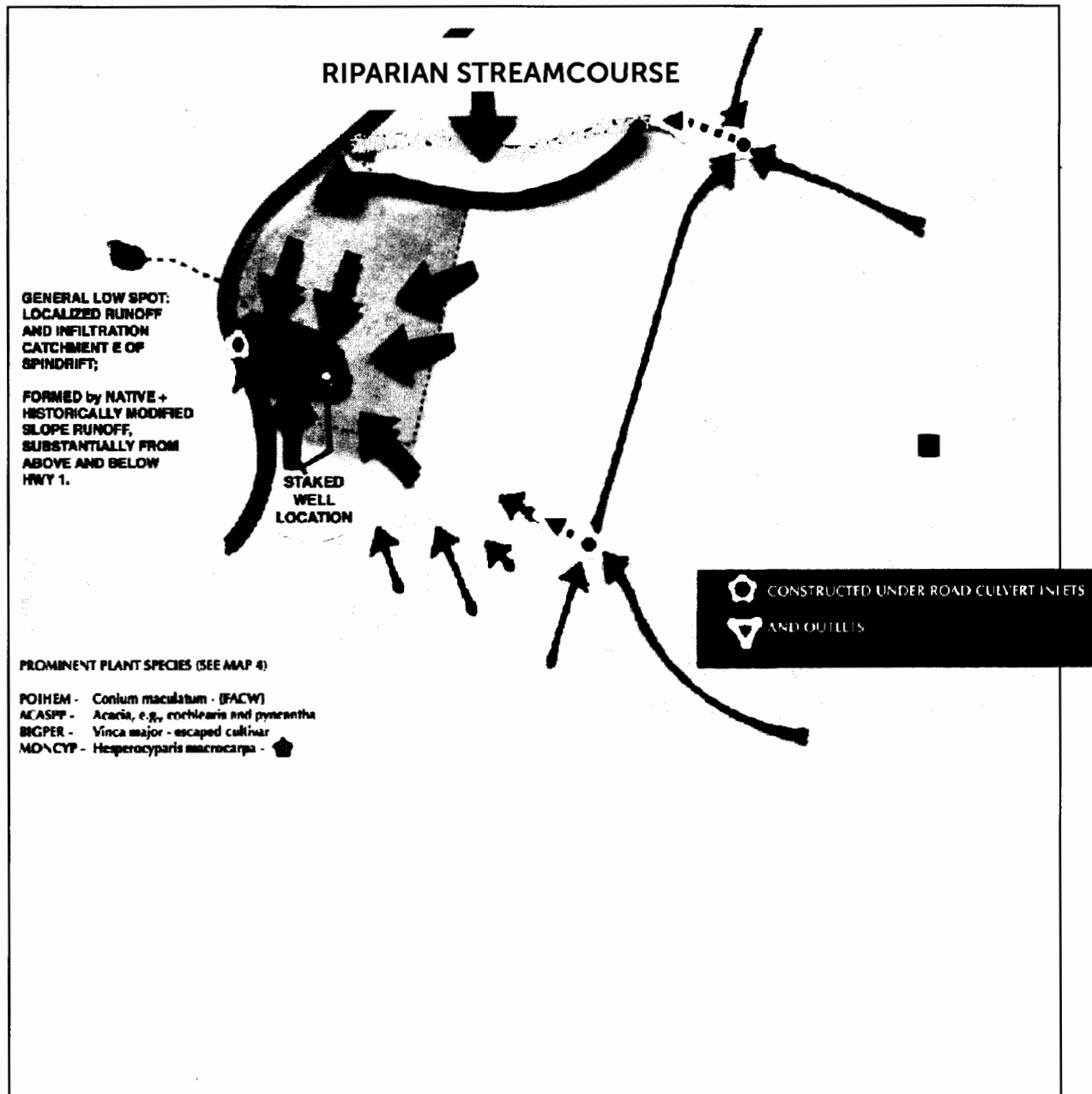


Figure 4, below, summarizes general vegetation cover condition across the subject property, circa 2015 (only); see Figure 5, below. Aerial image from 2015.

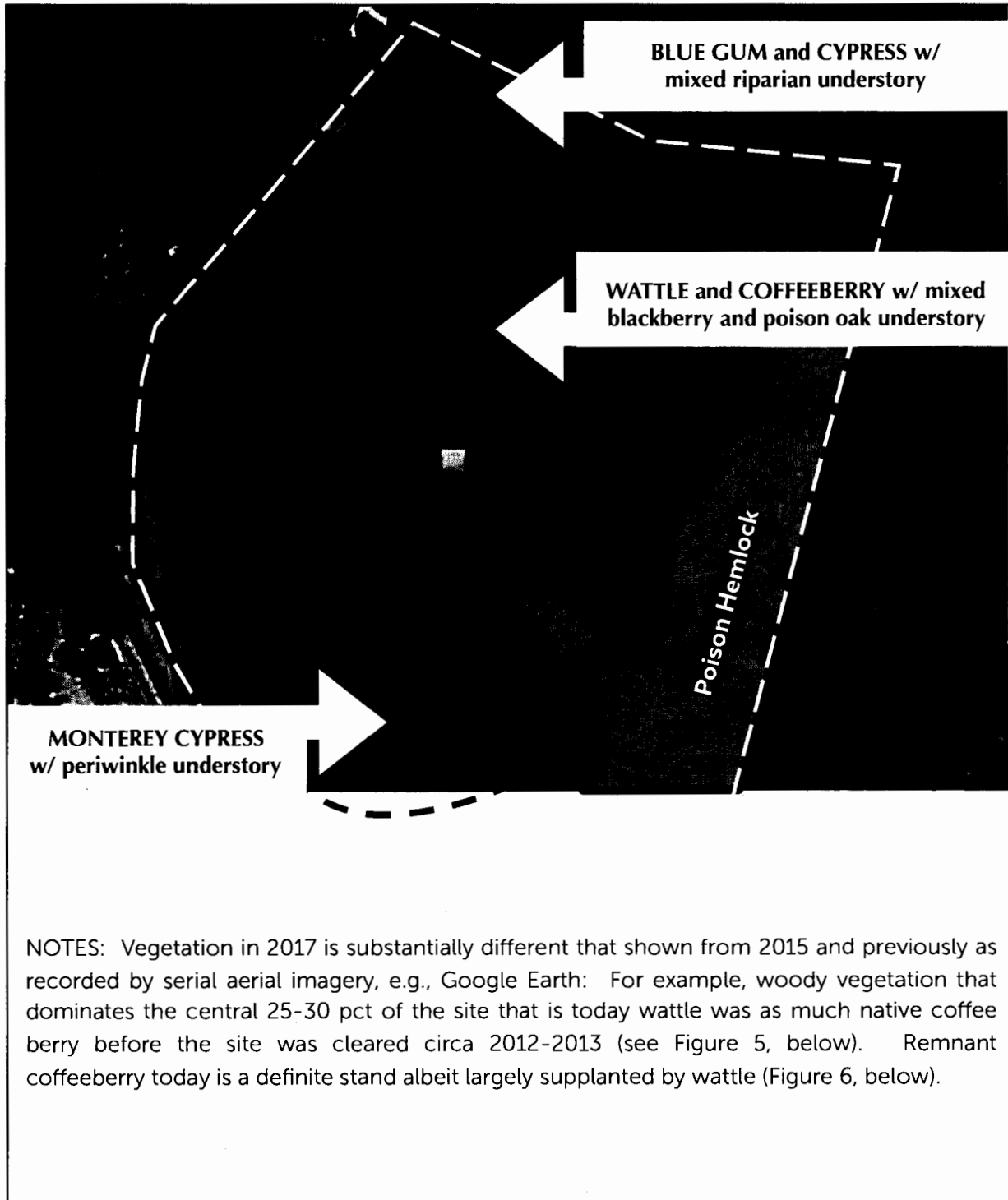


Figure 5, below, illustrates a significant woody cover change (reduction) from clearing that occurred over large portion of the subject property sometime after 05 May 2012 and before 25 August 2013. The present cover (2017) is substantially different still from the pre-clearing condition, but actual vegetation cannot be determined from the selected imagery (Google Earth). Refer to corresponding rectangles and center-point.

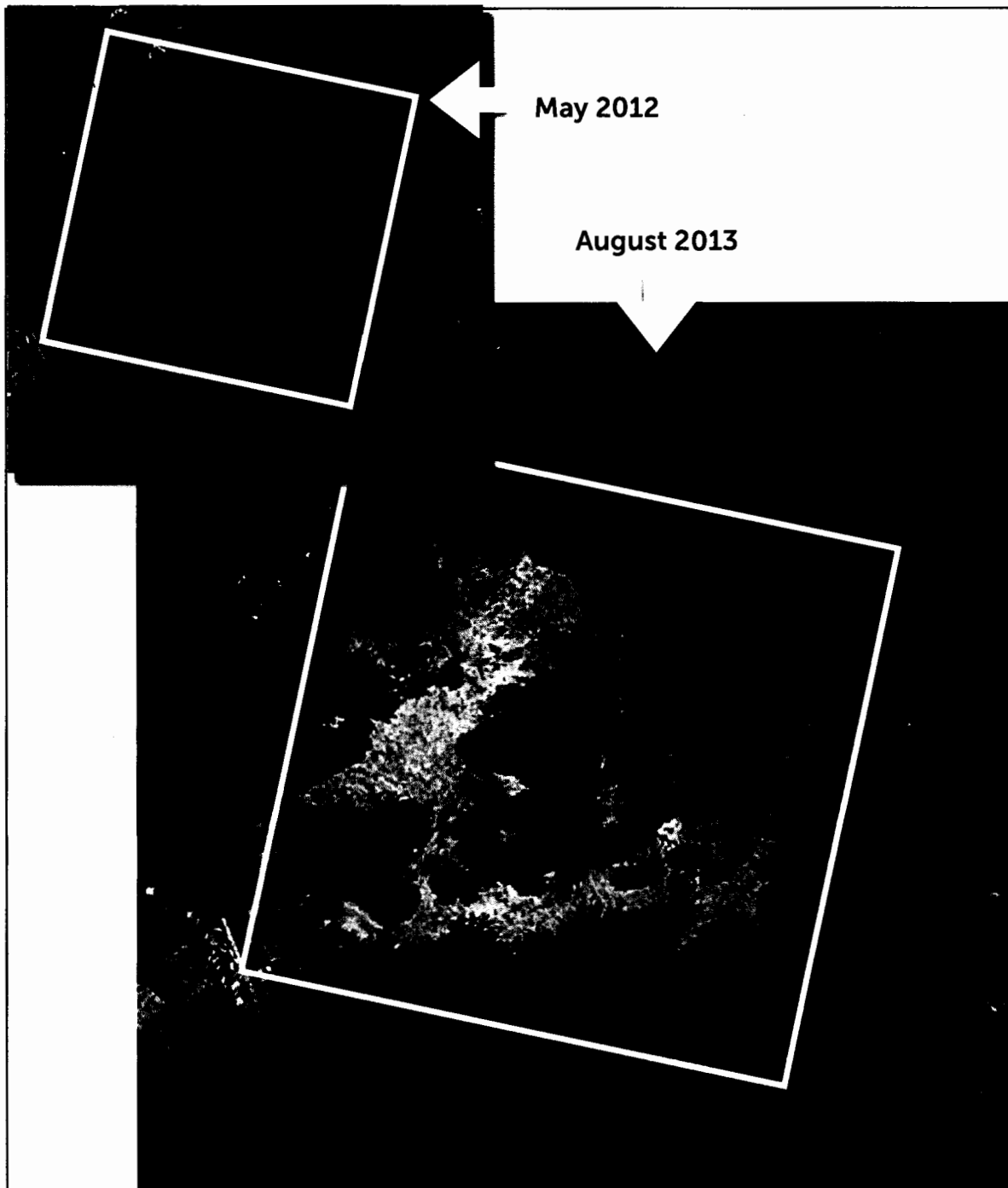


Figure 6a and 6b, below, illustrates current site conditions with a series of four (4) photographs taken on 11 April 2017.



Central wattle and significant coffeeberry stand in mid-ground; wetted lower slope area, see Yellow Warbler discussion, below.





View to upper wattle - see Yellow Warbler discussion, below.



Riparian woodland and verge on N side of subject property;
see discussion of Coast Range Newt, in text.

Evaluation and Interpretation

Vegetation Pattern —

The vegetation cover of the subject site is largely ruderal with significant native elements. The ruderal nature of the site is at least in part the result of serial vegetation clearing, excavation and fill, then exacerbated by periodic rainfall and drought. The focused runoff and detention of flows from above-highway drainages and uphill culvert releases, as well as planting and passive treatment of nonnative plants also play a role in development of ruderal conditions all along Spindrift and the Carmel coastal region.

The remnant native stand of California Coffeeberry represents a fraction of the original stand that was cleared during 2012-2013. The now extensive wattle emerged after the clearing and ground disturbance, and as wattles do, it was invigorated by the opening of sufficiently moist ground. While I strongly expect that willows also had been onsite with the coffeeberry, and were replaced by the wattle, the amount of willow and pattern of changeover cannot be determined, at least from offsite. I was disappointed to find no discussion of the onsite cover dynamics in either Mr. Ballerini's or the Zanders' assessments; either doubtlessly will do a suitable job of it whenever tasked by the applicant.

Whether native, the group of large Monterey Cypress at the S edge of the site is integral with respect to the local Spindrift neighborhood; no less, the group of large cypress trees at the N edge of the property, there forming a riparian arboreal cover over the principal local stream course (with substantial Blue Gum trees) is a fundament of the neighborhood.

The seasonally intermittent or segmentally perennial streamcourse at the N boundary of the subject site does with certainty support an aquatic habitat as well as a continuous stand of riparian cover. See discussion of special and protected animals, below.

A large patch of periwinkle and mixed herbaceous species surrounds the cypress at the S edge of the site, and more or less defines the reach of a moist basin of the local drainage. The apparent catchment is approximated with a red-dashed line on Figure 4, above. The pattern of low-growing and shaded ground cover and adjacent woody patches and tree stands, some that are notably fast-growing (post 2013 wattle, e.g.) suggest a pattern of surface and subsurface hydration that is more complex than has been suggested by the available biological reports (Ballerini) and wetland field notes (Zander Associates). Ruderal

or natural, the suggested complexity and across-site variability of plant growth strongly indicate the necessity of a detailed cover map that is tied to the actual edaphic structure of the property. To my understanding, the level of resource study so far evidenced falls short of usual expectations for a coastal property in the Carmel Plan Area.

Well vs. Cypress, etc. —

The untoward placement of a well against the cypress trees is symptomatic of trying to develop an unsuited infrastructure onto a highly constrained site. While I utterly respect both Robert Thompson and Maureen Hamb as professionally skilled arborists, I have to side with Ms. Hamb in this matter: To be safe and to ensure the integrity of the site and its neighborhood, the well or wells should be further distanced from the trees. Furthermore, the apparent matching of the wetland boundary to the uphill hemlock patch, which by the way is not fixed but dynamic since 2013-2015, is unconvincing. The wetland boundary and property-wide extent of wetted ground should be reexamined in light of passing-time (2-3 years) and shifted vegetation lines, and the ongoing remission of the recent 4-year drought. Finally, in this regard, proximity to the sea alone should signal absolute adherence to Best Management Practices when it comes to site exploration and development of a well or wells, which as I have learned was not the case with the owner's recent soil and drainage investigations.

Biological Resources —

From the standpoint of on-property ecological resources, the biological elements of the site and its immediate environs are not as significant as its overall physical or geomorphic character and that of its neighborhood above Spindrift Road, but they are significant and in with respect to two animal species the resources are special and sensitive.

Wetlands and Riparian Cover

The presence alone of Poison Hemlock (FACW) does not confirm wetland. The growth pattern of the hemlock stand may reflect disturbed and redistributed soils from (a) developing the uphill homesite and/or (b) subsequent mowing and land care, as well as (c) the local hydrography. In other words, the pattern of the hemlock stand cannot be relied on to draw the lines of the local wetlands. The predominance of the site wide vegetation mantle as composed of three fundamental invasive nonnative plants (wattle, hemlock, and

periwinkle) versus even a semblance of native cover strongly indicates an historical and ongoing pattern of site and soil disturbance, from onsite and offsite activities. The actual wetlands may be and likely are more extensive than detected in 2015.

In terms of vegetation and evolved cover since the central corpus of the property was broadly cleared in 2012-2013, the wattle has emerged as a heavily wooded and spreading cover that not only abuts the riparian channel at the N boundary (with heavy eucalyptus cover) and the wetland area nearer the top-end of the property, it appears also to have developed over persistently wet ground that may be draining the upper-central slope between the N and S masses. Mapping (by Zander) circa late 2015, and thereby at the apex of the recent 4-year drought, would not have detected slope drainage from the watershed subsequent to resumption of greater than normal or rainfall over the past winter.

Special Animals –

Although not detected by Mr. Fred Ballerini, who is the biologist for Ching/Spindrift View Partners, the central portion of the property, effectively the totality of the wattle, is an occupied nesting habitat for at least two breeding pairs of Yellow Warbler (*Setophaga petechia*) (JB Froke's field notes, verified 11 April 2017). The Yellow Warbler is a California *Species of Special Concern* (SSC; Western Field Ornithologists and California Department of Fish and Wildlife, 2008)¹ and California Department of Fish and Wildlife 2017.² Additionally, US Fish and Wildlife Service has since 2008 classified the species as a *Bird of Conservation Concern*³.

¹ 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.

² California Department of Fish and Wildlife, Natural Diversity Database (CNDDB). April 2017. Special Animals List. Periodic publication. 51 pp.

³ USFWS, 25 September 2015. Explanation: The 1988 amendment to the Fish and Wildlife Conservation Act mandates the U.S. Fish and Wildlife Service (USFWS) to "identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973."

The streamcourse and adjacent riparian cover is occupied by a population of Coasta Range Newt (*Taricha torosa*), a native amphibian the Monterey County population of which is classified as a *Special Animal*, i.e., a *Species of Special Concern*, by California Department of Fish and Wildlife (Special Animals List, April 2017 version). CR Newts rely on the aquatic and adjacent riparian cover provided by intermittent streams along the coastal front of the Santa Lucia Range. The recent wildfires in this region have posed serious conservation challenges for coastal aquatics, thus findings in the Spindrift and Carmel Highlands reaches of the area suggest greater than usual significance.

➡ Special Animals, Species of Special Concern & the California Environmental Quality Act:

Presence of both nesting Yellow Warblers and Coast Range Newt on and immediately adjoining the property is to be addressed under CEQA – Pursuant to CEQA, “SSCs *should be considered during the environmental review process. The California Environmental Quality Act (CEQA; California Public Resources Code §§ 21000-21177) requires State agencies, local governments, and special districts to evaluate and disclose impacts from “projects” in the State. Section 15380 of the CEQA Guidelines clearly indicates that species of special concern should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity outlined therein.*

Sections 15063 and 15065 of the CEQA Guidelines, which address how an impact is identified as significant, are particularly relevant to SSCs. Project-level impacts to listed (rare, threatened, or endangered species) species are generally considered significant thus requiring lead agencies to prepare an Environmental Impact Report to fully analyze and evaluate the impacts. In assigning “impact significance” to populations of non-listed species, analysts usually consider factors such as population-level effects, proportion of the taxon’s range affected by a project, regional effects, and impacts to habitat features. ”

I noted the following statement from Ms. Hannas-de Frietas’ memorandum to the County (15 June 2016) and respond below.

In preparation for construction, the property will be cleared of Acacia trees (an invasive tree, which must be irradiated from this site) and other brush to allow proper staging of the construction areas: the wetlands areas will be fenced off to prevent disturbance in these areas. Tree and Root protection fencing will be installed, along with erosion control waddies and silt fencing during construction.

Clearing for well-digging is problematic and approval must be conditioned to avoid disturbing or harming nesting native birds, of which several species and one special-status species are currently active onsite (April 2017). Nesting birds, including the Yellow Warbler (CDFW:SSC, USFWS:SCC) occupy the acacia wattle as well as the mature stand of native California Coffeeberry; also the cypress and blue gums, and hemlock and incidental shrub understory stands. Clearing vegetation of any kind if during the nesting period (on average, February through August) must be addressed to prevent and not just minimize disturbance. Whether to protect nesting birds and their nests, eggs and nestlings is not discretionary and lawful compliance with state and federal statutes is mandatory; it is the County's responsibility to ensure compliance when considering an applicant's permit.

Further, permitting to allow equipment mobilization and boring anywhere in vicinity of the riparian corridor (distance not specified herein) must recognize and specifically consider the confirmed presence of Coast Range Newt in and alongside the streamcourse.

Also, does the applicant propose a plan to manage the site and particularly the acacia wattle following completion of the well digging and its demobilization — e.g., to deter a re-invasion that certainly would be invigorated by the ground disturbance associated with the proposed well-works? Accordingly, will the County require a vegetation plan to install natives and direct the regrowth to benefit native vegetation?

My impression is that a CEQA-exemption for the project would be inconsistent and ultimately insufficient in view of possible harm to a special-status species, amphibian and bird, and other nesting birds and their habitat.

Site Hydrography —

The hydrography of the site and its tributary setting is substantially affected by a partially-developed surface watershed above (E) of Cabrillo Highway that is partially surrounded by the Lower Walden Road and Peter Pan Road developments within the Peter Pan watershed.

Impervious surface formations including paved roads and drives, and rooftops and hardscapes that are associated with the local (Peter Pan and Lower Walden) residential

environment contribute flows collected above the highway and released above the subject property. A portion of the flows onto the subject site are gathered in a low basin or catchment after the end of the steeper uphill slope and before Spindrift Road.

In addition to highway and culvert drainage from the Peter Pan watershed; drainage from the upper part of the Hageman property and the large residence that fronts the highway and lays directly above the subject site all aim squarely at the subject site. An exit culvert runs adjacent to the catchment area.

At the lowest elevation and W limit of the subject property, the catchment area partially overlaps with a complex of cypress and periwinkle understory. A shade-dependent and thirsty plant, the periwinkle relies on the dense canopy of the cypress stand and moist ground. *The catchment around adjacent to the S-side cypress stand is subject to runoff and ground water movement, and at that location, the perennial stand of periwinkle signals a moist environment: Was this portion of the property covered by the owner's wetland survey conducted in 2015? As well, has there been a hydrogeological and/or engineering assessment of the uphill watershed and culvert systems and onsite flow capacities for a property that evidences serious constraints and limitations?*

The area above the basin and partially onsite is dominated by a heavy stand of Poison Hemlock, largely outside the shade of the large cypress and continuous with a major patch that covers a substantial amount of the large estate immediately uphill. Poison Hemlock is a FACW species, and it may be influenced by infiltration and possibly intermittent inundation from storms. Furthermore, that the wetland boundary would be restricted to the footprint of the existing hemlock stand — an area perched above the balance of the property on a steep (10-15 pct) slope seems altogether unlikely. Mapping and delineating wetland features within just the hemlock stand, a top-of-hill, on-slope site raises questions about the actual coverage of the survey; and as a complete wetland report was not available for viewing (field sampling records were seen), I wonder about any caveats or recommendations for following up the effort, e.g., per a wider dimension and after remission of the ongoing drought?. *What amount of effort and analysis of wetland properties was extended to on-property areas outside the footprint of the hemlock stand?*

EVALUATION

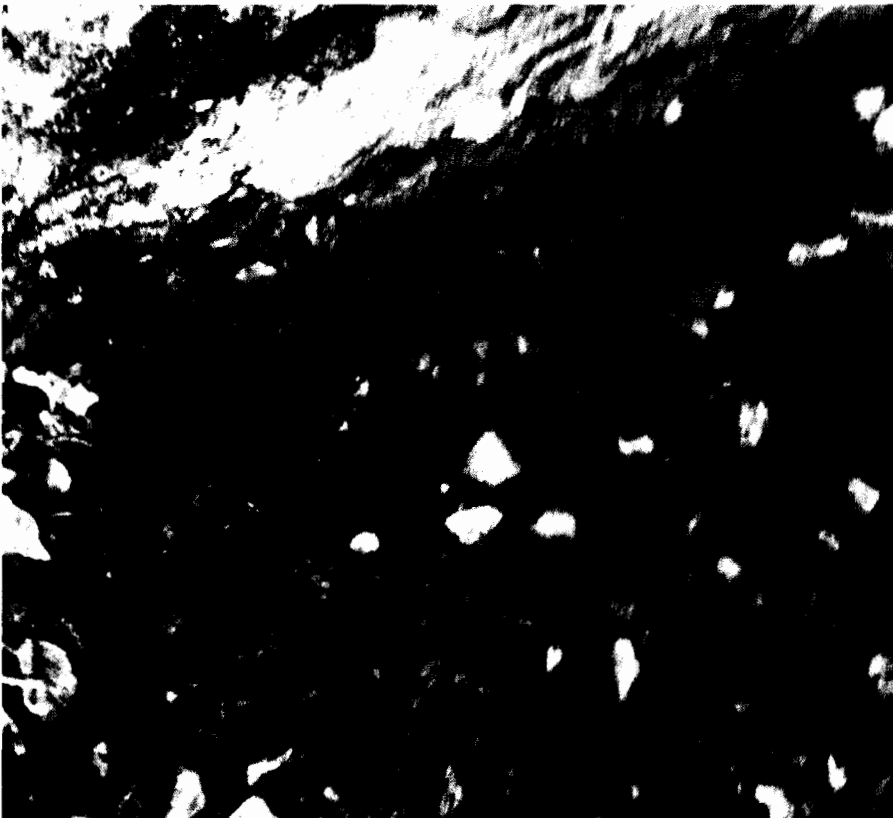
It is my opinion that the onsite extent of wetland and riparian resources has been underplayed, or not fully discovered, and thusly the applicant's application materials are inadequate to convey actual conditions. The oversight may be because these values have only been recently expressed, or re-expressed following the end of the past drought; however, evidence of a wetter site in 2015 than was documented by the applicant's consultants suggested a longer-term condition. The likelihood and full effect of human-influenced hydrological conditions cannot be ruled-out and should be more deeply sought and explained before public agencies would conclude their assessment and determination. In a few words, a broader and more extensive wetlands delineation is called for, particularly given the highly constrained nature of the site and the close quarters of the encompassing Spindrift neighborhood.

Too, it is my opinion that the oversight of present nesting Yellow Warblers, a species that is emblematic of limited and diminished wetland and riparian woodlands in Coastal California, is egregious. The species' breeding season song and territorial calls are clarion and obvious to trained biologists; and the species' statewide conservation status and CEQA implications signal the need for a careful and deliberate reassessment of the project application by County officials, if not Coastal staffs, as well. Finally, it is not clear whether proposed site work, i.e., clearing and grading to allow investigational well works, would be conditioned to (1) avoid disturbance of nesting birds, as is required by state and federal law, and CEQA, and (2) fully document and mitigate for potential adverse effects to the onsite nesting population of Yellow Warbler, a state and federal species of concern.

The biologist either did not look for or may have looked but missed finding Coast Range Newt, the latter being a reasonable explanation, the former not. As with Yellow Warbler, the newt's presence bears further resolve in determining appropriate setbacks (100 ft at minimum) from the N-boundary streamcourse. Before clearing or mobilization of equipment — even for a test well — the actual minimum setback (starting at 100 ft minimum) should be determined only after a qualified biologist confirms the safety of newts in the riparian undergrowth. Again, native vegetation is not a requisite of effective riparian cover and should not be dismissed as such. And a well is a well, test or otherwise.



Yellow Warbler



Coast Range Newt

Subject stream,
25 April 2017.

To proceed, it is my observation and opinion that the County of Monterey is obliged to address and condition assurances of the following before proceeding with the approval of the well project application: (1) a thorough, site-wide wetlands evaluation, (2) plan to monitor and protect onsite and adjoining riparian resources, (3) enhancement of onsite native vegetation and defense against a re-invasion by the acacia wattle, (4) protection of nesting birds that now occupy much of the property, including the wattle, 5) assessment and protection of the onsite nesting Yellow Warblers, per CEQA, and (6) assessment and protection of Coast Range Newt, also per CEQA.

Lastly, the failure of the well project application and support materials to address the matters outlined here, and particularly the lacking fuller rendition of biological resources that are present onsite, calls the question of Coastal's purview and approval: To wit, on the basis of incomplete information and apparent threats related to special environmental conditions (wetlands, riparian habitat, nesting birds and protected animal species) the proposed actions do not appear to be in conformity with the certified local coastal program, at least without clear and direct mitigation that could be conditioned by the County.

None of the items that I have introduced or discussed above are extraordinary and indeed are commonly managed by County and Coastal review and approvals processes. What appears to be extraordinary, so far anyway, is the lack of a conditioned pathway to address and resolve the issues. This deficiency should be dealt with before permitting and work would proceed further.

Thank you,

A handwritten signature in black ink, appearing to be 'J. Froke', with a long horizontal line extending to the right.

Jeffrey B. Froke, Ph.D.
Consulting Ecologist

(831) 224-8595

jbfroke@mac.com

Exhibit C

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



August 30, 2002

Colin Gallagher
Monterey County Planning & Building
2620 1st Ave.
Marina, CA 93933

Subject: ***Comments on Hageman PLN010032 Initial Study***

Dear Colin,

We have received and reviewed the Initial Study/Mitigated Negative Declaration for the Hageman project on Spindrift Rd. in the Carmel Highlands. Thank you for the opportunity to review this project and provide comments. Our primary concerns with this project are its potential impacts to wetland habitat and increased water use in an area of questionable hydrology.

First, this document is inadequate because it does not discuss all potential biological impacts. The site plan shows an ambiguous area called "Area subject to temporary inundation". This description indicates that the area is a wetland, however it has not been adequately delineated or mapped to scale. There is also no mention that the plant list contains obligate and facultative wetland plants, further indicators of a wetland on the property, nor a description of the soils in the "area of inundation" present in the biology report. The Initial Study must address potential impacts of the development on the wetland.

LCP General Policy 2.3.3.1 provides for the protection of, and defines wetlands:

2.3.3.1 Development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be avoided in critical and sensitive habitat areas, riparian corridors, wetlands...

... Wetlands are defined as lands which may be covered periodically or permanently with shallow water and include saltwater marshes, fresh water marshes, open or closed brackish water marshes, swamps, mudflats and fens. (Emphasis added)

Clearly, the LCP regards areas subject to temporary inundation wetlands, and avoidance of impacts to the resource is preferable to mitigation of impacts. It appears that the drill rig access road could easily be shifted to avoid the wetland area. However, LUP Policy 2.3.4 Wetland and Marine Habitats specific policy 1 requires a 100-foot setback from the edge of all coastal wetlands that must be maintained in open space use. Because the wetland has not been adequately mapped, it is difficult to determine where that 100-foot buffer zone would be. The drill rig access road should be moved outside the 100-foot buffer zone of the wetland, especially if this road will serve as a driveway in the future. Additionally, potential impacts to the water level in this wetland from the use of the well should be discussed.

Our second area of concern would be potential cumulative hydrologic impacts of an additional new well in this area. We understand that CIP Section 20.146.050.A.2.b provides an exemption to the requirement for a hydrologic report where there is an intensification of water use for development of a single-family dwelling on a vacant parcel. However, given the geologic nature of the area, that wells drilled into fractured granite are less productive than wells drilled into

Exhibit D

EXHIBIT "D"

Well Radius of Influence
 radius = 630.91 feet
 equivalent to an area of 23.61 acres
 (Calculations in Appendix B)

Surface Watershed Area #3
 5.55 acres
 (See notes for Surface Watershed Area #1)
 A portion of Hageman Property
 is within this Surface Watershed.

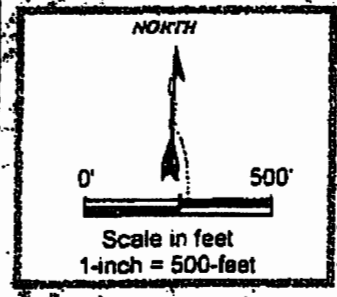
Hageman Property
 0.985 acres
 Although this topographic map
 does not show the detail,
 Hageman property is on
 a surface watershed divide

Surface Watershed Area #2
 16.92 acres
 (See notes for Surface Watershed Area #1)
 A portion of Hageman Property
 is within this Surface Watershed.

Surface Watershed Area #1
 57.41 acres
 State Highway 1 is acting as a watershed boundary.
 All of the runoff above HWY 1 either percolates into
 the ground or is diverted to the storm-drain culvert
 of State Highway 1.

NOTES:

Surface Watersheds and Hageman Property Areas calculated using a Planix 5 Planimeter
 Surface Watershed Area #1 calculated to be 2,500,563 ft² equivalent to 57.41 acres.
 Surface Watershed Area #2 calculated to be 736,932 ft² equivalent to 16.92 acres.
 Surface Watershed Area #3 calculated to be 241,808 ft² equivalent to 5.55 acres.
 Hageman Property calculated to be 42,912 ft² equivalent to 0.985 acres.
 As Noted above - Hageman Property, although not depicted on this scale map, is on a
 a surface watershed divide.
 1 acre = 43,560 ft²



230194 acres/watershed



Weber, Hayes & Associates
 Hydrogeology and Environmental Engineering
 120 Westgate Drive, Watsonville, Ca. 95076
 (831) 722 - 3580 (831) 662 - 3100

**Surface Watershed Area &
 Well Radius of Influence Map**

APN: 241-252-007
 Spindrift Road, Carmel Highlands
 Carmel, California

**FIGURE
 6**

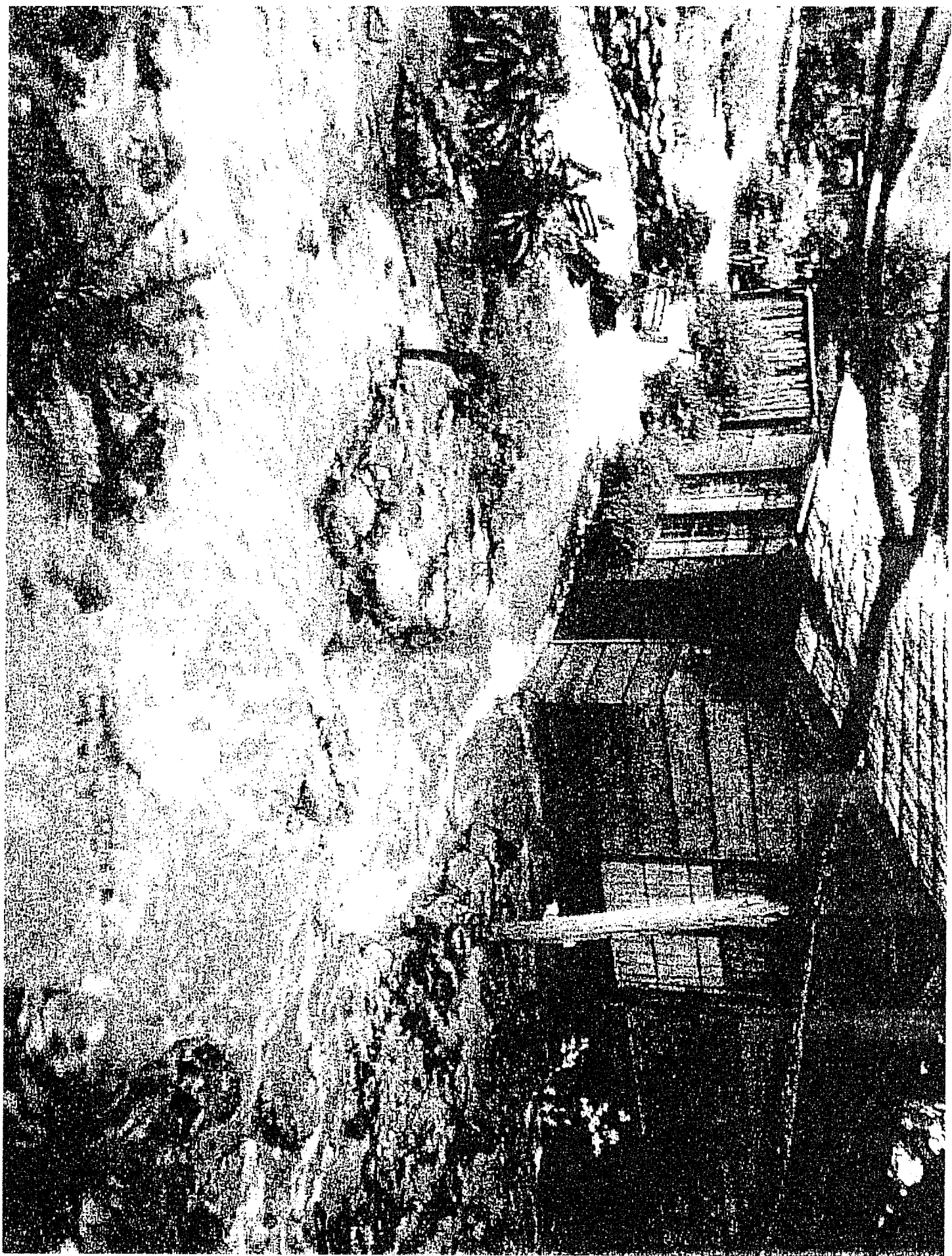
Job #
 23019

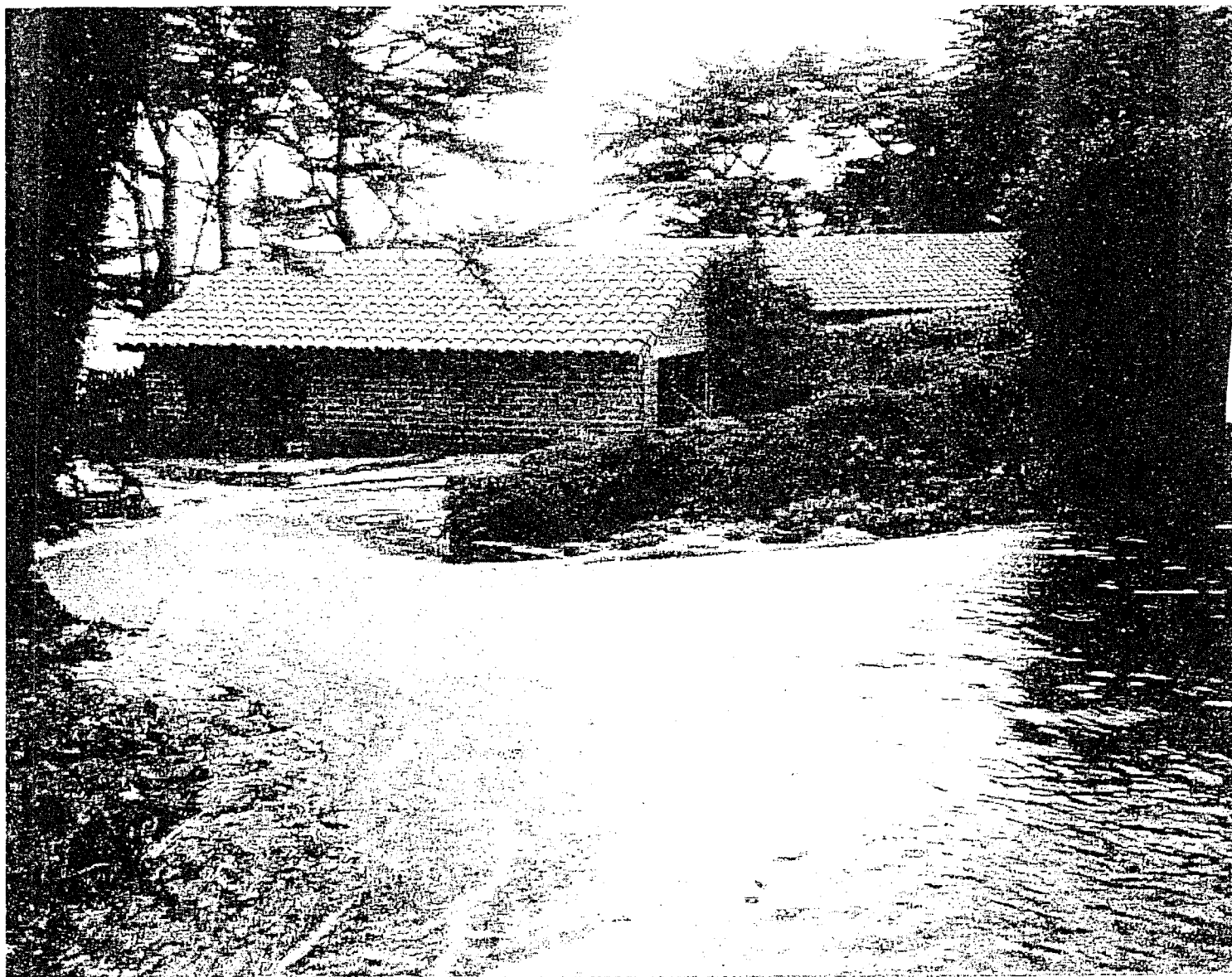
Exhibit E

Exhibit E



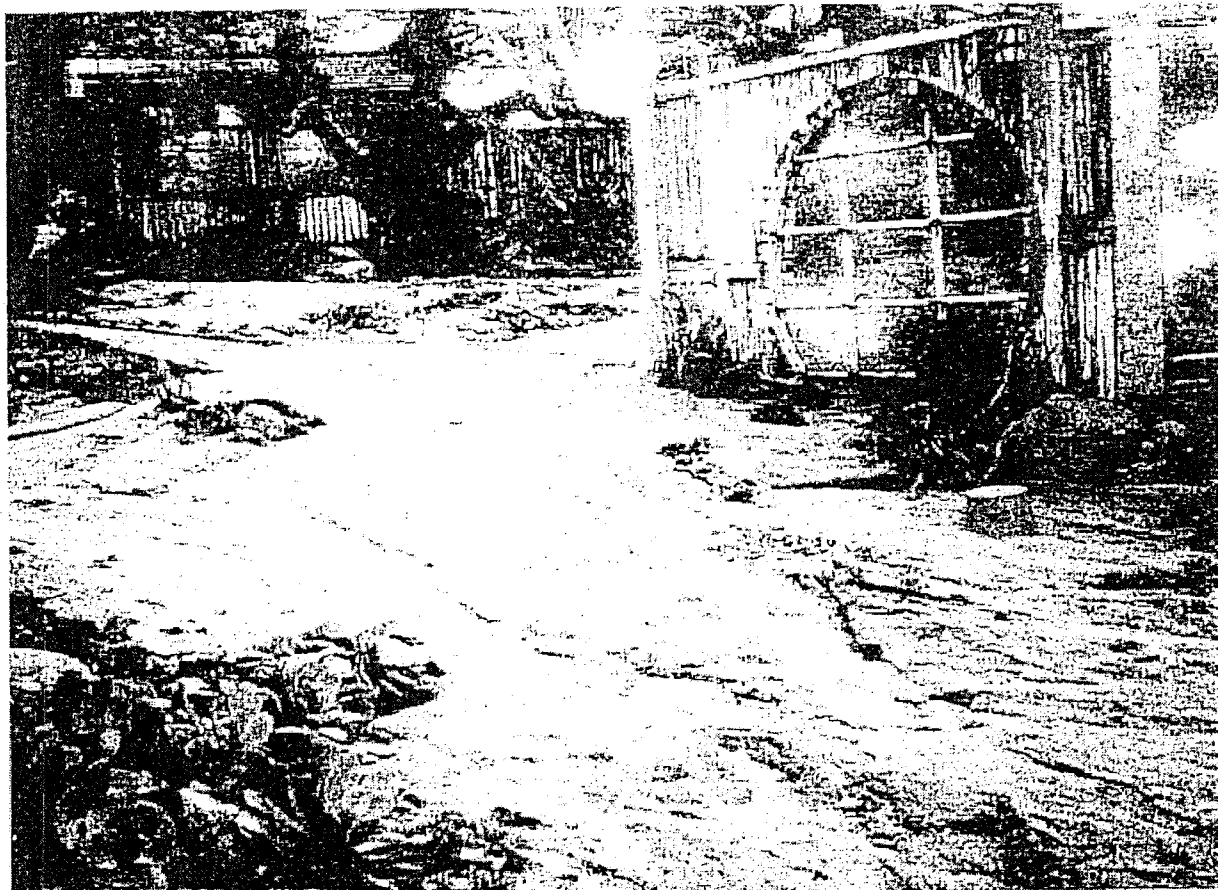
Digging out around our house
3 to 5 feet





Water and mud flows emanation
from 161B (Applicant's property)

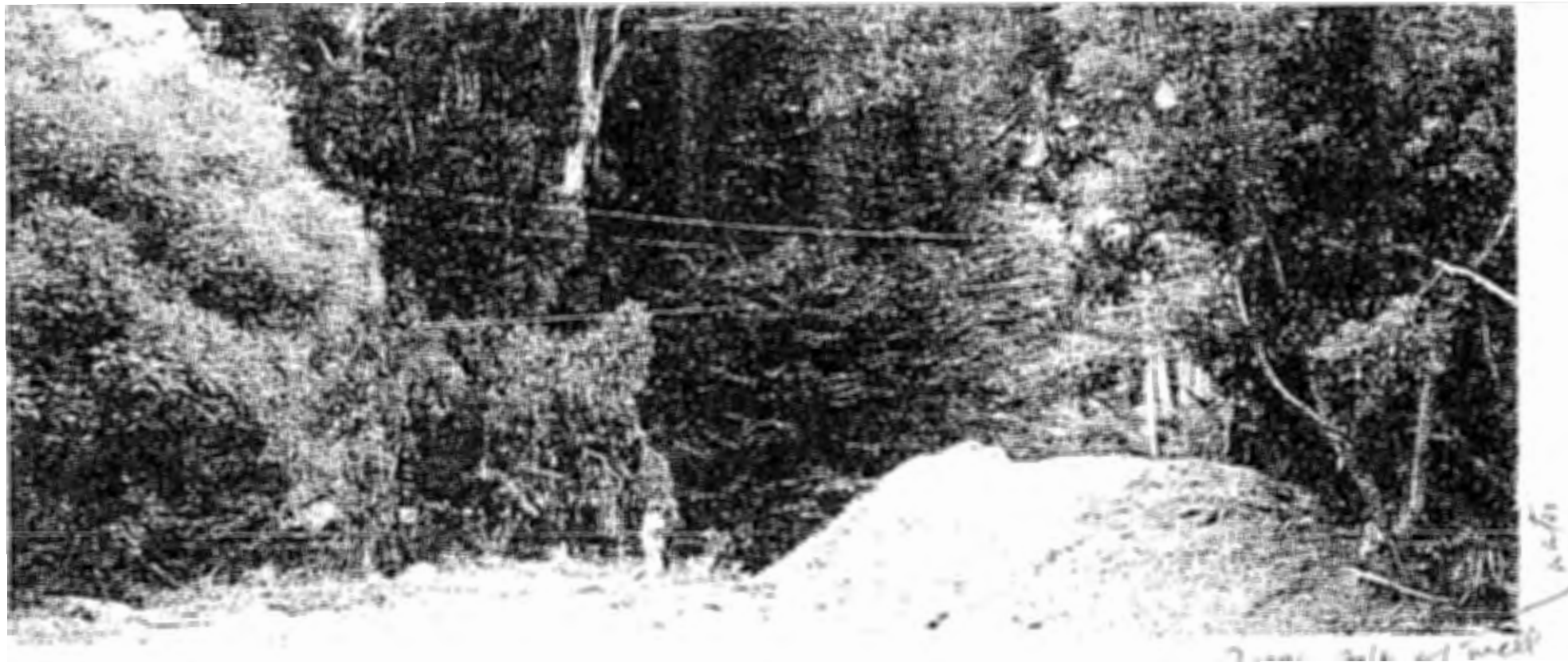
163½ Spindrift - Ted Clymer



29922 Spindrift

William + Lucille Rana
161B Spindrift Rd.
Linn, Highlands
January 1998 after
rain storm covered
our property with sand
and fine dirt.

Mud flows emanating from 161B
(Applicant's property) through
2922 Spindrift



Large pile of water well casing left
previously on site at 161B (the "Applicant's")
from previous unpermitted well

Large pile of well
casing left on
previously on site
at 161B (the "Applicant")
From previous
unpermitted
well



W. Shaw & Son, Inc. - Leno
163 Spindrift Rd.
Highland 93923

destruction of property
across the road from
163 Spindrift. The
newly cut wood
will drain directly
into my driveway.

Destruction of property across the road
from 163 Spindrift. The newly cut wood
will drain directly into my driveway.



Broken trees and fine dirt
left to drain down
Spindrift

Exhibit F



①

MONTEREY COUNTY

PLANNING AND BUILDING INSPECTION DEPARTMENT

2620 FIRST AVENUE, MARINA CA 93933
SCOTT HENNESSY, DIRECTOR

(831) 883-7500

PD040303

February 19, 2004

Lombardo & Gilles
Att'n.: Todd Bessire
318 Cayuga Street
Salinas CA 93901

Re: Request for Waiver of Coastal Permit(s) for Installation of Curtain Drain on Hageman Lot

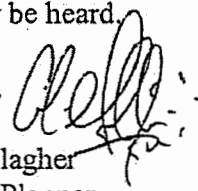
Thank you for submitting your request (attached) to the Planning and Building Inspection Department. The request cannot be granted because a Coastal Development Permit is required pursuant to Sections 20.14.030.E, 20.146.020.K, and 20.146.040.C.3.a of the Monterey County Coastal Implementation Plan. We cannot find any authority within our codes to waive that permit requirement nor does the development appear to be exempt from permit requirements under Section 20.70.120. Further, because of the potential to adversely impact the known environmentally sensitive habitat on the project site, we believe it is essential to review a full and complete project before allowing any additional development on the project site.

In order to obtain approval for the proposed development, these steps must occur:

1. The decision on PLN010032 must become final.
2. Submit an application for a Combined Development Permit for the full development of this lot including the proposed home, septic system, drainage improvements, curtain drains, and the well site.
3. Obtain approval of that Combined Development Permit for the project and meet all pertinent conditions.

Should you wish to appeal this decision, the appeal must be filed with the Secretary to the Planning Commission no later than 5:00 PM on Monday, March 1, 2004, or no subsequent appeal on this issue may be heard.

Sincerely,


Colin Gallagher
Assistant Planner
gallagherc@co.monterey.ca.us
(831) 883-7559

cc: Dale Ellis; Mary Anne Dennis;
California Coastal Commission;
Owner; Applicant; Jay Carver;
File No. PLN010032