

SANTA BARBARA COUNTY PLANNING COMMISSION
Staff Report for the Melliar-Smith/Moser Rezone and Lot Line Adjustment

Hearing Date: February 27, 2008
Staff Report Date: February 8, 2008
Case Nos.: 05LLA-00000-00009, 06RZN-00000-00008
Environmental Document: Exempt per CEQA
Guidelines Sections 15305(a) and 15061(b)3

Deputy Director: Dave Ward
Division: Development Review
Staff Contact: Selena Buoni
Supervising Planner: June Pujo
Planner's Phone #: (805) 568-2910

OWNERS/APPLICANTS:

P. Michael Melliar-Smith
and Louise Moser
P.O. Box 13963
Santa Barbara, CA 93107
(805) 448-8249

SURVEYOR:

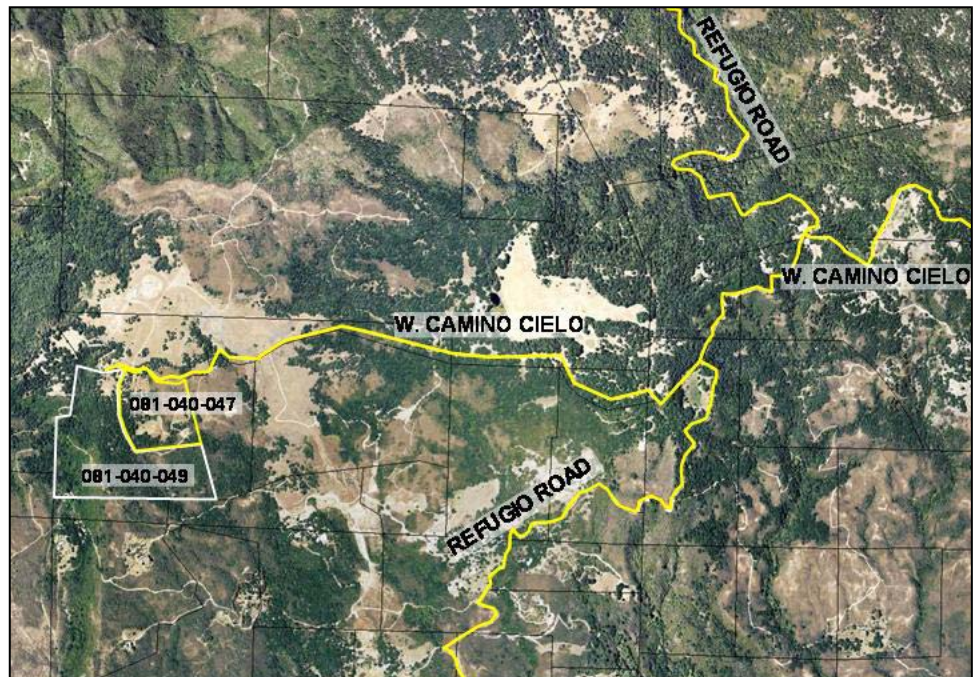
L&P Consultants
3 West Carrillo Street, Suite 205
Santa Barbara, CA 93101
(805) 962-4611

Application Complete:

February 14, 2007

Processing Deadline:

60 days from NOE



This site is identified as Assessor Parcel Numbers 081-040-047 and 081-040-049, approximately 1.5 miles west of Refugio Road at 2375 Refugio Road, Goleta, Third Supervisorial District.

1.0 REQUEST

Hearing on the request of Michael Melliar-Smith and Louise Moser to consider the following:

- a) **Case No. 06RZN-00000-00008** [application filed on November 1, 2006] to rezone both parcels from General Agriculture, 100-acre minimum lot area (100-AG) under Zoning Ordinance No. 661 to Agriculture II, 100-acre minimum lot area (AG-II-100) under the County Land Use & Development Code (LUDC);
- b) **Case No. 05LLA-00000-00009** [application filed on June 1, 2005] for a Lot Line Adjustment in compliance with Section 21-90 of County Code Chapter 21, to adjust the existing lot lines between Assessor's Parcel Numbers 081-040-047 and 081-040-049, to reconfigure into one lot of 20.00 acres and one lot of 44.20 acres, on property located in the 100-AG zone under Ordinance 661;

and to accept the Exemption pursuant to Section 15305(a) and 15061(b)3 of the State Guidelines for Implementation of the California Environmental Quality Act. The application involves Assessor's Parcel Numbers 081-040-047 and 081-040-049, located at 2375 Refugio Road in the Goleta area, Third Supervisorial District.

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below and recommend for approval Case Nos. 05LLA-00000-00009 and 06RZN-00000-00008 marked "Officially Accepted, County of Santa Barbara February 27, 2008 Planning Commission Exhibit No. 1," based upon the project's consistency with the Comprehensive Plan and based on the ability to make the required findings.

Your Commission's motion should include the following:

1. Recommend that the Board of Supervisors adopt the required findings for the proposed Lot Line Adjustment, Case No. 05LLA-00000-00009, specified in Attachment A, including the California Environmental Quality Act (CEQA) findings.
2. Recommend that the Board of Supervisors adopt the required findings for the proposed rezone, Case No. 06RZN-00000-00008, specified in Attachment B, including the California Environmental Quality Act (CEQA) findings.
2. Recommend that the Board of Supervisors accept the Notice of Exemption pursuant to Section 15305(a) and 15061(b)(3) of the "Guidelines for Implementation of California Environmental Quality Act," included as Attachment C.
3. Recommend that the Board of Supervisors adopt a Rezone Ordinance for APN Nos. 081-040-047 and 081-040-049, amending the Inland Zoning Map, included as Attachment D.

Alternatively, refer back to staff if you take other than the recommended action for appropriate findings.

3.0 JURISDICTION

For Lot Line Adjustments, Section 21-6 of the Santa Barbara County Subdivision Regulations (Chapter 21) states that, "the Santa Barbara County Planning Commission shall be the decision-maker, except that the Zoning Administrator shall be the decision-maker for the following: (2) Lot Line Adjustments.... of parcels located within the Rural Area... that do not exceed a ten percent increase or decrease in the area of the smallest existing parcel."

However, Section 35.80.020.B.2 of the County Land Use & Development Code (LUDC) states that, "if the Board is the review authority for a project, due to a companion discretionary application (e.g., Zoning Map amendment), the Commission shall make an advisory

recommendation to the Board on each project.” Section 35-80.020, Table 8-1 of the LUDC requires that for Zoning Map Amendments, the Planning Commission make a recommendation and the Board of Supervisors is the decision-maker. Section 35.104.050 of the LUDC states that the Planning Commission shall hold at least one noticed public hearing on the proposed Amendment. The Commission’s recommendation shall be transmitted to the Board. Following the Commission’s recommendation for approval or where a hearing has been requested, the Board shall hold at least one noticed public hearing on the proposed Amendment.

4.0 ISSUE SUMMARY

In June 2005, the owners applied for a Lot Line Adjustment between two adjacent parcels that total 66.40 acres in size. Both existing parcels are currently zoned 100-AG under Ordinance 661. A consistency rezone to the AG-II-100 zone under the County LUDC is being processed concurrently with this Lot Line Adjustment, as required by the Board of Supervisors. The Lot Line Adjustment request is to reconfigure one existing lot of 44.20 acres (Parcel A, APN 081-040-049) and one existing lot of 20.00 acres (Parcel B, APN 081-040-047) into two new lot configurations, but not change the resultant parcel sizes of 20.00 acres (Lot 1) and 44.20 acres (Lot 2). Development envelopes are proposed on Lots 1 and 2 of 1.0 acres and 0.70 acres, respectively.

The existing and proposed parcels contain mature chaparral vegetation, such as madarones and manzanitas, as well as mature oaks and rare and protected species such as Refugio Manzanita (*Arctostaphylos refugioensis*). Proposed development envelopes avoid these sensitive species, except for two mature Refugio Manzanitas within the development envelope on Lot 2, which the applicants agreed will remain in place as part of any future development on the lot. Although another cleared and relatively level area also exists to the northwest of these development envelopes, this clearing also contains a large microwave tower and other regional communications infrastructure, and is therefore constrained and not compatible with potential future residential development. The Lot Line Adjustment will be conditioned so that a future driveway on Lot 2 will be sited to avoid mature Refugio Manzanitas to the maximum extent feasible.

Both existing and proposed parcels slope down from West Camino Cielo Road, and in some portions have slopes greater than 20%. However, both of the development envelopes contain slopes of less than 10% (approximately 3-5%). A site visit by two County grading inspectors determined that a soils report was sufficient to determine whether the development envelopes and proposed access for Lot 2 will be safe for future residences and structures. The soils report, prepared by Coast Valley Testing for both development envelopes, concluded that future development can be accommodated, with suggested recommendations for grading and building foundations.

Both existing and proposed parcels are in a High Fire Hazard Area. Stored water and sprinklers will be required at the time of any future development on either parcel. In addition, a Vegetation Management Plan, showing a firebreak of 100 feet (or to the property line, whichever is nearer) around any future structures on either parcel is required by the Santa Barbara County Fire Department before the erection of any combustible materials. The vegetation clearance

requirement does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover if they do not form a means of rapidly transmitting fire from the native growth to a structure onsite.

Neither of the existing parcels are currently used for agriculture, or were historically used for agriculture. The Lot Line Adjustment is not expected to have any impact on existing agricultural operations in the greater Refugio Road / West Camino Cielo Road area.

5.0 PROJECT INFORMATION

5.1 Site Information

Site Information	
Comprehensive Plan Designation	A-II-100 (Agriculture, 100-Acre Minimum Lot Area)
Ordinance, Zone	Ordinance 661, 100-AG (General Agriculture District, 100-Acre Minimum Lot Area)
Site Size	64.20 acres
Present Use & Development	APN 081-040-0047 is developed with a single-family residence; APN 081-040-049 is undeveloped
Surrounding Uses/Zone(s)	<i>North:</i> AG-II-100 (Agriculture Zone, County LUDC), graze land under a Williamson Act Agricultural Preserve Contract <i>South:</i> U (Unlimited Agriculture, Ordinance 661), vacant <i>East:</i> 100-AG (General Agriculture District, Ord. 661), vacant <i>West:</i> Ag-I-100 (Agricultural Zone, County LUDC), graze land under a Williamson Act Agricultural Preserve Contract
Access	West Camino Cielo from Refugio Road
Public Services	Water Supply: private water well Sewage: private septic system Fire: Santa Barbara County Fire Department

5.2 Description

The subject parcels are located in the area of Refugio Road and West Camino Cielo, approximately 1.5 miles west of Refugio Road. The subject parcels total 64.20 acres in size, one 44.20 acre parcel (Parcel A, APN 081-040-049) and one 20-acre parcel (Parcel B, APN 081-040-047). Parcel A is undeveloped, and Parcel B is developed with a single-family residence. The existing residence on Parcel B was permitted by Land Use Rider 56168 on February 15, 1973, when the parcel was zoned 20-AG (20-acre minimum lot size). It is served by a private water well and septic system. Access is provided by a private driveway from West Camino Cielo Road. A future residence on Lot 2 would also be served by a private water well and septic system, and access would be provided by a new driveway from West Camino Cielo Road.

5.3 Background Information

In the 1960's, the County adopted Ordinance 661. This ordinance includes numerous zoning districts, including nine agricultural zoning districts. In 1983, the County updated the zoning ordinances, and in 2007 the Board of Supervisors approved the County Land Use & Development Code (LUDC). However, the subject parcel and numerous other rural parcels are still subject to portions of the outdated Ordinance 661.

The County has initiated a consistency rezone program whereby property currently zoned under Ordinance 661 will be rezoned to the County LUDC when a permit application is submitted for a parcel zoned under Ordinance 661. Also, an owner applying for a ministerial permit on property zoned under Ordinance 661 may request a rezone to the County LUDC when the proposed project cannot be permitted under Ordinance 661 but is allowed under the LUDC. Under the current 100-AG zoning of Ordinance 661, the development of a new residence on existing Lot B would not be permitted because Ordinance 661 does not permit the development of a residence on a legal non-conforming parcel. This Lot Line Adjustment request is not a ministerial permit and does not propose any development. However, if the current property owners applied for a new single-family residence on either existing parcel today, they may also request a concurrent rezone to the LUDC. Under the County LUDC, a single-family residence would be allowed on each existing or proposed parcel, since they have been found to be legal parcels. This is consistent with the intent of the A-II-100 Comprehensive Plan designation.

Existing Parcel A (APN 081-040-049) is a legal parcel per a Certificate of Compliance recorded as Instrument No. 2005-0107963. Existing Parcel B (APN 081-040-047) was created by Parcel Map 11,810, approved on April 12, 1973, and is a legal parcel.

6.0 PROJECT ANALYSIS

6.1 Environmental Review

Lot Line Adjustment:

Section 15305 of the "Guidelines for Implementation of the California Environmental Quality Act" exempts certain minor alterations in land use limitations from the requirements of CEQA. Section 15305 exempts "*minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to: (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.*" The proposed lot line adjustment does not result in the creation of a new parcel, and does not result in any changes in land use or density. Both new parcels would be the same sizes as the original parcels. Areas outside of the proposed development envelopes contain slopes over 20%, but the proposed development envelopes restricts existing and future structures and associated grading to areas with only 3-5% slopes. The project will be conditioned to disallow development and grading outside of the development envelopes, except to provide access to the site and to maintain water wells and septic systems. The proposed

project would not change the land use designation or intensity of use of the parcels. Adequate access exists to both parcels, and all environmentally sensitive resources will be protected through the location of development envelopes and conditioning of future residential development.

Consistency Rezone:

Section 15061(b)(3) of the “Guidelines for Implementation of California Environmental Quality Act” exempts projects from the requirements of CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed rezone is a legislative action that would replace an outdated agricultural zoning district under Ordinance 661 with a modern agricultural zoning district under the County Land Use and Development Code. It does not involve any development. The nature of future development is unknown at this time. When future development is proposed on Lot 1 or additional development on Lot 2, Planning & Development will review it for any potential constraints and for policy consistency. Any future development on the subject parcel would be subject to further environmental review. If appropriate, Planning & Development would evaluate the use of CEQA Section 15303 that provides a categorical exemption for construction of small structures. As a result, the Consistency Rezone is exempt from CEQA under Section 15061(b)(3) because there is no potential for it to have a significant effect on the environment.

6.2 Comprehensive Plan Consistency

REQUIREMENT	DISCUSSION
Land Use Element Designation: Agriculture II, 100-acre minimum lot area (A-II-100)	Consistent. Neither the existing nor the proposed parcels conform to this size designation. However, the two new parcels, Lots 1 and 2, would be the same sizes as the existing Parcels A and B. The reconfigured parcels would not become more non-conforming.
Comprehensive Plan, Land Use Element Policy #2: <i>“The densities specified in the Land Use Plan are maximums and may be reduced if it is determined that such reduction is warranted by conditions specifically applicable to a site . . .”</i>	Consistent. Under the AG-II-100 zone in the County LUDC, one single-family dwelling is allowed per lot, plus agricultural employee housing and second units where applicable. The two reconfigured parcels do not have active agricultural operations, so the maximum density allowed on each would be one single-family residence. With the proposed development envelope, residential development can be accommodated on vacant reconfigured Lot 2.
Land Use Element Development Policy 4: <i>“Prior to issuance of a use permit, the County shall make the finding, based on information</i>	Consistent. Proposed reconfigured Lots 1 and 2 both have adequate private services (water wells and septic systems), as approved by

REQUIREMENT	DISCUSSION
<p><i>provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.”</i></p>	<p>Environmental Health Services, to serve the existing and future residential development. Both lots also have adequate public services (Santa Barbara County Fire Department) to serve the existing and future development. The proposed driveway shown on proposed Lot 2 has been designed according to County Fire Department purposes, but is being shown for informational purposes. When a future Land Use Permit is submitted for a residence on Lot 2, the proposed driveway may be modified slightly to conform to current Fire Department regulations or Lot Line Adjustment conditions of approval.</p>
<p>Land Use & Development Policy 7: <i>Lot line adjustments involving legal, non-conforming parcels as to size may be found consistent with the Comprehensive Plan if:</i></p> <p><i>a. No parcel involved in the lot line adjustment that is conforming as to size prior to the adjustment shall become non-conforming as to size as a result of the adjustment; and,</i></p> <p><i>b. Except as provided herein, all parcels resulting from the Lot Line Adjustment shall meet the minimum parcel size requirement of the zone district in which the parcel is located. A Lot Line Adjustment may be approved that results in nonconforming (as to size) parcels provided that it complies with subsection a or b listed below:</i></p> <p><i>a. The Lot Line Adjustment satisfies all of the following requirements:</i></p> <p><i>i. Four or fewer existing parcels are involved in the adjustment; and,</i></p> <p><i>ii. The Lot Line Adjustment shall not result in increased subdivision potential for any affected parcel; and,</i></p> <p><i>The Lot Line Adjustment shall not result in a</i></p>	<p>Consistent. Neither of the existing parcels are conforming as to size, either under Ordinance 661 or the County LUDC. However, the two proposed reconfigured parcels will not become more non-conforming, since they will be the same sizes as the existing parcels. Fewer than four existing parcels are involved in the lot line adjustment. Neither of the two proposed parcels could be further subdivided in the future, since they would both be less than the required size (100 acres).</p>

REQUIREMENT	DISCUSSION
<p><i>greater number of residential developable parcels than existed prior to the adjustment.</i></p>	
<p>Land Use Element, Hillside and Watershed Protection Policy 2: <i>“All developments shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.”</i></p>	<p>Consistent. The proposed Lot Line Adjustment and Rezone does not include any proposed development. However, development envelopes are proposed on both proposed reconfigured Lots 1 and 2, to contain future development and site disturbance. The proposed development envelope on Lot 1 is approximately 1.0 acres and includes slopes of 3-5%. The development envelope includes the existing residence but does not include the existing driveway, water well, or dry well for the septic system.</p> <p>The proposed development envelope on Lot 2 is approximately 0.70 acres and includes slopes of 3-5%. The development envelope would include future residential development, dry wells for the septic system, and a Fire Department required hammerhead turnaround, but would not include a future driveway or water well. All future development and site disturbance, excluding that required for installation and maintenance of the driveway and water well, will be located within the proposed development envelope. In addition, the Refugio Manzanitas (<i>Arctostaphylos refugioensis</i>) located within the proposed building envelope on Lot 2 will be avoided and protected during future construction to the maximum extent feasible.</p> <p>Soils reports prepared by Coast Valley Testing, Inc. for both development envelopes concludes that future development can be accommodated within the envelopes, with suggested recommendations for grading and building foundations.</p>
<p>Land Use Element, Visual Resource Policy 2: <i>“In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the</i></p>	<p>Consistent. No development is included with the project description for the Lot Line Adjustment or Rezone. However, future development will be required to comply with</p>

REQUIREMENT	DISCUSSION
<p><i>character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.”</i></p>	<p>this policy. The existing residence on Parcel B is subordinate to natural landforms and does not intrude into the skyline as seen from public viewing places. Future development, contained within the proposed development envelopes, would not intrude into the skyline as seen from public viewing places, because there are not any nearby public viewing places. This portion of West Camino Cielo is gated so is not accessible to the public. The closest public road is Refugio Road, approximately 1.5 miles to the east, but existing or future development would not be visible from the road because of mature vegetation along the sides of the road. Existing or future development would also not be visible by the unassisted eye from Broadcast Peak as accessed from Tequepis Trail, or by hikers on North Refugio Road as accessed from Solvang.</p>
<p>Comprehensive Plan, Agricultural Element, Goal I: <i>“Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County.”</i></p> <p>Agricultural Element, Goal III: <i>“Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.”</i></p> <p>Agricultural Element, Policy II.D. <i>“Conversion of highly productive agricultural lands, whether urban or rural, shall be discouraged. The County shall support programs which encourage the retention of highly productive agricultural lands.”</i></p>	<p>Consistent. No existing or historical agricultural activities have occurred on either of the existing parcels. Large parcels to the north and west are under Agricultural Preserve Contracts for graze land, but no other agricultural operations are located on adjacent parcels. The soils on Parcels A and B are Class VII and are not considered “prime farmland”.</p> <p>County staff consulted with the County Agricultural Planner and reviewed the existing parcels for agricultural viability according to the points system contained in the County of Santa Barbara Environmental Thresholds and Guidelines manual, with the goal of identifying if the lot line adjustment would have a potentially significant impact on agricultural resources, and to review consistency with policy. Under this system, both existing parcels scored low on the points range due to the small sizes of the parcels, unsuitability for pasture or grazing land, poor soil quality, and a lack of historical agricultural uses. Both</p>

REQUIREMENT	DISCUSSION
	existing parcels fell well below the threshold of 60 points needed to designate the existing parcels as agriculturally viable. The proposed lot line adjustment will not have an impact on agricultural resources, and the proposed new parcels will not become less agriculturally viable than the existing parcels. In addition, future development on either parcel would not increase the potential for conflicts to occur between residential and agricultural uses.

6.3 Zoning: Land Use and Development Code Compliance

The subject parcels are currently zoned 100-AG under Ordinance 661. The proposed rezone would replace this antiquated agricultural zoning designation with the modern agricultural zoning designation of AG-II-100 under the County Land Use & Development Code (LUDC). The intent of the AG-II zoning district is to designate and protect lands appropriate for long-term agricultural use. Any future development on the existing or proposed parcels would have to be in compliance with all applicable provisions in the LUDC. All types of agriculture and farming, including commercial raising of animals, are allowed within the AG-II zone district (subject to the zone district limitations). In addition, one single-family dwelling is allowed per lot, in addition to one guest house or artist studio, and uses, buildings, and structures accessory and incidental to these uses.

Although the existing parcels do not conform to the size requirements of the AG-II-100 zone district, the proposed reconfigured parcels are not less conforming because they will be the same sizes as the existing parcels. Future single-family residences and accessory structures may be located on smaller, legal lots within the AG-II-100 zone district, unless they are fraction lots, which the proposed parcels will not be. Fraction lots are defined by the County LUDC as “a lot created as a result of an instrument of conveyance, in which the lot is not separately conveyed as a distinctly described parcel”, and are not deemed to be residentially developable. The proposed development envelopes are located on the proposed reconfigured parcels so that future development will conform to current setback standards.

6.4 Subdivision/Development Review Committee

The proposed Lot Line Adjustment went to the Subdivision/Development Review Committee (SDRC) on June 23, 2005. Recommended Conditions of Approval were that stored water and sprinklers per Fire Department standards will be required at time of development, and Building

and Grading permits will be required at time of development. These conditions have been included with the Conditions of Approval for the proposed Lot Line Adjustment.

6.5 Design Review

The proposed project was not subject to Design Review, since no development is proposed under the Lot Line Adjustment or Rezone permits.

6.6 Mapping Tool Determination

Mapping Tool	Purpose	Applicability	Recording Mechanism
<i>DEVELOPMENT ENVELOPES</i> <i>(ground disturbance restrictions)</i>	<ul style="list-style-type: none"> Identifies location of all ground-disturbance activities Identifies resources to be protected onsite 	Apply to existing parcels constrained with significant resources or hazards	<ul style="list-style-type: none"> Recorded with Lot Line Adjustment Notice to Property Owners (NTPOs)

Analysis:

The project site is located in an area containing steep slopes and sensitive biological resources that constrains the amount and location of development on the parcel. The proposed project requires implementation of development envelopes in order to protect sensitive biological resources such as Refugio Manzanitas and mature oak trees, and avoid slopes greater than 20%. Designation of the development envelopes will be subject to recordation, concurrent with the filing of the Lot Line Adjustment, as indicated in condition number 2 (see Attachment E).

6.7 Agricultural Preserve Advisory Committee

Although the existing and proposed reconfigured parcels are agriculturally zoned, they do not have active or historical agricultural uses, and are not part of a Williamson Agricultural Preserve Contract. Therefore, the proposed Lot Line Adjustment and Rezone were not reviewed by the Agricultural Preserve Advisory Committee.

7.0 APPEALS PROCEDURE

A Zoning Map Amendment recommended for approval is automatically forwarded to the Board of Supervisors for final action, therefore no appeal is required. The Lot Line Adjustment will be heard concurrently with the Amendment by the Board of Supervisors, for final action.

A Zoning Map Amendment denied by the Commission must be appealed to the Board within 10 days after the Commission's report is filed with the Clerk of the Board of Supervisors. The appeal fee to the Board of Supervisors is \$443.

ATTACHMENTS

- A. Lot Line Adjustment Findings
- B. Rezone Findings
- C. CEQA Notice of Exemption
- D. Draft Ordinance/Resolution
- E. Conditions of Approval with attached Departmental letters
- F. Site Plan

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