

MONTEREY COUNTY PLANNING COMMISSION

Meeting:	March 26, 2003 at 10:50 a.m.	Agenda Item: 6
Project:	Patterson (PLN010578) Administrative Permit and Design Approval to allow construction of a 4,953 sq. ft. one-story single family dwelling with loggia, a 600 sq. ft. detached guesthouse, a 1,352 sq. ft. detached garage with an office and exercise room, a 96 sq. ft. detached wine cellar, septic system, retaining walls and grading (approximately 800 cu. yds. cut and 800 cu. yds. fill).	
Location:	27760 Schulte Road off Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 416-571-019-000),	
Plan Area:	Carmel Valley Master Plan Area (Inland Zone)	
Zoning:	RG/B-6-D-S	Flagged and staked: Yes
CEQA Action :	Exempt	
Date application deemed complete:	11/22/02	
Department:	Planning and Building Inspection	

RECOMMENDATION: Staff recommends the following:

- 1) Approval of described project based on the Recommended Findings and Evidence (Exhibit “C”) and subject to the Recommended Conditions (Exhibit “D”)

OVERVIEW OF PROPOSED ACTION:

The subject project proposes to construct a new single-family residence with accessory structures on a vacant lot in that area of a former quarry located in Carmel Valley. The development raised visual, biological and geological issues which have been adequately addressed by project changes and conditions. Visual issues have been minimized through design and color modifications, screening vegetation and a scenic easement requirement. Biological issues have been addressed by controlling the timing of construction activity and requiring protection measures for wildlife and vegetation. Geological issues having to do with potential drainage and landslide hazards were resolved by relocating the leach field, requiring surface runoff to be directed away from questionable slopes, water conservation for irrigation, and the submittal of additional reports and plans. There are no unresolved issues for this project.

The subject project was approved by the Zoning Administrator on January 30, 2003. On February 20, 2003, Gill-Vista Enterprises filed a timely appeal of the January 30th approval by the Zoning Administrator. The basis of the appeal was a claimed lack of evidence for the findings, decision and conditions, specifically relating to geologic and drainage issues. This project is presented subject to a *de novo* hearing. Responses to the appeal issues are presented at the end of the expanded discussion (Exhibit “A”). Staff has reviewed the appeal and has determined that no new information or analysis was presented that would alter Staff’s earlier recommendation for approval.

See Exhibit “A” for expanded discussion

OTHER AGENCY INVOLVEMENT:

- ✓ Water Resources Agency
- ✓ Environmental Health Division
- ✓ Public Works Department
- ✓ Carmel Valley Fire Protection District
- ✓ Parks and Recreation Department

All have reviewed and recommended conditions (Exhibit “D”).

LUAC RECOMMENDATION:

The Carmel Valley Land Use Advisory Committee (LUAC) recommended approval of the project on February 25, 2002 by a vote of 7 for approval and 0 against and recommended conditions to minimize the visual impact through downlighting, additional vegetation and color changes (Exhibit “F”).

Notes: This project is not appealable.

Prepared by: _____

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cc: Planning Commission (10); Dale Ellis; County Counsel; Health Department; Public Works; Carmel Valley Fire Protection District; Monterey County Water Resources Agency; Jeff Main; Eric Lee; Kay Barrett; Gill-Vista Enterprises (Appellant); Alex Hubbard (Representative); Paul Sallaberry (Owner); Rick Steres (Applicant); File

Attachments: Exhibit “A” Overview of Proposed Action
Exhibit “B” Project Data Sheet
Exhibit “C” Recommended Findings and Evidence
Exhibit “D” Recommended Conditions of Approval
Exhibit “E” Zoning Administrator Resolution #010578 (PLN010578)
Exhibit “F” Land Use Advisory Committee Recommendation
Exhibit “G” Correspondence
Exhibit “H” Appeal by Gill- Vista Enterprises
Exhibit “I” Vicinity Map
Exhibit “J” Project Plans
Exhibit “K” New Proposed Colors and Materials
Exhibit “L” Letter from Appellant’s Consultant, Jeffrey Johnson
Exhibit “M” Response to Jeffrey Johnson Letter

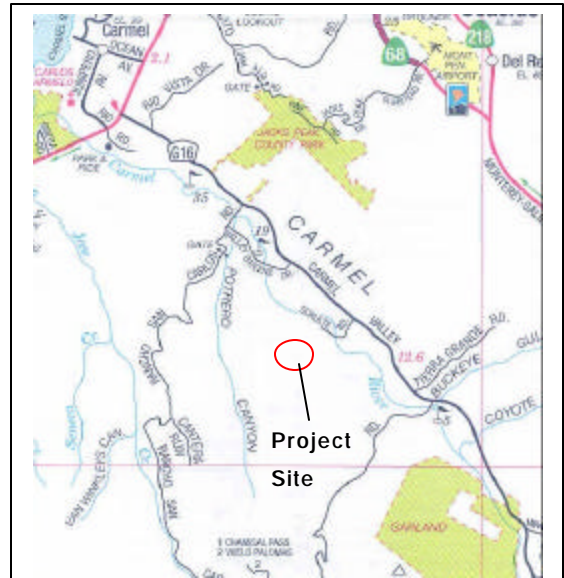
Exhibit "N" Geologic Report

Reviewed by Jeff Main, Planning and Building Services Manager

EXHIBIT "A" OVERVIEW OF PROPOSED ACTION

Project & Site Description

The subject project located in Mid-Carmel Valley proposes to construct a new one-story single family dwelling, accessory structures and grading. The property is an undeveloped 20-acre parcel, accessed by a steep and winding private one-lane road off of Schulte Road. A new paved driveway following an existing road cut will lead from the private road to the proposed dwelling. The property contains steep slopes, although the proposed structures are located on a relatively flat clearing that was once part of a quarry. The quarry area has regenerated with vegetation and the rest of the property is largely undisturbed except for several utility poles and an existing agricultural building. At the edge of the clearing is a steep slope leading down towards the valley floor.



Project Issues

Visual

The project sits on a ridge above Mid-Carmel Valley and is approximately a mile south of Carmel Valley Road. It is generally not visible from public viewing areas. Existing vegetation screens the development from view except for views from the west. From this direction several miles away it is possible to view the project against the backdrop of the hill. Conditions of approval

are proposed that include placing the existing screening vegetation in a conservation easement, requiring additional screening vegetation to be planted and modifying the roof color and material in order to blend in better with the environment and reduce the visual impact to a negligible level. The applicant has proposed revised colors to meet this requirement (Exhibit "K"). The proposed project is sufficiently screened by vegetation and does not constitute ridgeline development.

Biological

Coastal scrub is the dominant habitat on the property with native oak trees scattered about. The proposed development occurs in a disturbed clearing and the new driveway follows an existing roadcut resulting in a minimal impact to biological resources. Dune buckwheat (*Eriogonum parvifolium*), host plant to the Federally Endangered Smith's Blue Butterfly, was found in two locations outside of the proposed development area. A condition of approval to delay construction until the end of flight season and to provide a protective buffer area around the buckwheat is proposed, thereby avoiding any

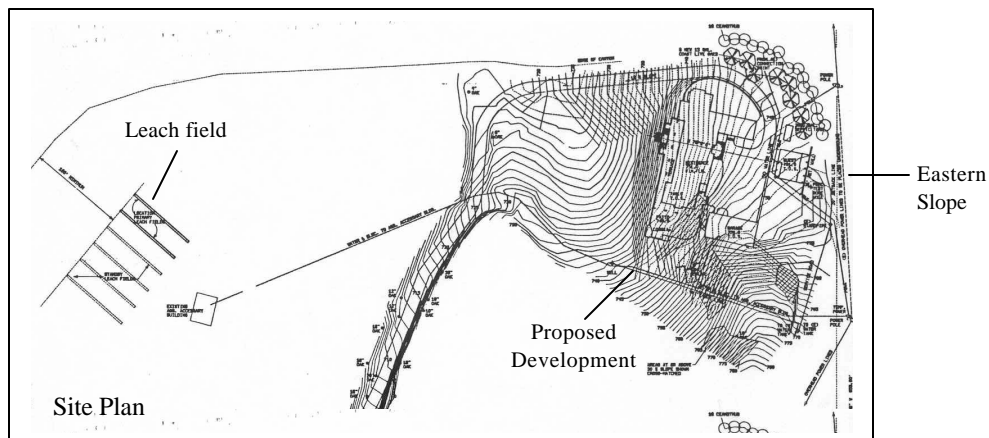
potential impact to the Smith's Blue Butterfly. Evidence of the Monterey Dusky-footed Woodrat, a California Species of Special Concern, was found on the property, but not in proximity to any of the proposed development. Potential habitat for native nesting birds also exists and a condition of approval has been added to delay construction until the official end of the nesting bird season. No tree removal is proposed. Project design and conditions of approval have avoided any potential impact to biological resources.

Geological

The project also raised drainage and runoff issues because of three small debris flows that occurred in 1998 just to the east of the subject property on the slope below the project site. A neighboring property owner to the east and north of the subject property submitted a letter with concerns about the proposed project (Exhibit "G"). In particular, the neighbor voiced concerns about the potential for slope destabilization and landslide activity as a result of increased infiltration by water and liquid from the development. Technical reports identified no unusual geological or geotechnical hazards associated with the proposed development. However, to address any possible hazards a number of conditions and design changes were made which include relocation of the leach field, submittal of a slope stability



analysis and drainage report as well as standard conditions requiring a drainage plan and xeriscape, low water use landscaping. The proposed leach field was relocated near an existing agricultural building approximately 450 feet away from proposed structures and slope in question. The new location maintains a minimum distance of 100 feet from the edge of the slope in order to alleviate concerns by the Environmental Health Division. Project design and conditions of approval have sufficiently the addressed drainage and landslide issues.



Standard Planning and Building Inspection Department, Fire, Water Resources and Environmental Health requirements for single family homes have been added as conditions. No issues remain unresolved for this project.

CEQA

The proposed project for a single family residence and accessory structures is categorically exempt under CEQA. The development occurs in a disturbed clearing and does not include removal of any trees or sensitive habitat. Although the several dune buckwheat plants, which host the Federally Endangered Smith's Blue Butterfly, and evidence of the Monterey Dusky-footed Woodrat, a California Species of Special Concern, were found on the property, the proposed development does not occur in their vicinity and will not cause disturbance to them. There is also the potential for native nesting birds on the property, though none were observed. Construction will not begin until the end of the butterfly flight season and the end of nesting bird season. Based on the technical reports, there are no unusual geologic or soil hazards associated with the property. Runoff and effluent from the proposed development have been directed away from any steep slopes in order to address possible drainage or landslide issues. There are no unusual circumstances associated with the project or the site and the project will have no significant impact on the environment, consistent with the required findings for a categorical exemption under CEQA Section 15300 and 15303.

APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL

On February 20, 2003, Gill-Vista Enterprises filed a timely appeal (Exhibit "H") of the January 30, 2003 decision of the Zoning Administrator (Exhibit "E") to approve the applicant's request for the Administrative Permit (Planning File No. PLN010578/Patterson). This appeal was brought on the alleged basis that the findings or decision or conditions were not supported by the evidence. The Zoning Administrator's Resolution to approve the project is included in Exhibit "E" attached to this staff report. Staff has reviewed the appeal and had determined that no new information or analysis was presented that would alter staff's earlier recommendation for approval.

Summary of Appellants' Claims & Staff Responses

Basis for Appeal: **The findings or decision or conditions are not supported by the evidence.**

The appellant offers the following rationale to support the contention that the findings and decision are not supported by the evidence, specifically the hazards and impacts related to project site's geology, drainage and landslide potential. See Finding 9 in Exhibit "C" for detailed evidence.

Claim 1: The appellant claims that the project *"continues to pose a significant danger to the Saddle Mountain Recreation Park (SMRP), owned by appellant, as well as other neighboring down-slope property owners."* The appellant cites as evidence a 1998 slope failure that occurred in an area down-slope from the project area, as well as comments from the appellant's consulting geologist, Jeffrey Johnson, who raised issues about the hazards of

increased infiltration of water and effluent, surface drainage, and additional development increasing the potential of future slope failures (Exhibit “L”). In particular there was concern over the location and design of the leach fields.

Staff Response: Staff interprets the appellant’s claim to mean that evidence to support the conditions and decision of approval is lacking due to the continued hazard posed by the abovementioned issues. However, the conditions, findings and decision related to geologic hazards are supported by the technical reports, staff review, project modifications and conditions of approval that no impacts from the project will contribute to the area’s geologic hazards. To address Claim 1, staff refers to “Response to the Jeffrey Johnson, Inc. Letter,” in Exhibit “M” and evidence related to Findings 3 and 4 in Exhibit “C”.

In the “Response to the Jeffrey Johnson, Inc. Letter,” dated January 28, 2003, Gasch & Associates states that Johnson’s leach field and effluent concerns were “*completely addressed by the new placement of the primary leach field.*” It adds that, “*questions about improper infiltration of effluent, brought up in the Johnson letter, are not applicable to this location.*” Addressing the landslide complex underlying the project area, Gasch and Associates determined that it was a large and very old feature with little evidence of any recent movement and that infiltration of water from residential use is “*insignificant*” when compared to the amount of rainfall over the geologic feature in question.

Conditions and proper engineering address Johnson’s other issues and assure that “*no runoff water from the Sallaberry site will affect the hillside above the SMRP,*” “*fill material will be stable,*” and that utility trenches will be engineered to “*maintain the integrity of the hillside.*” Finally, concerning the cause of the 1998 slope failures, Gasch and Associates state that “*the overall evidence did not support*” the suggestion that modifications to the project area contributed to the failures. A geologic report examining the slope failures prepared by Gerald Weber pointed to record rainfall and a roadcut below the failed area as contributing causes. Recommended conditions and project design assure that infiltration and runoff will be minimal and safely directed away from the slope.

Claim 2: The appellant identifies the Zoning Administrator’s decision to impose a condition to indemnify and hold the County of Monterey harmless from damages relating to landslides or other geologic hazards occurring in the vicinity of the project as evidence of staff’s concern over the dangers and states that “*such a condition, for reasons unknown to the appellant was not incorporated into the Zoning Administrator’s Findings & Decision for the project.*”

Staff Response: A general Indemnification Agreement was incorporated instead. The Zoning Administrator directed staff at the hearing to add a condition for an Indemnification Agreement pertaining to geologic hazards. After consultation with Planning Managers

and County Counsel and clarification with the Zoning Administrator, staff determined that the standard general Indemnification Agreement is legally adequate to address indemnification requirements.

Claim 3: The appellant contends that conditions 9, 14, 15, 18, 34(b) and 39, which address drainage, slope stability, geology and hydrogeology, *“do not go far enough to ensure the safety of downhill landowners with respect to future slides that may arise as a result of the project.”* The applicant further claims that the information in conditions 15, 18 and 39, which relate to the drainage plan, slope stability analysis, and drainage report, *“should be considered by county staff and subjected to public review and comment (including a hearing, if necessary) before a determination can be made with respect to final approval of the project.”*

Staff Response: Technical reports prepared by qualified consultants have been submitted. The recommendations of the reports have been incorporated into the Findings for the project approval by the Zoning Administrator. Plans and construction will be reviewed by qualified consultants who will also prepare the abovementioned drainage plan, slope stability analysis and drainage report. They will also be reviewed by staff for adequacy. To require public review, comment and a hearing over these items prior to approval is inconsistent with the County’s permit application process and not required considering the full public review of the project. The appellant has only raised generalized concerns about the project and site, which have been adequately addressed. County staff has determined that the proposed project as designed and conditioned and based on the information provided does ensure the public safety.

Claim 4: The appellant also claims that the design and location of the water retention/percolation facilities *“should be made specific before final approval,”* the landscaping plan *“should be coordinated and tied to the project’s drainage analysis,”* and that the new leach field location *“should be percolation tested because the slope of surface topography does not govern which direction the effluent flows from the leach field. Therefore, the leach field could pose a risk to down-slope property owners.”*

Staff Response: The appellant’s claim implies that the conditions of approval are insufficient to ensure the public safety. However, it was determined through County review by the Environmental Health Division, Water Resources Agency and Planning and Building Inspection Department that the project as proposed is not a threat to public safety. Related landscaping, drainage and septic system plans will be reviewed by County staff prior to their approval. See also responses to Claims 1 and 3.

For the reasons cited above and pursuant to Exhibits “B” & “C” below, Staff recommends that the Planning Commission approve the Administrative Permit for the project as described herein. No unresolved issues remain for this project.

EXHIBIT “C”
RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING:** **CONSISTENCY** - The Project, as conditioned is consistent with applicable plans and policies, the Monterey County General Plan, the Carmel Valley Master Plan and the Monterey County Zoning Ordinance (Title 21) which designates this area as appropriate for residential development. Specifically, the proposed guesthouse complies with all applicable requirements of Section 21.64.020(C) of Title 21.
- EVIDENCE:**
- (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Monterey County General Plan and the Carmel Valley Master Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with the Monterey County Zoning Ordinance (Title 21) and have determined that the project is consistent with the Monterey County General Plan and the Carmel Valley Master Plan which designates this area as appropriate for residential development. Staff notes are provided in Project File PLN010578.
 - (b) Project planner conducted an on-site inspection on March 1, 2002 and May 31, 2002 to verify that the project on the subject parcel conforms to the plans listed above. Staff notes regarding the site visit are in Project File PLN010578.
 - (c) The project for a single family home and accessory structures is an allowed use in accordance with Section 21.32.030.
 - (d) The proposed guesthouse is in compliance with Section 21.64.020(C) of Title 21. In addition, a condition has been added that a guesthouse deed restriction be recorded (Exhibit “D”).
 - (e) The parcel is zoned Rural Grazing, Building Site, Design Control, Site Plan Review District (“RG/B-6-D-S”). The project is in compliance with Site Development Standards for a Rural Grazing Zoning District in accordance with Section 21.32.060.
 - (f) Land Use Advisory Committee (LUAC): The Carmel Valley Land Use Advisory Committee recommended approval of the project by a vote of 7 for and 0 against. The LUAC recommended conditions that the roofing and sides of the residence be changed to a darker color, that large trees be planted in the front to protect the viewshed and that only downlighting be used. LUAC meeting minutes dated February 25, 2002 (Exhibit “F”). Conditions have been incorporated to minimize the visibility of the project and ensure compatibility with the natural surroundings (Exhibit “D”). In response, the applicant has proposed revised colors (Exhibit “K”).
 - (g) The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Project File PLN010578.
2. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions

of the County's zoning ordinance. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.

EVIDENCE: (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the project applied for will not under the circumstances of this particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: (a) The project was reviewed by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and Carmel Valley Fire District. The respective departments and agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions (Exhibit 'D').

(b) A letter was received from a neighboring property owner east of the subject property concerning the potential for a landslide as a result of development on the property. Information provided by the neighbor's geologic consultant indicated that the project is located "within a large landslide" and identified potential problems. The primary issue concerned the infiltration of water from irrigation of ornamental plants and discharge from the septic system flowing to the slope and resulting in a landslide. Geological and geotechnical reports submitted by the applicant addressed the recent landslide as well as the proposed project. According to technical reports, the landslide feature that the subject project is located on was created between 5,000 and 15,000 years ago and no evidence of recent slides was noted. No unusual geologic or geotechnical hazards were identified. A report analyzing a recent 1998 debris flow that occurred just to the east of the subject property determined that it was not caused by any underlying failure or features of the bedrock. In addition, the report stated that it "found no evidence that supports the contention that the minor grading at the ridge crest, combined with the placement of the telephone pole and the clearing of brush was either a primary or secondary causation of the debris flow landslides of February 1998."

(c) The applicant addressed concerns of the Environmental Health Division regarding proximity of the leach field to slope by relocating the leach field to an area near a recently installed septic system. The new location, which is near the existing agricultural accessory building, is large enough to accommodate a secondary system and a sufficient distance from the edge of the slope so that it poses no health issues. The Water Resources Agency added a condition for the applicant to submit a slope stability analysis to ensure public safety.

Furthermore, a condition has been added requiring the applicant to direct all runoff, drainage and effluent from the proposed development away from the slope in order to minimize the landslide potential and prevent erosion (Exhibit "D").

- (d) Letter from Jeffrey A. Johnson, Inc, Geology Consultant in San Diego, CA, to Gill Properties, Inc., dated June 13, 2002. Letter is in Project File PLN010578.
- (e) Technical reports have been provided by consulting geologists and geotechnical engineers with recommended conditions and modifications that provide additional assurances regarding project safety. "Geological Hazards Investigation," prepared by Gasch & Associates, Rancho Cordova, CA, October 2002. "Preliminary Geologic Report," prepared by Gerald Weber, Santa Cruz, CA, March 14, 2002. "Geotechnical Investigation" prepared by Pacific Crest Engineering, Inc., Watsonville, CA, October 2, 2001. Reports are in Project File PLN010578.

4. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Water Resources Agency, Environmental Health, Parks and Carmel Valley Fire District. Conditions recommended have been incorporated (Exhibit "D").

- (b) Technical reports by outside biology, geology and geotechnical consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. Agency staff concurs. "Geological Hazards Investigation," prepared by Gasch & Associates, Rancho Cordova, CA, October 2002. "Preliminary Geologic Report," prepared by Gerald Weber, Santa Cruz, CA, March 14, 2002. "Geotechnical Investigation" prepared by Pacific Crest Engineering, Inc., Watsonville, CA, October 2, 2001. "Biological Assessment," prepared by Rana Creek Habitat Restoration, Carmel Valley, CA, May 15, 2002. Reports are in Project File PLN010578.
- (c) Staff conducted an on-site visit on March 1, 2002 and May 31, 2002 to verify that the site is suitable for this use.
- (d) Necessary public facilities are available and will be provided.

5. **FINDING:** That adequate sewage disposal and water supply facilities exist or are readily available, as approved by the Director of Environmental Health.

EVIDENCE: (a) The applicant relocated the leach field for the proposed development to an area near a recently installed septic system on the property after consultation with the Environmental Health Division. The new location, which is near the existing agricultural accessory building, is large enough to accommodate a secondary system and a sufficient distance from the edge of the slope so that it poses no health issues.

(b) Materials in Project File PLN010578.

6. **FINDING: CEQA (Exempt):** - The project is exempt from environmental review.

EVIDENCE: (a) CEQA Guidelines Section 15303 categorically exempts single family dwellings and accessory structures.

(c) No adverse environmental effects were identified during staff review of the development application during site visits on March 1, 2002 and May 31, 2002.

(d) The biological report prepared for the project identified the presence of Dune buckwheat, which is a host plant for the Federally Endangered Smith's Blue Butterfly. The Dune buckwheat was located on the property in only two locations and outside of the project area. Recommendations from the biological report to avoid construction during the Smith's Blue Butterfly flight season and to delineate a protection area around the buckwheat plants have been incorporated (Exhibit "D"). Although potential habitat exists on the property for the Carmel Valley bush mallow (*Malacothamnus palmeri* var. *involutus*) and the Carmel Valley malacothrix (*Malacothrix saxatilis* var. *arachnoidea*), both of which are on the California Native Plant Society's List 1B and the latter is known to occur within one mile of the property, neither was observed during surveys. Evidence of the Monterey Dusky-footed Woodrat, a California Species of Special Concern, was found on the property, but sufficiently far from development activities to avoid any potential impact. Potential habitat for native nesting birds also exists on the property and a condition has been added to delay construction until the official end of the nesting bird season. Conditions have been added to direct runoff away from the steep slopes in order to avoid impacts to surrounding vegetation as well as measures for tree protection and use of native species in landscaping. "Biological Assessment," prepared by Rana Creek Habitat Restoration, Carmel Valley, CA, May 15, 2002.

(e) For Hazards, see Findings 3 and 4.

(f) No unusual circumstances or substantial impacts related to the proposed project were identified. Standard design and construction measures ensure avoidance of all potential impacts.

7. **FINDING: SCENIC AND CONSERVATION EASEMENT** – The property contains areas suitable for placement in scenic and conservation easement.

EVIDENCE: (a) Policy 26.1.10.1 of the Carmel Valley Master Plan states that in order to prevent development on slopes greater than 30%, "it is the general policy of the County to require dedication of scenic easement on slope greater than 30%." A condition has been added requiring a scenic and conservation easement deed over portions of the property in excess of 30% slope (Exhibit "D").

(b) The project site is located on a ridge overlooking Carmel Valley and visible from Carmel Valley Road, but is screened from the valley floor by vegetation at the top of the slope. Without this vegetation, the project would constitute ridgeline development, which is only allowed when it will not create a

substantially adverse visual impact from a public viewing area. In order to prevent ridgeline views of the development and to maintain the visual and scenic quality of Carmel Valley, a condition has been added that a 20-foot buffer from the edge of the slope to the proposed structures containing the screening vegetation be included in the scenic and conservation easement deed.

8. **FINDING: APPEALABILITY** - The project, as approved by the Planning Commission, is not appealable.

EVIDENCE: (a) Section 21.80.040 of the Monterey County Zoning Ordinance (Title 21).

9. **FINDING: FINDINGS FOR THE APPEAL** - An appeal of the January 30, 2002 action of the Zoning Administrator approving an Administrative Permit (PLN010578/Patterson) and Design Approval for construction of a new single family residence and accessory structures, was filed by Gill-Vista Enterprises. The appeal was timely filed on February 20, 2003.

EVIDENCE: (a) Said appeal has been filed with the Secretary of the Planning Commission within the time prescribed by Monterey County pursuant to Zoning Ordinance Chapter 21.80.

(b) Said appeal has been determined to be complete;

(c) The Planning Commission has reviewed, evaluated, and considered the appeal. The above finding is further evidenced by Staff's responses below, as recognized by the Planning Commission:

Appellants' Claims & Staff Responses

Basis for Appeal: The findings or decision or conditions are not supported by the evidence.

The appellant offers the following rationale to support the contention that the findings and decision are not supported by the evidence, specifically the hazards and impacts related to geology, drainage and landslides:

Claim 1: The appellant claims that the project *“as presently designed, continues to pose a significant danger to the Saddle Mountain Recreation Park (SMRP), owned by appellant, as well as other neighboring down-slope property owners”* and that it *“continues to proceed without proper concern for the protection of down-slope property owners due to the increased risk of landslides, water infiltration/subsurface flow, and surface flow of water.”* The appellant cites evidence that *“in February 1998, water, dirt, and debris slid from the east portion of the Patterson property through the Saddle Mountain Ranch and down to Schulte Road”* as well as evidence from the appellant's geological consultant that *“Saddle Mountain Recreation Park continues to be threatened by the project due to the infiltration of water and sewage directly into the steep slope above the park, which slope has recently failed.”*

The abovementioned concerns are outlined in a letter submitted by the appellant's consultant, Jeffrey A. Johnson, Inc. dated January 17, 2003 (Exhibit "L"), as follows:

Landslide Hazard: As evidence of the landslide hazard posed by the approved project, the appellant's consultant states that:

- 1) *"The proposed residence and improvements are to be constructed on a large, complex landslide mapped by the United States Geological Survey";*
- 2) *"The proposed residence and associated improvements will be located directly above the slope where landslides occurred in 1998" and that, "at the time of the 1998 landslides there were fewer modifications to the ridge top, that contributed to the failures, than currently proposed.";* and
- 3) *"Grading and under grounding of the utility will be adjacent to the upper landslide that failed in 1998. Additional excavations in this area could contribute to future slope failures."*

Water Infiltration/Subsurface Flow: As evidence of hazard posed by water infiltration and subsurface flow as a result of the proposed project, that appellant's consultant cites:

- 1) Percolation tests conducted in 1991 on the property that revealed *"significant bedrock fractures or 'large obvious voids' consistent with the mechanics of landslides" and that, test water infiltrated rapidly (i.e., between 150 and 180 inches of water per hour) into the hillside due to the presence of the open fractures";* and
- 2) *"Irrigation of landscaping will increase infiltration of water into the ridge top and hillside. The combined infiltration of irrigation waters and effluent from the PSDS can adversely affect the stability of the slope above the SMRP."*

Surface Flow: As evidence of the hazard posed by the surface flow of water, the appellant's consultant states that,

- 1) *"The site and grading plan do not show details of the surface drainage system. It is unclear, at this time, if surface drainage will be properly collected and directed down slope in an appropriate manner."*

Staff Response: Staff interprets the appellant's claim to mean that evidence to support the conditions and decision of approval is lacking due to the continued hazard posed by the abovementioned issues. However, the conditions, findings and decision related to geologic hazards are supported by the technical reports, staff review, project modifications and conditions of approval. To address Claim 1 relating to landslide, water infiltration and surface flow issues raised by Gill-Vista Enterprises in their appeal and the analysis of the potential geologic hazards summarized by the

appellant's geology consultant, staff refers to technical reports (Exhibit "N"), and the "Response to the Jeffrey Johnson, Inc. Letter" by Gasch & Associates dated January 28, 2003 (Exhibit "M"), and evidence related to Findings 3 and 4.

Landslide Hazard

- 1) The concern that the large landslide complex mapped by the USGS might be reactivated as a result of the project *"has little merit."* The slides occurred approximately 15,000 to 17,000 years ago and *"encompass over a square mile in area and there is little evidence indicating movement has occurred in recent historical time."* The landslides occurred when the Carmel River Valley was 200 to 400 feet deeper and resulted in the current condition, *"creating a more stable geometry."* Furthermore, *"water infiltrating the ancient landslide annually from this residential site is insignificant, when considering the total amount of water infiltrating the landslide."* It was estimated that the yearly water use of the residence (1.5 acre-feet) *"is less in volume than would occur from a single rainfall event of 0.03 inches across the slide area."*
- 2) The cause of the slope failures that occurred in 1998 above the SMRP is uncertain. The appellant contended that they resulted from actions and development on the subject property. On the other hand, reports submitted by the applicant suggested that the debris flows were caused by an intense rainstorm of record proportions and a road cut on SMRP property below the failed area that removed necessary support. It further concluded that there was no evidence that drainage patterns on the subject property had been altered or concentrated or that any action on the property had altered the strength of the slope materials that failed. The letter from Gasch and Associates concurred that the slope failure was not caused by modifications on the ridge, stating that *"the overall evidence did not support this."* To ensure the safety of downslope property owners to the east, the drainage plan will direct water towards the west and any soil and excavation work will be done according to geotechnical recommendations and are assured by the recommended conditions and plan check process.
- 3) In regards to the excavation for utilities, *"no excavation material will be allowed to fall toward the SMRP"* and the material will be placed *"approximately 100 feet west of the ridge crest, where it will be utilized as fill material ...according to proper engineering techniques."* Likewise, utility trenches will be engineered to *"maintain the integrity of the hillside."*

Water Infiltration/Subsurface Flow

- 1) The appellant raises concerns relating to the leach field and infiltration of effluent. The concern *"has been completely addressed by the new placement of the primary leach field."* This location is approximately 450 feet west of the previously proposed site and 90 feet lower in elevation. *"At this present location, it will not affect the east side of the parcel, as it is in an entirely*

different drainage area.” The percolation tests in this western area “were considered to be normal, according to the Percolation Test Report of Pacific Land Services.” The area has a mild 10% slope and is set back over 100 feet from the hillside to the west. “The questions about improper infiltration of effluent, brought up in the Johnson letter, are not applicable to this location.”

- 2) In response to the question of infiltration of water from the irrigation of landscaping, this issue is addressed above in regards to the relatively small amount of water that will infiltrate compared to a normal precipitation. In addition, County ordinances require landscaping to utilize xeriscape principles in order to reduce water usage. While some irrigation may be necessary to allow landscaping to establish, in the long term irrigation will be minimal to nonexistent. The landscaping condition (Exhibit “C”) requires irrigation systems to use “low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices.” Furthermore, as stated in the letter from Gasch and Associates, the proposed structural and impervious surfaces *“along with the addition of a runoff drainage system, will actually result in a net reduction of infiltrating water in the eastern portion of the site.”* Conditions of approval and plan checking will assure this.

Surface Flow

- 1) To address surface drainage of the proposed project, a water management system will direct surface rainwater and irrigation water to the west and away from the hillside above the SMRP. A Water Resources Agency condition requires submittal and approval of a drainage plan prior to issuance of any permits, while a Planning and Building Inspection Department condition requires submittal of a drainage report verifying that the drainage system as constructed directs runoff away from the slope in question. Gasch and Associates further state that, *“virtually the entire construction site is located in a westward draining area, away from the SMRP hillside.”*

Claim 2: The appellant identifies the Zoning Administrator’s decision to impose a condition to indemnify and hold the County of Monterey harmless from damages relating to landslides or other geologic hazards occurring in the vicinity of the project as evidence of staff’s concern over the dangers and states that *“such a condition, for reasons unknown to the appellant was not incorporated into the Zoning Administrator’s Findings & Decision for the project.”*

Staff Response: The Zoning Administrator directed staff to add a condition for an Indemnification Agreement pertaining to geologic hazards. After consultation with Planning Managers and County Counsel and clarification with the Zoning Administrator, staff determined that the standard general Indemnification Agreement is legally adequate to address indemnification requirements.

Claim 3: The appellant contends that conditions 9, 14, 15, 18, 34(b) and 39, which address drainage, slope stability, geology and hydrogeology, “do not go far enough to ensure the safety of downhill landowners with respect to future slides that may arise as a result of the project.” The applicant further argues that the information in conditions 15, 18 and 39, which relate to the drainage plan, slope stability analysis, and drainage report, “should be considered by county staff and subjected to public review and comment (including a hearing, if necessary) before a determination can be made with respect to final approval of the project.”

Staff Response: Technical reports prepared by qualified consultants have been submitted by the applicant. The recommendations of the reports have been incorporated into the Findings and Decision approved by the Zoning Administrator. Plans and construction will be reviewed by qualified consultants who will also prepare the abovementioned drainage plan, slope stability analysis and drainage report. They will also be reviewed by staff for adequacy. To require public review, comment and a hearing over these items prior to approval would be an unfair burden on the applicant. The appellant has only raised generalized concerns about the project and site, which have been adequately addressed. County staff has determined that the proposed project as designed and conditioned and based on the information provided does ensure the public safety.

Claim 4: The appellant also insists that the design and location of the water retention/percolation facilities “should be made specific before final approval,” the landscaping plan “should be coordinated and tied to the project’s drainage analysis,” and that the new leach field location “should be percolation tested because the slope of surface topography does not govern which direction the effluent flows from the leach field. Therefore, the leach field could pose a risk to down-slope property owners.”

Staff Response: The appellant’s claim implies that the conditions of approval are insufficient to ensure the public safety. However, it was determined through County review by the Environmental Health Division, Water Resources Agency and Planning and Building Inspection Department that the project as proposed is not a threat to public safety. Related landscaping, drainage and septic system plans will be reviewed by County staff prior to their approval. See also responses to Claims 1 and 3.

EXHIBIT “D”
RECOMMENDED CONDITIONS OF PROJECT APPROVAL

1. The subject Administrative Permit and Design Approval allows construction of a 4,953 sq. ft. one-story single family dwelling with loggia, a 600 sq. ft. detached guesthouse, a 1,352 sq. ft. detached garage with an office and exercise room, a 96 sq. ft. detached wine cellar, septic system, retaining walls and grading (approximately 800 cu. yds. cut and 800 cu. yds. fill). The property is located at 27760 Schulte Road, Carmel Valley (Assessor's Parcel Number 416-571-019-000), south of Carmel Valley Road, Carmel Valley area, Inland Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution 010578) was approved by the Planning Commission for Assessor's Parcel Number 416-571-019-000 on March 26, 2003. The permit was granted subject to 40 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
4. Construction shall begin no earlier than August 15th unless a qualified biologist confirms that the flight season for the Smith's Blue Butterfly has ended prior to that date. **(Planning and Building Inspection)**
5. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
6. In order to prevent possible disturbance to nesting birds, the applicant shall either 1) start grading and construction activities after August 1st; or 2) have a qualified biologist survey the site for nesting

birds prior to site disturbance. Construction may begin if the biologist determines that significant impact to the nesting birds is unlikely and documentation is submitted to the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

7. The applicant shall obtain a grading permit from the Building Inspection Division. **(Planning and Building Inspection)**
8. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
9. Dune buckwheat plants near the project area shall be protected during construction. A ten-foot buffer shall be set around the plants and marked with barrier fencing to be delineated by a qualified biologist and subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
10. All coast live oaks (*Quercus agrifolia*) within 10 feet of the driveway to be paved and of 6 inches or greater in diameter at 2 feet above ground shall be conspicuously marked and protected during paving operations subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
11. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
12. Prior to issuance of a building permit, or use of an existing structure as a guesthouse, the applicant shall submit for review and approval of the Director of Planning and Building Inspection, and subsequently record, a deed restriction stating the regulations for guesthouses, as follows:
 - a. Only one guesthouse shall be allowed per lot.
 - b. Detached guesthouses shall be located in close proximity to the principal residence.
 - c. Guesthouses shall share the same utilities with the main residence, unless prohibited by public health requirements.
 - d. The guesthouse shall contain no kitchen or cooking facilities, including but not limited to microwave ovens, hot plates, and toaster ovens.
 - e. There shall be a maximum of six linear feet of counter space, excluding counter space in a bathroom. There shall be a maximum of eight square feet of cabinet space, excluding clothes closets.
 - f. Guesthouses shall not exceed 600 square feet of livable floor area.
 - g. Guesthouses shall not be separately rented, let or leased from the main residence whether compensation be direct or indirect.
 - h. Subsequent subdivisions which divide a main residence from a guesthouse shall not be permitted.

- i. The guesthouse shall be designed in such a manner as to be visually consistent and compatible with the main residence on site and other residences in the area.
 - j. The guesthouse height shall not exceed 15 feet nor be more than 1 story. Additions to height and placement of guesthouses over a one-story structure, such as a garage, may be considered by Use Permit (ZA) when intended to provide for architectural consistency and compatibility with the main residence. **(Planning and Building Inspection)**
13. A scenic and conservation easement shall be conveyed to the County over those portions of the property where the slope exceeds 30 percent and to include a 20-foot buffer area from the edge of the slope to the proposed structures containing the existing screening vegetation. The scenic and conservation easement deed shall be submitted to and approved by the Director of Planning and Building Inspection prior to issuance of building permits. **(Planning and Building Inspection Department)**
14. Prior to the issuance of a building or grading permits for the single-family dwelling, a drainage plan shall be prepared addressing on-site and off-site impacts, to include retention/percolation facilities to mitigate the impact of impervious surface stormwater runoff. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
15. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property in the form of an approved Water Release Form. **(Water Resources Agency)**
16. The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. **(Water Resources Agency)**
17. A slope stability analysis shall be performed by a registered geotechnical engineer. **(Water Resources Agency)**
18. Prior to issuance of building permits, obtain a new water system permit from the Division of Environmental Health. **(Environmental Health)**
19. The applicant shall pay the Carmel Valley Road Traffic Impact Fees pursuant to Board of Supervisors Resolution No. 95-140, adopted September 12, 1995. **(Public Works)**
20. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus. **(Fire District)**
21. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum

horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. **(Fire District)**

22. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be minimum of 60 feet in length. **(Fire District)**
23. Roadway turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum 25 foot taper on each end. **(Fire District)**
24. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400 foot intervals. **(Fire District)**
25. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Fire District)**
26. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means to immediate access for emergency equipment. **(Fire District)**
27. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Fire District)**
28. Size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign. **(Fire District)**
29. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. **(Fire District)**
30. Approved fire protection water supply systems must be installed and made serviceable prior to the time of construction. **(Fire District)**
31. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:

"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection."
(Fire District)

32. All new structures, and all existing structures receiving new roofing over 25 percent or more of the existing roof surface, shall require Class A roof construction. **(Fire District)**

Prior to Final Building Inspection/Occupancy:

33. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:

- a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
- b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency)**

34. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department.
(Planning and Building Inspection)

35. The exterior colors and roofing shall be modified to darker hues in order to blend into the background and to better match the existing vegetation. Colors and materials shall be subject to the approval of the Director of Planning and Building Inspection prior to final building permit sign off.
(Planning and Building Inspection Department)

36. Appropriate vegetation and trees shall be planted and maintained in the buffer area near the edge of the canyon where necessary and in the vicinity of the residence and accessory structures in order to screen the structures from Carmel Valley Road and to be reflected in the landscaping plan.
(Planning and Building Inspection)

37. Landscaping shall only use plants native to the Carmel Valley area and non-native invasive plants such as any French Broom (*Genista monspessulana*) already existing in the project area shall be eradicated. **(Planning and Building Inspection)**
38. The applicant shall submit a drainage report prepared by a licensed engineer confirming that the recommendations of the geotechnical report prepared by Pacific Crest Engineering, dated October 2001, have been followed and that all drainage, runoff and effluent related to the project has been directed away from the slope so as to minimize the landslide potential. **(Planning and Building Inspection)**

Continuous Permit Conditions:

39. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**
40. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

EXHIBIT “N”

Geologic Report

NOTE: The information in Exhibit “N” is provided to the Planning Commission as a separate attachment in each Commissioner’s packet. To view a copy, please contact Eric Lee, Assistant Planner at (831) 883-7521 or lee@co.monterey.ca.us.