

Martin D. Koczanowicz

David P. Hale

March 24, 2016

Planning and Building Department
Mr. Cody Scheel
976 Osos Street
Room 200
San Luis Obispo, CA 93408

**Re: PLC 23/2016; Vadnais DRC 2015-00047, Development
Plan/Coastal Development Permit.**

Dear Planning Commission Members:

Our Firm has been engaged by Mr. John Morrison related to the above referenced project. Mr. Morrison is one of the residential residents immediately adjacent to this subject operation and has been struggling for some time with what appears to be consistent and flagrant violations of code and local ordinances in its operation.

This project sits in the back portion of a shopping center parking structure located at Tamson Drive, Cambria, APN 013-101-081. Some 90 feet from the property line of our clients which occupy noise sensitive receptors in the form of single family residents. The zoning applicable to this location is Commercial Retail zoning as stated in staff's Planning Commission report. The current use consist of a 160 square foot storage container enclosed by a wood panel façade, a 96 square foot storage shed and a 67 square foot awning cover. The staff report continues to state that the subject facility encompasses approximately 550 square feet, which is significantly in excess of the allowable square footage for a Recycling Collection Station as defined is 23.08.098.

The subject entitlement being proposed by the applicant is not authorized by your local codes for expansion of a land use category of Recycling Collection Station beyond 100 square feet. Specifically this proposed entitlement amends the use to a Recycling and Scrap land use category which is an incompatible use as defined within Title 23 of the Coastal Zone Land Use Ordinance, subsection D (20), (Manufacturing & Processing) of the Allowable Use Table – Coastal Zone and the Land Use Element of the County’s General Plan. A review of this table shows this use is clearly not an allowable nor authorized use in a Commercial Retail zone district. This is an inappropriate entitlement under Recycling Collection Station ordinance section 23.08.098 and staff also fails to make the necessary findings for a Minor Use Permit as required under 23.08.098 (a) if in fact this were a Recycling Collection Station which it is not.

To the extent this project significantly expands this use from a Recycling Collection Station to a Recycling and Scrap usage, it imposes a significantly greater potential of environmental impacts and therefore is not appropriate to approve a Categorical Exemption under the California Environmental Quality Act (CEQA). To the extent this project land use is inconsistent with the specific zoning of Commercial Retail, the County is not authorized to approve a Categorical Exemption for this project. And for other reasons as more fully enumerated hereinafter, the County has failed to adequately assess the total environmental impacts related to this project. There will be significant noise and vehicular traffic which have not even been looked at nor assessed by County staff clearly in violation of CEQA.

ZONING CONSISTENCY

Initially it should be pointed out, that the only purpose for the proposed request for a land use entitlement which is the subject matter of this Planning Commission agenda item is due to the

flagrant and continued violation by the applicant to the land use policies of the County.

This proposed modification or retroactive application of approval of the applicant's violations of the San Luis Obispo Code is not authorized under the County's current ordinances or code sections.

Staff articulates within Page one of Exhibit A to their staff report the following in section B under "Development Plan" which states; "The proposed project or use is consistent with the San Luis Obispo County General Plan/Local Coastal Program because the existing as-built recycling collection station is an allowed use under the Special Use standards, involved minimal site disturbance on an existing developed lot, and the existing as-built recycling facility is not visible from any major public viewing corridors."

We submit as will be explained hereinafter, this project is not consistent with allowable zoning in the County's General Plan and Local Coastal Program and the above criteria for which staff concludes this project is authorized is irrelevant and inconsequential to the necessary criteria to determine whether this use is an allowable use on this site.

Within the San Luis Obispo County Coastal Allowable Use Table & Definitions, hereinafter referred to as "Coastal Table O" which is found within the County's Land Use Element of its General Plan, the definition section [D19] defines the Recycling Collection Stations use as follows:

Facilities for temporary accumulation and storage of recyclable discarded materials, which are subsequently transported to recycling centers or solid waste disposal sites for further processing....(Does not includerecycling

processing facilities, which are listed under Recycling and Scrap;)

Section [D20] of the definition section of Coastal Table O defines Recycling and Scrap as follows:

Establishment primarily engaged intemporary storage and distribution of recyclable or reusable scrap and waste materials,...Also includes *any* storage of such materials in an area larger than 200 square feet or higher than six feet.

The staff in numerous occasions throughout their staff report refer to the subject property as “the existing as-built recycling collection station” as if the approval of the proposed development plan transforms the unlawful and non-code compliant operation of the applicants business into an acceptable use consistent with your ordinances and General Plan of the County. We respectfully submit, it does not.

Section 23.08.098 of the County’s codes specifically defines the land use element requirements for Recyclable Collection Stations. Subsection (a) states that establishment of a Recyclable Collection Station requires the issuances of a Minor Use Permit, not a Development Plan. Further, and more importantly, subsection (f), (Design Standards) subdivision (3) states that a Recycling Collection Station “**is to be no larger than 100 square feet.**”

When reading Section 23.08.098 (f)(3) which limits the square feet allowed for Recycling Collection Stations to 100 square feet with the definition of a Recycling and Scrap use (recycling operations over 200 square feet) it become clear that the proposed application before the Planning Commission is not for the approval of a collection center but for a Recycling and Scrap operations since the operations (storage and distribution of recyclable material) represent over 500 square feet of operational space.

The submittal and approval of the proposed Development Plan cannot change fundamental definitions of land uses contained within your code. This additional operational requirement for more square footage, by definition within your code, changes the land use classification of this business to a Recycling and Scrap operation. This type of land use is not a compatible land use as defined within the Coastal Table O.

A review of the Land Use Category matrix found within Coastal Table O, section D (Manufacturing & Processing) subsection 20 clearly shows that Recycling & Scrap is not an allowed use in Commercial Retail. We have attached hereto a copy of that pertinent part of the matrix as Exhibit "A". Therefore for the above reasons, unless a zone district amendment is approved to a zoning classification that authorizes Recycling & Scrap land uses, this use as defined and currently existing, is unlawful, a violation of the existing land use classifications and that due to the Design Standards of the current zoning, is not permissible. A Development Plan does not cure those deficiencies based upon the County's own code interpretations.

Section 23.01.033 - Consistency with the Land Use Element and Local Coastal Plan Required, contained within the Coastal Zone Land Use Ordinance and General Plan clearly requires consistency between proposed uses and zoning classifications. It states the following:

No new use of land, buildings, division of land or other development shall be established, and no application for such use, land division or other permit required pursuant to this title shall be approved, unless the proposed use or division is determined to be allowable in the land use category where the proposed site is located, pursuant to subsections a through e of this section.

Nowhere within subsection a through e can it be interpreted that this proposed use is compatible with the current existing zoning. For the reasons stated above and based upon the definitions of the above reference land use classifications, there is no possible way to conclude this propose use is compatible with the current zoning. This section of the County's code clearly requires compatibility and consistency which doesn't exist.

Although courts will generally give great deference to local agency's interpretation of their ordinances, they will also look to their codes to ascertain how those codes are to be interpreted. Section 23.01.041 gives clear direction on how to interpret the above subject codes. It states the following:

Any questions about the interpretation or applicability of any provision of this title, are to be resolved as provided by this section.

....

b. Language:

(1) Construction: When used in this title, the words "shall," "will," and "is to" are always mandatory and not discretionary. The words "should" or "may" are permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural, and the plural the singular.

In terms of defining the Development Standards for a Recycling Collection Station, section 23.08.098 (f)(3) states that the development or business "is to be" no larger than 100 square feet. That requirement can and should be interpreted in accordance with section 23.01.041 as mandatory for this use classification. It is not discretionary and can only be changed subject to a text amendment to

the code. Any approval of any development over that amount and specifically to the size of the existing project would cause a reclassification of the use by definition to Recycling and Scrap which cannot be approved by the Planning Commission as incompatible with existing zoning.

One final observation related to section 23.08.097 is that any Recycling and Scrap use cannot be located within 500 feet from any residential single family or multi-family category or residential use on an adjoining lot. Not only is our client's property adjacent to the proposed use and is a single family residence, his property line is located within 100 linear feet of the proposed project. Both the type of land use owned by our client and being within 100 feet of the project, precludes the Planning Commission from approving this project.

PROJECT IS INCOMPATIBLE WITH GENERAL PLAN

As indicated above, the consistency table of allowable land uses in each zoning category is clearly identified and defined in the County's Land Use Element of its General Plan. To the extent by definition of uses, this proposed entitlement being requested by the applicant is a Recycling and Scrap use, it is not allowed within a Commercial Retail zone district and is directly in violation of the County Land Use Element of its general plan. There is a plethora of California decisional case law that states you cannot approve a development entitlement that is inconsistent with your General Plan.

The project has for some time consisted of the receipt, processing and storage of recyclable material including aluminum cans and glass products. The storage, processing, movement and transportation of these products creates a significant amount of noise to sensitive noise receptors located less than 100 linear feet from this project.

The staff has attempted to argue this project is categorically exempt in Exhibit A of their staff report based upon the fact this is an existing structure and is a "small recycling collection facility/structure with minimal site disturbance on an existing developed lot." Staff first mischaracterizes this project as a small recycling collection facility when in fact approval of this development plan will convert by definition this project to a Recycling and Scrap use. This use allows for significantly greater potential for environmental impacts which were not considered by staff and were not evaluated.

In subsection "D" of Exhibit A to the staff's report, staff has articulated his project will not be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use. Yet staff has failed to do any acoustical analysis of what or how much noise the processing, collection, transporting and shipping of glass and other products collected by this center will make. Especially when the size of the facility is now over 400% larger than lawfully authorized by your code.

Our client has for some time now made numerous request to the County to resolve the extensive noise produced by this facility with little or no enforcement by the County of the flagrant violations of the code as shown in the attached pictures, marked Exhibit "B".

CEQA requires that to the extent there is any evidentiary basis to create a fair argument of a proposed significant environmental effect, staff should have done an initial study and some form of environmental analysis to assess the potential impacts. Moreover the Noise Element of the County's General Plan mandates such an analysis.

The Noise Element of the General Plan defines single family residences as a noise sensitive land use. No evidence has been presented by staff to support or suggest there is no impact to these noise sensitive land uses. Our clients have been raising issues with the County for a significant period of time that it is uncomfortable to sit in their back yard when the applicant is processing glass and other products that make a significant amount of noise. Moreover, Table 2-2 of the Noise Element of the General Plan has a specific process staff must follow to determine whether there are current noise impacts to our clients. Staff has proposed no information to suggest they have followed these procedures. Under CEQA staff's failure to consider or evaluate those potential impacts as required under the General Plan should not and does not equate to the conclusion of there being a lack of significant impacts.

Since this project is a Recycling and Scrap use and the project currently represents a 400% increase in size to what is allowed in a Recycling Collection Station; that our clients property is less than 100 feet from the applicants operations, well under the minimum spacing requirements under the code for Recycling and Scrap operations, and that our client has on numerous occasions complained to the County regarding the noise impacts from this project, is more than enough relevant evidence and information to submit this project is in violation of the Noise Element of the General Plan and has failed to be adequately assessed under CEQA. Staff should have done an acoustical analysis to determine whether this project has impacts in excess of the minimum noise requirements of the General Plan.

For the above reasons, this project cannot be approved without an adequate CEQA analysis and approval of a categorical exemption would be in violation of CEQA.

Staff has also failed to adequately assess potential traffic impacts and related noise associated with those elements of the project. Within subsection F of Exhibit "A" of the staff report, staff

makes a finding that the proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads because the project has access by Tamson Drive which is a local road constructed to handle traffic associated with the project.

Staff presents no evidence or basis for that analysis and again, merely assumes there is no impacts associated with traffic. Impacts on existing or newly constructed roads are not the only potential impacts that can arise from traffic. Staff has failed to articulate or find how a 400% increase in the size of this recycling operation will increase traffic and in what amounts. These types of impacts, irrespective of whether the roads are of sufficient size to accommodate traffic, can and will produce noise from increased traffic, idling of cars or trucks while loading, transporting and distributing recyclable material, and potential secondary emissions. Staff has again merely concluded without any analysis as to whether any of the above may have significant impacts on our clients' property.

CONCLUSION

The project as proposed has morphed from an acceptable and allowable use, Recycling Collection Station, to a Recycling and Scrap use which is not allowed within the Commercial Retail zoning currently existing on the property. Approval of this project would clearly be in violation of the Coastal Zone Land Use Ordinance, the County's Land Use Element of its General Plan, and the Coastal Table "O".

The project has not been adequately assessed for environmental impacts in accordance with CEQA. To the extent the project has currently and unlawfully been expanded to a size in excess of 400% of the allow size for a Recycling Collection Station and to the extent that approval of this entitlement would, by definition contained with

the Land Use Element, be considered a Recycling and Scrap use, the environmental impacts such as noise and traffic have not been considered or evaluate by staff. The location of our client's property within 100 feet clear is substantially closer than the 500 space limitations of the pertinent zoning which raises reasonable notice and evidence of potential noise and other environmental impacts that may arise from this project. The very impacts our clients have been raising for some time with the County.

Our client is not opposed to recycling facilities. They only request that the facility be located within an area that is more commercial/retail oriented than single family residential. Our clients due to the location are substantially affected by hearing the conversations of the workers at the location, the noise of glass and other recyclable products being processed, and the noise of vehicles going in and out. It is also an issue that the applicant physically blocks the road with a cable to inhibit access to the end of Tamson Drive. To the extent that Tamson Drive is a public street, the gating or blocking of vehicular traffic, including the potential access of emergency service vehicles, to locations behind our client's house is in direct violation of the California Vehicle Code, section 21101.

As a consequence of the above, the Planning Commission does not have the authority to approve this requested entitlement for expansion of the current recycling operations. Our client has proposed that the recycling operations be move to another industrial or commercial service area zoned for these types of uses, move the recycling operation within the parking facility of the Cookie Crock market or shut down the operations. It is not a violation of the California Beverage Container Recycling Act (AB 2020) to move this facility to another location even if miles away; the County can issue a variance for the Cookie Crock store to eliminate a couple parking stalls if required by the store entitlements; or to shut down this facility as being in gross violation of the current zoning ordinances and permits issued for its operations.

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Sincerely,

Koczanowicz & Hale

A handwritten signature in cursive script that reads "Martin D. Koczanowicz/mt".

Martin D. Koczanowicz

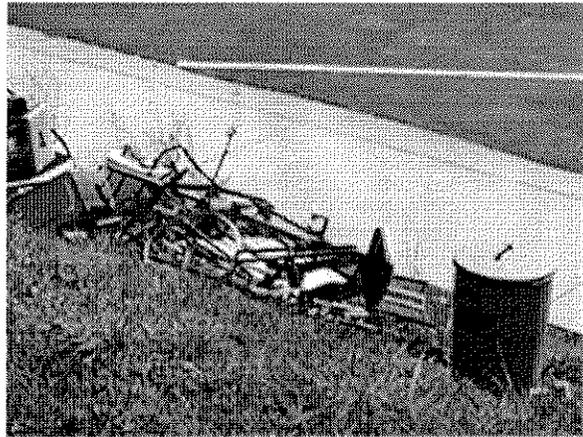
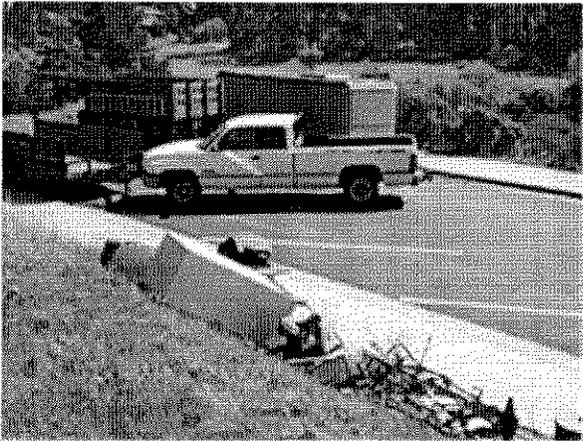
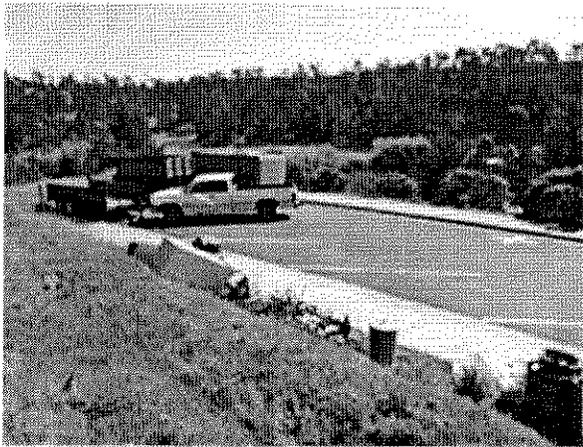
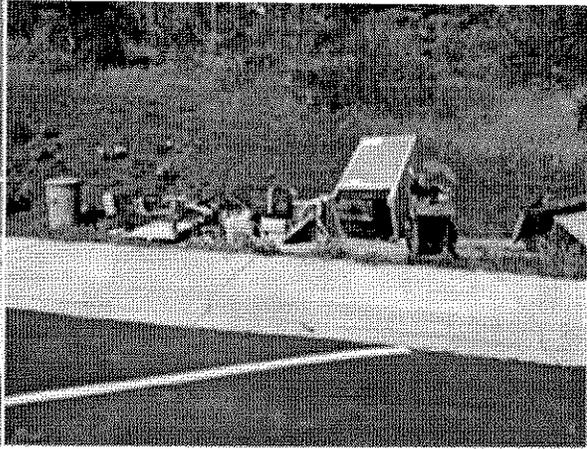
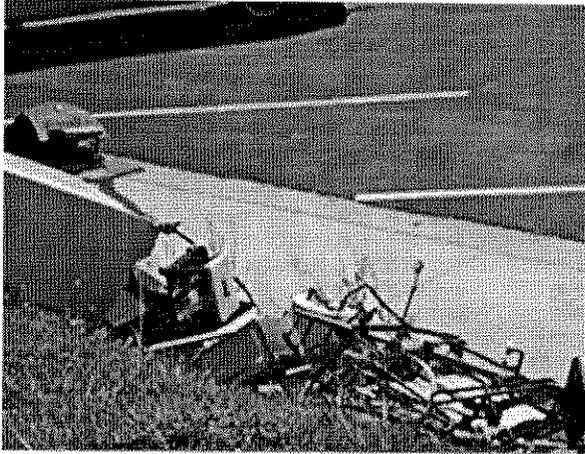
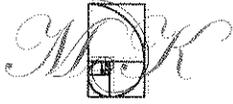


EXHIBIT B



Martin D. Koczanowicz

David P. Hale

March 24, 2016

Planning and Building Department
Mr. Cody Scheel
976 Osos Street
Room 200
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This project sits in the back portion of a shopping center parking structure located at Tamson Drive, Cambria, APN 013-101-081. Some 90 feet from the property line of our clients which occupy noise sensitive receptors in the form of single family residents. The zoning applicable to this location is Commercial Retail zoning as stated in staff's Planning Commission report. The current use consist of a 160 square foot storage container enclosed by a wood panel façade, a 96 square foot storage shed and a 67 square foot awning cover. The staff report continues to state that the subject facility encompasses approximately 550 square feet, which is significantly in excess of the allowable square footage for a Recycling Collection Station as defined is 23.08.098.

The subject entitlement being proposed by the applicant is not authorized by your local codes for expansion of a land use category of Recycling Collection Station beyond 100 square feet. Specifically this proposed entitlement amends the use to a Recycling and Scrap land use category which is an incompatible use as defined within Title 23 of the Coastal Zone Land Use Ordinance, subsection D (20), (Manufacturing & Processing) of the Allowable Use Table – Coastal Zone and the Land Use Element of the County’s General Plan. A review of this table shows this use is clearly not an allowable nor authorized use in a Commercial Retail zone district. This is an inappropriate entitlement under Recycling Collection Station ordinance section 23.08.098 and staff also fails to make the necessary findings for a Minor Use Permit as required under 23.08.098 (a) if in fact this were a Recycling Collection Station which it is not.

To the extent this project significantly expands this use from a Recycling Collection Station to a Recycling and Scrap usage, it imposes a significantly greater potential of environmental impacts and therefore is not appropriate to approve a Categorical Exemption under the California Environmental Quality Act (CEQA). To the extent this project land use is inconsistent with the specific zoning of Commercial Retail, the County is not authorized to approve a Categorical Exemption for this project. And for other reasons as more fully enumerated hereinafter, the County has failed to adequately assess the total environmental impacts related to this project. There will be significant noise and vehicular traffic which have not even been looked at nor assessed by County staff clearly in violation of CEQA.

ZONING CONSISTENCY

Initially it should be pointed out, that the only purpose for the proposed request for a land use entitlement which is the subject matter of this Planning Commission agenda item is due to the

flagrant and continued violation by the applicant to the land use policies of the County.

This proposed modification or retroactive application of approval of the applicant's violations of the San Luis Obispo Code is not authorized under the County's current ordinances or code sections.

Staff articulates within Page one of Exhibit A to their staff report the following in section B under "Development Plan" which states; "The proposed project or use is consistent with the San Luis Obispo County General Plan/Local Coastal Program because the existing as-built recycling collection station is an allowed use under the Special Use standards, involved minimal site disturbance on an existing developed lot, and the existing as-built recycling facility is not visible from any major public viewing corridors."

We submit as will be explained hereinafter, this project is not consistent with allowable zoning in the County's General Plan and Local Coastal Program and the above criteria for which staff concludes this project is authorized is irrelevant and inconsequential to the necessary criteria to determine whether this use is an allowable use on this site.

Within the San Luis Obispo County Coastal Allowable Use Table & Definitions, hereinafter referred to as "Coastal Table O" which is found within the County's Land Use Element of its General Plan, the definition section [D19] defines the Recycling Collection Stations use as follows:

Facilities for temporary accumulation and storage of recyclable discarded materials, which are subsequently transported to recycling centers or solid waste disposal sites for further processing....(Does not includerecycling

processing facilities, which are listed under Recycling and Scrap;)

Section [D20] of the definition section of Coastal Table O defines Recycling and Scrap as follows:

Establishment primarily engaged intemporary storage and distribution of recyclable or reusable scrap and waste materials,...Also includes *any* storage of such materials in an area larger than 200 square feet or higher than six feet.

The staff in numerous occasions throughout their staff report refer to the subject property as “the existing as-built recycling collection station” as if the approval of the proposed development plan transforms the unlawful and non-code compliant operation of the applicants business into an acceptable use consistent with your ordinances and General Plan of the County. We respectfully submit, it does not.

Section 23.08.098 of the County’s codes specifically defines the land use element requirements for Recyclable Collection Stations. Subsection (a) states that establishment of a Recyclable Collection Station requires the issuances of a Minor Use Permit, not a Development Plan. Further, and more importantly, subsection (f), (Design Standards) subdivision (3) states that a Recycling Collection Station “**is to be no larger than 100 square feet.**”

When reading Section 23.08.098 (f)(3) which limits the square feet allowed for Recycling Collection Stations to 100 square feet with the definition of a Recycling and Scrap use (recycling operations over 200 square feet) it become clear that the proposed application before the Planning Commission is not for the approval of a collection center but for a Recycling and Scrap operations since the operations (storage and distribution of recyclable material) represent over 500 square feet of operational space.

The submittal and approval of the proposed Development Plan cannot change fundamental definitions of land uses contained within your code. This additional operational requirement for more square footage, by definition within your code, changes the land use classification of this business to a Recycling and Scrap operation. This type of land use is not a compatible land use as defined within the Coastal Table O.

A review of the Land Use Category matrix found within Coastal Table O, section D (Manufacturing & Processing) subsection 20 clearly shows that Recycling & Scrap is not an allowed use in Commercial Retail. We have attached hereto a copy of that pertinent part of the matrix as Exhibit "A". Therefore for the above reasons, unless a zone district amendment is approved to a zoning classification that authorizes Recycling & Scrap land uses, this use as defined and currently existing, is unlawful, a violation of the existing land use classifications and that due to the Design Standards of the current zoning, is not permissible. A Development Plan does not cure those deficiencies based upon the County's own code interpretations.

Section 23.01.033 - Consistency with the Land Use Element and Local Coastal Plan Required, contained within the Coastal Zone Land Use Ordinance and General Plan clearly requires consistency between proposed uses and zoning classifications. It states the following:

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Nowhere within subsection a through e can it be interpreted that this proposed use is compatible with the current existing zoning. For the reasons stated above and based upon the definitions of the above reference land use classifications, there is no possible way to conclude this propose use is compatible with the current zoning. This section of the County's code clearly requires compatibility and consistency which doesn't exist.

Although courts will generally give great deference to local agency's interpretation of their ordinances, they will also look to their codes to ascertain how those codes are to be interpreted. Section 23.01.041 gives clear direction on how to interpret the above subject codes. It states the following:

Any questions about the interpretation or applicability of any provision of this title, are to be resolved as provided by this section.

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b. Language:

(1) Construction: When used in this title, the words "shall," "will," and "is to" are always mandatory and not discretionary. The words "should" or "may" are permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural, and the plural the singular.

In terms of defining the Development Standards for a Recycling Collection Station, section 23.08.098 (f)(3) states that the development or business "is to be" no larger than 100 square feet. That requirement can and should be interpreted in accordance with section 23.01.041 as mandatory for this use classification. It is not discretionary and can only be changed subject to a text amendment to

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One final observation related to section 23.08.097 is that any Recycling and Scrap use cannot be located within 500 feet from any residential single family or multi-family category or residential use on an adjoining lot. Not only is our client's property adjacent to the proposed use and is a single family residence, his property line is located within 100 linear feet of the proposed project. Both the type of land use owned by our client and being within 100 feet of the project, precludes the Planning Commission from approving this project.

PROJECT IS INCOMPATIBLE WITH GENERAL PLAN

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In subsection "D" of Exhibit A to the staff's report, staff has articulated his project will not be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use. Yet staff has failed to do any acoustical analysis of what or how much noise the processing, collection, transporting and shipping of glass and other products collected by this center will make. Especially when the size of the facility is now over 400% larger than lawfully authorized by your code.

Our client has for some time now made numerous request to the County to resolve the extensive noise produced by this facility with little or no enforcement by the County of the flagrant violations of the code as shown in the attached pictures, marked Exhibit "B".

CEQA requires that to the extent there is any evidentiary basis to create a fair argument of a proposed significant environmental effect, staff should have done an initial study and some form of environmental analysis to assess the potential impacts. Moreover the Noise Element of the County's General Plan mandates such an analysis.

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makes a finding that the proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads because the project has access by Tamson Drive which is a local road constructed to handle traffic associated with the project.

Staff presents no evidence or basis for that analysis and again, merely assumes there is no impacts associated with traffic. Impacts on existing or newly constructed roads are not the only potential impacts that can arise from traffic. Staff has failed to articulate or find how a 400% increase in the size of this recycling operation will increase traffic and in what amounts. These types of impacts, irrespective of whether the roads are of sufficient size to accommodate traffic, can and will produce noise from increased traffic, idling of cars or trucks while loading, transporting and distributing recyclable material, and potential secondary emissions. Staff has again merely concluded without any analysis as to whether any of the above may have significant impacts on our clients' property.

CONCLUSION

The project as proposed has morphed from an acceptable and allowable use, Recycling Collection Station, to a Recycling and Scrap use which is not allowed within the Commercial Retail zoning currently existing on the property. Approval of this project would clearly be in violation of the Coastal Zone Land Use Ordinance, the County's Land Use Element of its General Plan, and the Coastal Table "O".

The project has not been adequately assessed for environmental impacts in accordance with CEQA. To the extent the project has currently and unlawfully been expanded to a size in excess of 400% of the allow size for a Recycling Collection Station and to the extent that approval of this entitlement would, by definition contained with

the Land Use Element, be considered a Recycling and Scrap use, the environmental impacts such as noise and traffic have not been considered or evaluate by staff. The location of our client's property within 100 feet clear is substantially closer than the 500 space limitations of the pertinent zoning which raises reasonable notice and evidence of potential noise and other environmental impacts that may arise from this project. The very impacts our clients have been raising for some time with the County.

Our client is not opposed to recycling facilities. They only request that the facility be located within an area that is more commercial/retail oriented than single family residential. Our clients due to the location are substantially affected by hearing the conversations of the workers at the location, the noise of glass and other recyclable products being processed, and the noise of vehicles going in and out. It is also an issue that the applicant physically blocks the road with a cable to inhibit access to the end of Tamson Drive. To the extent that Tamson Drive is a public street, the gating or blocking of vehicular traffic, including the potential access of emergency service vehicles, to locations behind our client's house is in direct violation of the California Vehicle Code, section 21101.

As a consequence of the above, the Planning Commission does not have the authority to approve this requested entitlement for expansion of the current recycling operations. Our client has proposed that the recycling operations be move to another industrial or commercial service area zoned for these types of uses, move the recycling operation within the parking facility of the Cookie Crock market or shut down the operations. It is not a violation of the California Beverage Container Recycling Act (AB 2020) to move this facility to another location even if miles away; the County can issue a variance for the Cookie Crock store to eliminate a couple parking stalls if required by the store entitlements; or to shut down this facility as being in gross violation of the current zoning ordinances and permits issued for its operations.

County of San Luis Obispo
Planning Commission
Planning and Building Department
March 24, 2016
Page 11

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Sincerely,

Koczanowicz & Hale


Martin D. Koczanowicz

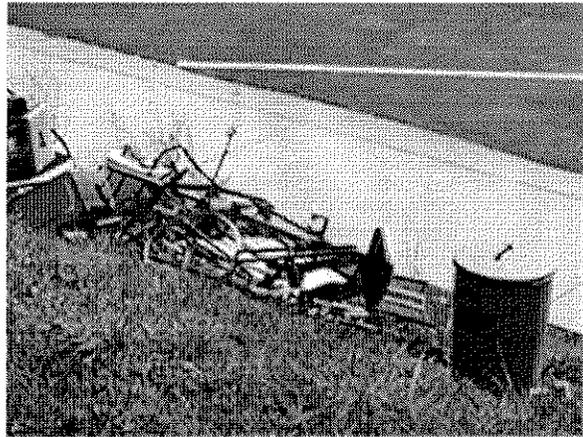
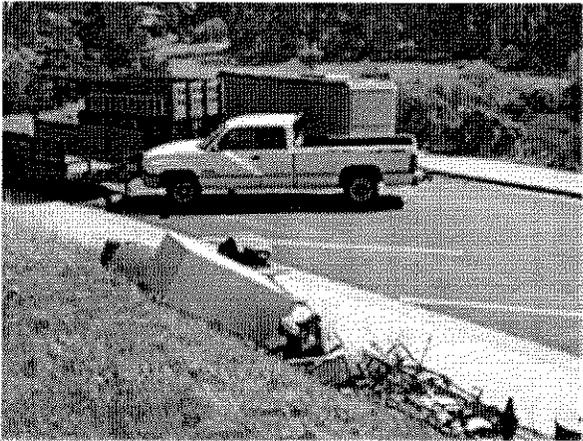
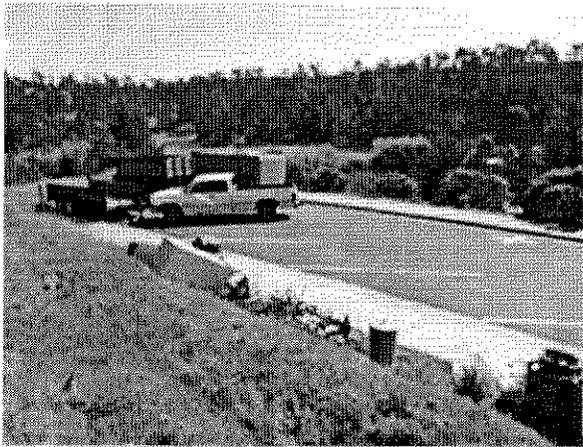
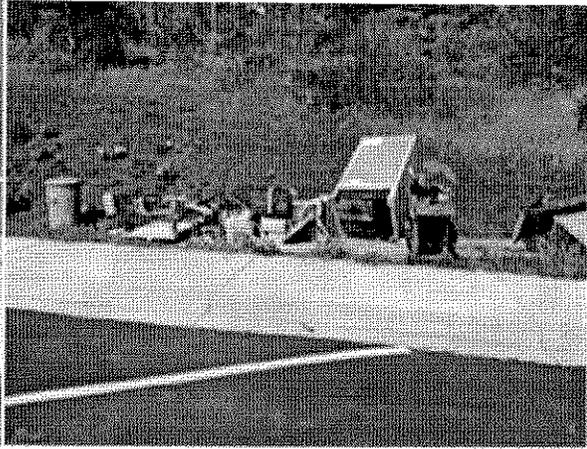
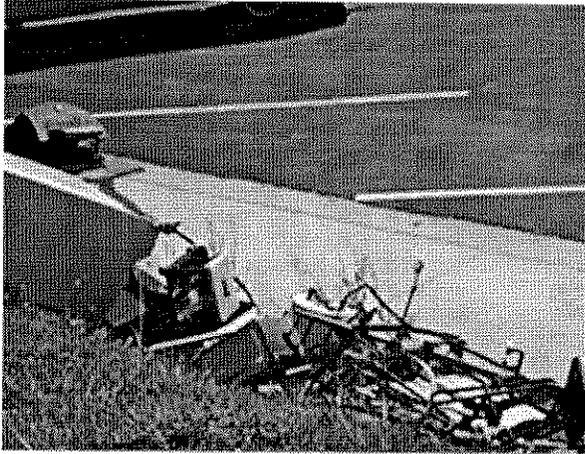
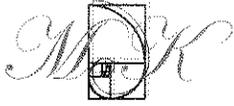


EXHIBIT B



Martin D. Koczhanowicz

David P. Hale

May 17, 2016

County of San Luis Obispo
Planning Commission
Planning and Building Department
976 Osos Street
Room 200
San Luis Obispo, CA 93408

Re: PLC 23/2016; Vadnais DRC 2015-00047, Development Plan/Coastal Development Permit.

Dear Planning Commission Members:

Our firm has been engaged by Dr. John Morrison related to the above referenced project. Dr. Morrison is one of the residential residents immediately adjacent to this subject operation and has been struggling for some time with what appears to be consistent and flagrant violations of code and local ordinances in its operation.

Attached to this submittal and incorporated herein by reference is the letter provided to the Commission on behalf of Dr. and Mrs. Morrison, last time the item was discussed by the Commission. The issues raised in that submittal remain unresolved and it is our contention that the Planning Commission lacks the authority to approve the request as recommended by staff. The single most important reason is that once the proposed site exceeds 200 square feet, under County's own code and General Plan Land Use designation, it becomes a Recycling and Scrap use, not a Recycling Collection Facility. Under the County's own code, Recycling and Scrap uses are not allowed uses adjacent to residentially zoned property as is the case here.

At the last Planning Commission meeting the item was continued and staff and applicant were directed to identify other potential sites for the Recycling Center. As of the time of this submittal, we are not aware of any progress in that regard. Contacts with Cambria Community Services District have not, to date, brought any results.

The current use consists of a 160 square foot storage container enclosed by a wood panel façade, a 96 square foot storage shed and a 67 square foot awning cover. The staff report continues to state that the subject facility encompasses approximately 550 square feet. Significantly in excess of the allowable square footage for a Recycling Collection Station as defined is 23.08.098 which specifically defines the land use element requirements for Recyclable Collection Stations. Subsection (a) states that establishment of a Recyclable Collection Station requires the issuances of a Minor Use Permit, not a Development Plan. Further, and more importantly, subsection (f), (Design Standards) subdivision (3) states that a Recycling Collection Station **"is to be no larger than 100 square feet."**

Section [D20] of the definition section of Coastal Table O defines Recycling and Scrap as follows:

Establishment primarily engaged intemporary storage and distribution of recyclable or reusable scrap and waste materials,...Also includes any storage of such materials in an area larger than 200 square feet or higher than six feet.

Planning Staff is apparently of the opinion that a Recycling Collection Station can be in approved in excess of 100 or 200 square feet. The County's own Land Use Element clearly states that any storage of recycling materials in an area greater than 200 square feet, changes the use to a Recycling and Scrap use, which is not permitted in the Commercial zone, applicable to this site. As set out in greater detail in the attached submission from the March meeting, there is simply no process which would lawfully allow the Planning Commission to override the provisions of the County's Land Use Element and approve this project as proposed. At minimum a General Plan amendment and zoning change would need to be processed in order to allow for a Recycling and Scrap facility to operate in this shopping center.

The reasons for the size restrictions in the County Land Use element and Codes are obvious. Once the operation becomes larger in size the impacts become greater and need to be environmentally evaluated. Applicant testified at the last meeting that he cannot prevent or control the trash or people leaving debris at the center while it is closed. He further stated that he has to crush the recyclables in order to be able to transport them efficiently. The glass and the cans are crushed with a hammer. That creates an offensive amount of noise to the property owned by our clients which is located less than a 100 feet away. Such effects need to be evaluated under CEQA and cannot be ignored by ministerial approval of a Minor Permit. The noise level is also likely a violation of the County's noise ordinance and our clients will provide further testimony about the effects that the current operation has on their everyday life.

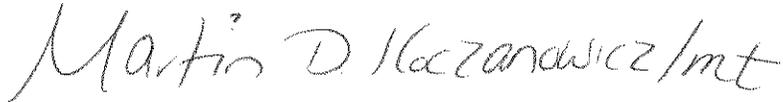
In conclusion, Dr. and Mrs. Morrison recognize the importance of having a recycling facility in this area. Such facilities are an important part of preservation efforts. However, they do not condone what appears to be an attempt to legitimize a use that has grown in size and impacts beyond what is allowed by code. There is a history of attempted enforcement by the County Code Enforcement division, as it has been long recognized that the operation was illegal. These enforcement efforts were discontinued and instead staff is supporting allowing the use to exist under a pretense of compliance with the code.

County of San Luis Obispo
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May 17, 2016
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The Planning Commission needs to deny this application and staff needs to enforce compliance with the code by either relocation of the facility or downsizing it to 100 square feet, without any processing.

Respectfully submitted,

KOCZANOWICZ & HALE

A handwritten signature in black ink that reads "Martin D Koczanowicz/mt". The signature is written in a cursive style with a large initial 'M' and a small '7' above the 'i' in 'Martin'.

Martin D. Koczanowicz

May 23, 2016

Tina Dickason
574 Leighton St.
Cambria, CA 93428

To: The San Luis Obispo Planning Commission, Commissioners
RE: Agenda Item (9) May 25, 2016

Dear Commissioners Irving, Topping, Meyer, Harrison and Campbell:

I would like to share with you some information regarding the recycling center located on Tamson Dr. in Cambria.

Approximately two years ago, when receiving my monthly allergy shots at an allergist's office in Templeton, I met a young woman from Cambria in the waiting room. We engaged in a conversation, which led to why she was at the allergist's office. Apparently, she worked at the Cambria recycling center and was stung by a wasp/yellow jacket while working there, which caused a severe allergic reaction in her body. She had to be taken by ambulance to the hospital, having received immediate medical treatment by EMT's when they arrived to take her to the hospital. When I spoke to her, she told me she was going to the allergist 3 times a week for shots to counteract the condition she had suffered from the sting.

The young lady told me that there were wasp nests in close proximity to the recycling center. I assumed because of the residual sugar content in soda cans and bottles, there was an attraction for these insects to gather and form nests there. Interestingly, a neighbor, who was renting a house across the street from us in Cambria, collected on a nightly basis, bottles and cans to take to the recycling center for financial reimbursement. However, he did not take them on a daily basis to the center, so the same thing happened in his yard as at the center: a wasp/yellow jacket nest formed, and his wife was bitten by one or more of the insects.

I bring this up to you, because when I watched the March meeting where this item came up, no mention was made of potential health issues related to any wasp/yellow jacket nests.

I have also observed when leaving Gym One after classes there, the crushing of cans and bottles, which is extremely noisy. (Since the March PC meeting, I have not seen crushing activity take place, as advised by the PC). In addition, I had occasion to visit the recycling center to ask if they would take a small, table-top microwave oven, as Mission Country said they were not able to. The gentleman at the center said he could take it for a cost of \$10. I gave him the \$10 for taking the microwave. I have since learned the

center is not supposed to take any items (i.e. appliances, etc.) other than cans and bottles, and that they do not have a permit for crushing.

I have also taken note of the location, as it sits in close proximity to the Morrison's home. I can't imagine a county code allowing the operation to be so close to residences. (Of interest, Commissioner, Meyer, said during the March meeting, he had viewed a property just two doors away from the Morrison's, and was very much aware of the noise generated by the recycling center when he was there, and was partially deterred from purchasing the property because of this issue).

Since watching the March Planning Commission meeting and doing a little research, I found it interesting that Morro Bay does not have a recycling center, nor does SLO, except of course, at the Cold Canyon Landfill. I would also ask, where do residents dispose of recyclables from Templeton, Los Osos, Arroyo Grande, Nipomo, Cayucos and San Simeon? (See link below for recycle centers in the county)

In my opinion, the facility should be moved from its current location, and be placed in the industrial zone of Cambria, which is Tin City. (I have the name of the owner of Tin City and the managing agency, should this avenue need to be looked into as an alternative). My understanding is that a location is required to be within a 3-mile radius of the Cookie Crock Market. Tin City is within a mile of the Cookie Crock. If that is the case, how is it possible for Albertson's, Cookie Crock Warehouse, and Spencer's Market in Morro Bay, not to even have a recycling center at all? Cold Canyon Landfill is much further than 3 miles from Morro Bay and the areas mentioned above.

The Morrison's have suffered from this recycling center's activity, and one person at least, has suffered health issues that were very serious. I ask you, the County's Planning Commissioners, to give serious thought and attention to this issue, before casting your vote.

Sincerely,

Tina S. Dickason
574 Leighton St.
Cambria, CA 93428

<http://www.myyp.com/community/San-Luis-Obispo,CA/recycle>



May 20, 2016

San Luis Obispo County Planning Commission

County Government Center

San Luis Obispo, Ca. 93428

Dear Sirs,

My name is Mitchell Gregory and I have a Saloon in Cambria. As a byproduct of my business, Mozzis accumulates empty bottles and cans with a CRV. In an effort to reduce waste, we elect to recycle these items. Each week, I take approximately 250-300 pounds of glass and aluminum to the recycling center on Tamson Drive. Although it is a smelly, sticky endeavor, I am happy to help reduce waste that would normally go into the local landfill. This center is a necessity for the community, in its absence, the bottles and cans would end up in the trash. I fully support the staff that operate the recycling center and hope that it continues at its present location.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell Gregory", written over a horizontal line.

Mitchell Gregory

Owner

SAVE THE CAMBRIA RECYCLING CENTER

Save our embattled recycling center by signing the Petition below. (You must be over 18. Please sign only one petition.)

TO: THE SLO COUNTY PLANNING COMMISSION

The undersigned Cambria Resident and/or User of the Cambria Recycling Center urges the Planning Commission to issue the Permits needed to allow the Center a permanent home on Tamson Street. It is the only center remaining on the County's North Coast. The recycling center is necessary for getting our CRV refunds, reducing solid waste, reducing landfill demands, and promoting a clean and healthy Cambria.

Signature

Print Name

Address

Ann Olmos Anesola - ANN OLMOS - P.O. BOX 937, Cambria

L. Schette Liane Schette 975 Hillcrest Cambria

Jim Haney JIM HANEY 1730 Arlick

Hilary K. Fitzgerald Hilary K. Fitzgerald 1366 Richard, Cambria

Jill Masten JILL MASTEN PO Box 1241, Cambria

Kathryn Main KATHARYN MAIN 1910 Riveredge Dr. Cambria

MICHAEL WALSH 554 CROYDEN
~~ROBERTO CARLOS~~ CAMBRIA

Susan D. Pitts Susan D. Pitts 425 WELLINGTON
CAMBRIA

Robbin Hinson Robbin Hinson 354 Dorset Cambria

Cecelia Moore Cecelia Moore 5641 Sunbary AVE

Leah Kaviani Leah Kaviani 2104 Blythe Pl.

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Signature

Print Name

Address

Steven Boll

STEVEN BOLL

2500 LEONA

Evan Wether

Evan Wether

9490 AVONRE AVE San Simon

Pat Davis

PATRICIA HARRIS

2106 FERN DR CAMBRIA

Susan V. Jardo

Susan V. Jardo

P.O. Box 513 Cambria, Ca 93428

Charles R. Chase

Charles R. Chase

492 Worrester DR, Cambria

LEO WIXTED L.J. Wixted

5005 WINDSOR, CAMBRIA 93428

Ana M. Urena

Robert Fountain

ROBERT FOUNTAIN

324 FALLBROOK ST.

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Signature

Print Name

Address

Kathleen Marlo

Kathleen Marlo

436 Warwick Cambria

Amy Yetter

Amy Yetter

7025 Avon Ave Cambria
2098 Oxford Ave

Becky Homewood

Becky Homewood

Cambria

Alicia Santori

Alicia Santori

2831 Ernest Place

Paul Williams

Paul Williams

8510 Pineridge

B. Cashdan

B. Cashdan

2293 Yorkshire

Amanda Scott

Amanda Scott

2999 Brown Cr.

Dore Morrissey

Dore Morrissey

10400 Genoa dr.

Genise Inman

Genise Inman

2046 Ogden

S. Valero

S. Valero

2250 Leona

Glenn Juan Bilich

Glenn Juan Bilich

300 NORFOLK St., Cambria

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Print Name

Address

Aileen Hartman Aileen Hartman 9170 Arowne SS

Ellen Metzger Ellen Metzger 2670 Patterson Cambria

Jeff Kinasy JEFF KINASY 1701 MELROSE - CAMBRIA

Sue Chadwick SUE CHADWICK 325 Worcester, CAMBRIA

Kristine Kangas Kristine 3050 Barton

Bruce Marlese BRUCE MARLESE 2199 ANSWER

Ann Pope Ann Pope 560 Hastings

Susan Kersey Susan Kersey 460 Wellington

Marian Skelton Marian Skelton 1241 Knollwood

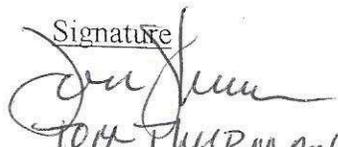
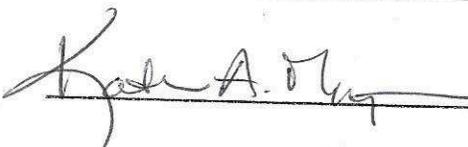
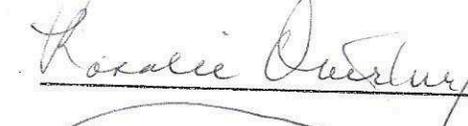
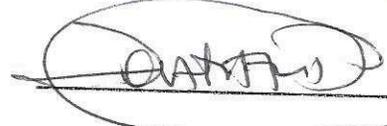
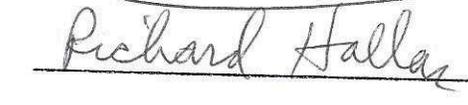
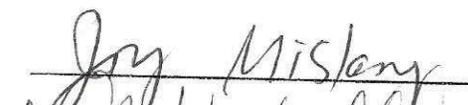
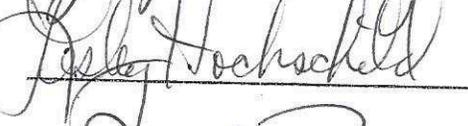
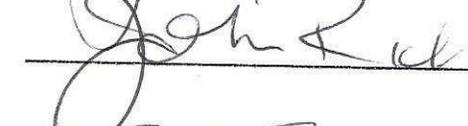
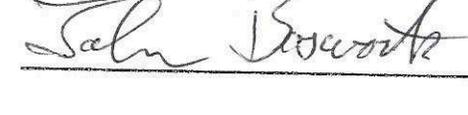
Barbara Gray BARBARA GRAY 2916 MARJORIE PLACE

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<u>Signature</u>	<u>Print Name</u>	<u>Address</u>
	TOM THURMAN	2599 PINE RIDGE - Cambria
	Katherine Magnuson	8810 Van Gordon Creek, Cambria, CA
	FRANCESCA DELUCA	1780 Hudson Ave Cambria CA 13005 Hudson Dr
	ROSALIE OVERTURF	6360 Buckley CAMBRIA, CA
	JONATHAN GREENBERG	1701 Langton St CAMBRIA 93728
	RICHARD HALLAS	9490 Avonue Ave #516 San Simeon
	Joy Mislany	29 ST ORDATE DR
	Lesley Hochschild	1577 Berwick Dr
	John Richardson	9540 AVONUE #3
	PAT RILEY	2880 Lytle Ave
	John Bosworth	5581 Sanberry Cambria

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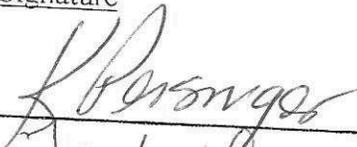
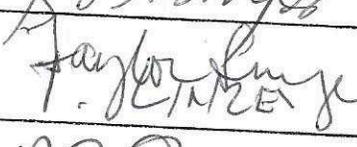
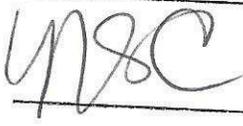
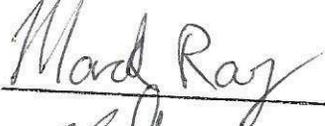
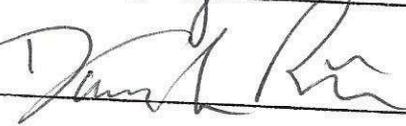
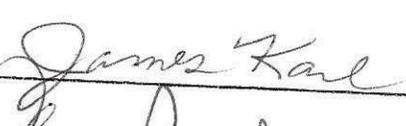
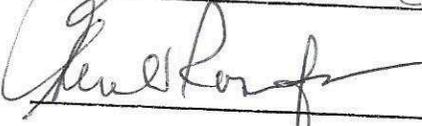
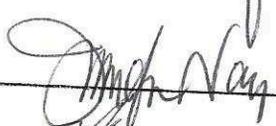
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Signature

Print Name

Address

	Kathy Persinger	628 Hauting Ln
	T. LINZEY	996 HARTFORD
	Nicolo Cleveland	746 Main St.
	CHRISTOPHER PAYNE	2831 BURTON CIR.
	Mark RAY	503 CASA DEL MAR
	Robert Bong	2150 Main St #3
	Danny Rivera	451 Dorset St
	James Karl	1223 Warren Rd
	Gerald Rosenfield	2740 Ewensong Wy
	Jennifer Nay	5519 Loma De
	J. GREER	Hillcrest Dr.