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**Prepared July 23, 2008 (for August 7, 2008 hearing)**

**To:** Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
Katie Morange, Coastal Planner

**Subject: Monterey County LCP Major Amendment Number 2-07 Part 2 (Doud Property Rezone)**  
Proposed major amendment to the Monterey County certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's August 7, 2008 meeting to take place at 300 North Coast Highway in Oceanside.

## Summary

Monterey County is proposing to amend its certified Local Coastal Program (LCP) Land Use Plan (LUP) and Implementation Plan (IP) to redesignate a 2.5-acre portion of a larger undeveloped property from Outdoor Recreation (OR) ("OR") to Watershed and Scenic Conservation (WSC/40) ("WSC"). The redesignation would change the allowed range of uses on the 2.5-acre portion of the site, and would allow the potential for additional types of higher intensity development than the existing OR designation. Probably the most notable distinction between the existing LUP/IP land use designation and that proposed is that the proposed WSC designation allows for residential development as a principally permitted use while the OR designation does not.

The subject 2.5-acre piece of the larger property holding is the only portion of the overall property that is located seaward of Highway 1; the rest of the property consists of several thousand acres in common ownership that extend inland and is currently designated WSC. The 2.5-acre piece designated OR is located immediately south of Garrapata State Park, between Highway 1 and the Pacific Ocean in the northern portion of the Big Sur coast area of Monterey County. The Big Sur coast is world famous for its dramatic scenic shoreline vistas and landscapes, and this portion of northern Big Sur in particular provides sweeping undeveloped views of the Santa Lucia Mountains, coastal bluffs, rocky coastline, beaches, and the ocean from Highway 1 and Garrapata State Park. The undeveloped 2.5-acre site is located immediately adjacent to the State Park and Highway 1 on the ocean side of the highway and thus is highly visible from both of these vantages; in fact, because of a lack of fencing and development on the site, it is visually indistinguishable from the rest of the Park landscape.

Both the Coastal Act and LUP require protection of scenic resources and public views along the coast, and require development in highly scenic areas such as this to be subordinate to its setting. In particular, the LUP prohibits development in the LCP-identified "critical viewshed," which is defined as all areas visible from Highway 1 and major public viewing areas (such as parks, trails, and lookouts). This unprecedented level of protection is due to the unique qualities of the Big Sur viewshed and its state and national importance. The proposed LCP amendment conflicts with the scenic resource and public view provisions of both the Coastal Act and LUP because it would allow for more intensive development in an area that is arguably one of the most significant scenic resources of public importance in the state.



In addition, the site contains a network of low intensity trails that connect to both Garrapata State Park and a segment of the California Coastal Trail. The Coastal Act requires that recreational access opportunities be maximized along the coast; protects existing public access; protects existing park and recreation areas against inappropriate adjacent development; reserves appropriate upland areas for recreational use; and gives priority for such sites to recreational use over residential use. The LUP builds upon these Coastal Act policies and requires major access areas, whether in public or private ownership, to be permanently protected for long-term public use. Redesignation of the 2.5-acre site from OR to WSC, including introducing residential development as a principally permitted use, conflicts with these public access and recreation policies. Higher intensity development such as that facilitated by the proposed amendment would be expected to degrade the adjacent State Park, including its visual continuity and use value. Potential residential development that would be facilitated by the proposed LCP amendment would also alter or possibly preclude continued use of the trails on this site by the public, thereby reducing access to Garrapata State Park and along the Coastal Trail. Although the site is privately owned, the trails on the site have a long-established history of use by the public, and such trail use is precisely the type of low intensity use envisioned and encouraged by the LCP's existing OR designation. The proposed LCP amendment conflicts with the Coastal Act and LUP because it would allow development incompatible with identified trail use, and may preclude such trail use entirely, including in relation to its importance to the connection to both Garrapata State Park and the California Coastal Trail, and because it would degrade the value of the existing State Park overall.

The 2.5-acre site is also home to significant habitat resources, including several that constitute environmentally sensitive habitat areas (ESHAs) under both the Coastal Act and the LCP. These habitats include coastal bluff scrub (listed as a threatened plant community by the California Department of Fish and Game), nearshore, intertidal, and marine habitats of the Monterey Bay National Marine Sanctuary, and Garrapata Creek, a spawning ground for the federally-endangered South-Central California Coast Steelhead trout. Most of the site is completely ESHA. The Coastal Act allows only resource dependent use and development in ESHA, and only when such use/development adequately protects habitat. Further, the Act requires development adjacent to ESHA to avoid significant ESHA disruption. Similar LUP policies prohibit development in ESHA if it results in any potential disruption of habitat value. The residential use that would be allowed under the proposed designation is not a resource dependent use and cannot be found consistent with the Coastal Act. Residential use, such as that facilitated by the proposed redesignation, would introduce permanent, fixed development and activity that would involve removal and adverse effects on onsite and adjacent ESHA, inconsistent with the Coastal Act and LUP. Such higher intensity development facilitated by the redesignation to WSC would also introduce new impermeable surfaces and pollutant sources that could increase runoff and pollutants to both the Monterey Bay National Marine Sanctuary and Garrapata Creek, adversely impacting these sensitive resources.

The 2.5-acre site is also located in a high geologic and fire hazard area, as well as an area of high archaeological/cultural resource sensitivity. The proposed redesignation increases the possibility of conflicts with Coastal Act policies which requires new development to minimize risks to life and property in high geologic and fire hazard areas and to assure stability and structural integrity while avoiding landform alteration, as well as with LUP hazards policies which require avoidance of development in areas of high fire, erosion, and geologic hazards. It also appears that there is not an



appropriate or adequate water supply to serve development of the site, and the redesignation would also increase the likelihood that archaeological and cultural resources on the site would be disturbed and impacted, raising consistency issues with both the Coastal Act and LUP.

In sum, the proposed LUP amendment is inconsistent with the policy requirements of the Coastal Act because it would increase the possibility of inappropriate and higher intensity development on a site that would conflict with: the required protection of the world-famous Big Sur coast viewshed, including in relation to the immediately adjacent Garrapata State Park; historical public access trails with connectivity to the Park and a segment of the California Coastal Trail; on- and off-site ESHA, including in relation to potential water supply; life, property, and natural landforms in a bluff area subject to multiple natural hazards; and potentially significant archaeological/cultural resources. Redesignating the 2.5 acres from OR to WSC would lead to an increased possibility that the high quality coastal resources that exist on the site, including their relation to the surrounding natural environment, would be diminished, and would conflict with fundamental Coastal Act requirements. The proposed IP amendment mirrors the proposed LUP amendment, and would lead to the same type of LUP inconsistencies as the noted Coastal Act inconsistencies. The existing OR designation for the 2.5 acres is far more LCP appropriate and far more protective of known coastal resources values than is the WSC designation proposed, and reflects the LCP distinction between the appropriate uses and development of the larger inland portion of the property as compared to the much smaller seaward component of the overall site.

In conclusion, the proposed LUP land use designation change cannot be found consistent with the Coastal Act, and the proposed IP land use designation change cannot be found consistent with and adequate to carry out the LUP. **Therefore, staff recommends that the Commission deny the proposed amendment** (see the motions and resolutions necessary to implement this recommendation on pages 4 and 5).

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## I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, deny the proposed amendment. The Commission needs to vote on two motions in order to act on this recommendation, one for the LUP changes proposed and one for the IP changes proposed.<sup>1</sup>

### A. Denial of Land Use Plan Major Amendment Number 2-07 Part 2

LUP amendments may only be certified by an affirmative vote of a majority of the appointed Commissioners or alternates. In other words, at least seven “yes” votes out of the twelve appointed Commissioners/alternates are required to certify an LUP amendment, regardless of how many Commissioners/alternates are present at the time of the vote.

#### **Staff recommends a NO vote on the motion below.**

If the motion is rejected, the LUP portion of the amendment will be denied certification as submitted, and the Commission will adopt the following resolution and the findings in this staff report. If the motion is passed, the LUP portion of the amendment will be certified as submitted, and staff will prepare revised findings for the Commission to consider in support of that certification action.

**Motion 1 of 2.** I move that the Commission **certify** Part 2 of Major Amendment Number 2-07 to the Monterey County Local Coastal Program Land Use Plan as submitted by Monterey County.

**Resolution to Deny.** The Commission hereby **denies** certification of Part 2 of Major Amendment Number 2-07 to the Monterey County Local Coastal Program Land Use Plan as submitted by Monterey County and adopts the findings set forth in this staff report on the grounds that, as submitted, the Land Use Plan amendment will not meet the requirements of and be in conformance with the policies of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act.

### B. Denial of Implementation Plan Major Amendment Number 2-07 Part 2

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion 2 of 2.** I move that the Commission **reject** Part 2 of Major Amendment Number 2-07 to the Monterey County Local Coastal Program Implementation Plan as submitted by Monterey County.

**Resolution to Deny.** The Commission hereby **denies** certification of Part 2 of Major Amendment Number 2-07 to the Monterey County Local Coastal Program Implementation Plan as submitted by Monterey County and adopts the findings set forth in this staff report on the

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<sup>1</sup> Note that the motions and resolutions refers to “Part 2 of Major Amendment Number 2-07.” The reason for this is that this amendment request is part 2 of a three part LCP amendment submitted by the County. In other words, LCP amendment number 2-07 is in three parts. The other two parts of the amendment, regarding the proposed Castroville Community Plan and a proposed parcel rezoning in North Monterey County (Gorman-Tanglewood), will be heard separately at a future hearing.



grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan.

## II. Findings and Declarations

The Commission finds and declares as follows:

### A. Proposed LCP Amendment

The County proposes to amend the LCP's Big Sur Coast Land Use Plan (LUP) to redesignate a 2.5-acre portion of a larger undeveloped property from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC). The amendment also proposes to amend the LCP's Implementation Plan (IP) applicable to the Big Sur Coast (Section 20.08.060, Title 20, Sheet 20-22) to rezone the same 2.5 acres from Open Space Recreation (OR) to Watershed and Scenic Conservation (WSC/40). The subject 2.5 acre piece of the larger property holding is the only portion of the overall property that is located seaward of Highway 1; the rest of the property consists of several thousand acres in common ownership that extends inland and is currently designated WSC.<sup>2</sup> The 2.5 acres is located immediately south of California Department of Parks and Recreation's (DPR's) Garrapata State Park unit, and immediately adjacent to Highway 1 between the Highway and the Pacific Ocean in the Big Sur planning area of Monterey County (see Exhibit A for location map and Exhibit D for site photos). See Exhibit B for the proposed amendment and Exhibit C for the Monterey County Board of Supervisors' staff report and resolution in support of the amendment.

#### 1. Effect of Proposed Amendment

The LUP describes the OR land use designation that currently applies to the 2.5 acres as allowing for low intensity recreational and educational uses that are compatible with the natural resources of the area and require a minimum level of development and minimal alteration of the natural environment to serve basic user needs. The designation principally allows for low-intensity trails, picnic areas, walk-in tent camping, and supporting facilities for same. Secondary and conditional uses allowed (i.e., not principally permitted) include minimal support housing and maintenance facilities for the principally permitted uses, and moderate intensity recreational uses (defined as tent platforms, cabins, RV campgrounds, parks, stables, bicycle paths, restrooms, and interpretive centers). The identified

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<sup>2</sup> In 1997, Monterey County issued an unconditional certificate of compliance (COC) for the 2.5-acre site, on the basis of a finding that it became a separate legal lot when the State purchased a portion of the overall property for the creation of Highway 1 in the 1920s. Coastal Commission staff first learned of the County's COC for the 2.5-acre site when the County began considering the proposed LCP amendment in 2004. In discussions with the County thereafter Commission staff has raised questions regarding the correctness of the County's basis for an unconditional COC for this site based on the provisions of Subdivision Map Act (SMA) Section 66424, pursuant to which distinct parcels cannot be considered to exist solely by virtue of separation by roads, streets, utility easement, or railroad rights-of-way. This interpretation of the SMA is supported by California State Attorney General opinions (54 Ops. Cal. AG 213 (1971) and 56 Ops. Cal. AG 105 (1973)) and by relevant secondary legal authorities (Curtin & Merritt, *Cal. SMA* (CEB) sec. 2.10 and 9 Miller & Starr, *Cal. Real Estate 3d*, "Subdivisions," sec. 25.15) as well as by the Monterey County LCP (Big Sur Coast Implementation Plan Section 20.145.020.II). Commission staff opened a violation case in 2005, and since then has been working to resolve the legal lot status of the 2.5 acres. At the current time, the status of the subject 2.5-acre site as a separate independent parcel remains unresolved.



secondary and conditional uses are only allowed in undeveloped park units if it is infeasible to locate them in existing developed park areas, and only if complete conformance with Big Sur viewshed policies can be achieved. The corresponding IP Open Space Recreation (OR) designation that currently applies to the property mirrors the allowed uses in the LUP, and refines the various principal uses (such as grazing, water systems, athletic fields) and conditional uses (such as public utilities, hostels, wireless communications facilities) allowed.

In terms of the proposed land use designations for the 2.5 acres, the principal uses in the proposed WSC LUP land use designation include agriculture/grazing and supporting ranch houses and related ranch buildings. The LUP describes the primary objective of the WSC designation as protection of watersheds, streams, plant communities and scenic values. Secondary, conditional uses are described by the LUP as rustic inn or lodging units, hostels, forestry, mineral extraction, aquaculture, rural residential and employee housing. The IP's list of permitted and conditional uses reflect a different emphasis than does the LUP. The proposed WSC/40 zoning principally allows single family dwellings, second residential units (not exceeding the zoning density of the property), and guesthouses, and conditionally allows additional residential units up to a maximum of four (again, not exceeding the zoning density of the property), public and quasi-public uses (such as churches, cemeteries, and schools) and caretaker units.

The 2.5-acre site is currently undeveloped, and lies between Garrapata State Park to the north, and the well known Big Sur "Stone House" to the south. The proposed redesignation/rezoning from OR to WSC would change the allowed range of uses on the site as described above, including adding a range of higher intensity uses and development than are allowed under the existing OR designation. Most notably, and critical for consideration of this proposed LCP amendment, the current OR designation does not allow for residential development, while the proposed WSC designation does.

#### 4. Procedure/Standard of Review for LCP Amendments

The standard of review for the proposed modification to the County's LUP is consistency with Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Coastal Act Section 30001.5. The standard of review for the proposed modification to the County's IP is that it must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act policies set broad statewide direction that is generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (generally zoning) standards then typically further refine LUP policies to provide further guidance, oftentimes on a parcel by parcel level. Because this is both an LUP and IP amendment, the standard of review for the LUP amendment is the Coastal Act and the standard of review for the IP amendment is the certified LUP.

### B. Analysis of Proposed LUP Amendment

In order to approve an LUP amendment, it must be consistent with and adequate to carry out the Coastal Act to the extent necessary to achieve the basic state goals specified in Coastal Act Section 30001.5.

#### Applicable Coastal Act Policies



#### Basic Coastal Zone Goals

Pursuant to Coastal Act Section 30512.2, LUP conformance is measured against the requirements of Chapter 3 of the Coastal Act only to the extent necessary to achieve the basic state coastal zone goals specified in Coastal Act Section 30001.5, which states:

**Section 30001.5.** *The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:*

- (a) *Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.*
- (b) *Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.*
- (c) *Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.*
- (d) *Assure priority for coastal-dependent and coastal-related development over other development on the coast.*
- (e) *Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.*

Thus, overall state coastal zone goals include the goal of protecting, maintaining and restoring the overall quality of the coastal zone environment and its resources, and the goal of assuring orderly and balanced use and conservation of such resources (Sections 30001.5(a) and 30001.5(b)). These goals are reflected in and apply to each of the following Chapter 3 policies listed below. In addition, the Section 30001.5(c) goal to maximize public recreational access opportunities consistent with resource protection and constitutional rights applies directly to the public access and recreation policies identified below. Thus, although not re-cited with respect to each listed issue area below (to avoid unnecessary repetition), these coastal zone goals are applicable to each of the issues areas and Chapter 3 policies identified below in that same manner.

#### Public Views

Protection of visual resources is a fundamental Coastal Act policy. Significantly, Coastal Act Section 30001(b) notes that permanent protection of scenic resources is a paramount concern, and Section 30251 requires new development in highly scenic areas to be subordinate to the character of the area:

**Section 30001(b).** *The Legislature hereby finds and declares that the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.*

**Section 30251.** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed*



*to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The parcel is directly adjacent to DPR's Garrapata State Park unit, and thus Section 30240(b) comes into play with respect to the relation of this site to Garrapata State Park public views. Section 30240(b) states:

***Section 30240(b).*** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Finally, the Big Sur coast is an extremely popular visitor destination, including primarily for its incredible scenery, and the Section 30253 is also applicable to public view protection. Section 30253(5) states:

***Section 30253.*** *New development shall:*

*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

#### Public Access and Recreation

Protection of public access and recreation opportunities is also a fundamental Coastal Act policy. The Act speaks to the need to maximize public access to and along the coast, and prohibits development from interfering with the public's right of access the sea. The Act also protects recreational opportunities and land suitable for recreational use.

***Section 30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30221.*** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*





**Section 30222.** *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

**Section 30223.** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Finally, Sections 30240(b) and 30253(5), cited above, are also relevant policies in terms of public access and recreation because they require new development to protect park and recreation areas, like adjacent Garrapata State Park, and to protect the Big Sur coast as a popular visitor destination.

#### Habitat/ESHA

The Coastal Act is very protective of habitat, including environmentally sensitive habitat areas (ESHA). The Coastal Act references general habitat protection in the provisions of Section 30250(a) with respect to coastal resources in general as follows:

**Section 30250.** *(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located ... where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

With respect to ESHA, the Coastal Act defines ESHA as follows:

**Section 30107.5.** *“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Almost all development within ESHAs is prohibited, and adjacent development must be sited and designed so as to maintain the productivity of these natural systems. In particular, Coastal Act Section 30240 states:

**Section 30240(a).** *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

**Section 30240(b).** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The Coastal Act also includes specific protective policies for marine and aquatic environments. Coastal Act Sections 30230 and 30231 provide:

**Section 30230.** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic*



*significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

**Section 30231.** *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

#### Concentration of Development/Public Services

General development siting and public service issues are mainly the purview of Coastal Act Sections 30250 and 30254:

**Section 30250.**

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*
- (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.*
- (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

**Section 30254.** *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*



## Coastal Hazards

Coastal Act Section 30235 addresses the use of shoreline protective devices:

**30235.** *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures in the future. Section 30253 provides, in applicable part:

**Section 30253.** *New development shall:*

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

## Archaeological Resources

Coastal Act Section 30244 addresses archaeological resources:

**Section 30244.** *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

In general, the Coastal Act establishes clear parameters and priorities for the location, intensity, type, and design of new development in the coastal zone as a means of protecting, and enhancing where feasible, coastal zone resources. These parameters and priorities emanate from both specific Coastal Act policies and requirements, as well as the overlap and interplay between them. At a broad scale and fundamentally, Section 30250(a) requires that most new development be concentrated in and around existing developed areas with adequate development capacities to serve new development. The Coastal Act also establishes a set of priority uses that operate within the locational and resource constraints for new coastal development. The Coastal Act also requires that public recreational uses take precedence over private residential and general industrial or commercial development, but not at the expense of agriculture or coastal-dependent industry (Section 30222).

Within that broader framework, the Coastal Act also provides specific prescriptions for specific resource types. For example, public views are protected as a resource of public importance, and new development in highly scenic areas like the Big Sur coast must be subordinate to the setting. Public recreational access opportunities are to be maximized, and popular visitor destination points and appropriate upland areas are protected for recreational use. Coastal waters, streams, wetlands, and other wet resources are



explicitly to be maintained and enhanced, including through specific siting and design requirements. Likewise, the ESHA protective policies of the Act strictly limit development within ESHA and require that adjacent development not disrupt these resources.

Overall, these Coastal Act requirements reflect and implement the fundamental goals of the Coastal Act to protect, maintain, and if feasible restore coastal resources, including specifically public recreational access resources, including by limiting new development to existing developed areas able to accommodate it, and protecting more rural areas (including viewshed, public recreational, ESHA, and agricultural areas) against inappropriate development. All of these fundamental Coastal Act tenets are at play in this proposed amendment.

## Consistency Analysis

### Public Views

The 2.5-acre site is located in northern Big Sur between Highway 1 and the Pacific Ocean, just north of Garrapata Creek and immediately south of Garrapata State Park. The site is located on a coastal terrace that consists of low-lying coastal bluff scrub habitat. The site slopes gently towards the ocean and is highly visible from both Highway 1 and Garrapata State Park. The site contains no structures, only trails. The only significant structural development in the immediate vicinity consists of the aforementioned and well-known Stone House residence on the adjacent parcel to the south. The next closest structural development in the viewshed is found further south of the Stone House in the Kasler Point/Rocky Point area.

Thus, the property is located in a mostly undeveloped portion of the Big Sur coast on the sensitive ocean side of Highway 1. The Stone House, constructed prior to the adoption of the LCP, is a landmark of sorts; for vehicles traveling south on Highway 1, it is the first prominent structure in the viewshed after leaving the Otter Cove residential subdivision just south of Malpasos Creek and the Carmel Highlands and “entering” Big Sur. The California Department of Fish and Game (CDFG) Marine Pollution Studies Lab is located in the stretch between the Otter Cove subdivision and the Stone House; however, this Lab is well screened and situated mostly out of view. With the exception of the CDFG lab, between the Otter Cove area and the Stone House, southbound Highway 1 travelers experience sweeping undeveloped vistas of the Santa Lucia Mountains rising sharply to the east, and the dramatic coastal bluffs, rocky coastline, and Pacific Ocean to the west. This stretch of coastline has been widely photographed and exemplifies the classic Big Sur viewscape. The 2.5-acre site is contiguous with the southern edge of the State Park and, because of the absence of fencing and development, it is visually indistinguishable from the park and blends into the overall rugged landscape. See location map and photos in Exhibit D.

In sum, the property is located in precisely the type of visual resource area requiring maximum protection under the Coastal Act. The Big Sur coast is understood within this viewshed context more generally, and the property in question is within one of those critically important segments of Big Sur that demand thoughtful consideration in this regard. Given the importance of the Big Sur viewshed and the Commission’s long history protecting it, it is imperative to carefully consider any land use designation change that could allow increased structural development in such a highly scenic area of Big Sur.



Development allowed under the existing OR designation is generally limited to low intensity structures that are accessory to a park use; however, these low intensity uses are encouraged in developed park areas and allowed in undeveloped park areas only where it is infeasible to locate them in existing developed park areas and only where strict conformance to viewshed policies can be achieved. The redesignation of the parcel from OR to WSC would change the land use focus from low intensity, primarily recreational land uses to higher intensity land uses, including introducing the possibility of residential development as a principal permitted use on the 2.5-acre site.

The entirety of the site is visible from Highway 1 and Garrapata State Park and is part of a mostly undeveloped landscape that includes mountains, coastal terrace, rocky coastline, beach, and ocean. The only portion of the 2.5 acres that might possibly be outside of the Highway 1 viewshed is a small area on the southwesterly edge of the site, but even that area would still be visible from Garrapata State Park. The redesignation raises conflicts with Coastal Act Sections 30251, 30240(b), and 30253(5) because it would allow for more intensive development in an area that is arguably one of the most significant scenic resources of public importance in the state. This area of the Big Sur coast is world-renowned for its dramatic scenic vistas and landscapes that epitomize the view qualities that the Coastal Act protects. The Coastal Act requires permitted development to protect views to and along the ocean and scenic coastal areas, and also requires new development in highly scenic areas to be subordinate to the character of its setting, protect adjacent Park viewsheds, and the important visitor destination that is the Big Sur coast. It is unlikely that any residential development that would be facilitated by the land use designation change would be subordinate to the setting because of the prominence of the site in the public viewshed, the high quality of views of and across the site, and the site's integral role in the larger undeveloped landscape. Instead, residential development of this site would create an intrusion into the public viewshed that would degrade the scenic quality of the area. Clearly, the proposed LUP change reduces view protection as compared to the existing LUP. The proposed LUP change is inconsistent with the above-cited Coastal Act public view policies, and fails to achieve the above-cited basic state coastal zone goals for such public view resources.

#### Public Access and Recreation

Although in private ownership, the site provides public access to Garrapata State Park along an unmarked trail network extending from the Stone House property through to Garrapata Beach. The trails also connect to others in Garrapata State Park, including a segment of the California Coastal Trail which extends approximately one mile north into the park from the northerly edge of the site. As noted above, the 2.5-acre site is not fenced or otherwise distinguishable from the park to the north. The trail on the property was part of the Old Coast Road which extended from the east of the current Highway 1 alignment, across the 2.5-acre site (in the current trail alignment), and over Garrapata Creek via a bridge that no longer exists. Prescriptive public access rights may exist over this trail, although no official case has been established to date.<sup>3</sup>

The Coastal Act requires that recreational access opportunities along the coast be maximized, protects existing public access, reserves appropriate upland areas for recreational use, and gives priority for such sites for recreational use over residential use. Redesignation of the site from OR to WSC, including

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<sup>3</sup> Only a court of law can establish an implied dedication/prescriptive right, and there is not one established at this site.



allowing residential development, would conflict with these public access policies of the Coastal Act. Under the Coastal Act (and the existing LCP), the priority for this site is recreational, not residential. Residential development, such as that allowed under the proposed WSC designation, could alter or possibly preclude continued use of the trail by the public, thereby reducing access to Garrapata State Park and along the Coastal Trail. Although the site is privately owned, the trails on the site have a long-established history of use by the public, and such trail use is precisely the type of low intensity use envisioned and encouraged by the LCP's existing OR designation. The fact that the 2.5-acre site is designated OR is appropriate given the presence of trails on the site, its location on the sensitive seaward side of Highway 1, and its adjacency to State Park. The two separate LCP designations on the overall property (WSC inland of the Highway, and OR for the 2.5-acre portion seaward of the Highway) lend added emphasis to LCP objectives for lands on the seaward versus inland sides of Highway 1 (e.g., directing any structural development to inland, non-visible portions of the property and retaining the oceanfront land for recreational use). In sum, the difference in LCP designations for the larger inland portion of the property (WSC) versus the 2.5-acre seaward portion (OR) directly and appropriately reflects the LCP distinction between these two portions of the property.

Because of the connection to both Garrapata State Park and to a segment of the Coastal Trail, any hindrance or closure of trails on the site could conflict with the Coastal Act. It is clear that the subject site is used by the public as an indistinguishable component of the Coastal Trail and trails through Garrapata State Park, that the Coastal Act (and current LCP) priority for this site is recreational, and that the proposed change only increases the potential for public access degradation and conflict as compared to the existing LCP. The Coastal Act also allows oceanfront land suitable for recreational use such as the subject site to be used for other purposes if there are adequate recreational opportunities elsewhere in the area; that is not the case in Big Sur. Although a state park exists north of site, the Big Sur coast receives millions of visitors every year, and the demand for recreational and access opportunities here is high, if not insatiable.

The proposed LUP amendment conflicts with the Coastal Act because it would allow development incompatible with identified trail use, and may preclude such trail use entirely, including in relation to its importance to the connection to both Garrapata State Park and the California Coastal Trail, and because it would degrade the value of the existing State Park overall. For these reasons, the proposed LUP amendment is inconsistent with the above-cited Coastal Act public access and recreation policies, and fails to achieve the above-cited basic state coastal zone goals relative to public recreational access.

#### Environmentally Sensitive Habitat Areas

The 2.5-acre site includes significant habitats, including multiple environmentally sensitive habitats (ESHAs) protected under the Coastal Act. The primary habitat on the property is coastal bluff scrub, listed as a threatened plant community by CDFG. The coastal bluff scrub on the site supports sea lettuce (*Dudleya caespitosa*), bluff lettuce (*D. farinosa*), sea pink (*Armeria maritima*), California beach aster (*Lessingia filaginifolia* var. *californica*), Douglas iris (*Iris douglasiana*), and seacliff buckwheat (*Eriogonum parvifolium*). Seacliff buckwheat is the host plant for the federally-endangered Smith's blue butterfly, and can be ESHA in and of itself. Smith's blue butterfly have historically ranged along the coast, from Monterey Bay south through Big Sur, to near Point Gorda, occurring in scattered populations in association with coastal dune, coastal scrub, chaparral, and grassland habitats. The Doud



property is located within the range of the Smith's blue butterfly. The site may also support nesting birds, such as the black swift (a CDFG-listed species of concern), cliff swallows, and several species of cormorants, including the double-crested cormorant (a CDFG-listed species of concern). The site is also immediately adjacent to nearshore, intertidal, and marine ESHA of the Monterey Bay National Marine Sanctuary that supports the federally-threatened southern sea otter (*Enhydra lutris nereis*) and other protected species. The site is also adjacent to Garrapata Creek which supports the federally-endangered South-Central California Coast Steelhead trout (*Oncorhynchus mykiss irideus*). Monterey County, in their resolution of intent to adopt the LCP amendment, found all of the above habitats to be ESHA. In sum, the undisturbed (except for the trail network described above) site is covered with rare and especially valuable species, and most of the site is ESHA per the Coastal Act.

The Coastal Act only allows resource dependent use and development in ESHA, and only when such use/development adequately protects habitat. Further, the Act requires development adjacent to ESHA to avoid significant ESHA disruption. A redesignation that would allow residential use would conflict with the Coastal Act because residential use is not resource dependent. Furthermore, the site is immediately adjacent to a State Park and a National Marine Sanctuary, both of which have been designated as such for their high habitat and ecosystem values. Residential development of the site could conflict with the Coastal Act requirement with respect to adjacency impacts and the need to be compatible with the continuance of those habitat areas. Residential use, facilitated by the redesignation, would introduce permanent, fixed development and activity that could adversely affect adjacent ESHA, inconsistent with the Coastal Act. Residential development facilitated by the redesignation to WSC would also introduce new impermeable surfaces that could increase runoff and pollutants to both the Monterey Bay National Marine Sanctuary and Garrapata Creek, adversely impacting these resources.<sup>4</sup> The existing OR designation better protects onsite and adjacent ESHA because it allows only low intensity recreational and educational uses that are compatible with the natural resources of the area. For these reasons, the proposed LUP change is inconsistent with the above-cited Coastal Act habitat/ESHA policies, and fails to achieve the above-cited basic state coastal zone goals relative to such habitats.

#### Concentration of Development

The Big Sur coast is a classic example of an area to which the concentration of development standards of the Coastal Act are directed. This area is almost entirely rural and undeveloped, and of extremely high resource value, as described in the preceding findings. Protecting this resource value is clearly important not only to residents of Big Sur and Monterey County, but also to the people of the state and nation given its prominence and importance in that regard. Towards this end, the Coastal Act directs that development, other than visitor serving development, be avoided in this area as much as possible so as to maintain its rural nature and significant resources, including its world famous views. The Big Sur Coast LCP policies and provisions are clearly premised on this goal.

The proposed redesignation is contrary to these fundamental Coastal Act and LCP development concentration goals, as it would allow higher intensity use and development at this site, including residential development as a principally permitted use when it is currently not allowed. In other words,

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<sup>4</sup> Runoff from residential development of the site would be expected to contain typical urban runoff pollutants, including oil, grease, heavy metals, fertilizers, pesticides, herbicides, and animal waste.



it would inappropriately increase the potential for higher intensity development at this site, which would be the opposite of concentrating development in existing developed areas under the Coastal Act. Such higher intensity uses are inappropriate for this sensitive site, and would increase the potential for coastal resource degradation. The existing LUP designation is clearly more protective than that proposed, and the proposed LUP change fails to achieve the above-cited basic state coastal zone goals relative to concentration of development and cannot be found consistent with the above-cited Coastal Act concentration of development policies.

#### Public Services

Water supply to the 2.5-acre site has been the subject of some ongoing debate. The Garrapata Water Company (GWC) supplies water to users in the vicinity of Garrapata Creek, and in 2001 and 2002, GWC indicated that the only property in their service area north of Garrapata Creek was the Stone House property. However, in 2006, GWC determined that the site was indeed in their service area. GWC's State Water Resources Control Board (SWRCB) water rights permit (Permit 21010) notes that the water appropriated from Garrapata Creek is limited to 35 acre feet per year (afy) and is intended to serve from 38 to 43 residential users. According to SWRCB, GWC has exceeded the 35 afy amount authorized by Permit 21010 every year except 2002, and SWRCB recently initiated formal enforcement action against GWC with regard to their continued excess unauthorized diversion of water from Garrapata Creek in violation of the permit, including because of the adverse effect of these excess withdrawals on Garrapata Creek habitat resources.<sup>5</sup>

Development of residential use on the site, which would be facilitated by a redesignation to WSC, may require an expansion of the GWC service area, and would require either a new connection to the GWC system or construction of an onsite well. Because the GWC system regularly exceeds their Garrapata Creek allocation (resulting in an active SWRCB formal enforcement action designed in part to eliminate such excess diversions), and because the system already includes several undeveloped lots that would cause further strain on the system if developed, it is likely the GWC would not have enough water to serve new connections. Thus, potential inclusion into the system does not guarantee an adequate, safe and continuous supply of water to the site. In addition, if GWC water proved infeasible, as is likely, other problems exist with developing and using a private well on the property. The well would likely draw from the Garrapata Creek underflow because of the parcel's proximity to the creek, and additional water withdrawals could adversely impact the creek, a known Steelhead spawning creek (as discussed above). This raises public services and ESHA issues under the Coastal Act including because the Act protects the biological productivity and quality of Garrapata Creek by preventing the depletion of groundwater supplies and interference with surface water flows.

Coastal Act Section 30250(a) requires new residential development to be located in areas within or in close proximity to existing developed areas able to accommodate it, or where such areas are not able to

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<sup>5</sup> SWRCB Administrative Civil Liability Complaint, June 10, 2008. SWRCB indicates that "GWC's continued unauthorized diversions have reduced the amount of water available for the southern steelhead trout fishery and other riparian habitat. While adverse impacts of unauthorized water diversions on the steelhead trout fishery have not been quantified for this case, unauthorized diversions of water have been shown to contribute to the cumulative impact of reducing habitat for steelhead trout. The State of California lists the southern steelhead as a species of special concern and the National Marine Fisheries Service, on August 18, 1997, listed the steelhead trout as threatened under the Federal Endangered Species Act. As of the date of this Complaint, Permittee has failed to take corrective actions."





accommodate it, in other areas with adequate public services. Redesignation of the site to allow residential development when it appears that adequate water will not be available to serve the site conflicts with Section 30250(a). The proposed LUP change is inconsistent with the above-cited Coastal Act public services policies, and fails to achieve the above-cited basic state coastal zone goals relative to such public services.

#### Coastal Hazards

The 2.5-acre site is located in a high hazard area in terms of seismic hazards, bluff erosion, and fire hazards. The Palo Colorado Fault Zone runs within the vicinity of the site, resulting in potential fault rupture risks. The site is also subject to coastal erosion due to its location on an exposed coastal bluff. In addition, the site is located in a very high fire hazard area, like most of Big Sur. Facilitating residential development, as the proposed LUP change would, in a high hazard area such as this would lead to both potential geologic and fire risks. Clearly, the proposed LUP change increases the possibility of conflicts with Coastal Act Section 30253 which requires new development to minimize risks to life and property in high geologic and fire hazard areas and assure stability and structural integrity. The proposed LUP change is inconsistent with the above-cited Coastal Act coastal hazard policies, and fails to achieve the above-cited basic state coastal zone goals relative to such hazards.

#### Archaeological Resources

Finally, a California Historical Resources Information System record search prepared for the 2.5-acre site indicates that the site is adjacent to numerous recorded Native American and historic-period archaeological resources. A high likelihood exists that unrecorded cultural resources exist on the site, particularly because of its proximity to Garrapata Creek and the ocean. Flat or relatively flat locations such as this adjacent to freshwater sources and the ocean (particularly where anadromous fish spawn) are known to have supported Native American fishing, hunting, and other activities. Although the Coastal Act does not prohibit development in areas of high archaeological sensitivity, Section 30244 requires reasonable protection of those resources from adverse impacts of development. Redesignation to allow consideration of higher intensity uses and development, including permanent, fixed residential use, increases the likelihood that archaeological resources on the site would be disturbed and impacted. Clearly, the existing LUP designation better protects any such resources that may be located on the site than would that proposed. The proposed LUP change is inconsistent with the above-cited Coastal Act archaeological resource policies, and fails to achieve the above-cited basic state coastal zone goals relative to such resources.

#### Conclusion

The Commission must determine whether the proposed LUP land use designation change is consistent with Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Coastal Act Section 30001.5. In this case, the proposed LUP amendment is inconsistent with the policy requirements of the Coastal Act Chapter 3 and fails to achieve the state coastal zone goals of Coastal Act Section 30001.5, including because it would increase the possibility of inappropriate and higher intensity development on a site that is a critical component of the world-famous Big Sur coast viewshed and the Big Sur coast as a visitor destination; contains historical public access trails with connectivity to



a state park and a segment of the Coastal Trail; is comprised almost entirely of ESHA; would lead to dispersed, as opposed to concentrated, development; is not clear if adequate water supply is available to serve such use; is subject to multiple natural hazards; and is likely to contain significant archaeological and paleontological resources. Protecting the public viewshed in highly scenic areas, maximizing public recreational access opportunities, and protecting habitats and ESHA are core Coastal Act goals and requirements. Redesignating this site from OR to WSC would lead to an increased possibility that the high quality resources that exist on the site would be diminished, and would conflict with fundamental Coastal Act requirements. In conclusion, the proposed land use designation change cannot be found consistent with Chapter 3 of the Coastal Act, it fails to achieve the Coastal Act's basic state coastal zone goals, and it is denied.

### C. Analysis of Proposed IP Amendment

In order to approve an IP amendment, it must be consistent with and adequate to carry out the certified LUP. In this case, the LCP's Big Sur Coast segment LUP is applicable. Overall, these LUP requirements reflect and implement similar fundamental goals of the Coastal Act. Applicable LUP policies include:

#### Public Views

The LUP states that the issue of visual resource protection is probably the most significant and important component to protecting the Big Sur coast, and notes that a major premise of the LUP is to ensure preservation and enhancement of the coast's scenic beauty and natural appearance. LUP policies that address the protection of public views and visual resources include:

***Key Policy 3.2.1.*** *Recognizing the Big Sur coast's outstanding beauty and its great benefit to the people of the State and Nation, it is the County's objective to preserve these scenic resources in perpetuity and to promote the restoration of the natural beauty of visually degraded areas wherever possible. To this end, it is the County's policy to prohibit all future public or private development visible from Highway 1 and major public viewing areas (the critical viewshed), and to condition all new development in areas not visible from Highway 1 or major public viewing areas on the siting and design criteria set forth in Sections 3.2.3, 3.2.4, and 3.2.5 of this plan. This applies to all structures, the construction of public and private roads, utilities, lighting, grading and removal or extraction of natural materials.*

***Policy 3.2.2.1.*** *Critical viewshed: everything within sight of Highway 1 and major public viewing areas including turnouts, beaches and the following specific locations Soberanes Point, Garrapata Beach, Abalone Cove Vista Point, Bixby Creek Turnout, Hurricane Point Overlook, upper Sycamore Canyon Road (Highway 1 to Pais Road), Pfeiffer Beach/Cooper Beach, and specific views from Old Coast Road as defined by Policy 3.8.4.4.*

***Policy 3.2.3.A.4.*** *New roads, grading or excavations will not be allowed to damage or intrude upon the critical viewshed. Such road construction or other work shall not commence until the entire project has completed the permit and appeal process. Grading or excavation shall include all alterations of natural landforms by earthmoving equipment. These restrictions shall not be interpreted as prohibiting restoration of severely eroded water course channels or gullying,*



*provided a plan is submitted and approved prior to commencing work.*

***Policy 3.2.3.A.5.*** *Where it is determined that a proposed development cannot be resited, redesigned, or in any other way made to conform to the basic critical viewshed policy, then the site shall be considered environmentally inappropriate for development.*

***Policy 3.2.3.A.8.*** *Landowners will be encouraged to grant scenic easements to the County over portions of their land in the critical viewshed.*

#### Public Access and Recreation

The LUP also provides a high level of protection for shoreline access and recreational opportunities on the Big Sur Coast. Applicable policies include:

***Key Policy 6.1.3.*** *The rights of access to the shoreline, public lands, and along the coast, and opportunities for recreational hiking access, shall be protected, encouraged and enhanced. Yet because preservation of the natural environment is the highest priority, all future access must be consistent with this objective. Care must be taken that while providing public access, the beauty of the coast, its tranquility and the health of its environment are not marred by public overuse or carelessness. The protection of visual access should be emphasized throughout Big Sur as an appropriate response to the needs of recreationists. Visual access shall be maintained by directing all future development out of the viewshed. The protection of private property rights must always be of concern.*

***Policy 6.1.4.1.*** *Overall, the best locations for public access to the shoreline, public lands and along the coast are already in use or have been used in the past. Major access areas, whether in public or private ownership, shall be permanently protected for long term public use. These should be improved and managed properly by designated public or private agencies; furthermore, the County will require the preparation and implementation of access management plans for all accessways on the property or within the Park unit before new locations are opened on any particular ownership. Such access management plans shall address intensity of use, parking, protection of fragile coastal resources, maintenance, etc.*

***Policy 6.1.4.4.*** *Visual access should be protected for long term public use. The development of scenic viewpoints in conjunction with accessways or where physical access is not appropriate is encouraged.*

***Policy 6.1.4.5.*** *Bluff top and lateral access is appropriate in many areas along the coast. These opportunities shall be protected for long term public use, subject to adequate management programs, the development of which is an implementation activity.*

***Policy 6.1.4.6.*** *Trails should be located in areas able to sustain public use without damage to natural resources or other conflicts. Therefore, new and existing trails should be sited or rerouted to avoid safety hazards, sensitive habitats, and incompatible land uses.*

***Policy 6.1.5.G.1.*** *New development shall not encroach on well-established accessways nor preclude future provision of access.*



Habitat/ESHA

The LUP also protects habitats, including ESHA. Applicable policies include:

***Key Policy 3.3.1*** All practical efforts shall be made to maintain, restore, and if possible, enhance Big Sur's environmentally sensitive habitats. The development of all categories of land use, both public and private, should be subordinate to the protection of these critical areas.

***Policy 3.3.2.1.*** Development, including vegetation removal, excavation, grading, filing, and the construction of roads and structures, shall not be permitted in the environmentally sensitive habitat areas if it results in any potential disruption of habitat value. To approve development within any of these habitats the County must find that disruption of a habitat caused by the development is not significant.

***Policy 3.3.2.4.*** For developments approved within environmentally sensitive habitats, the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) associated with the development shall be limited to that needed for the structural improvements themselves. The guiding philosophy shall be to limit the area of disturbance, to maximize the maintenance of the natural topography of the site, and to favor structural designs which achieve these goals.

***Policy 3.3.2.5.*** Public access in areas of environmentally sensitive habitats shall be limited to low-intensity recreational, scientific, or educational uses. Access shall generally be controlled and confined to the designated trails and paths. No access shall be approved which results in significant disruption of the habitat.

***Policy 3.3.2.6.*** To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall retain significant and, where possible, continuous areas of undisturbed land in open space use. To this end, parcels of land in sensitive habitat areas shall be kept as large as possible, and if structures are permitted, they shall be clustered in the least environmentally sensitive areas.

***Policy 3.3.2.7.*** Land uses adjacent to environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent significant habitat impacts, and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the adjoining habitat.

***Policy 3.3.2.8.*** New development adjacent to environmentally sensitive habitat areas shall be allowed only at densities compatible with the protection and maintenance of the adjoining resources. New subdivisions shall be approved only where potential impacts to environmentally sensitive habitats from development of proposed parcels can be avoided.

***Policy 3.3.3.B.1.*** Development on parcels adjacent to intertidal habitat areas should be sited and designed to prevent percolation of septic runoff and deposition of sediment.

Concentration of Development/Public Services



The LUP also fundamentally seeks to limit inappropriate future development in light of the significance of the resources and their sensitivity to additional development incursion. Low intensity development that preserves Big Sur resource values, and enhances the public's ability to enjoy the coastline are encouraged. The lack of significant public services is also acknowledged, including the effect of on-site service systems on natural resources and the coastline as a whole. Applicable policies include:

**Key Policy 5.4.1.** *Future land use development on the Big Sur coast should be extremely limited, in keeping with the larger goal of preserving the coast as a scenic natural area. In all cases, new land uses must remain subordinate to the character and grandeur of the Big Sur country. All proposed uses, whether public or private, must meet the same exacting environmental standards and must contribute to the preservation of Big Sur's scenery.*

**Policy 5.4.2.6.** *Many types of land use found in other locations in the County are inappropriate to the Big Sur coast and are in conflict with the rural environment, the protection of natural resources, and the general peace of the area and are not therefore provided for in the plan. Among these uses are intensive recreational activities such as tennis, golf, cinemas, mechanized recreation, boating facilities, industrial development, manufacturing other than cottage industry or art production, on-shore or off-shore energy facilities, large scale mineral extraction or mining, oil extraction, commercial timber harvesting, and any non-coastally dependent industries.*

**Policy 5.4.3.C.1.** *Development of recreation and visitor-serving facilities at locations suitable for such use is preferred over other types of development in Big Sur because of Big Sur's national significance as a recreation area.*

**Policy 5.4.3.C.3.** *The Soberanes Point, Garrapata Beach, and the Little Sur River areas should be planned for low-intensity, day-use recreational development with minimal provision of facilities. The scenic and natural resources of these areas should be preserved in a natural state.*

**Policy 5.4.3.C.6.** *Undeveloped areas in Big Sur shall be preserved for low intensity recreational use such as hiking and camping and nature study. Only minimal alterations of Big Sur's existing natural environment and recreational character shall be allowed. Development of low intensity recreation uses and visitor-serving facilities are encouraged on the larger properties where this will assist in providing economic uses of the land and in meeting Coastal Act objectives for public recreation.*

**Key Policy 3.4.1.** *The protection and maintenance of Big Sur's water resources is a basic prerequisite to the protection of all other natural systems. Therefore, water resources will be considered carefully in all planning decisions and approvals. In particular, the County shall insure that adequate water is retained in the stream system to provide for the maintenance of the natural community of fish, wildlife, and vegetation during the driest expected year.*

**Policy 3.4.2.3.** *Where watersheds are affected or are threatened by overuse of the water supply, the County will use its land use regulatory authority to limit development in order to protect the public health and welfare and to protect the natural values of the stream and its watershed.*



**Policy 3.4.3.A.1.** Applicants for development of residential, commercial, and visitor-serving facilities must demonstrate by appropriate seasonal testing that there will be an adequate water supply for all beneficial uses and be of good quality and quantity (e.g. at least 1/2 gallon per minute per single family dwelling year round) from a surface or groundwater source, or from a community water system under permit from the County.

**Policy 3.4.3.B.1.** The effects of all new development proposals or intensification of land use activities or water uses on the natural character and values of the Big Sur coast's rivers and streams will be specifically considered in all land use decisions. Subjects to be addressed in such evaluations include protection of scenic quality, water quantity and quality, wildlife and fish habitat, and recreational values. Land use proposals determined to pose significant impacts to the natural integrity of the stream must be modified accordingly. The County will request assistance from the Department of Fish and Game as a technical expert on wild life and fish habitat and mitigation measures.

**Policy 3.4.3.B.3.** Water quality, adequate year-round flows, and stream bed gravel conditions shall be protected in streams supporting rainbow and steelhead trout. These streams include: Garrapata Creek, Rocky Creek, Bixby Creek, Little Sur River, Big Sur River, Partington Creek, Anderson Creek, Hot Springs Creek, Vicente Creek, Big Creek, and Limekiln Creek.

#### Coastal Hazards

The LUP also reflects the Coastal Act's coastal hazard avoidance theme. Applicable policies include:

**Key Policy 3.7.1.** Land use and development shall be carefully regulated through the best available planning practices in order to minimize risk to life and property and damage the natural environment.

**Policy 3.7.2.3.** All development shall be sited and designed to minimize risk from geologic, flood, or fire hazards to a level generally acceptable to the community. Areas of a parcel which are subject to high hazard(s) shall generally be considered unsuitable for development. For any development proposed in high hazard areas, an environmental or geotechnical report shall be required prior to County review of the project.

**Policy 3.7.3.C.2.** New developments shall be avoided in extreme wildfire hazard areas as determined by site-specific assessment.

#### Archaeological Resources

Finally, the LUP also protects archaeological resources. The LUP's key policy to this effect states:

**Key Policy 3.11.1.** Big Sur's archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped, shall be maintained and protected for their scientific and cultural heritage values. New land uses and development, both public and private, should be considered compatible with this objective only where they incorporate all site planning and design features necessary to avoid or mitigate impacts to archaeological resources.



Thus, the LUP contains policies that mirror the policies of the Coastal Act with respect to public views, public recreational access, habitat/ESHA, concentration of development, public services, hazards, and archaeological resources. In sum, the Big Sur LUP reflects and implements the Coastal Act objectives and requirements described above, further refining these in relation to the Big Sur context. For the most part, and particularly as it relates to the Big Sur critical viewshed policies that require development to be located out of view of Highway 1 and all other public vantage points, these policies provide an enhanced level of protection for the resources discussed in the LUP consistency findings above.

### Consistency Analysis

The proposed IP amendment mirrors the proposed LUP amendment, and would lead to the same type of LUP inconsistencies as the Coastal Act inconsistencies identified in the preceding finding. If anything, the proposed IP amendment's inconsistencies are only intensified relative to the LUP inconsistencies already detailed above given the level of resource protection required by the Big Sur LUP. Nowhere is this perhaps more apparent than with respect to public views and the Big Sur LUP's critical viewshed policies as they apply to this site. The scenic resources of the Big Sur coast are provided one of the highest levels of LUP protection as compared to any other region in the state. Because of the statewide and nationwide importance of the Big Sur viewshed, the Commission, in certification of the Big Sur Coast LUP, established highly protective visual resource policies that prohibit all public and private development in the critical viewshed (defined as everything within view of Highway 1 and major public viewing areas). The 2.5-acre site is located entirely in the LCP-defined critical viewshed. The proposed IP change to allow an increased intensity of development, including residential development, for a prominent site in the critical viewshed cannot be found consistent with the LUP prohibitions against development in the critical viewshed. It is clear that the existing IP designation is more protective of Big Sur coast resources than would be the proposed IP designation, and that the proposed IP designation is inconsistent with and inadequate to carry out the LUP, including for similar reasons as those identified in the LUP consistency findings above.

In addition, the proposed Watershed and Scenic Conservation (WSC/40) IP designation is not appropriate for the Outdoor Recreation (OR) LUP designation.<sup>6</sup> Applying the WSC IP designation to a site designated OR would conflict with the allowed and prohibited uses in the OR designation, and would create a disjointed, illogical, and internally inconsistent planning framework for the site in relation to the LUP – and the LCP as a whole.

Redesignating this site from OR to WSC/40 in the IP would lead to an increased possibility that the high quality resources that exist on the site would be diminished, and would conflict with fundamental LUP requirements. The proposed change would allow for an increased intensity of use and development, including allowing for residential use and development, at a site where such increased intensity would be inappropriate under the LUP, particularly given the significance of the viewshed, recreational access, and habitat resources associated with the site. In conclusion, the proposed IP amendment cannot be found consistent with and adequate to carry out the LUP and is denied.

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<sup>6</sup> Because the proposed LUP amendment must be denied, the proposed IP amendment is evaluated against the existing LUP.



## D. California Environmental Quality Act (CEQA)

Public Resources Code (CEQA) Sections 21080.9 and 21080(b)(5), and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

**Public Resources Code (CEQA) Section 21080.9.** *Local coastal programs or long-range land use development; university or governmental activities and approvals; application of division. [Relevant Portion.]...certification of a local coastal program...by the...Commission...shall be subject to the requirements of this division.*

**Public Resources Code (CEQA) Section 21080(b)(5).** *Division Application and Nonapplication. ...(b) This division does not apply to any of the following activities: ...(5) Projects which a public agency rejects or disapproves.*

**CEQA Guidelines (14 CCR) Section 15042.** *Authority to Disapprove Projects. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.*

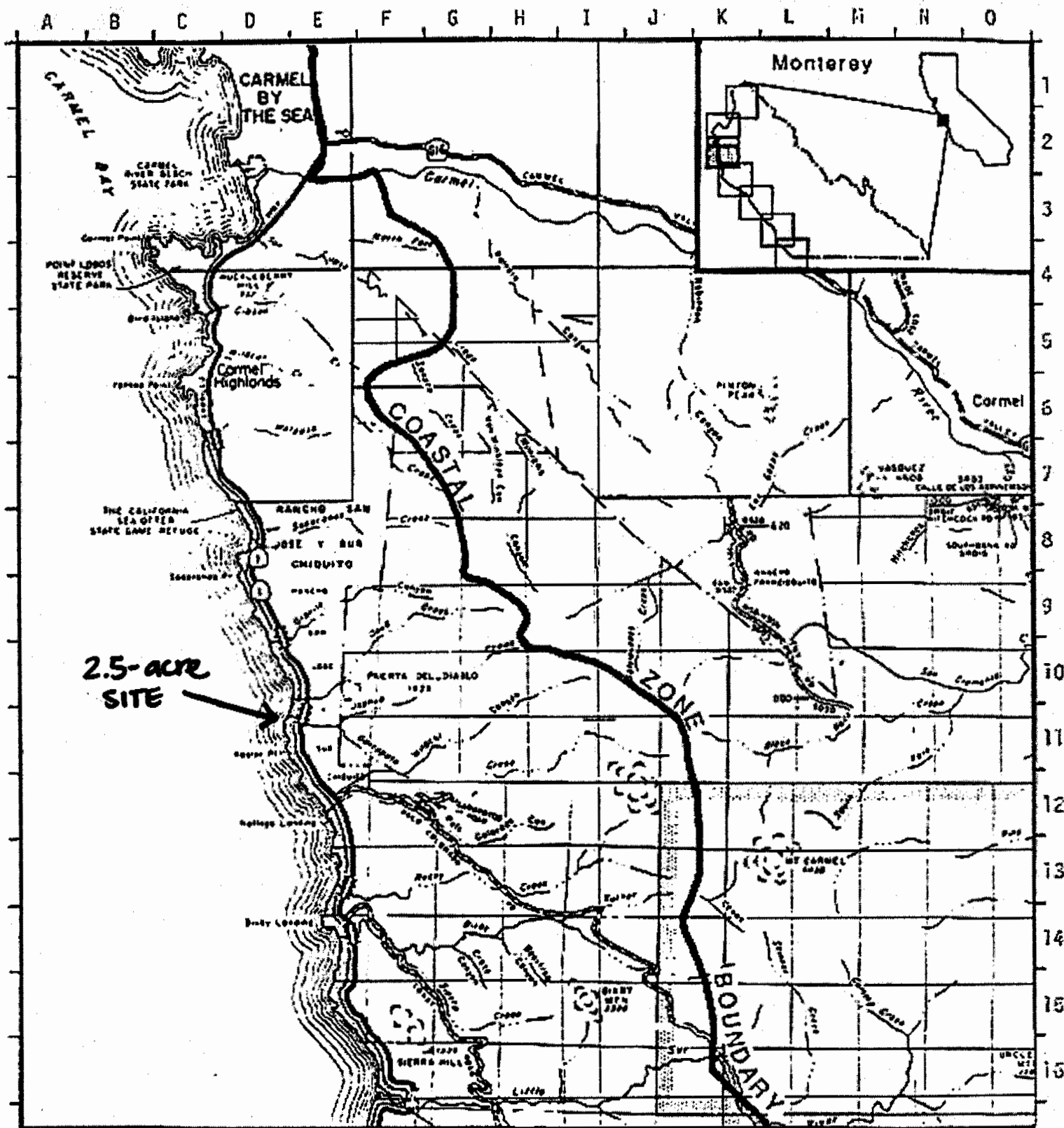
**CEQA Guidelines (14 CCR) Section 15270(a).** *Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.*

Section 21080.9 of CEQA provides that actions to certify LCPs (and LCP amendments) are subject to CEQA. This staff report has discussed the relevant Coastal Act and LUP conformity issues with the proposal. All above Coastal Act and LUP conformity findings are incorporated herein in their entirety by reference. All public comments received to date have been addressed in the findings above. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” Section 21080(b)(5) of CEQA, as implemented by section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project were approved as proposed. Accordingly, the Commission’s denial of this project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, does not apply.







 California Coastal Commission

**LOCATION MAP**



County of Monterey

Sheet 3 of 7

**CCC Exhibit A**  
 (page 1 of 1 pages)

**SECTION 2**  
**Adopted Amendment(s)**

Amend the Big Sur Coast Land Use Plan (LUP) from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC).

Amend Sheet 20-22 of Section 20.08.060 of Title 20 of the Monterey County Code (Monterey County Coastal Implementation Plan) to rezone a 2.5-acre parcel located North of Garrapata Creek, south of Garrapata State Park, between Highway 1 and the Pacific Ocean, Big Sur Area (APN: 243-212-016-000), from Open Space Recreation (OR) to Watershed and Scenic Conservation WSC/40. A copy of the amended Zoning Map is attached.

**BIG SUR AREA**

Proposed Land Use Plan amendment from "Outdoor Recreation" to "Watershed and Scenic Conservation" and a zoning amendment from "OR(CZ)" to "WSC/40(CZ)"

*Pacific  
Ocean*

Garrapata Beach State Park

Garrapata Creek

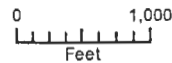
Joshua Cr

APPLICANT: DOUD

APN: 243-193-028-000

FILE # PD040368

 300' Limit  2500' Limit  City Limits



PLANNER: HOLM

RECEIVED

NOV 09 2006

MONTEREY COUNTY BOARD OF SUPERVISORS

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

<b>MEETING: November 14, 2006; 1:30 PM</b>		<b>AGENDA NO.:</b>	
<b>SUBJECT:</b> (Continued from November 7, 2006) Consider the following actions:			
1. ADOPT a Resolution of Intent to amend the land use designation in the Big Sur Land Use Plan from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC) and amend Sheet 20-22 of Section 20.08.060 of Title 20 of the Monterey County Code (Monterey County Coastal Implementation Plan) from Open Space Recreation (OR) to Watershed and Scenic Conservation (WSC/40) on a 2.5-acre vacant parcel.			
2. DIRECT staff to submit the proposed amendment to the California Coastal Commission for certification.			
<b>PROJECT LOCATION:</b> North of Garrapata Creek, south of Garrapata State Park, between Highway 1 and the Pacific Ocean		<b>APN:</b> 243-212-016-000	
<b>PLANNING NUMBER:</b> PD040368		<b>NAME:</b> County of Monterey	
<b>PLAN AREA:</b> Big Sur Coast LUP		<b>FLAGGED</b>	
<b>ZONING DESIGNATION:</b> OR(CZ), Open Space Recreation (Coastal Zone)		<b>AND</b> N/A	
<b>CEQA ACTION:</b> N/A		<b>STAKED:</b>	
<b>DEPARTMENT:</b> Resource Management Agency, Planning Department			

**RECOMMENDATION:** Staff recommends that the Board of Supervisors:

1. ADOPT a Resolution of Intent (**Exhibit B**) to amend the land use designation and zoning on a 2.5-acre, vacant parcel from OR to WSC (PD040368/Doud) as described above.
2. DIRECT staff to submit the proposed amendment to the California Coastal Commission for certification together with materials for review of the amendment by the Coastal Commission.

**SUMMARY:** Mr. John Doud owns a 2.5-acre flag lot located north of Garrapata Creek, south of Garrapata State Park, between Highway 1 and the Pacific Ocean, Big Sur Area, Coastal Zone. The current action before the Board is to consider removing the Outdoor Recreation (OR) land use designation and Open Space Recreation (OR) zoning and apply a new land use designation and zoning of Watershed and Scenic Conservation (WSC). Based on technical studies and analyses in the environmental assessment and related evidence that supports the attached findings, staff finds that the proposed land use change and rezoning are consistent with and similar to surrounding, privately owned, legal lots and would not result in environmental impacts at this time. Research of County records indicates that this property would have been designated WSC under the Big Sur Land Use Plan if State Parks had not begun eminent domain proceedings to take the property from the Doud family to use as part of Garapatta State Beach. Staff finds that the proposed land use amendment meets the criteria required for reclassification to the "WSC" designation.

**DISCUSSION:** An amendment to the LCP requires review by the Planning Commission, Board of Supervisors and Coastal Commission. On June 8, 2005, the Planning Commission recommended approval of the land use designation and zoning amendment to the Land Use Plan and Coastal Implementation Plan. The Planning Commission voted to approve the

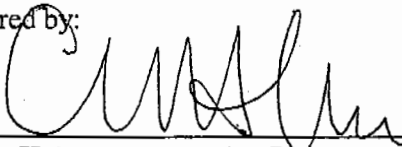
C  
 CCC Exhibit \_\_\_\_\_  
 (page 1 of 13 pages)

reclassification based on facts indicating that this property would have been designated as WSC if it had not been anticipated to be part of the Garapatta State Beach property. Once the Board has adopted the resolution of intent, the proposed land use designation and zoning amendment must be submitted to the Coastal Commission for certification and returned to the Board for formal adoption before the land use designation and zoning change can be effective.

**OTHER AGENCY INVOLVEMENT:** All of the land use departments have reviewed the proposed amendment.

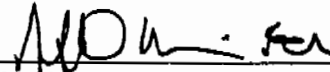
**FINANCING:** There is no financial impact on the General Fund. Applicable fees have been collected as required for this application.

Prepared by:



Carl P. Holm, AICP, Acting Planning Manager  
(831) 755-5103; [holmcp@co.monterey.ca.us](mailto:holmcp@co.monterey.ca.us)  
Dated: November 3, 2006

Approved By:



Mike Novo, Interim Director  
Planning Department

Reviewed By: Wendy Strimling, Deputy County Counsel

cc: Board of Supervisors (5); County Counsel; California Coastal Commission; Alana Knaster, Mike Novo, Jeff Main; Carl Holm; Linda Rotharmel; Applicant/Owner (J. Doud); Project File

Attachments:	Exhibit A	Discussion of Proposed Land Use Designation Change and Rezone
	Exhibit B	Resolution of Intent to Amend LCP and County Code
		1 Draft Ordinance Amending Section 20.08.060 MCC
		1A Map Amendment, Sheet 20-22
	Exhibit C	Planning Commission Resolution
	Exhibit D	Environmental Analysis

**EXHIBIT A  
STAFF REPORT**

**DISCUSSION**

PD040368/Doud  
Board of Supervisors  
November 14, 2006

**EXHIBIT A**  
**DISCUSSION OF PROPOSED LAND USE DESIGNATION**  
**CHANGE AND REZONE**

**PD040368/Doud**  
**November 14, 2006**

**A. INTRODUCTION**

**Background**

The California Coastal Commission (CCC) certified the Monterey County Big Sur Coast Land Use Plan (BSC LUP) on April 10, 1986 and the Coastal Implementation Plan (CIP) on December 10, 1987. Taken together, these documents constitute the County's Local Coastal Program (LCP) for the Big Sur Area in accordance with State law. This certification enables the County to consider and issue permits for projects located in the coastal zone that are consistent with the certified LCP. Amendments to a certified LCP must be reviewed and certified by the CCC before they may take effect. Since its initial certification, the BSC LUP has been amended once on January 9, 1996.

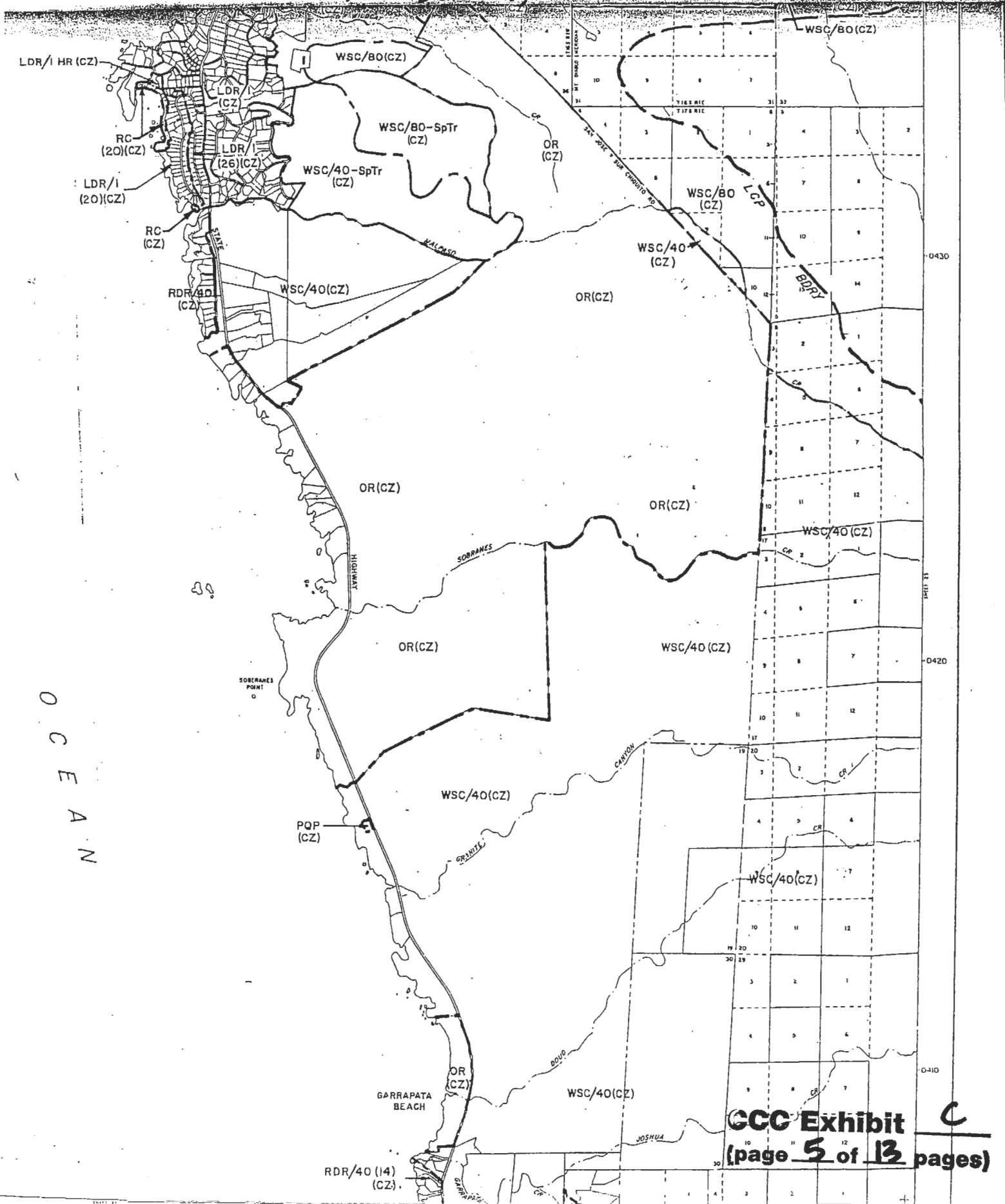
In the mid-1970s, California State Parks initiated eminent domain proceedings to acquire properties owned by the Doud Family Trust between Highway 1 and the ocean north of Garrapata Creek. This eminent domain action became the subject of legal dispute between the Doud family and the State that was not settled until December 1988. Meanwhile, all of the parcels remained under the ownership of the Doud family.

During the period of the legal dispute, the County had prepared, processed, adopted and received Coastal Commission certification of the Big Sur Coast Local Coastal Program. This Program presumed that all of Garrapata Beach would be acquired by State Parks so all of the land in question was designated as Outdoor Recreation (OR) and zoned Open Space Recreation (OR). However, settlement of the dispute included removing a 2.5 acre parcel closest to Garrapata Creek. This parcel was retained by the Doud family separate from what State Parks acquired as Garrapata State Beach.

At the request of the Doud family, the County began processing an amendment to the LCP to change the land use designation and zoning based on the fact that the property had, in fact, remained in private ownership. On July 28, 2004, the Planning Commission adopted a resolution brought forth by County of Monterey to amend the land use designation in the Big Sur Land Use Plan (LUP) from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC) and the zoning in the Coastal Implementation Plan (CIP) from Open Space Recreation (OR) to Watershed and Scenic Conservation (WSC/40).

The land use designation change and rezone would allow the construction of a single family dwelling and related structures as a principal use upon obtaining Coastal Development Permit. In contrast, the current OR land use designation and zoning allows minor structures in support of recreational uses as a principal use. The land use designation change and rezone would be a potential intensification of use and may result in physical impacts related to scenic resources,

# ZONING MAP (EXISTING)





environmentally sensitive habitats, water resources, hazardous areas, archaeological resources, and public access.

### **Project Description**

Monterey County, on behalf of the property owner Mr. John Doud, is processing an application to change the land use designation and zoning of a 2.5-acre flag lot, located north of Garrapata Creek and south of Garrapata State Park, between Highway 1 and the Pacific Ocean from OR to WSC. On June 8, 2005, the Planning Commission recommended approval of the land use designation amendment to the Land Use Plan and zoning reclassification amending the Coastal Implementation Plan. The Planning Commission voted to approve the reclassification based on facts indicating that this property would have been designated as WSC if it had not been anticipated to be part of the Garapatta State Beach property.

The result of the change in the land use designation and zoning on the Doud parcel would be the potential for low intensity development, including the construction of a single family residence, on a constrained site.

## **B. PROJECT ANALYSIS**

### **Land Use and Density**

The site's land use designation is currently Outdoor Recreation (OR) and zoning is currently Open Space Recreation (OR). Under this land use designation and zoning, development of the Doud property is limited to low intensity recreational and educational uses such as trails, picnic areas, walk-in camping, tent camping where the campsites are separated from one another, and supporting facilities. With a land use designation and zoning of Watershed and Scenic Conservation (WSC and WSC/40), low intensity development, including the construction of a single family residence and related structures, would be permitted. The proposed land use designation change and rezone would not result in development at this time. Should development be proposed in the future, consistency with the LUP density designation would be required.

### **LCP Amendment**

This project involves a request to change a 2.5-acre vacant parcel land use designation in the Big Sur Land Use Plan (LUP) from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC) and the zoning in the Coastal Implementation Plan (CIP) from Open Space Recreation (OR) to Watershed and Scenic Conservation (WSC/40).

Pursuant to Appendix 13 of the Coastal Implementation Plan, a rezoning cannot become effective until after the following process:

- If the Board of Supervisors wishes to approve the proposed rezoning, the Board approves a Resolution of Intent to Adopt and submits the amendment proposal to the Coastal Commission.
- If the Coastal Commission suggests modifications to the Board-approved amendment, the Board of Supervisors shall consider such modifications at a noticed public hearing. The

Board may accept, reject, or suggest alternative language to the Commission's suggested modifications.

- If the modifications are accepted by the Board, the Coastal Commission acknowledges and accepts the Board of Supervisors action, thereby certifying the amendments. If alternative language is suggested by the Board, the Coastal Commission may either accept the language as fulfilling the intent of the suggested modifications, or may not, in which case a new amendment request may be submitted to the Coastal Commission.
- After Coastal Commission certification, the Board of Supervisors must hold a noticed public hearing acknowledging receipt and formally adopting the certified amendment.
- Certified amendments do not become effective until formal adoption by the Board of Supervisors.

### **CEQA**

Staff initially prepared a Mitigated Negative Declaration (MND) for the proposed amendment, and the Planning Commission recommended adoption of the MND. However, staff subsequently determined that, pursuant to Public Resources Code 21080.5, a separate CEQA document is not required because Coastal Commission review of a LCP amendment is the functional equivalent of full CEQA review when the environmental information required by the Coastal Commission is provided.

In considering the land use designation change and rezone, the California Coastal Commission (CCC) requires information on the effects of these changes on coastal resources and other Local Coastal Program (LCP) provisions. An environmental analysis was prepared to provide an assessment of coastal issues requested by the CCC. The report includes a Coastal Act consistency analysis and a discussion of the potential impacts to scenic resources, environmentally sensitive habitats, water resources, hazardous areas, archaeological resources, and public access as a result of the change in land use designation and zoning.

The following findings on potential impacts to scenic resources, environmentally sensitive habitats, water resources, hazardous areas (including geologic and fire hazards), archaeological resources, and public access issues are summarized below:

- Scenic Resources: The proposed land use designation change and rezone are consistent with policies of the Big Sur Coast Land Use Plan dealing with scenic resources and will have no significant impact on the critical viewshed. The majority of Doud property is located within the critical viewshed as defined by the Big Sur Coast LUP. However, no development is proposed at this time that would impact visual resources. Future development permitted under the WSC land use and zoning designation would require a coastal development permit as well as compliance with applicable LUP scenic resource policies, CIP standards, and conditions developed through the coastal development permit process. Future development permitted under the WSC land use and zoning designation would require environmental review in compliance with the California Environmental Quality Act (CEQA).

- Environmentally Sensitive Habitat: The proposed land use designation change and rezone is consistent with policies of the Big Sur Coast Land Use Plan dealing with environmentally sensitive habitat areas and will have no significant impact on biological resources. The Doud property is located along the Big Sur coast, which supports many environmentally sensitive habitats. The Doud property contains several environmentally sensitive habitats, as defined by the Big Sur Coast Land Use Plan. However, no development is proposed at this time that would impact environmentally sensitive habitats. Future development permitted under the WSC land use designation and zoning would require a coastal development permit as well as compliance with applicable LUP policies regarding protection of ESHA, wetlands, riparian corridors, and rare and endangered species. Future development permitted under the WSC land use and zoning designation would require environmental review in compliance with the California Environmental Quality Act (CEQA).
- Water Resources: The proposed land use designation change and rezone are consistent with policies of the Big Sur Coast Land Use Plan dealing with water resources and will have no significant impact. Water supply to the Doud property has not yet been established. However, no development is proposed at this time that would require adequate and safe water supplies. Future development permitted under the WSC land use designation and zoning would require a coastal development permit as well as compliance with applicable LUP water resource policies (Section 3.4), CIP Water Resources Development Standards (Section 20.145.050), and proof of an adequate, safe and continuous supply of water to the subject property. Future development permitted under the WSC land use and zoning designation would require environmental review in compliance with the California Environmental Quality Act (CEQA).
- Hazardous Areas: The proposed land use designation change and rezone are consistent with policies of the Big Sur Coast Land Use Plan dealing with hazardous areas and will have no significant impact to people or structures. The Doud property is subject severe erosion and fire hazards. In addition, the Palo Colorado fault runs through the vicinity of the Doud property and may present seismic-related hazards. However, no development is proposed at this time that would expose people or structures to a variety of hazards. Future development permitted under the WSC land use designation and zoning designation would require a coastal development permit as well as compliance with applicable LUP hazardous area policies (Section 3.7) and CIP Hazardous Area Development Standards (Section 20.145.070). Future development permitted under the WSC land use and zoning designation would require environmental review in compliance with the California Environmental Quality Act (CEQA).
- Archaeological Resources: The proposed land use designation change and rezone are consistent with policies of the Big Sur Coast Land Use Plan dealing with archaeological resources and will have no significant impact. There is a high likelihood that unrecorded Native American cultural resources exist on the Doud property. However, no development is proposed at this time that would impact archaeological resources. Future development permitted under the WSC land use designation and zoning would require a

coastal development permit as well as compliance with applicable LUP archaeological resource policies (Section 3.11) and CIP Archaeological Resource Development Standards (Section 20.145.120). Future development permitted under the WSC land use and zoning designation would require environmental review in compliance with the California Environmental Quality Act (CEQA).

- Public Access: The proposed land use designation change and rezone are in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and do not interfere with any form of historic public use or trust rights (see CIP Section 20.70.050.B.4). No access is required as part of the land use designation change and rezone, as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated. The Doud property provides public access to Garrapata Beach along an unmarked trail network extending from the Stone House/Fisch property (located immediately south of the subject site) to Garrapata Beach. However, no development is proposed at this time that would reduce public access to this trail network and therefore reduce access to Garrapata Beach. Future development permitted under the WSC land use designation and zoning would require a coastal development permit as well as compliance with applicable LUP public access policies (Section 6), CIP Public Access Development Standards (Section 20.145.150), and public access and recreation policies of Chapter 3 of the California Coastal Act. Future development permitted under the WSC land use and zoning designation would require environmental review in compliance with the California Environmental Quality Act (CEQA).

The report concludes that, as an LCP amendment without a physical project, the Doud parcel land use designation change and rezone would not result in direct physical impacts at this time. However, the effect of the Doud parcel land use designation change and rezone would be the potential for low intensity development, including the construction of a single family dwelling, on a constrained site. This could impact scenic resources, environmentally sensitive habitats, water resources, hazardous areas (including geologic and fire hazards), archaeological resources, and public access; however, the Douds have made no specific development proposal. Therefore, a specific assessment of whether such development would have significant environmental impacts and whether such impacts could be mitigated is not possible at this time and would be merely speculative. Any future development on the site would require environmental review in compliance with CEQA.

#### LUAC

The proposed land use designation change and rezone was reviewed by the Big Sur Land Use Advisory Committee (LUAC) on October 12, 2004. This LUAC recommended approval of the project by a 5-0 vote. The LUAC did not recommend project conditions.

Before the Board of Supervisors in and for the  
County of Monterey, State of California

**Resolution No.: 06-334**

Resolution of Intent by the Monterey County Board of  
Supervisors: Amend the land use designation in the Big  
Sur Land Use Plan (LUP) from Outdoor Recreation (OR)  
to Watershed and Scenic Conservation (WSC) and amend  
a portion of the Monterey County Coastal Implementation  
Plan by Amending Sheet 20-22 of Section 21.08.060 of  
Title 20 of the Monterey County Code to apply the Watershed  
and Scenic Conservation [WSC/40(CZ)] zoning to a 2.5-acre  
flag lot located north of Garrapata Creek, South of Garrapata  
State Park, between Highway 1 and the Pacific Ocean  
(APN: 243-212-016-000), Big Sur Area.

An amendment to the Big Sur Land Use Plan (LUP) land use designation from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC) and an amendment to the Monterey County Coastal Implementation Plan to amend Sheet 20-22 of the Monterey County Zoning Maps (Coastal Implementation Plan) to rezone a 2.5-acre flag lot located north of Garrapata Creek, South of Garrapata State Park, between Highway 1 and the Pacific Ocean (APN: 243-212-016-000) came on for a public hearing before the Board of Supervisors on November 14, 2006. The Board of Supervisors hereby resolves as follows with reference to the following facts:

**RECITALS**

1. Section 65300 et seq. of the California Government Code requires each county to adopt a comprehensive, long-term General Plan for the physical development of each county.
2. On September 30, 1982, the Board of Supervisors of the County of Monterey ("County") adopted a county-wide General Plan ("General Plan") pursuant to California Planning, Zoning and Development law.
3. Section 30500 of the Public Resources Code requires each County and City to prepare a Local Coastal Program for that portion of the coastal zone within its jurisdiction.
4. On November 5, 1985, the Board of Supervisors adopted the Big Sur Coast Land Use Plan ("Land Use Plan") as part of the Local Coastal Program in the Coastal Zone pursuant the California Coastal Act.

5. On April 10, 1986 the California Coastal Commission acknowledged certification of the Big Sur Coast Land Use Plan ("Land Use Plan") as part of Monterey County's Local Coastal Program.
6. On December 10, 1987, the Coastal Implementation Plan (CIP) was certified by the California Coastal Commission. The CIP includes Part 1 (Zoning Ordinance, Title 20), Part 2 (Regulations for Development in the North County Land Use Plan, Chapter 20.144), Part 3 (Regulations for Development in the Big Sur Coast Land Use Plan, Chapter 20.145), Part 4 (Regulations for Development in the Carmel Area Land Use Plan, Chapter 20.146), Part 5 (Regulations for Development in the Del Monte Forest Land Use Plan, Chapter 20.147), and Part 6 (Appendices-Applicable County Ordinances).
7. On January 5, 1988, Monterey County Board of Supervisors adopted the Local Coastal Program consistent with Section 30512.1 of the Public Resources Code.
8. Pursuant to Section 30514 of the Public Resources Code and the County Coastal Implementation Plan, the County may amend the Local Coastal Program if the County follows certain procedures and the Coastal Commission certifies the amendment. A maximum of three amendments to the Local Coastal Program may be submitted in one calendar year. This would be part of the first amendment to the Local Coastal Program submitted to the Coastal Commission in 2007.
9. On June 8, 2005, the Planning Commission recommended approval of the amendment to the Land Use Plan and Coastal Implementation Plan. The Planning Commission voted to approve the reclassification based on facts indicating that this property would have been designated as WSC if it had not been anticipated to be part of the Garapatta State Beach property. Once the Board has adopted a Resolution of Intent, the proposed amendment must be submitted to the Coastal Commission for certification and returned to the Board for formal adoption before the change in land use designation and rezoning can be effective.
10. Section 20.08.060 of the Coastal Implementation Plan-Part 1 (CIP) references sectional district maps that show the Zoning Plan. Sheet 20-22 of the Monterey County Zoning Map Index provides a graphic representation of the zoning designations in this planning area. The proposed amendment would amend Sheet 20-22 of Section 20.08.060 of the Monterey County Zoning Code.
11. Pursuant to Government Code Section 65850 et seq., the County Planning Commission must hold a noticed public hearing and make a written recommendation to the Board of Supervisors on proposed land use designations and zoning amendments. A hearing was held before the Planning Commission on June 8, 2005, and the Planning Commission recommended approval of the amendment to the Land Use Plan and Coastal Implementation Plan. The Planning

Commission written recommendation (Resolution 05025) was provided to the Board as part of the staff report.

12. The Board finds that the amendment to change the land use designation in the Big Sur Land Use Plan (LUP) from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC) and amend Sheet 20-22 of Section 20.08.060 of Title 20 of the Monterey County Code (Monterey County Coastal Implementation Plan) from Open Space Recreation (OR) to Watershed and Scenic Conservation (WSC/40) on a 2.5-acre vacant parcel is consistent with the Local Coastal Program (LCP) provisions and requirements for removal of the OR designation.
13. All policies of the General Plan and the Local Coastal Program have been reviewed to ensure that the proposed amendments maintain the compatibility and internal consistency of the General Plan and the Local Coastal Program. The Board of Supervisors find that:
  - a. The rezoning would be compatible with surrounding privately owned designations and densities. No development is proposed at this time.
  - b. Any future development on the site would require compliance with applicable LCP policies, CIP standards, Coastal Act provisions, and conditions developed through coastal development permit and CEQA processes.
14. An environmental analysis has been prepared for the proposed land use designation change and rezone at the request of the CCC. The report concluded that, as an LCP amendment without a physical project, the Doud parcel land use designation change and rezone would not result in direct physical impacts at this time.
15. On November 7 and 14, 2006, the Monterey County Board of Supervisors held a duly noticed public hearing to consider and approve a Resolution of Intent to adopt proposed amendment to the land use designation and zoning in the LCP. At least 10 days before the first public hearing date, notices of the hearing before the Board of Supervisors were published in both the Monterey County Herald and were also posted on and near the property and mailed to property owners within 300 feet of the subject property.

### DECISION

The Board of Supervisors of the County of Monterey, State of California, hereby resolves as follows:

1. Subject to certification by the Coastal Commission and having considered the environmental assessment, the Board of Supervisors intends to:
  - a. Amend the Big Sur Land Use Plan land use designation on the 2.5 acre flag lot located north of Garrapata Creek, south of Garrapata State Park, between Highway 1 and the Pacific Ocean (APN: 243-212-016-000/Doud)

Resolution No.: 06-334  
November 14, 2006

- from Outdoor Recreation (OR) to Watershed and Scenic Conservation (WSC); and
- b. Adopt an ordinance (attached hereto as Attachment 1) amending Sheet 20-22 of the Sectional District (Zoning) Maps of Section 20.08.060 of Title 20 (zoning) of the Monterey County Code and the Coastal Implementation Plan. Said ordinance reclassifies a 2.5 acre flag lot located north of Garrapata Creek, south of Garrapata State Park, between Highway 1 and the Pacific Ocean (APN: 243-212-016-000/Doud) from Open Space Recreation, Coastal Zone [OR(CZ)] to Watershed and Scenic Conservation, Coastal Zone [WSC/40(CZ)].
2. This amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act and the County's Local Coastal Program.
  3. This resolution is submitted with materials sufficient for a thorough and complete review by the Coastal Commission.
  4. Staff is directed to submit this proposed amendment of the Local Coastal Program to the Coastal Commission for certification, together with materials for review of the amendment by the Coastal Commission.
  5. This amendment will not take effect until after certification by the Coastal Commission and subsequent formal adoption by the Board of Supervisors.

**PASSED AND ADOPTED** on this 14<sup>th</sup> day of November 2006, upon motion of Supervisor Potter, seconded by Supervisor Lindley, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley, Potter, and Smith  
NOES: None  
ABSENT: None

I, Lew C. Bauman, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book 73, on November 14, 2006.

Dated: November 17, 2006

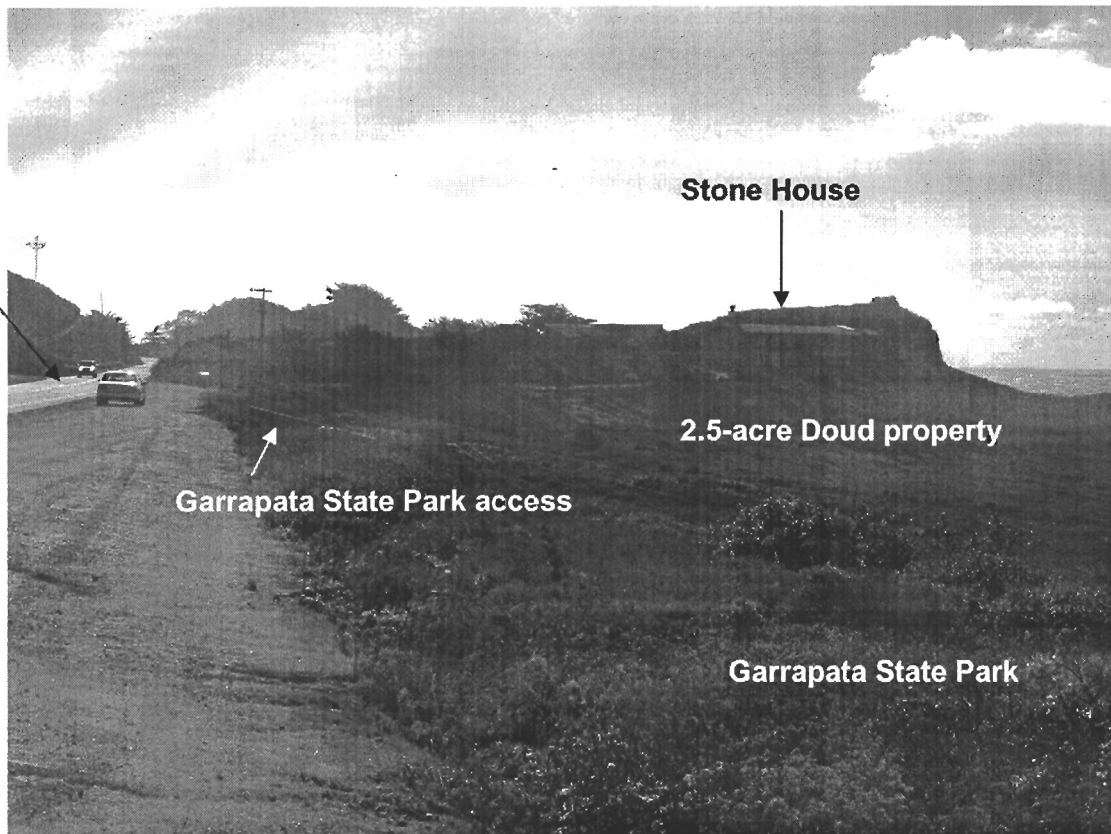
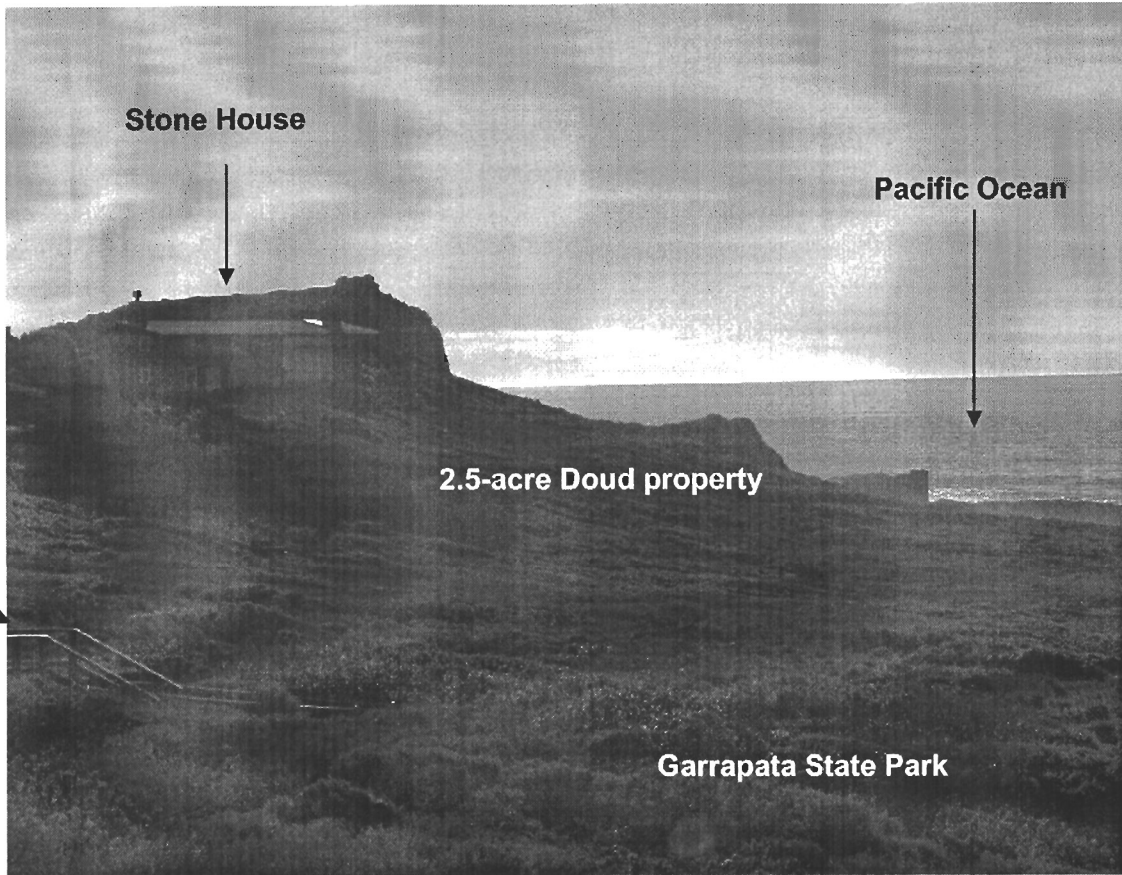
Lew C. Bauman, Clerk of the Board of Supervisors,  
County of Monterey and State of California.

By



Darlene Drain, Deputy

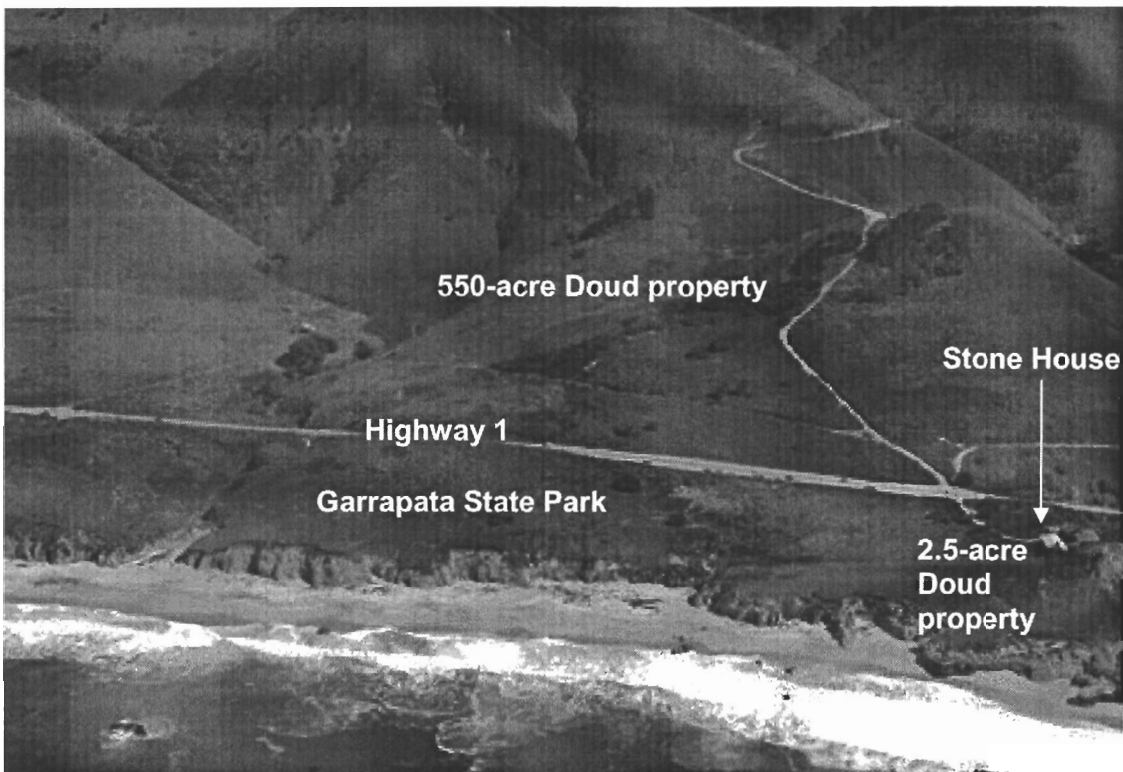




Views south of 2.5-acre Doud site



View southwest across 2.5-acre Doud site (Garrapata State Park in foreground)



Oblique aerial photo of site (Source: California Coastal Records Project, 200402393)