

CALIFORNIA COASTAL COMMISSION

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

F5c

5/21/00

**RECORD PACKET COPY**

Filed: 3/28/2000
49th Day: 5/16/2000
180th Day: 9/24/2000
Staff: CKC-SC
Staff Report: 5/31/2000
Hearing Date: 6/16/2000
Open and Continued: 5/11/2000
Commission Action:

**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION
Caltrans Operational Improvement #5**

APPEAL NUMBER: **A-3-MCO-00-035, Caltrans Operational Improvement #5**
LOCAL GOVERNMENT: **MONTEREY COUNTY**
DECISION: **Approved with conditions, February 8, 2000**
APPLICANT: **Caltrans, District 5; Attn: Paula Huddleston**
APPELLANTS: **Noel Mapstead**
PROJECT LOCATION: **Northeasterly of Highway One and Carmel Valley Road,
Carmel Area (Monterey County)**
PROJECT DESCRIPTION: **Operational Improvement #5: construction of a second right
turn lane onto northbound Highway One by widening
Highway 1 and Carmel Valley Road**
FILE DOCUMENTS: **Administrative Record for Monterey County Coastal
Development Permit PLN 980276; Monterey County Board
of Supervisors Resolution # 00-58 and Resolution 99-050;
Monterey County Certified Local Coastal Program; Carmel
Area Land Use Plan, LCP Amendment 1-99**

1. EXECUTIVE SUMMARY

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed because the proposed project is consistent with the applicable policies of the certified Monterey County Local Coastal Plan.

The project approved by Monterey County provides for the widening of Carmel Valley Road from Carmel Knolls Drive to Highway One to accommodate a second right hand turn lane and construct a merge lane (840 feet in length) on Highway One. The project will be accomplished within the existing right of way of the affected roads and will require the fill of

0.053 acres (2,309 square feet) of wetland and riparian vegetation and the removal of two Monterey Pine trees. On site mitigation for project impacts includes the planting of three Monterey Cypress trees (a 3:2 replacement ratio), and the restoration of approximately 0.57 acres (24,829 square feet) of riparian vegetation and wetland habitat (a 10:1 replacement ratio). The County has extensively conditioned the Coastal Development Permit to mitigate the impacts of the project, in compliance with LCP policy 2.3.4 and Section 20.146.040 of the Coastal Implementation Plan.

The appellant contends that the project does not comply with the Monterey County Local Coastal Program (LCP) policies regarding environmentally sensitive habitats. However, all aspects of the relevant policies have been adequately addressed through the project design and County conditions of approval. Therefore, staff recommends that the Commission find no substantial issues are raised with regard to the appellant's contentions.

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3. LOCAL GOVERNMENT ACTION

The applicant, Caltrans, originally filed a CDP application (PLN980276) with the Monterey County Planning Commission for a Combined Coastal Development Permit (CDP) to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road. Monterey County Board of Supervisors initiated an amendment to the *Carmel Area Land Use Plan* and the *Coastal Implementation Plan* to allow for this specified development within environmentally sensitive wetland and riparian areas, under conditions added by the amendment language. The Coastal Commission approved and certified LCP Amendment Number 1-99 on May 13, 1999. Subsequently, Monterey County Board of Supervisors approved Resolution 00-058 which acknowledges receipt of the Coastal Commission's Certification of Amendments to the *Carmel Area Land Use Plan* and which gave final approval to the project, which was redesigned and conditioned to comply with the amended local coastal program (Resolution 99-050).

This final approval was subsequently appealed to the Coastal Commission by Noel Mapstead. The appeal was filed on March 28, 2000.

4. APPEAL PROCEDURES

The grounds for appeal to the California Coastal Commission under section 30603 of the California Coastal Act are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30603(a)(5) allows for appeals of any development like this one, that constitutes a major public works project.

5. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No A-3-MCO-00-035 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **Yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND NON-SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-3-MCO-00-030** does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

6. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

6.1 Project Location and Description

This project is one in a series of improvements planned by Caltrans to ease traffic congestion on Highway One between the Highway 68 interchange and the Carmel River in the Carmel area of Monterey County (Exhibit A and B). The project that is the subject of this appeal is to construct a second right hand turn lane from westbound Carmel Valley Road and merge lane on northbound Highway One (Exhibit C). The project is located at the inland boundary of the coastal zone; a portion of the project is outside of the coastal zone. The project entails widening Carmel Valley Road at its intersection with Highway One between 12 and 16 feet, increasing the length of the existing culverts under the road, constructing a crib wall approximately 148 feet in length along the east and northeast side of the intersection, removal of two Monterey Pines, and fill of approximately 0.053 acres (2,309 square feet) of a wetland drainage and associated riparian habitat (see Table 1). All work will be performed within the right of way of Highway One and Carmel Valley Road. Mitigation work includes the restoration of approximately 0.57 acres (24,829 square feet) of wetland and riparian habitat (which provides somewhat greater than a 10:1 replacement ratio; see Exhibit C). The proposed construction work will not increase traffic capacity on Highway One, but is expected to ameliorate congestion at the busy intersection with Carmel Valley Road.

Table 1. Roadwork Proposed for Operational Improvement #5.

Description	Proposed Roadwork
Operational Improvement # 5	Add second right turn lane on Carmel Valley Road and merge lane on northbound Highway One
Extent of Highway 1 to be widened	840 foot 328 foot long merge lane; 512 foot long taper 15.7 ft wide with taper
Extent of Carmel Valley Road to be widened	Eastbound: 700 ft length, 12.5 ft wide with taper Westbound: 345 ft length; 12.5 ft wide with taper
Total Area of Widening	21,660 sf (0.5 acres)
Total Area of Asphalt Concrete Overlay	111,000 sf (2.5 acres)
Earthwork	Excavation: 620 cubic yards Embankment fill: 3,930 cubic yards
Drainage Pipe	Carmel Valley Road: extending eastbound 5'x3' box culvert 15 feet; extending 24" culvert 28 feet Highway One: extending northbound 18" culvert 13 feet; extending second 18" culvert 8 feet
Length of Segmental Block Retaining Wall	148 ft long at curve of westbound Carmel Valley Road and northbound Highway One
Tree Removal	Two Monterey pine trees

6.2 Monterey County LCP Amendment 1-99

In May of 1999, The Commission approved LCP Amendment 1-99 as submitted by Monterey County (Exhibit F). The amendment provides exceptions to the LCP's prohibition against wetland fill and removal of riparian vegetation to allow the construction of an additional right turn lane at the intersection of Highway One and Carmel Valley Road if there are no reasonable alternatives and if the impacts are adequately mitigated.

Specifically, Section 2.3.4 (Riparian Corridors and Other Terrestrial Wildlife Habitats) and Section 2.3.4 (Wetland and Marine Habitats) of the *Carmel Area Land Use Plan* and Section 20.146.040 (Environmentally Sensitive Habitats Development Standards) of the *Coastal Implementation Plan* have been amended to include the following text:

... As an exception, the construction of an additional right-turn lane from Carmel Valley Road onto northbound highway 1 shall be allowed if it can be demonstrated that there is no reasonable alternative, public safety and welfare require the project, all reasonable measures have been taken to avoid and minimize impacts, all reasonable measures have been taken to mitigate unavoidable impacts, and it can be demonstrated that the impacts will not result in a significant disruption of critical habitat values or affect the long-term survival of a species.

The following additional text have been added to the noted policies:

LUP Section 2.3.4 – Riparian corridors and Other Terrestrial Wildlife Habitats (Specific Policy)... Compensatory mitigation shall be established off-site. Mitigation shall be designed to accommodate, where possible, a 50-foot setback for intermittent streams, and a

100-setback for perennial streams.

LUP Section 2.3.4 Wetland and Marine Habitats (Specific Policy) ...Compensatory mitigation shall be established off-site. Mitigation shall be designed to accommodate, where possible, a 150-foot setback for coastal wetlands.

The amendment was certified and effective on May 13, 1999. On February 8, 2000, the County approved the Coastal Development Permit for the project that is the subject of this appeal (Exhibit E).

6.3 Substantial Issue Analysis – Conformance With LCP

6.3.1 APPELLANT'S CONTENTIONS

The project was timely appealed by Noel Mapstead who contends that the County's action to approve the project is inconsistent with the Monterey County LCP for the following reasons:

- a. The Coastal Development Permit (CDP) and the LCP amendment do not comply with Coastal Act section 30240(a) or the Certified LCP because it allows a non-resource dependent use.
- b. The project is not in an Environmentally Sensitive Habitat area (ESHA).
- c. The project and the amendment should be subject to an Environmental Impact Report (EIR).
- d. The project is a waste of tax dollars.

Each contention is discussed in the following sections of this recommendation. The full appeal is attached as Exhibit G.

6.3.2 NON-RESOURCE DEPENDENT USES ALLOWED IN AN ESHA

6.3.2.1 Appellant's Contention

The appellant contends that both the 1999 LCP amendment and the project on appeal are inconsistent with section 30240(a) of the coastal Act and the Certified LCP. It should be noted that action on LCP amendments may not be appealed to the Coastal Commission because the Commission is required to act on all amendments to LCPs. Only certain local actions on Coastal Development Permit applications may be appealed to the Commission. As stated earlier in this recommendation, the standard for review for appeals in general is consistency with the Certified LCP, not the Coastal Act. The following discussion therefore focuses on the consistency of the project with the Certified LCP as amended in 1999.

6.3.2.2 Analysis

The amended LCP allows the removal of riparian vegetation and limited wetland fill to accommodate this specific project if the following criteria are met:

1. *There is no reasonable alternative* – The project proposes an additional right turn lane on Carmel Valley Road and a merge lane on Highway One. Operational Improvement #5 is one of twelve operational improvements intended to provide incremental traffic congestion relief along Highway One in the Carmel area. Other than these improvements, each of which is separate and functionally distinct, there is no other reasonable alternative that would provide traffic congestion relief at this intersection.
2. *Public safety and welfare require the project* - The intersection of Carmel Valley Road and Highway One has long been a traffic bottleneck because of the traffic volume coming from Carmel Valley and the lane reductions on Highway One in the vicinity of the intersection. Accident rates in this area are higher than normal. The addition of another right turn and merge lane will ease congestion at this intersection and a reduction in accident rates is also expected.
3. *Impacts are avoided and minimized* – The proposed road improvements are the minimum necessary to construct a right turn and merge lane. Through the use of crib walls, Caltrans has been able to reduce the amount of wetland fill and riparian vegetation removal from that originally proposed for the project. The removal of a large oak tree has also been avoided by the recent re-design of the project (see Exhibit C, Site Plans).
4. *Unavoidable impacts are mitigated* – The project will result in the loss of approximately 0.053 acres (2,309 square feet) of wetland and the removal of two Monterey Pine trees (one of which has been killed by pitch canker disease). In approving the project, the County required an extensive mitigation package to compensate for these impacts. Elements of the package include replacement tree planting, eradication of non-native plant species and the restoration of 0.57 acres (24,829 square feet) of riparian and wetland habitat, in accordance with the biotic report prepared for the project (Exhibit E, County Conditions of approval and restoration site plan). A five-year monitoring program is also required to ensure the successful implementation of the restoration work.
5. *No critical habitat values are significantly disrupted* – Caltrans prepared a biotic survey report for the project. The report found that the project area did not contain any State of Federally listed rare, endangered or threatened species in the Coastal Zone and thus no critical habitats supporting these species would be affected. A single red legged frog was however seen just outside of the Coastal Zone Boundary in 1996. No additional frogs have been observed in the project area since that time. The minimal vegetation removal and wetland fill combined with the proposed mitigation will result in no significant impact on the biologic functioning of the affected drainage swale and associated riparian habitat.
6. *There are no adverse effects on the long-term survival of a species* – The biotic survey prepared by Caltrans notes that the affected habitat supports a variety of native and introduced plant species and provides limited avian habitat. The report states that "habitat values for non-avian species is totally lacking due to proximity to the highway and suburban development." Due to the mitigation program and the limited amount of habitat removal, no long-term effects on species survival is expected although some

non-native nuisance species (i.e., French broom) will be eradicated as part of the mitigation plan.

7. *Compensatory mitigation is established offsite* – Although the LCP permits off-site mitigation, on-site mitigation is generally considered the most effective and desirable. In this case, the applicant has redesigned the project to provide mitigation both on-site and in the immediate vicinity of the site, using a 10 to 1 ratio for riparian and wetland restoration. The mitigation sites are shown in Exhibit C. The drainage channel will be slightly relocated inland of its current location and the new channel will be planted with appropriate riparian vegetation. Additional, compensatory mitigation areas that will also be restored with native vegetation are located nearby. The restoration work will be undertaken pursuant to the biotic report and additional tasks added by the County in their conditional approval of the project. Mitigation thus exceeds the standard laid out in the Certified LCP.
8. *Mitigation is designed to accommodate, where possible, a 50-foot setback for intermittent streams, a 100-foot setback for perennial streams and a 150-foot wetland setback* – The compensatory mitigation area is at least 50 feet from the edge of any road or home. The relocated drainage is at least 50 feet from the edge of any homes. It is moved as little as possible from its current course, just enough to accommodate the highway widening.

6.3.2.3 Conclusions

Based on the biologic information developed by the applicant and the County findings and conditions for the project, the County's action to approve the construction of the additional right turn and merge lane is consistent with the relevant resource protection policies of the Certified LCP and presents no substantial issue.

6.3.3 PROJECT IS NOT WITHIN AN ESHA

6.3.3.1 Appellant's Contention

The appellant contends the project is not within an ESHA.

6.3.3.2 Analysis

Although it is unclear how this contention provides grounds for appeal, the Commission notes that part of the project is within an environmentally sensitive habitat area. The following excerpts from the Commission's 1999 adopted findings for LCP Amendment 1-99 detail the habitat characteristics of the site:

The area in question is a drainage swale at the edge of the coastal zone, running parallel to and below the inland edge of Highway One above Carmel Valley Road [see Exhibit C]. There is a culvert under Carmel Valley Road and the drainage swale continues on its southerly side, eventually connecting to the main stream through Hatton Canyon to the east. Because the highway fill was placed across the normal flow of runoff from this hillside,

water concentrates along the toe of the gill slope. The resultant moist conditions support the growth of willows and other species that would be ordinarily found in a natural riparian habitat area.

A biotic survey was performed in this area anticipated to be affected by the highway project that this amendment is designed to facilitate. Some parts of this drainage ditch in the area anticipated to be altered by the highway project meets the U.S. Army Corps of Engineers criteria for wetlands (soils, hydrology, and vegetation). Additional area (which is being defined as "other waters of the United States") may also meet the Coastal Commission and County's wetland definition (using the U.S. Fish and Wildlife Service's classification of Wetlands and Deep Water Habitats of the United States). The amount of wetland anticipated to be impacted is only 0.51 acres (2,315 square feet) in the Coastal Zone. An additional 8,700 square feet of associated riparian woodland habitat in the coastal zone may also be impacted. It should be noted that these determinations are not affected by the likelihood that the affected wetlands are entirely the product of highway construction, and the resultant alteration of natural hillside drainage patterns.

Revised project description shows that the amount of wetland that will be impacted by the retaining wall construction is actually 0.045 acres (1,960 sf). Additional smaller areas of wetland will also be filled by project construction to total 0.057 acres of total wetland fill (Exhibit D). Mitigation is provided at the site using a replacement ratio of over 10:1, with 0.57 acres of additional riparian and wetland area to replace the 0.053 acres filled for construction of the retaining wall and new roadway (Exhibit C). Mitigation will include revegetation with native riparian species.

6.3.3.3 Conclusions

Based on the site description and biotic survey performed for the site, a portion of the project area is considered ESHA. As described above, the applicant has provided an extensive mitigation plan, which compensates for any impacts to the ESHA, consistent with the certified LCP. Therefore, no substantial issue is raised by this contention.

6.3.4 PROJECT SHOULD REQUIRE A FULL EIR

6.3.4.1 Appellant's Contention

The appellant contends that the project should have been the subject of a full Environmental Impact Report (EIR).

6.3.4.2 Conclusion

This contention does not provide any grounds for appeal under Section 30603 of the Coastal Act. Thus, no substantial issue is raised by this contention. Nonetheless, the applicant did prepare a Negative Declaration/FONSI for the project because it was

determined that a full EIR was not required.

6.3.5 PROJECT IS A WASTE OF TAXPAYER DOLLARS

6.3.5.1 Appellant's Contention

The appellant contends that the project "is a waste of taxpayers dollars."

6.3.5.2 Conclusion

This unsupported contention does not provide a basis for appeal pursuant to Section 30603 of the Coastal Act. Thus, no substantial issue is raised by this contention.

6.4 Substantial Issue Analysis – Conclusions

In conclusion, the appeal does not raise a substantial issue in terms of compliance with the LCP, environmentally sensitive habitat, and adequate environmental review. Therefore, as conditioned by Monterey County, the approved project conforms with LCP policies and amendments and protects the natural resources of the Carmel area as required by the Monterey County Certified Local Coastal Program.

7. EXHIBITS

B C D E F G H I J K L M N O

Monterey

MONTEREY

BDY.

Marina

617

US LIGHTHOUSE
NAVAL RESERVATION
ASILOMAR BEACH
STATE PARK

PACIFIC GROVE

SAND CITY

Fort Ord Village

SEASIDE

MILITARY

RESERVATION

MONTEREY STATE BEACH

DEL REY OAKS

MONTEREY

68

68

68

68

**PROJECT
LOCATION**

CARMEL BY THE SEA

CARMEL BAY

CARMEL RIVER BEACH
STATE PARK

POINT LOBOS
RESERVE
STATE PARK

Bird Island

HUCKLEBERRY
HILL
937'

Carmel
Highlands

Carmel

Carmel

Carmel

Carmel

Carmel

Carmel

Carmel

Carmel

Carmel

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Carmel

County of Monterey



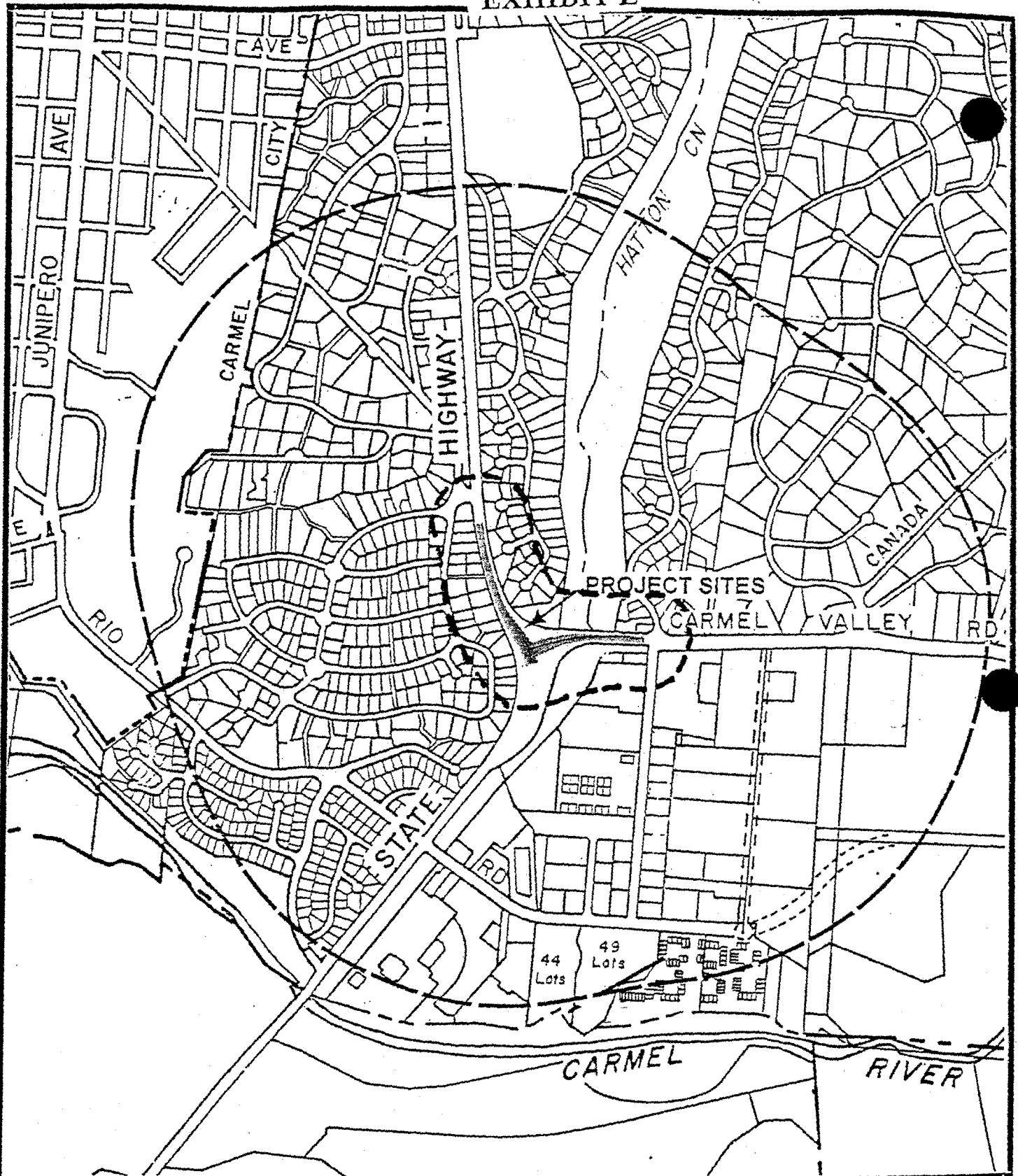
California Coastal Commission

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miles



EXHIBIT NO. A
APPLICATION NO. A-3-MCO-00-035
LOCATION MAP

EXHIBIT E



APPLICANT: CALTRANS

APN: 000-000-000-000

FILE# 980276

300' LIMIT: -----

2,500' LIMIT: -----

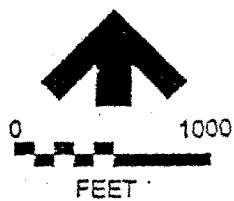
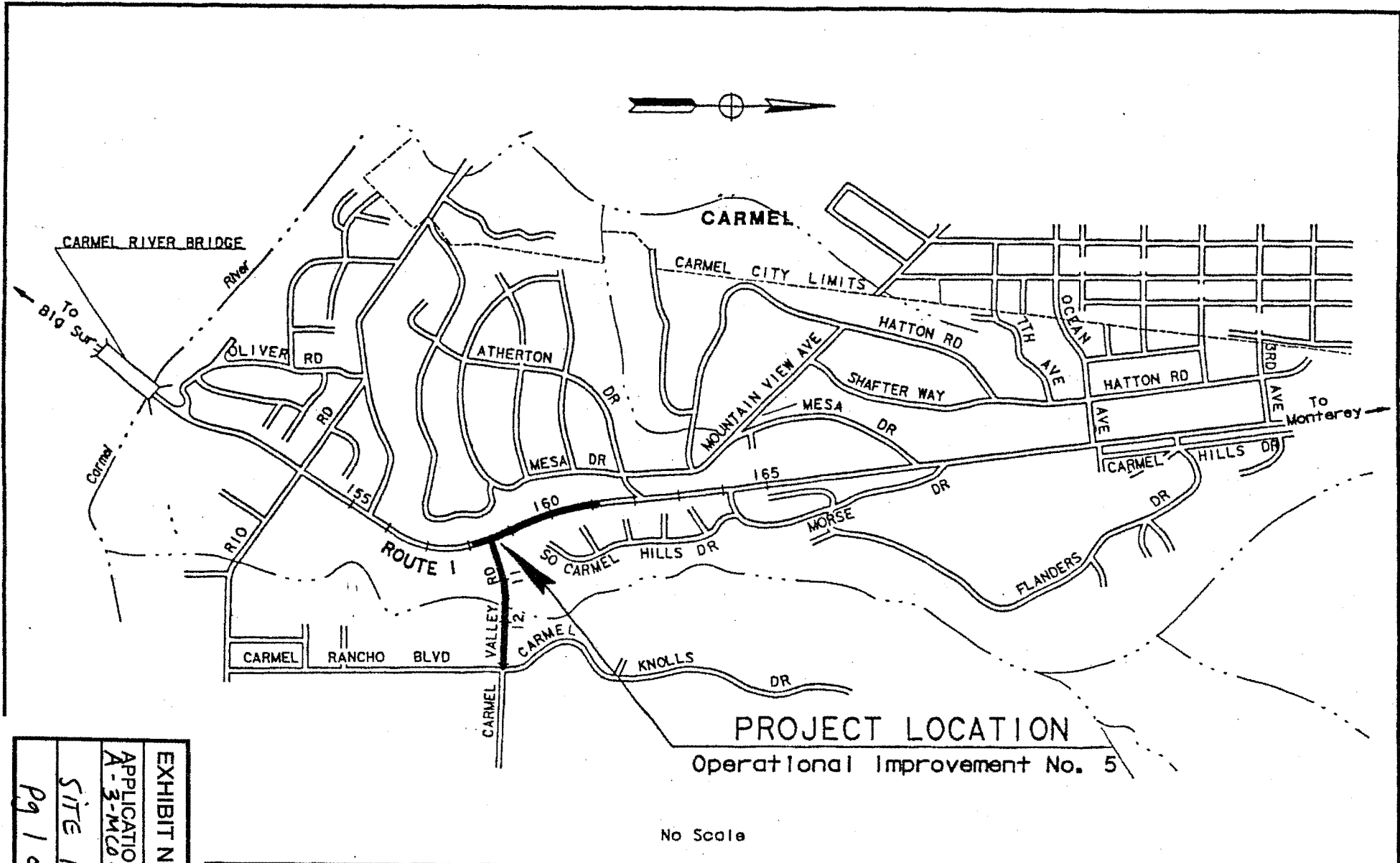


EXHIBIT NO. B

APPLICATION NO.
A-3-MCO-00-035

VICINITY MAP



PROJECT LOCATION
Operational Improvement No. 5

No Scale

CONSTRUCT OPERATIONAL IMPROVEMENT #5
ON HIGHWAY 1
NEAR THE CITY OF CARMEL-BY-THE-SEA

EXHIBIT NO. C

APPLICATION NO.
A-3-MCO-00-035

SITE PLANS

Pg 1 of 3

Notes

1. For Complete Right of Way Data, See Right of Way Record Maps at the District Office.
2. For Details of Widening at the Intersection, See Construction Detail Sheet C-1.
3. See Sheet R-1 for Layout of Retaining Wall.
4. See Construction Details for Dike Transitions.

LEGEND

- Drainage System Number
- Drainage System Unit



DIST	COUNTY	ROUTE	TOTAL PROJECT	NO	DATE
05	Mon	1	117.4/117.7		

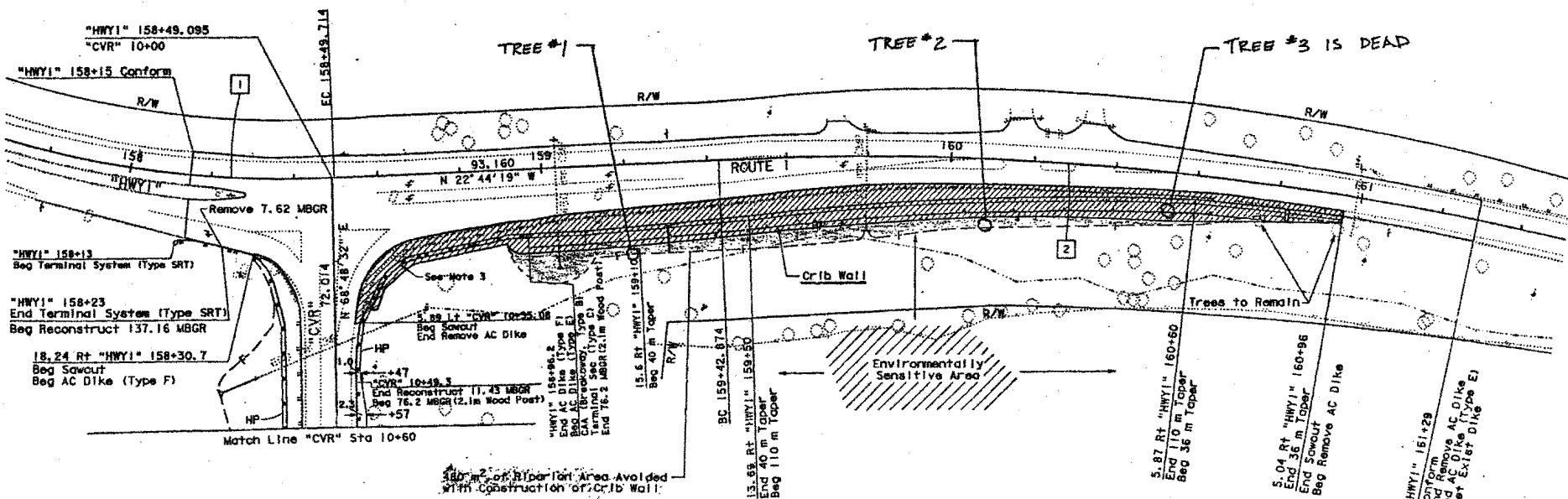
REGISTERED CIVIL ENGINEER

PLANS APPROVAL DATE

The State of California or its officers or agents shall not be responsible for the accuracy or completeness of electronic copies of this plan sheet.



CURVE DATA				
No.	R	Δ	T	L
1	243.840	58°23'33"	136.257	248.508
2	731.521	17°05'30"	109.925	218.217



ELIMINARY PLANS
SUBJECT TO REVISION

LAYOUT
SCALE 1:500

ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SHOWN

L-1

FOR REDUCED PLANS ORIGINAL

USERNAME: j15jmain

CH06233

FA 0190F1

EXHIBIT NO. C

APPLICATION NO. A-3-MC-00-035

SITE PLANS

Pg 2 of 3

DEPARTMENT OF TRANSPORTATION
ST DEVELOPMENT
PROJECT ENGINEER
Johanna P. Main
CALCULATED/DESIGNED BY JPM
CHECKED BY JPM
DATE REVISOR 5/98

DATE REVISED
CHECKED BY
JOHN H. FOUQUARD
PROJECT DEVELOPMENT



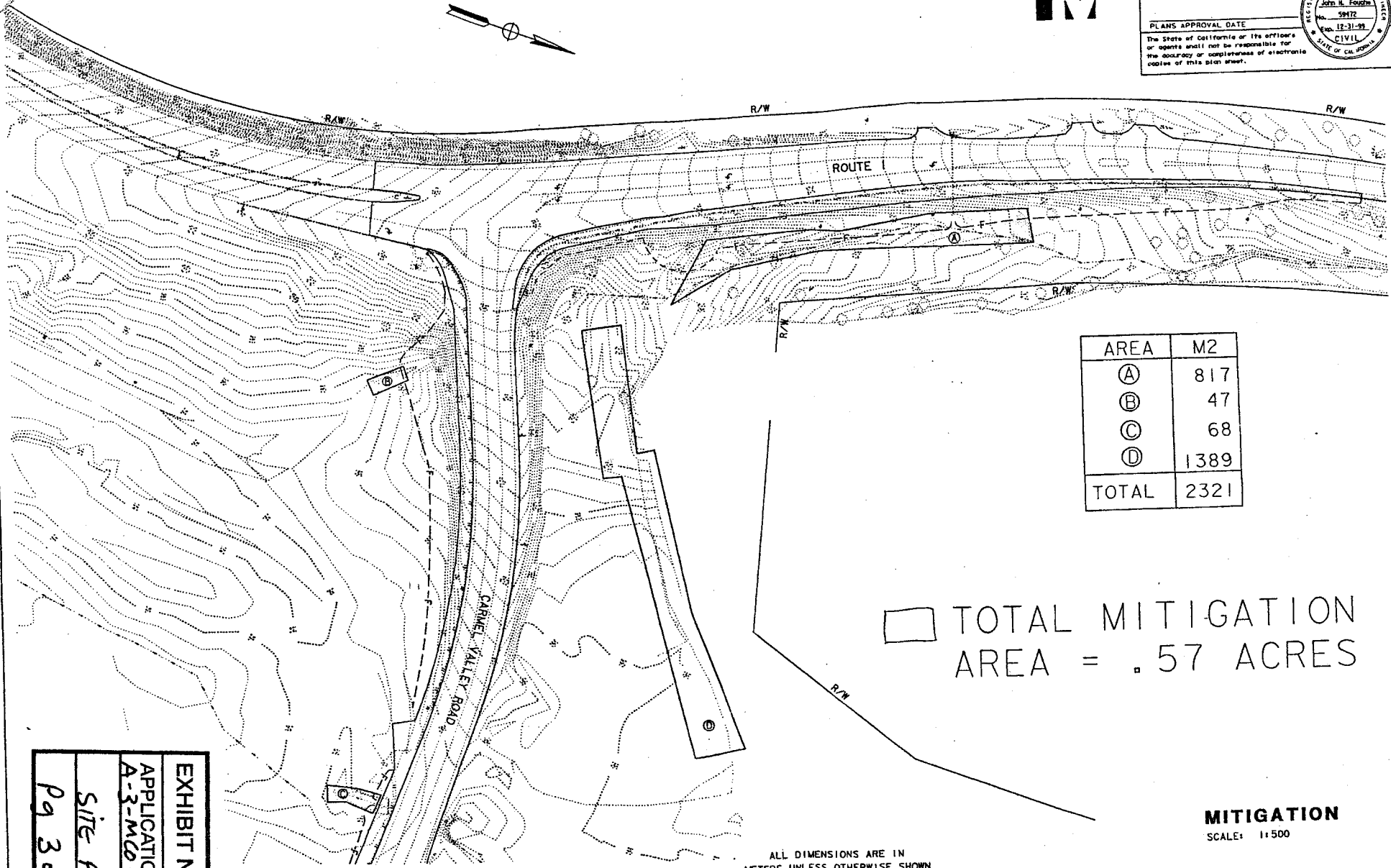
DIST	COUNTY	ROUTE	KILOMETER POST TOTAL PROJECT	SHEET NO	TOTAL SHEETS
05	MON	1	117.4/117.7		

REGISTERED CIVIL ENGINEER

PLANS APPROVAL DATE

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REGISTERED PROFESSIONAL ENGINEER
John H. Fouquard
No. 59472
Exp. 12-31-99
CIVIL
STATE OF CALIFORNIA



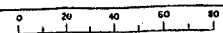
AREA	M2
Ⓐ	817
Ⓑ	47
Ⓒ	68
Ⓓ	1389
TOTAL	2321

□ TOTAL MITIGATION
AREA = .57 ACRES

MITIGATION
SCALE: 1:500

ALL DIMENSIONS ARE IN
METERS UNLESS OTHERWISE SHOWN

FOR REDUCED PLANS ORIGINAL
SCALE IS IN MILLIMETERS



USERNAME => *****USER*****
DGN FILE => *****DGN*****

CU 05233

EA 0190M1

CU 06233

EA 0190F1

EXHIBIT NO. C
APPLICATION NO.
A-3-MC-00-035
SITE PLANS
Pg 3 of 3

TIME PLOTTED => *****

00-00-00
00-00-00

**BEFORE THE BOARD OF SUPERVISORS IN AND FOR THE
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

Resolution No. 00-058 --)
Resolution Acknowledging Receipt of)
California Coastal Commission)
Certification of Amendments to the)
Carmel Area Land Use Plans and)
Coastal Implementation Plan and)
Adopting Said Amendments for)
PLN980276, Caltrans Operational)
Improvement Number 5)

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-MCO-00-118
APPEAL PERIOD 3/15-3/24/00

WHEREAS, pursuant to the California Coastal Act of 1976 (Public Resources Code Section 30000 et seq.), the County of Monterey ("County") prepared a Local Coastal Program for that portion of the Coastal Zone lying within its jurisdiction; and

WHEREAS, as part of its Local Coastal Program, the County adopted the land use plan for North County, Del Monte Forest, Carmel Area, Big Sur Coast, and said land use plans have previously been certified by the California Coastal Commission ("Commission"); and

WHEREAS, upon certification of said land use plans, the County commenced preparation of implementing ordinances and other regulations which culminated in the completion of a document called the Monterey County Coastal Implementation Plan ("Plan"); and

WHEREAS, following public hearings, this Board adopted Resolutions of Intention approving the amendments attached hereto as Attachment 1 for submittal to and certification by the Commission; and

WHEREAS, after a public hearing, the Commission certified the proposed amendments and notified the County of the same by letter dated May 21, 1999, attached hereto as Attachment 2;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the Board acknowledges receipt of the Commission's certification of the amendments as certified; and
2. That the Board confirms the previous Resolution of Intention to adopt said amendments to the Carmel Area Land Use Plan and Implementation Plan (Attachment 1) and hereby finally adopts the same.

PASSED AND ADOPTED this 8th day of February, 2000, upon motion of Supervisor Potter, seconded by Supervisor Pennycook, and carried by the following vote, to-wit:

RECEIVED

MAR 14 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

EXHIBIT NO. <u>E</u>
APPLICATION NO. <u>A-3-MCO-00-035</u>
<u>Pg 1 of 12</u>

AYES: Supervisors Salinas, Pennycook, Calcagno, Johnsen and Potter.

NOES: None.

ABSENT: None.

I, SALLY R. REED, 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 at page -- of Minute Book 70, on February 8, 2000.

DATED: February 8, 2000

SALLY R. REED, Clerk of the Board
of Supervisors, County of Monterey, State of
California

By: Nancy Lukerwell
Deputy

EXHIBIT NO. E
APPLICATION NO. A-3-M60-00-03
Pg 2 of 12

EXHIBIT B

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

Resolution No. _____)
Resolution by the Board of Supervisors to)
adoption of the Negative Declaration and a)
Combined Development Permit consisting of a)
Resolution of Intent for Amendments of the)
Carmel Area Land Use Plan and Coastal)
Implementation Plan to allow specified)
development within environmentally sensitive)
wetlands and riparian areas; Coastal)
Development Permit to construct a second right)
turn lane onto northbound Highway One by)
widening Highway One and Carmel Valley)
Road; a request for a waiver of the policy)
prohibiting development on slopes in excess of)
30%; grading; and tree removal (2). The site is)
located northeasterly of the corner of Highway)
One and Carmel Valley Road in the Carmel)
Area of the Coastal Zone and Carmel Valley.)

WHEREAS, this matter was heard by the Board of Supervisors (Board) of the County of Monterey on February 9, 1999.

WHEREAS, the property which is the subject for this approval is located northeasterly of the corner of Highway One and Carmel Valley Road in the Carmel Area of the Coastal Zone and Carmel Valley, in the County of Monterey (the property).

WHEREAS, the applicant filed with the County of Monterey, an application for a Combined Development Permit for Caltrans Improvement #5 (PLN980276) to allow construction of a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road.

WHEREAS, Caltran's application for the Combined Development Permit (980276) came for consideration before the Planning Commission at a public hearing on December 16, 1998:

WHEREAS, at the conclusion of the public hearing on December 16, 1998, the Planning Commission recommended to the Board of Supervisors to approve the Combined Development Permit on the basis of the finding, evidence and conditions contained in Planning Commission Resolution No. 98077.

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WHEREAS, pursuant to the provisions of the Monterey County Zoning Ordinance (Title 20) and other applicable laws and regulations, the Board, on February 9, 1999, heard and considered the project

WHEREAS, at the conclusion of the hearing, the matter was submitted to the Board for a decision. Having considered all the written and documentary information submitted, the staff reports, oral testimony, and other evidence presented before the Board of Supervisors, the Board now renders its decision to adopt findings, evidence and conditions in support of the Combined Development Permit as follows:

FINDINGS

1. FINDING: The proposed Combined Development Permit consists of Amendments to the Carmel Area Land Use Plan and Coastal Implementation Plan to allow development within environmentally sensitive wetlands and riparian areas; Coastal Development Permit to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road; a request for a waiver of the policy prohibiting development on slopes in excess of 30%; grading; and tree removal (2). The property owner is California Department of Transportation. The project is located at the corner of Highway One and Carmel Valley Road.
EVIDENCE: The on-site inspection of the subject parcel by the project planner pursuant to Section 20.146.030 of the Carmel Area Coastal Implementation Plan.
EVIDENCE: The application, plans, and support materials submitted by the applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in File No. 980276.
2. FINDING: The proposed project including all permits and approvals will not have significant adverse impacts on the environment and a Negative Declaration/FONSI has been adopted by the Appropriate Authority. An Initial Study was prepared for the project and it was determined that the project, with the addition of mitigation measures, would not have significant impacts. A Negative Declaration/FONSI was filed, noticed for public review, and circulated to the State Clearinghouse. The Appropriate Authority considered public testimony and the Initial Study with mitigation measures. The Negative Declaration/FONSI reflects the independent judgment of the County based upon consideration of testimony and information received and scientific and factual data presented. All comments received on the Negative Declaration/FONSI have been considered as well as all evidence in the record which includes studies, data, and reports considered in the Initial Study; information presented or discussed during public hearings; staff reports which include the County's independent judgment regarding the above referenced studies, data, and reports; application materials, and expert testimony. Among the studies.

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data, and reports analyzed as part of the environmental determination are the following:

1. Biotic Survey Report for Caltrans Improvement #5,
2. Geological/Geotechnical Report for Caltrans Improvement #5
3. Archaeological Report for Caltrans Improvement #5
4. Forest Management Plan for Caltrans Improvement #5

The location and custodian of the documents and materials which constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts have been submitted which refute the conclusions reached by these studies, data, and reports or which alter the environmental determinations based on investigation and the independent assessment or those studies, data, and reports by staff from various County departments, including Planning and Building Inspection, Public Works, Environmental Health, and the Water Resources Agency. Potential environmental effects have been studied and there is no substantial evidence in the record as a whole which supports a fair argument that the project, as designed and mitigated, may cause a significant effect on the environment. **The project as proposed has been designed for least amount of disturbance. Mitigation measures have been incorporated as conditions of approval addressing all reasonable unavoidable impacts. In addition, with the location of the existing Highway in close proximity to the project as proposed, no alternatives exists for the two acceleration lanes for the Carmel Valley Road and Highway One that would not impact the identified wetland habitat.**

EVIDENCE: File and application materials, Initial Study with mitigation measures, and Negative Declaration/FONSI contained in File No. 980276.

3. FINDING: The proposed development, as described in the application and accompanying materials and as conditioned, with the proposed amendments, is consistent with the policies, standards and requirements of the Carmel Valley Master Plan, Carmel Area Land Use Plan, the Coastal Implementation Plan, Monterey County Coastal Zoning Ordinance and the Monterey County Zoning Ordinance.

EVIDENCE: The Planning and Building Inspection staff reviewed the application and accompanying materials for conformity with the certified Carmel Area Land Use Plan; the regulations for development in the Residential or the "MDR/2(CZ)" Zoning District found in Chapter 20.14 of the Monterey County Coastal Implementation Plan; and Chapter 20.147 of the Coastal Implementation Plan, "Regulations for Development in the Del Monte Forest Land Use Plan Area."

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EVIDENCE: The Planning and Building Inspection staff reviewed the application and accompanying materials for conformity with the regulations for Development in the Low Density Residential or "LDR/1-D-S" Zoning District found in Chapter 21.14 of Title 21.

EVIDENCE: The on-site inspection of the subject parcel by the project planner pursuant to Section 20.1467.030 of the Carmel Area Coastal Implementation Plan.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development found in File No. 980276.

4. FINDING: The proposed improvements will not present an unsightly appearance, impair the desirability of residences in the same area, limit the opportunity to obtain the optimum use and value of land improvements or impair the desirability of living conditions of the same or adjacent area.

EVIDENCE: This is supported by site review conducted by staff and review of the plans and application materials submitted for the project and the compatibility of the project design with the surrounding area.

EVIDENCE: Review by the Carmel Unincorporated/Highlands Land Use Advisory Committee on September 8, 1998.

5. FINDING: The proposed project to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road will not adversely impact traffic conditions in the area.

EVIDENCE: The proposed project has been reviewed by the Monterey County Department of Public Works.

6. FINDING: The proposed project is consistent with policies of the Carmel Area Land Use Plan dealing with Forest Resources Development Standards. A Forest Management Plan was prepared for the site by Caltrans, and is on file in the Monterey County Planning & Building Inspection Department. The report states that 2 Monterey Pines ranging from 24 to 64 inches in diameter and 1 Coast Live Oaks 48 inches in diameter, are proposed for removal for the road improvements. The Forester determined that the removal of the 3 trees would not be detrimental to watershed, wildlife habitat or visual resources. **However, further studies onsite have determined one of the pines has been killed by pitch canker, and the oak would be preserved with construction of a crib wall.**

EVIDENCE: Forest Management Plan prepared by Caltrans and letters contained in file No.980276.

7. FINDING: The proposed project is consistent with policies of the Carmel Area Land Use Plan dealing with development adjacent to environmentally sensitive habitats. The Biotic Report prepared for the site by Caltrans, states that no significant negative impact, **significant disruption of any critical habitat**

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values or affect long-term survival of a species, will result from this development with incorporation of mitigation measures. No rare or endangered species were observed on the property. The Biotic Report and documentation from Caltrans has further measures that have been taken to avoid and minimize impacts to the wetland and forest habitat. Mitigation measures onsite have been taken to mitigate unavoidable impacts to the wetland and forest habitat. Conditions require the applicant to comply with the mitigation contained in the biotic report and the initial study.

EVIDENCE: The Biotic Report prepared for the site by Caltrans contained in file No.980276, pursuant to requirements of the Carmel Area Land Use Plan; Conditions of approval.

8. FINDING: The project as proposed is consistent with policies of the Monterey County Coastal Implementation Plan and the Carmel Area Land Use Plan dealing with development in archaeologically sensitive areas. An archaeological survey has been conducted on the project site by Caltrans. The report states that there are no archaeological resources located on the project site.

EVIDENCE: Archaeological report prepared by Caltrans, contained in file No.980276; Conditions of approval.

9. FINDING: The proposed project is consistent with policies of the Carmel Area Land Use Plan dealing with development in hazardous areas. The site is located in a hazardous geologic zone and a geotechnical report has been prepared for the project by Caltrans. The report concludes that the proposed project can proceed with conditions.

EVIDENCE: Resource Maps of the Carmel Area Land Use Plan.

EVIDENCE: Geotechnical Report prepared for the project by Caltrans contained in project file No. 980276; conditions of approval.

10. FINDING: The conditions of approval are appropriate.

EVIDENCE: The conditions are based on the recommendations of the Monterey County Water Resources Agency, State Department of Fish and Game, and Monterey County Planning and Building Inspection Department. The conditions of this project incorporate the concerns and recommendations of those various agencies.

11. FINDING: The request for the proposed development to be located on 30 percent slope is consistent with the Carmel Area Land Use Plan since the proposed development better achieves the resource protection objectives and policies of the Carmel Area Land Use Plan and Coastal Implementation Plan.

EVIDENCE: The biological report prepared for the project by Caltrans contained in File No. 980276.

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EVIDENCE: The Forest Management Plan prepared for the project by Caltrans contained in File No. 980276.

12. FINDING: For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The project as proposed would have impacts to the riparian corridor.

13. FINDING: **Operational Improvement #5 will add a second turning lane from Carmel Valley Road to Highway One. The project would reduce traffic congestion on northbound Highway One from Carmel Valley Road. The project has been designed to minimize impacts on the riparian corridor. The establishment of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.**

EVIDENCE: The work requested is the minimum required to promote public health and safety by reducing traffic congestion.

EVIDENCE: Findings 1-12.

14. FINDING: The project, as approved by the Combined Development Permit, is appealable to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: Section 20.86. of the Monterey County Coastal Implementation Plan.

DECISION

THEREFORE, It is the decision of the Board of Supervisors that said Combined Development Permit be approved as shown on the attached sketches, subject to the following conditions:

1. This Combined Development Permit consists of Amendments to the Carmel Area Land Use Plan and Coastal Implementation Plan to allow development within environmentally sensitive wetlands and riparian areas for the purpose of allowing an additional right turn lane from Carmel Valley Road onto northbound Highway One; Coastal Development Permit to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road; a request for a waiver of the policy prohibiting development on slopes in excess of 30%; grading; and tree removal (3). The project is in accordance with County ordinances and land use regulations subject to the following terms

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and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning and Building Inspection Department)

2. Prior to final inspection, the applicant shall provide the Director of Planning and Building Inspection written proof that a qualified geotechnical engineer has provided written certification that all development has been in accordance with the geotechnical report prepared by Caltrans. (Planning and Building Inspection Department)
3. The final grading plans shall include measures contained in the Geotechnical Report prepared by Caltrans, as approved by the Director of Planning and Building Inspection and the General Manager of the Monterey County Water Resources Agency. During construction, erosion control measures shall be in place in areas to be graded, as well as around the stockpiled soils. These construction measures are in the form of dust control and hay bales at the appropriate areas of work. Efforts which deal with historic and future erosion are enhanced by the surface and subsurface drainage improvements shown on the project plans together with the change in grade contours and revegetation of the slopes. Any changes to the project plans shall be approved by the Director of Planning and Building Inspection and the General Manager of the Monterey County Water Resources Agency. (Planning and Building Inspection and Water Resources Agency)
4. That no land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection Department. (Planning and Building Inspection)
5. Prior to issuance of building and grading permits, the applicant shall place a note on the grading plan that includes: watering exposed surfaces during clearing, excavation, stockpiling and grading, and in the late morning and the end of each workday. Grading activities shall be prohibited during periods of high winds greater than 30 miles an hour. (Planning and Building Inspection)

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6. The site shall be landscaped. Applicant shall prepare and submit landscape and restoration plans to Monterey County Planning and Building Inspection Department for approval which show tree replacement planting and identifies the location, specie and size of trees, prior to final inspection of the improvements. Three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall include the following:

- a) Identify location, specie and size of trees to be planted. Applicant shall replant three five gallon Monterey cypress, and oak removed.
- b) Provisions for the eradication of exotic species in the landscape plan. The removal of exotic species shall be in accordance with the Biotic Report
- c) Provisions for the revegetation of native species in the riparian zone. The landscape plan shall identify species, densities, and performance criteria, as recommended in the Biotic Report.
- d) The revegetation plan shall be prepared by a qualified biologist to include plant species that provide wildlife habitat in the riparian zone.
- e) **The landscape and grading plan shall include the crib wall for the oak tree.**
- f) **The restoration plan shall include pine cone collection and storage procedures for the Monterey pines, proposed for removal, that have not been impacted by Pine Pitch Canker at the time of removal.**

The landscaping shall be installed prior to final clearance of the proposed development.(Planning and Building Inspection)

7. Trees not proposed for removal shall be protected from inadvertent damage by construction equipment in accordance with recommendations of Monterey County Planning and Building Inspection Department. Such protection measures shall be in place prior to issuance of grading permits. (Planning and Building Inspection)

8. The applicant shall prepare a five year Monitoring Program. The purpose of the monitoring program is to insure the long term health of the restoration area as well as the neighboring wetland habitat areas. The Monitoring Program shall require a yearly update on the status of the restoration area to be submitted to the Director of Planning and Building Inspection Department.(Planning and Building Inspection Department)

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9. If, during the course of construction, cultural, archaeological, historical or palentological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (Planning and Building Inspection Department)
10. Prior to issuance of building or grading permit a notice shall be recorded with the Monterey County Recorder which states: "A Geotechnical Report has been prepared for this parcel by Caltrans and is on record in the Monterey County Planning and Building Inspection Department. All development on the parcel must be in accordance with the Geotechnical Report, as approved by the Director of Planning and Building Inspection." (Planning and Building Inspection)
11. Prior to issuance of building or grading permit a notice shall be recorded with the Monterey County Recorder which states: "A Forest Management Plan has been prepared for this parcel by Caltrans and is on record in the Monterey County Planning and Building Inspection Department. All tree removal on the parcel must be in accordance with the Forest Management Plan, as approved by the Director of Planning and Building Inspection." (Planning and Building Inspection)
12. Prior to issuance of building or grading permit a notice shall be recorded with the Monterey County Recorder which states: "A Biotic Report and **additional recommendations** have been prepared for this parcel by Caltrans and is on record in the Monterey County Planning and Building Inspection Department Library. All vegetation removal and restoration of the parcel must be in accordance with the Biotic Report, as approved by the Director of Planning and Building Inspection." (Planning and Building Inspection)
13. Prior to issuance of building or grading permit a notice shall be recorded with the Monterey County Recorder which states: "An Archaeological Report has been prepared for this parcel by Caltrans and is on record in the Monterey County Planning and Building Inspection Department Library. All work on the parcel must be in accordance with the Archaeological Report, as approved by the Director of Planning and Building Inspection." (Planning and Building Inspection)
14. Tree removal, grading, site preparation and construction activities shall not commence on the site until final approval of the amendments to the Carmel Area Land Use Plan and Coastal Implementation Plan is granted by the California Coastal Commission. (Planning and Building Inspection)

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15. The property owner agrees as a condition of the approval of this permit to defend at his sole expense any action brought against the County because of the approval of this permit. The property owner will reimburse the County for any court costs and attorneys' fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve applicant of his obligations under this condition. Said indemnification agreement shall be recorded upon demand of County Counsel or prior to the issuance of building permits or use of the property, whichever occurs first. (Planning and Building Inspection Department)
16. The applicant shall record a notice which states: "A permit (Resolution No. ____) was approved by the Board of Supervisors for Assessor's Parcel Number 000-000-000-000 on February 9, 1999. The permit was granted subject to 16 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (Planning and Building Inspection)

Upon motion of Supervisor _____, seconded by Supervisor _____, and carried by those members present, the Board of Supervisors ap
Coastal Development Permit and Design Approval, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, SALLY R. REED, 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 Supervisors duly made and entered in the minutes thereof at page ____ of Minute Book ____ on ____.

Dated:

SALLY R. REED, Clerk of the Board of Supervisors, County of Monterey,
State of California.

By _____ Deputy

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

(831) 427-4863

Th4bC-77
4/21/99

April 21, 1999

TO: Commissioners and Interested Persons

FROM: Tami Grove, Deputy Director
Charles Lester, District Manager
Rick Hyman, Coastal Program Analyst

SUBJECT: **MONTEREY COUNTY: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-99.** For public hearing and Commission action at its meeting of May 13, 1999 at Flamingo Resort Hotel in Santa Rosa.

SUMMARY OF STAFF REPORT**DESCRIPTION OF AMENDMENT REQUEST**

Monterey County is proposing to amend the Land Use and Implementation portions of its Local Coastal Program to allow wetland fill of .05 acres at the corner of Highway One and Carmel Valley Road at the edge of the coastal zone in Monterey County, to facilitate construction of an additional right-turn lane. To approve the project under the amendment the following criteria would need to be satisfied:

- there is no reasonable alternative,
- public safety and welfare require the project,
- impacts are avoided and minimized,
- unavoidable impacts are mitigated,
- no critical habitat values are significantly disrupted,
- there are no adverse effect on the long-term survival of a species,
- compensatory mitigation is established off-site;
- mitigation is designed to accommodate, where possible, a 50-foot setback for intermittent streams, a 100-setback for perennial streams, and a 150 foot wetland setback.

This amendment was filed on April 12, 1999. The standard of review for a Land Use Plan is consistency with the Coastal Act, and the standard for an Implementation Plan amendment is that it must be consistent with and adequate to carry out the policies of the certified Coastal Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the proposed amendments as submitted by the County for the reasons given in this report. The proposed amendment is consistent with

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Section 30233a(5) of the Coastal Act which allows wetland fill for incidental public works projects, provided that there are no feasible alternatives and that mitigation is included.

SUMMARY OF ISSUES AND COMMENTS

County and CALTRANS public hearings elicited substantial public comments on this proposed amendment. Several people supported the proposal. Proponents of the Hatton Canyon freeway preferred that solution to traffic problems rather than the highway widening that the proposed amendment would facilitate. One party does not believe the wetland fill is consistent with the Coastal Act's resource protection policies.

ADDITIONAL INFORMATION

For further information about this report or the amendment process, please contact Rick Hyman or Charles Lester, Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; Tel. (831) 427-4863.

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ATTACHMENTS

- A. Proposed Amendment
- B. Location Map
- C. Wetland Map
- D. Condition #7 of coastal permit #3-96-033

I. STAFF RECOMMENDATION

MOTIONS AND RESOLUTIONS

A. APPROVAL OF LAND USE PLAN AMENDMENT #1-99

MOTION A:

*"I move that the Commission **approve** Major Amendment #1-99 to the Carmel Area Land Use Plan segment of the Monterey County Local Coastal Program as submitted by the County."*

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Staff recommends a "YES" vote which would result in **approval** of this amendment as submitted. An affirmative vote by a majority of the appointed commissioners is needed to pass the motion.

RESOLUTION A:

The Commission hereby **approves** Major Amendment #1-99 to the Carmel Area Land Use Plan segment of the Monterey County local coastal program, as submitted for the specific reasons discussed in the recommended findings on the grounds that, as submitted, the amendment and the LUP as thereby amended meet the requirements of the Coastal Act. Approval will not have significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

B. APPROVAL OF IMPLEMENTATION PLAN AMENDMENT #1-99

MOTION B:

"I move that the Commission reject Major Amendment #1-99 to the Monterey County Local Coastal Program Implementation Plan as submitted by the County."

Staff recommends a "NO" vote which would result in **approval** of this amendment as submitted. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present can pass the motion thereby rejecting the amendment (otherwise the amendment is approved as submitted).

RESOLUTION B:

The Commission hereby certifies Major Amendment #1-99 to the Implementation Plan of the Monterey County local coastal program, on the grounds that the amendment conforms with and is adequate to carry out the certified Land Use Plan; and approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

II. RECOMMENDED FINDINGS

The Commission finds and declares:

A. LAND USE PLAN AMENDMENT:

The proposed amendment would add the following text to *Carmel Area Land Use Plan* policy 2.3.1. Riparian1:

As a exception, the construction of an additional right-turn lane from Carmel Valley Road onto northbound highway 1 shall be allowed if it can be demonstrated that there is no reasonable alternative, public safety and

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welfare require the project, all reasonable measures have been taken to avoid and minimize impacts, all reasonable measures have been taken to mitigate unavoidable impacts, and it can be demonstrated that the impacts will not result in a significant disruption of critical habitat values or affect the long-term survival of a species. Compensatory mitigation shall be established off-site. Mitigation shall be designed to accommodate, where possible, a 50-foot setback for intermittent streams, and a 100-foot setback for perennial streams.

Almost identical text would be added to policy 2.3.4.Wetland.1 except that it would specify a 150 foot wetland setback in the mitigation area (see Attachment A).

The test of approval is the Coastal Act. Section 30233 of the Coastal Act provides in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, **where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:**

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) **Incidental public service purposes**, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

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(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) ...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division. (emphasis added)

Also, applicable is 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. (emphasis added).

To these ends the *Carmel Area Land Use Plan* has strict policies preventing fill in wetlands and requiring 100 foot buffers around them. It currently only allows for small-scale, resource-dependent uses in wetlands. Riparian corridors are similarly protected. Thus, the County is proposing the amendment to allow a needed highway project that potentially does not meet the existing *Plan* policies.

The area in question is a drainage swale at the edge of the coastal zone, running parallel to and below the inland edge of Highway One above Carmel Valley Road (see Attachments 2 and 3). There is a culvert under Carmel Valley Road and the drainage swale continues on its southerly side, eventually connecting to the main stream through Hatton Canyon to the east. Because the highway fill was placed across the normal flow of runoff from this hillside, water concentrates along the toe of the fill slope. The resultant moist conditions support the growth of willows and other species that would be ordinarily found in a natural riparian habitat area.

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A biotic survey was performed in this area anticipated to be affected by the highway project that this amendment is designed to facilitate. Some parts of this drainage ditch in the area anticipated to be altered by the highway project meets the U.S. Army Corps of Engineers criteria for wetlands (soils, hydrology, and vegetation). Additional area (which is being defined as "other waters" of the United States) may also meet the Coastal Commission's and County's wetland definition (using the U.S. Fish and Wildlife Service's classification of Wetlands and Deep Water Habitats of the United States). The amount of wetland anticipated to be impacted is only .051 acres (2,315 square feet) in the Coastal Zone. An additional 8,700 square feet of associated riparian woodland habitat in the coastal zone may also be impacted. It should be noted that these determinations are not affected by the likelihood that the affected wetlands are entirely the product of highway construction, and the resultant alteration of natural hillside drainage patterns.

Coastal Act policy 30233 allows wetland fill only for limited uses (including incidental public services), and only where no feasible less damaging alternatives exist, and adequate mitigation is provided. Since the *Carmel Area Land Use Plan* governs the issuance of coastal permits, any criteria it contains for allowing wetland fill must be no less rigorous than these Coastal Act criteria. Because the amendment is being proposed to facilitate a specific project, it is also useful to know whether such a project can potentially meet these criteria.

The proposed amendment adequately meets these criteria. First, the amendment would allow an additional right-turn lane at an intersection where two roads (Highway One and Carmel Valley Road) already exist. The improvement is minor in the context of the overall amount of road development; it is not for a new road. It will relieve severe a traffic bottleneck but will not change road capacity overall. Thus, the wetland fill that the amendment would allow is for an incidental public service, consistent with part a(5) of Section 30233 and will be limited to relatively minor operational improvements for this portion of Highway One.

Second, the amendment requires a finding that there are no other reasonable alternatives to the project. If a reasonable alternative is found during the permit analysis, then the amendment would not allow for wetland fill, consistent with 30233(a). For example, at a regional level this analysis could compare this project to a project on another alignment such as the "Hatton Canyon Parkway". The Commission is already aware of the proposed Hatton Canyon Parkway, which could obviate the need for improvements to Highway One and its intersections if it was found to be a reasonable alternative. Most recently, though, the funding for that project has been eliminated by the Transportation Authority of Monterey County. It should also be noted that the project facilitated by this amendment is not, by itself, an alternative to the Hatton Canyon Parkway, but rather, is part of an original package of twelve operational improvements along Highway One to provide short-term traffic relief.

Also consistent with 30233(a), the amendment requires that mitigation measures be employed in several ways. These include avoidance of impacts, minimizing impacts, mitigation of unavoidable impacts, no significant disruption of habitat values and long-term species survival, compensatory mitigation for the wetland fill off-site, and setbacks from streams. The options are sufficient to result in adequate mitigation. Since the amendment would only allow one additional lane and since the area of potential impact is a narrow drainageway, the potential impact is not great. Given the right-of-way available in the immediate area, there should be

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room to include some on-site mitigation such as rechannelling the drainage and replanting new roadway fill with native vegetation. And given CALTRANS property interests in the vicinity, including the nearby Hatton Canyon corridor and the intended mitigation bank restoration area at the Carmel River Lagoon, there should be adequate area in which to undertake the required compensatory creation of replacement wetland for any that is filled by the permitted project. Also, this amendment does not affect other already certified policies that will be applicable to the turn lane project, such as 2.3.3.5, which requires field surveys by qualified agency personnel and inclusion of mitigation measures to ensure habitat protection.

Overall, therefore, the proposed language meets the three Section 30233(a) tests. The amendment may be approved because the *Carmel Area Land Use Plan*, as amended, will remain consistent with the Coastal Act.

Finally, the Commission notes that the County has conceptually approved a coastal development permit for the additional turn lane in conjunction with approving this amendment. After this Commission action on the amendment, the County must act to finally approve this amendment and put it into effect and also to give its final approval to the coastal permit. As a major public works project*, the coastal permit could be appealed to the Coastal Commission (whether approved or denied by the County). At that time, the Commission would examine whether the County's action on the project was consistent with the criteria established in this amendment. Assuming the County's action was to approve the project, these considerations would include whether there were any feasible alternatives and if not, whether there was adequate mitigation. These findings note that potentially these criteria can be met. However, the Commission's action on this amendment does not in any way imply approval of the specific proposed project because the Commission is not yet reviewing how the project (as may be conditioned by the County) satisfies the criteria of the amended land use plan. Furthermore, any use of the Carmel River Lagoon mitigation bank as compensatory mitigation for this project would have to satisfy condition #7 of coastal permit # 3-96-033 issued by the Commission for that banking project (see Attachment D).

B. IMPLEMENTATION PLAN AMENDMENT

The proposed implementation plan amendment would add similar language to that proposed for the land use plan amendment to the following Code Sections: 20.146.040; 20.146.040.B1; 20.146.040.B2; and 20.146.040C.2 (see Attachment A). These sections implement the land use plan policies proposed for amendment. Other sections, addressing habitat protection, such as 20.146.040.B6 requiring consultation with the Department of Fish and Game, as well as incorporation as permit conditions the recommendations of the Department of Fish and Game, would not be altered by this amendment and would be applied to the subject project. Thus, the implementation plan amendment can be approved because, the plan as amended will remain consistent with and adequate to carry out the certified land use plan, as amended.

* Note: Although incidental for purposes of Coastal Act Section 30233, Section 13012 of the Commission's regulations defines a "major public work" as projects costing more than \$100,000 (slightly more when adjusted for inflation). This project would cost approx. \$500,000.

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C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. In this case the County approved a Negative Declaration for the amendment. Approval of the amendment complies with the California Environmental Quality Act. As discussed above, it will not have significant environmental effects for which feasible alternatives or mitigation measures have not been employed. As noted, the amendment builds in the consideration of feasible alternatives and mitigation measures in any future project approval.

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

NOEL DARO MARSTEADP.O. Box 1962 Carmel, CA.93921

Zip

(831) 655-3304

Area Code

Phone No.

mapstead@ix.netcom.comSECTION II. Decision Being Appealed

1. Name of local/port government:

Monterey County

See Attachment A

2. Brief description of development being appealed:

Hy 7 operational improvement # 5/Cal TransHy 7 and Carmel Valley Road intersection improvementHearing held Feb 9, 1999.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Highway 7 and Carmel Valley Road

4. Description of decision being appealed:

adoption of reg. dec

a. Approval; no special conditions:

Combined Development

b. Approval with special conditions:

and permit

c. Denial:

amendment to LCP

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3MCO-00-035DATE FILED: 3/28/00DISTRICT: Central Coast

H5: 4/88

RECEIVED

FEB 23 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREAEXHIBIT NO. GAPPLICATION NO.
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other

6. Date of local government's decision: Feb 9, 1999

7. Local government's file number (if any): ?

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
CAI TRANS District 5 San Luis Obispo, Ca.

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Will try to submit
(2)
(3)
(4)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

- 1) Combined development permit and amendment
do not comply with PRC 30240(a). ^{OK Carmel LCP/cip} The project
and amendment allow a non-resource dependent use
otherwise,
- 2) The project is not in an ESH or wetland and does not
need an amendment. Under Coastal Act the findings
do not meet the definitions of ESH or wetland or FWS.
- 3) Project and Amendment subject to an EIR per CERA
- 4) Big part of 4y1 improvement are a waste of Tax dollars.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Noël Oard Mapstead
Noël Oard Mapstead
Signature of Appellant(s) for
Authorized Agent

Date 2.23.1999

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

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APPLICATION NO. <u>A-3-MC0-00-035</u>
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REPORT TO THE MONTEREY COUNTY BOARD OF SUPERVISORS

<p>SUBJECT: Set a public hearing for February 9, 1999, at 10:00 A.M. to consider adoption of the Negative Declaration and a Combined Development Permit consisting of a resolution of intent to Amend the Carmel Area Land Use Plan and Coastal Implementation Plan to allow specified development within environmentally sensitive wetlands and riparian areas; Coastal Development Permit to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road; a request for a waiver of the policy prohibiting development on slopes in excess of 30%; grading; and tree removal (3). The site is located northeasterly of the corner of Highway One and Carmel Valley Road in the Carmel Area of the Coastal Zone and Carmel Valley.</p> <p>Staff recommendation: Set a public hearing for February 9, 1999, at 10:00 A.M.</p>	<p>MEETING DATE 1/26/99 CONSENT</p>	<p>AGENDA NUMBER</p>
<p>PLANNING & BUILDING INSPECTION DEPARTMENT</p>		

RECOMMENDATION

It is recommended that the Board of Supervisors set a public hearing for February 9, 1999 to consider:

1. Adoption of the Negative Declaration (Exhibit "A"); and
2. Adoption of a resolution of intent to amend the Carmel Area Land Use Plan and Monterey County Coastal Implementation Plan, to add language to allow development within environmentally sensitive wetlands and riparian areas in order to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road, which would include Policy 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats and Policy 2.3.4 Wetland and Marine Habitats of the Carmel Area Land Use Plan and Sections 20.146.040 B.1, B.2 and C.2.d of the Monterey County Coastal Implementation Plan (See Exhibit "C"); and
3. Approval of the Combined Development Permit consisting of Coastal Development Permits for Caltrans to construct a second right turn lane onto northbound Highway One by widening Highway One and Carmel Valley Road; a request for a waiver of the policy prohibiting development on slopes in excess of 30%; grading; and tree removal (3), with the recommended Findings, Evidence and Conditions as attached in Exhibit "D".

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ATTACHMENT "A"

Rick Hyman

From: Keiko Suga & Noel Oard Mapstead [mapstead@ix.netcom.com]
Sent: Tuesday, March 28, 2000 2:40 PM
To: Rick Hyman
Subject: Re: appeal of Carmel Valley Rd intersection widen

hi rick:

<P>

i was not able to stop by after class at ucsc. please accept the appeal as is and it will be supplemented later.

i dont believe that any changes have been made to my objections. The cal trans letter of october 25 , 1999

containing recommened modifications does not address them, nor does the countys decision of feb 8, 2000.

<P>

the project remains a non resource dependent use, and the findings have yet to address this issue. Nor has any new information been given by cal trans or the county as to how the area or the few willows are an esh. Further, the amendment does not resolve the esh resource dependent issue. And finally, the project is just part of the greater eis/eir alternatives and should be looked as such, instead of piecemeal, given the county land use plan (gmpa) that calls for an interchange/overpass at carmel valley road in lieu of the hatton canyon freeway, of which this project would conflict with. That is, other arguments against this project state that it is a waste of funds to build, becasue the extra lane would be torn out when the freeway was built. It is also a waste of funds to build if an overpass is to be built; there is another alternative and the finding that there is none is incorrect. also, esh law does not provide for mitigation.

<P>

its my position that that there is no esh, and that the project should be permitted without this issue. Otherwise this project sets a precedent to allow any project in an esh with exceptions, which is not how the law was made to protect esh, and thereby creating jeporady. A few willows alone does not establish an esh, just like not all monterey pine trees establish an esh. The carmel area lup distinguishes 5 areas of pines as esh not the whole area.

<P>

please accept this email as part of the appeal, and let me know the scheduling of the appeal

<P>

thank, noel oard mapstead

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