

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th8**RECORD PACKET COPY****Prepared July 27, 2000 (for August 10, 2000 hearing date)****To:** Coastal Commissioners and Interested Parties**From:** Peter Douglas, Executive Director
Tami Grove, Deputy Director
Kelly Cuffe, Coastal Planner**Subject:** Commission Determination of Appeal Jurisdiction and Applicable Hearing and Notice Provisions for Monterey County Coastal Development Permit application PLN980149 (Philip and Betsy Bliss; construction of a 13,016 sq. ft. Single Family Dwelling with swimming pool, 7,600 cy grading, septic system, water tank and 425 sq. ft. guest house).**Summary**

The Monterey County Board of Supervisors approved a Coastal Development Permit (CDP) on January 11, 2000 for construction of a 13,016 square foot single family dwelling, 425 square foot guest house, pool, septic system and water tank on a 40-acre parcel near Point Lobos State Reserve (PLN980149). A notice of final local action on this project was received in the California Coastal Commission Central Coast District Office on June 29, 2000. The notice states that the project is not appealable to the Coastal Commission. Previous notices for the project stated that the project was appealable to the Coastal Commission. The Commission's Executive Director has disputed the recent County determination that the Bliss project is not appealable.

After certification of a Local Coastal Program (LCP), the Commission is authorized, under CCR Title 14, §13569 and County LCP section 20.70.115 to resolve disputes concerning a local government's proposed processing of a development application for coastal development permits (i.e., to determine whether the development is categorically excluded, non-appealable, or appealable). Under the terms of §13569, when the local jurisdiction does not agree with the Executive Director's determination regarding the appropriate permitting status of a particular proposal, the Commission is required to hold a hearing and make the determination at the next meeting in the appropriate geographic region of the State following the Executive Director's determination. The next relatively "local" hearing is not scheduled until December 2000, in either San Rafael or San Francisco; therefore, to expedite this determination, the Commission has scheduled this item for the next hearing, August 8-11, 2000 in Huntington Beach.

In this case, Commission staff disagrees with Monterey County's latest findings that the Bliss project is not appealable to the Coastal Commission. In a letter dated July 11, 2000, Commission staff informed Monterey County of their reasons for this dispute, described the procedures for resolving the dispute, and asked that the County follow these procedures by requesting a Commission determination of the appealability of the Bliss project. The letter also specified that such a determination would be self-triggering if the County did not respond by July 17, 2000, and that Commission staff would proceed with the determination on appealability, pursuant to CCR 14 Section 13569 and LCP Section 20.70.115. Staff also sent the final action notice back to the County as inadequate, pursuant to CCR 14 Section 13572,



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August 2000 Meeting in Huntington Beach

Staff: K. Cuffe Approved by:
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because it incorrectly states that the project is not appealable and because updated plans depicting the revised project were not included. The deficiency notification further advised the County that the effective date of the final action was suspended and that no coastal development permit could be issued until an adequate notice of the final local action was received.

The County elected not to respond to the July 11 letter, but has since indicated (via telephone conversation with Commission staff) that it disagrees with the staff determination that the Bliss project is appealable and stated that it does not currently intend to re-notice and rehear the item as appealable. In addition, other appellants to this project continue to press for a final determination on the appealability of the project. Therefore to move forward on this issue, as was explained to the County would occur, staff recommends that the Commission determine the appeal status of this application pursuant to section 13569(d) of the Regulations.

As discussed in detail in the findings below, the Executive Director has determined that the project site is located entirely within an Environmentally Sensitive Habitat Area (ESHA) and is therefore appealable to the Coastal Commission pursuant to Section 20.02.060(B)(e) of the certified LCP effectively because such development does not qualify as a principally-permitted use. Staff recommends that the Commission concur with the Executive Director's determination and direct Monterey County to process and notice an appealable coastal development permit for the proposed development at this site consistent with the LCP requirements.

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Exhibit F: January 10, 2000 letter from Tami Grove to Monterey County Board of Supervisor's regarding comments on revised staff recommendation

Exhibit G: January 11, 2000 letter from Tami Grove to Lombardo and Gilles regarding Boundary Determination for Bliss Parcel

Exhibit H: January 26, 2000 Letter from Tami Grove to Monterey County Board of Supervisor's Chairman Louis Calcagno regarding procedures for requesting Executive Director's Determination

Exhibit I: July 11, 2000 letter from Tami Grove to Monterey County regarding insufficient notice

Exhibit J: Monterey County Board of Supervisor's Resolution 00-024, revised June 20, 2000

Exhibit K: July 27, 2000 Letter from Big Sur Land Trust to Tami Grove regarding appeal determination

Exhibit L: Relevant biological reports and correspondence excerpted from November 9, 1999 Board of Supervisors staff report

1. Executive Director's Recommendation

The Executive Director recommends that the Commission adopt the attached findings and determine that Monterey County Coastal Development Permit application (PLN980149), for Philip and Betsy Bliss be processed by Monterey County as a project that is subject to appeal to the California Coastal Commission.

***Motion.** I move that the Commission determine that Resolution 00-024, approving a Coastal Development Permit to construct a 13,016 sf single family dwelling, 425 sf guest house, septic system, pool and water tank (PLN 980149), authorized by Monterey County Board of Supervisors on January 11, 2000 (and revised June 20, 2000), shall not be undertaken unless and until an appealable coastal development permit is approved (by either the County or the Commission on appeal) for this project.*

***Staff Recommendation.** Staff recommends a YES vote. Passage of this motion will nullify the County's June 20, 2000 action on the local CDP (PLN 980149) and require that the application be the subject of a new properly noticed hearing that identifies the development as appealable to the Coastal Commission. A majority of the Commissioners present is necessary to pass the motion and adopt the following resolution and findings.*

***Resolution.** The Commission by adoption of the attached findings, determines, pursuant to Section 13569 of Title 14 of the California Code of Regulations, that the appropriate procedure for processing the proposed development authorized by the Monterey County Board of Supervisors on January 11, 2000 (and revised June 20, 2000) is as an application for an appealable coastal development permit.*



2. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Authority for Commission Determination

The California Coastal Act Section 30603 establishes the bases for appeal of locally issued Coastal Development Permits to the California Coastal Commission. In the event of a dispute about the status of a particular project, the California Code of Regulations (CCR), Title 14, Section 13569 (CCR 14 Section 13569) gives the Commission the authority to determine the applicable notice and hearing procedures for locally-issued Coastal Development Permits. It states in full:

CCR 14 Section 13569. The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the local government at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

- (a) The local government shall make its determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.*
- (b) If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a Commission determination as to the appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;*
- (c) The executive director shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable:*
- (d) Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government*



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request.

To implement this requirement, the Monterey County LCP Section 20.70.115 states:

Section 20.70.115 Determination of Permit Requirement. If the final decision of the local government is challenged by the applicant or an interested person pursuant to Chapter 20.88 of this Title [Appeals to Administrative Interpretations], or if the local government wishes to have a Commission determination as to the appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion which shall be made pursuant to Section 13569 of the Coastal Commission's regulations.

In short, after the certification of a LCP, the Commission is authorized to determine the appropriate status of a development proposal (i.e., whether it is categorically excluded, non-appealable, or appealable). The first step in this process is to request a determination from the Commission's Executive Director. If the Executive Director and the local government are in disagreement over the appropriate processing status, the Commission is charged with making the final determination.

B. CDP Project Description and Permit History

1. Project Description

Philip and Betsy Bliss filed an application for a Coastal Development Permit with Monterey County on September 24, 1998 for a single family dwelling, guesthouse, swimming pool, and septic system and water tank. The original design included 14,110 sf of structural coverage (13,685 sf two story single family dwelling, 425 sf guesthouse) and 16,779 sf of paved area. The original design also required 9000 cy of cut and 7,100 cy of fill. The project has since been revised to include the 425 sf guest house and a 13,016 sf split level single family dwelling, with 11,617 sf of structural coverage, 3,900 sf of paved area, and requiring 7,600 cy of cut with no fill. The building envelope has also been relocated northwest and down-slope of the original location lowering the base floor elevation (from 1570 to 1555' NGVD) and reducing the maximum height and elevation of the roof (revised design height of 24 ft and peak roof elevation of 1577.5 ft).

The 40-acre Bliss parcel (APN 416-011-17) is located on Point Lobos Ridge, easterly of Highway One and southerly of Point Lobos Ridge Road, in the Carmel Highlands Area of Monterey County (see Exhibits A and B). The site is zoned and designated WSC/80 (CZ) (Watershed and Scenic Conservation, 80-acre minimum). The proposed building site is located in the southwest portion of the 40-acre parcel and is located within the viewshed as defined by Policy 2.2.1 of the Carmel Area Land Use Plan and Section 20.146.20.Z. As discussed in detail below, the entire site is an Environmentally Sensitive Habitat Area, covered by maritime chaparral habitat (see Exhibits C and D).



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2. Monterey County Zoning Administrator

The earliest County staff report completed for the Zoning Administrator March 29, 1999 noted project impacts to ESHA as a significant issue and indicated that the project was appealable to the County and the Coastal Commission. The Zoning Administrator referred the project to the Planning Commission May 4, 1999 after the applicant requested a Planning Commission field trip to the site.

3. Monterey County Planning Commission

The Monterey County Planning Commission conducted a field trip to the project site on June 2, 1999 to view the project location and staking of the original project design. The Planning Commission conducted hearings on the project on June 9, 1999, July 14, 1999 and August 25, 1999, and issued Resolution 99-050 adopting the Negative Declaration and approving the CDP on August 25, 1999. The Planning Commission Resolution 99-050, which approved the project, stated that the permit approval was appealable to the County Board of Supervisors and the Coastal Commission. The Planning Commission's action (Resolution 99-050) was subsequently appealed to the Board of Supervisors by the California Department of Parks and Recreation, the Big Sur Land Trust, and the Sierra Club - Ventana Chapter due to concerns regarding ESHA, landform alteration, visibility within the viewshed, and ridgeline development.

4. Monterey County Board of Supervisors

Following submittal of appeals by the California Department of Parks and Recreation, the Big Sur Land Trust and the Ventana Chapter of the Sierra Club on the Planning Commission's Resolution 99-050, the Monterey County Board of Supervisors conducted de novo hearings of the project on November 9, 1999 and January 11, 2000. Notices for these hearings stated that the project was appealable to the Coastal Commission.

At the November 9, 1999 hearing, revised plans were submitted by the applicant, requiring the County to continue the hearing in January so that additional analysis of the project by the County Planning and Building Department could be provided. As previously described, the revised plans modified the proposed development from a two story structure to a split level structure and relocated the building envelope down-slope of the original location, lowering the base floor elevation and reducing the maximum height and elevation of the roof to address the visibility of the development. Consequently, a second de novo hearing was conducted on January 11, 2000, in which the Board of Supervisors approved a Coastal Development Permit for the Bliss project (Resolution 00-024). However, due to heavy workload schedules and reorganization of the County Planning Department during the spring/summer of 2000, the final findings and decision for Resolution 00-024, approved January 11, 2000 were not noticed until June 20, 2000.

Some dispute had previously arisen regarding appealability of the project based on Boundary Determination discussions between Commission and County staff (see Exhibits E, F, G)). Since County staff reports for all hearings, including the staff reports prepared for the Board of Supervisor's hearings (November 9, December 7, and January 11) stated that the project was appealable to the Coastal



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Commission, the matter of appealability was not at issue prior to the final action of the Board. However, the Action Minutes of the Board's January 11 hearing, received January 21, 2000, stated that the Board's final action would include additional findings and evidence, among which included the Board's determination that the project is not within the Coastal Commission's appeal jurisdiction under PRC Section 30603.

Based on these circumstances, and as directed by 14 CCR Section 13569 and LCP Section 20.70.115, Commission staff notified Monterey County by letter dated January 26, 2000 (Exhibit H), that Commission staff disagrees with the County's assertion that the project is not appealable to the California Coastal Commission. This letter concluded that, based upon a review of the facts of the case, the Executive Director should determine the appeal jurisdiction in this case, and described procedures for requesting such a determination. Commission staff received no response from the County regarding this dispute on the project's appealability.

Following receipt of this final local action on June 29, 2000, Commission staff reviewed the Board's Resolution 00-024 and sent Monterey County a notification of deficient notice July 11, 2000 (Exhibit I) on the basis that 1) the project was noticed as non-appealable (Finding 25), and 2) the project description was unclear (i.e., no square footage was given for the revised design of the house, and no plans were submitted showing the revised plan). The County was also advised that pursuant to CCR 14 Section 13570 and 13572, the effective date of the local government action was suspended and that the 10-working day Commission appeal period would not commence until a sufficient notice of the action was received in the office. Additionally, the County was notified again that Commission staff disputed the County's determination that the project was not appealable to the Coastal Commission and stated that if the County did not proceed with requesting an appealability determination as recommended by July 17, 2000, such a determination would be self-triggering and Commission staff would pursue the determination, pursuant to CCR 14 Section 13569 and LCP Section 20.70.115.

County staff has not formally responded to this July 11, 2000 letter indicating that a determination of appealability would need to be made by the Executive Director. Rather, County staff has indicated (via telephone conversation with Commission staff) that their findings included in Resolution 00-024 (see Exhibit J for complete text) establishes their position that the Board's approval of the project is not appealable to the Coastal Commission.

Following the Board of Supervisor's action approving the Bliss project in January (Resolution 00-024), the California Coastal Commission has received appeals from the California Department of Parks and Recreation, the Big Sur Land Trust, and the Sierra Club - Ventana Chapter. Collectively, the reasons for appeal cited include concerns regarding ESHA, ridgeline development, landform alteration, visibility within the viewshed, the overall mass, bulk and height of the development, and future land use of adjacent open space and wildlife habitat.

Therefore, as indicated in the July 11, 2000 letter, since the Commission has not received any formal request for Executive Director determination from the County, and since the Commission has received appeals from the three interested parties listed above (implicitly challenging the County's determination



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of appealability). The Commission has also received additional correspondence from the appellants pressing for a determination on the appealability of the project (see Exhibit K), Commission staff therefore recommends that the Commission proceed with the appealability determination, pursuant to CCR 14 Section 13569 and LCP Section 20.70.115.

C. Appealability Determination

1. Coastal Commission Determination

The Monterey County LCP specifically provides that all non-resource dependant uses (such as residences) are not allowed within an ESHA. Chapter 20.146 of the LCP (Regulations for Development in the Carmel Area Land Use Plan) includes the following relevant sections related to development standards for environmentally sensitive habitats of the Carmel Area Land Use Plan:

Section 20.146.040(B)(2). Only resource-dependent uses, including nature education and research, hunting, fishing and aquaculture, shall be allowed within environmentally sensitive habitats. Findings must be made with appropriate supporting data that such uses will not cause significant disruption of habitat values.

The only exception to the prohibition on non-resource dependent uses being sited within ESHAs is where Constitutional issues are raised concerning the protection of private property. Thus, just as the Coastal Act provides for the approval of limited development within an ESHA to avoid a takings of private property, notwithstanding the inconsistency with Section 30240, the Monterey County LCP also allows for such an exception. However, in order to do so, specific exception findings must be made.

The conditional nature of development proposed within parcels entirely composed of ESHA, as well as its concomitant appeal status, was certified by the Commission in LCP Section 20.02.060 (B), which states that any development approved under the provisions of Section 20.02.060(A) is appealable to the Coastal Commission as follows:

*20.02.060.(A). No building permit, grading permit, land use discretionary permit, coastal administrative permit, coastal development permit, exemption, categorical exclusion, or other permit relative to land use may be approved if it is found to be **inconsistent** with the Monterey County Local Coastal Program (emphasis added).*

20.02.060.(B). An exception to the finding required in Section 20.02.060.A may be considered by the Board of Supervisors on appeal, if it is found that the strict application of the area land use plan policies and development standards of this ordinance denies all reasonable use of the subject property. The exception may be granted only if the decision-making body is able to make the following findings:

...(e). that any development being approved under these provisions shall be one of the "allowable uses" as listed under the parcel's zoning classification and that it shall be



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appealable to the California Coastal Commission in all cases (emphasis added).

The logic underlying the appealability requirement of Section 20.02.060(B) derives from the Coastal Act Section 30603(a)(4) requirement, which provides that in coastal counties, all development that is not listed as the principal permitted use under the zoning ordinance are appealable to the Coastal Commission. Similarly, the Monterey County LCP provides for the appeal of projects that are not the principal permitted use in the underlying zoning district. Authority is found in Section 20.86.080, which states:

20.86.080.(A). An appeal of a County decision on a coastal development permit application may be filed by an applicant or any aggrieved person who has exhausted all County appeals pursuant to this Chapter, or by any two (2) members of the California Coastal Commission. Appeals by members of the Coastal Commission may be made following decisions of the Appropriate Authority. The following coastal permit applications are appealable to the Coastal Commission:

3. Any approved project involving development that is permitted in the underlying zone as a conditional use. Uses listed as principal uses are not appealable to the Coastal Commission unless they fall within the above categories by location.

Certainly the situation of non-resource dependent development proposed within ESHA qualifies as a conditional use situation, subject to appeal to the Commission, as it can only be allowable if a finding can be made that all reasonable use of the property would otherwise be denied. Thus, the significant discretion involved in such override decisions is akin to that typically exercised when evaluating a conditional use. It is clear that a development that cannot be approved but for Constitutionally-driven takings exception findings cannot be a principally-permitted use. The County's LCP thus has provided the explicit mechanism to ensure that any such situations are clearly appealable under Section 20.02.060(B)(e).¹

In this particular case, the site of the proposed Bliss development is located entirely within an Environmentally Sensitive Habitat Area covered by maritime chaparral (See Exhibit C, LUP Map of Plant Communities). Maritime chaparral is considered ESHA because of the rare, endangered and sensitive species of plants and wildlife that it supports (see LUP Section 2.3).

According to Finding 8 of the County's Resolution 00-024, "...of the total 40 acres of maritime chaparral habitat on the site, approximately one acre of the natural habitat will be lost to this development." The County thus found that the entire 40-acre site is environmentally sensitive maritime chaparral habitat. The County's Finding 9 further indicates that the site is ESHA by stating that:

¹ It is worth noting that the LCP establishes a similar grounds for appeal at Section 20.78.050(E), which defines any principal permitted uses authorized by variance for other than height, setback, coverage and building site area as a conditional use appealable to the Coastal Commission. Obviously a land use that requires a variance cannot be considered a principally permitted use because of its prima facie inconsistencies with standards of the LCP. Hence, the approval of such a use is appealable to the Commission



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Based on the biological reports prepared for the site, over 80 percent of the vegetation on site is maritime chaparral. The only non-vegetated areas are located in existing road cuts. Any development on this site would be in and adjacent to environmentally sensitive habitat [emphasis added].

Additionally, the biological reports prepared by Jud Vandevere (June 22, 1998, revised July 12, 1999) and Jeff Norman (July 13, 1999, and January 5, 2000), state that the predominant vegetation type on the parcel is maritime chaparral (see Exhibit L). The maritime chaparral on the parcel is comprised of shaggy barked manzanita (*Arctostaphylos tomentosa* ssp. *tomentosa*; approximately 30%) but also hosts a number of rare, endangered or threatened species of plants, including Hooker's manzanita (*Arctostaphylos hookeri* ssp. *hookeri*, CNPS List 1B; approximately 25% of coverage), small leaved lomatium (*Lomatium parvifolium*, CNPS list 4; approximately 1% of coverage), and Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*), which is described as a rare plant. Rare, endangered and threatened animal species potentially present include the Monterey dusky-footed woodrat (*Neotoma fuscipes luciana*), peregrine falcon (*Falco peregrinus anatum*), sharp-shinned hawk (*Accipiter striatus*), golden eagle (*Aquila chrysaetos*), purple martin (*Progne subis*) and monarch butterfly (*Danaus plexippus*). Abandoned Monterey dusky-footed woodrat's nests also were found on the parcel in the vicinity of the proposed building site.

The biological reports conclude that the project impacts to biological resources include the loss of 0.45 acres of sensitive plant habitat (including 0.25 acres of Hooker's manzanita, 0.10 acre of small-leaved lomatium, and 0.10 acre of Monterey ceanothus) and the potential for significant growth of invasive plants. The biological reports propose mitigating these impacts by restoring 0.45 acres of maritime chaparral habitat, and implementing a weed control plan during and after construction.

In recognition of the entire site constituting ESHA, Finding 9 also states in part that the Board of Supervisors finds that the proposed project is consistent with LUP policy 2.3.3.1, and provides as evidence a statement that "...allowing only a resource dependent use would deny the owner substantial use of the property." Thus the County's findings indirectly but clearly infer that LCP Section 20.02.060(B) is applicable and therefore erroneously fail to make the necessary corollary finding that the project is therefore required to be appealable.

The project has therefore been determined by the Commission to be appealable under Section 20.02.060(B)(e) of the certified LCP because it proposes the development of a non-resource dependent use in an ESHA. Residential development is not considered a resource-dependent use and therefore is a conditional use, which by definition is appealable.

2. Monterey County Determination

Notwithstanding these facts, the County's finding 25 states that the project is not appealable to the Coastal Commission. The County includes the following reasons for making this determination:



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1. The project is not appealable under Section 20.86.080 because a single family dwelling is listed as a principal permitted use within the Watershed and Scenic Conservation zoning district.

Commission response: As discussed in detail above, residential development in ESHA is considered a conditional use and is therefore appealable under section 20.02.060(B)(e). Furthermore, Section 20.86.080(3) states that any project involving conditional uses permitted by the County are appealable.

2. The project is not within an appeal jurisdiction area.

Commission response: The project is appealable because the site is entirely ESHA. Again, under section 20.02.060(B)(e) in no case can such a non-resource dependent use be approved without making an override finding that includes finding that the use is allowable under the parcel's zoning classification and that the project is appealable to the Coastal Commission.

3. The presence of mitigation and the lack of adverse impacts on ESHA renders an ESHA override finding unnecessary.

Commission response: On its face, non-resource dependent development in an ESHA is inconsistent with the LCP and is only possible with an override finding that requires that the project be appealable to the Coastal Commission. Moreover, provision of mitigation does not negate the need to make such a finding. In fact, mitigation is not required without the impacts from development, and the development cannot occur without an override finding in the first place in cases such as this. Non-resource dependent use is not allowable within an ESHA under the LCP. If a reasonable use of the property would be denied without such a use, then an override finding must be made to allow it. Only if such findings can be made are any impacts allowable, and then those impacts must be mitigable. Thus the presence of mitigations cannot negate the need for override findings.

4. There are no sensitive coastal resource areas mapped within Monterey County that would qualify the project as being appealable under Section 30603(a)(3) of the Coastal Act.

Commission response: The Commission agrees that the project is not appealable under this narrowly interpreted section of the Coastal Act. However, the project is appealable for the other reasons mentioned above.

Therefore, in order for the County to approve non-resource development on ESHA, it must invoke Section 20.02.060(B), which includes the appeal provision. In addition, through this action, the County must also consider any such development in ESHA a conditional use, which by definition is appealable. The County has failed to address the policies of Section 20.02.060(B) and therefore erred in its conclusion that the project is not appealable. The Commission therefore finds that the County's findings are inconsistent with the Monterey County LCP policies regarding appealability.



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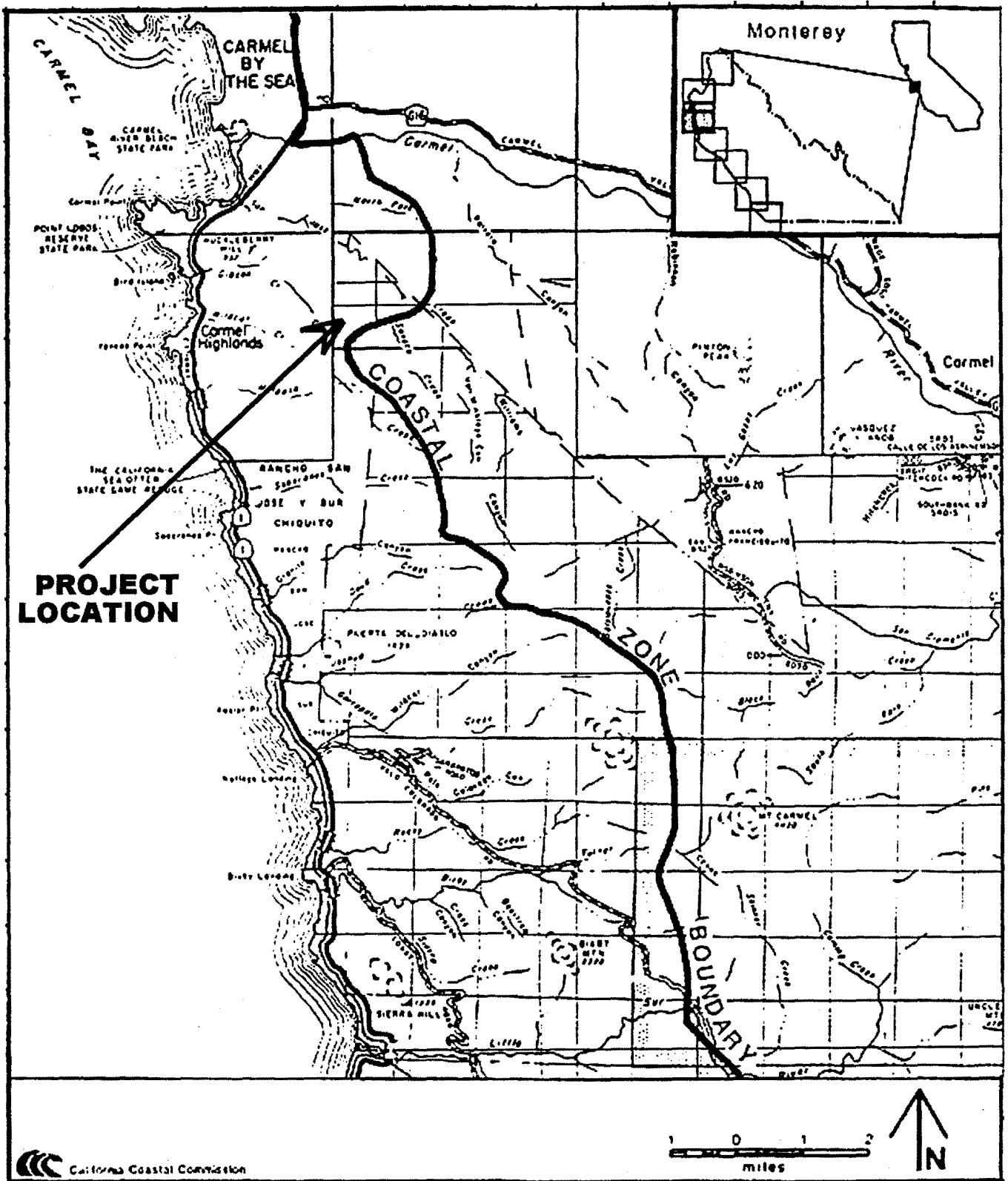
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3. Conclusion

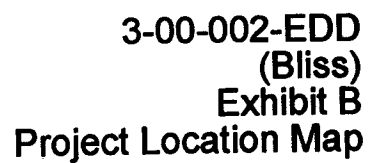
In conclusion, pursuant to 14 CCR Section 13569, the Commission finds that the project is appealable to the California Coastal Commission because the project site is located entirely within an Environmentally Sensitive Habitat Area (ESHA) and is therefore appealable to the Commission pursuant to Section 20.02.060(B)(e) of the certified LCP.

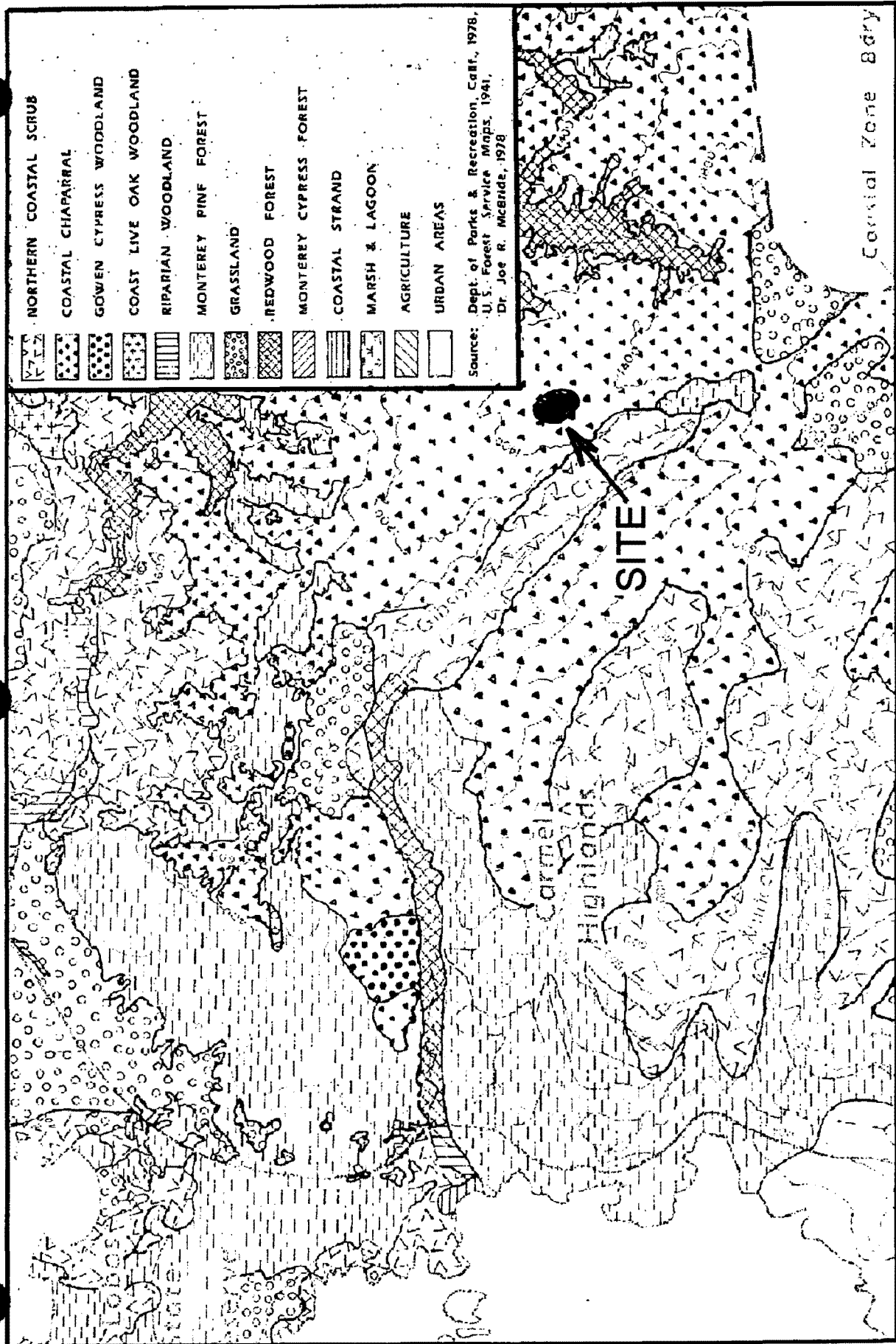


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 Bliss Appealability Determination
 Exhibit A
 Regional Location Map





(from 1985 Carmel Area Land Use Plan - Monterey County Local Coastal Program)

TABLE 1: SUMMARY OF PLANT AND WILDLIFE HABITATS
OCCURRING WITHIN THE CARMEL COASTAL SEGMENT

<u>Habitat Type</u>	<u>General Location</u>	<u>Resource Values</u>	<u>Status/Special Designation</u>
1. Northern Coastal Prairie	Point Lobos State Reserve; area adjacent to San Jose Creek.	<ul style="list-style-type: none"> - Near the southern limit of this habitat type. - Relatively rare habitat type in California. - Habitat for rare and endangered species. - High botanical/scientific/educational value. 	<ul style="list-style-type: none"> - State reserve. - San Jose Creek stand: privately owned.
2. Coastal and Maritime Chaparral	Primarily south of San Jose Creek at mid to higher elevations on dry, sandy soils/slopes (south to west-facing).	<ul style="list-style-type: none"> - Critical habitat for several dependent species of rodents and birds; important to certain larger predators such as the mountain lion. - Supports some endemic plant species, some considered rare and endangered. 	<ul style="list-style-type: none"> - Primarily privately owned. - A portion in Point Lobos State Reserve.
3. Gowen Cypress Woodland	Point Lobos State Reserve addition.	<ul style="list-style-type: none"> - Rare. - Endemic to Monterey County. - Relict of more widely distributed prehistoric closed-cone forest. - High botanical and educational value. 	
4. Monterey Cypress Forest	Point Lobos State Reserve.	<ul style="list-style-type: none"> - Rare. - Endemic to Monterey County. - Relict of closed-cone forest. - High scenic/aesthetic value. 	<ul style="list-style-type: none"> - State reserve.
5. Monterey Pine Forest	Malpaso Creek, Gibson Creek canyon-upper end	<ul style="list-style-type: none"> - Southernmost and highest natural stands. - High scenic/aesthetic value. 	<ul style="list-style-type: none"> - Privately owned.
6. Redwood Forest	San Jose, Gibson, and Malpaso Creeks; canyon bottoms and steep north-facing slopes extending from the upper reaches of San Jose Creek.	<ul style="list-style-type: none"> - Relatively restricted habitat type. - Important habitat for certain wildlife species. - High scenic/aesthetic value. - Important in watershed protection (slope stabilization, erosion control). 	<ul style="list-style-type: none"> - Privately owned. - State reserve (Gibson Creek).
7. Riparian Habitat	Carmel River, San Jose Creek (discontinuously), Malpaso Creek	<ul style="list-style-type: none"> - Critical wildlife habitat: supports a high diversity and abundance of wildlife; provides vital habitat for migratory birds; serves as important travel corridor; necessary for successful steelhead trout spawning runs. - Threatened habitat type. - Important in water quality protection (erosion and sedimentation control). - High scenic/aesthetic value. - High recreational/educational values. 	<ul style="list-style-type: none"> - Privately owned. - State beach (small segment of Carmel River). - Area of Special Biological Importance (Carmel River).
8. Wetlands: Lagoon/Brackish Marsh	Carmel River mouth.	<ul style="list-style-type: none"> - Critical wildlife habitat: provides important winter-habitat for high numbers and species of ducks and shorebirds. 	<ul style="list-style-type: none"> - State beach. - State Wildlife Sanctuary. - Natural area. - Area of Special Biological Importance.
9. Rookeries, Roosting, and Haul-Out Sites	Bird Island. Sheltered coves, inshore rocks and beaches in Point Lobos Reserve. Inaccessible coastal cliffs and bluffs in Point Lobos Reserve and, most likely, along the Carmel High-	<ul style="list-style-type: none"> - Important breeding habitat for Pelagic Cormorant (Bird Island). - Important haul-out areas for harbor seals and sea lions. - Important resting/nursery sites for sea otters. - Breeding sites for Brandt's and pelagic cormorants and 	<ul style="list-style-type: none"> - Point Lobos Ecological Reserve. - Natural area. - Area of Special Biological Importance. - Area of Special Biological Significance.

(BLISS)

3-00-002-EDD

EXHIBIT D

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



April 7, 1999

Dale Ellis, Zoning Administrator
County of Monterey
P.O. Box 1208
Salinas, CA 93902

re: Coastal Permit Application 980149 (Bliss)

Dear Dale,

Coastal staff has received the staff recommendation on the subject coastal permit application for residential development on Point Lobos Ridge. The staff report recommends approval of a project that is in an environmentally sensitive habitat and public viewshed. We offer these comments.

Environmentally sensitive habitat areas. Under *Carmel Area Land Use Plan* policy 2.3.3.1 (and other sections as well) residential development is not allowed in environmentally sensitive habitat areas. In this case, the maritime chaparral surrounding the site is not only an environmentally sensitive habitat, but also highly flammable. Accordingly, proposed condition no. 33 calls for removal of all such vegetation within 100 feet of the structures. As a result the amount of clearing for the proposed development will exceed 2 acres. In addition, further clearance and grading of sensitive habitat would appear necessary to comply with the recommended roadway and driveway standards.

Off-site impacts, including cumulative impacts, need to be considered as well. For example, runoff from Lobos Ridge flows either into San Jose Creek (which empties directly into Carmel Bay State Ecological Reserve) or Gibson Creek (which empties into Pt. Lobos State Ecological Reserve). Both streams support environmentally sensitive riparian habitat, including native redwood forest and steelhead runs. These factors are not given due consideration in the proposed findings, nor in the appendices. Nonetheless, grading and clearing on the site will cumulatively contribute to sedimentation impacts in these environmentally sensitive habitat areas.

The staff report offers findings for development adjacent to sensitive habitats; but it needs to offer findings for development **within** sensitive habitats. The project needs to be redesigned to avoid these sensitive habitats. This could include a reduction in its size and ancillary facilities. A substantial reduction in site coverage would also proportionately reduce off-site impacts. An appropriate example is provided in another part of the Monterey County Local Coastal Program (LCP): in order to minimize the cumulative effects of residential site development in coastal watersheds draining into Carmel Bay, the Del Monte Forest Land Use Plan applies a 5,000 sq.ft. limit in the

EXHIBIT NO. E 142
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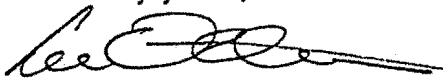
Pescadero Canyon watershed. Given its very comparable geology and orientation to the Bay, such a limit would be appropriately applied here as well. In summary, as presently designed this project does not conform with the LCP policies governing the protection of environmentally sensitive habitat areas. If there is no way to completely avoid the sensitive habitat, then Code section 20.02.060 governs and the appropriate findings must be made.

Scenic Resources. The crest of Lobos Ridge comprises the scenic skyline in southerly views from Highway 1 and a variety of locations along the shoreline of Carmel Bay. Because a number of the public vantage points are located in Pt. Lobos State Reserve, considered by many as the scenic crown jewel of the State Park System, exceptional care is warranted to insure that public views are protected. An important purpose of the County's LCP policies is to carry out the Coastal Act's mandate to protect such highly scenic areas, including the requirement that "new development in highly scenic areas...shall be subordinate to the character of its setting." (Public Resources Code sec. 30251)

Under *Carmel Area Land Use Plan* policy 2.3.3.3 (and other sections as well) residential development is not allowed on slopes and ridges within the public viewshed. The staff report acknowledges that the project will be located in view of certain locations at Pt. Lobos. However, the proposed findings do not indicate whether or not the site's visibility from the other public viewpoints specified by the *Carmel Area LUP* was evaluated. The staff report offers findings that although the project is visible from public viewing points landscaping and color would serve to blend the structures into the surrounding area, but the findings do not state that they will be rendered invisible. Even at great distances, structures in the viewshed, especially reflective surfaces and lighting, can be intrusive, despite their color and landscaping.

In summary, we believe the project at almost 15,000 sq.ft. of structural development and over 16,000 cubic yards of cut and fill is far too large, several times larger than the prevailing residence size in the Carmel Area, and at this scale clearly not subordinate to the character of the landscape. Impacts on public views need to be evaluated in terms of all vantage points listed in the LCP, not Pt. Lobos alone. Again, the project needs to be redesigned to avoid being in the public viewshed. This could include a substantial reduction in its size and ancillary facilities. If there is no way to completely avoid being in the public viewshed, then Code section 20.02.060 governs and the appropriate findings must be made.

Sincerely yours,



Lee Otter
District Chief Planner
Central Coast District Office

EXHIBIT NO. E 2 of 2
APPLICATION NO. 3-00-002-EDD

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



January 10, 2000

Board of Supervisors
County of Monterey
P.O. Box 1208
Salinas, CA 93902

Re: Coastal Permit Application 980149 (Bliss)

Dear Chairman Calcagno and Members of the Board:

This letter provides comments relative to your consideration of the proposed Bliss home in Lobos Ridge. We apologize for the lateness of these comments. Since the revised staff report reveals a change from a denial to an approval recommendation, we urge the Board to postpone action on this item and take the time needed to ensure that the findings and conditions are appropriate. At this point we have not had the time to suggest specific changes to all of the staff-recommended conditions and findings (which we received on January 7, 2000), but hopefully this letter highlights some specific deficiencies that you may wish to rectify before proceeding on this project.

When we first commented on development of this site, we noted that the property is located in the critical viewshed of Point Lobos and is covered by a dense growth of maritime chapparal, an environmentally sensitive habitat area (ESHA). The original project design was clearly visible from Pt. Lobos and would have resulted in significant loss of ESHA. Therefore, it did not conform to the policies of the Monterey County Local Coastal Program which protect these resources.

We were also concerned that the proposed project would set a poor precedent in terms of oversized residential development. Accordingly, we recommended substantial project revisions. These concerns were previously detailed in our letter of April 7, 1999 to Zoning Administrator Dale Ellis (copy attached).

Subsequently, both the project and the staff recommendation have been revised. The following comments on the revised staff recommendation are organized to correspond to the three main issues identified above:

Environmentally Sensitive Habitat Area (ESHA) impacts.

The site has been correctly characterized by the county as entirely ESHA, except for the roadway. As originally designed, the sheer size of the proposed development along with the required fire clearances, could not help but result in a loss of sensitive habitat. Any project reductions to better subordinate the house to the habitat will also create opportunities to better protect this resource. The staff report indicates that, but does not explain why, building within the road clearing which is the only non-ESHA portion of the parcel, is not possible. Hence the project will still require removal of sensitive native vegetation that comprises the ESHA.

Assuming that the project must be built in ESHA, then the Board can not make the suggested finding #9 of consistency with the LCP. Instead the Board would need to consider whether it could make the override findings of Section 20.02.060 of the County Code which state:

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APPLICATION NO. 3-00-002-EDD

20.02.060 CONSISTENCY WITH ADOPTED PLANS.

- B. An exception to the finding required in Section 20.02.060.A may be considered by the Board of Supervisors on appeal, if it is found that the strict application of the area land use plan policies and development standards of this ordinance denies all reasonable use of the subject property. The exception may be granted only if the decision-making body is able to make the following findings:
- a. that the parcel is otherwise undevelopable due to specific policies of the applicable land use plan and development standards of this ordinance, other than for reasons of public health and safety;
 - b. that the grant of a coastal development permit would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use designation in which the subject property is located;
 - c. that the parcel is not located within the critical viewshed of Big Sur as defined in Section 20.145.020 and Section 20.145.030 and in the Big Sur Land Use Plan;
 - d. that any development being approved is the least environmentally damaging alternative project. In order to make this finding, the development shall be required to minimize development of structures and impervious surfaces to the amount needed to reduce environmental impacts to the greatest extent possible and shall be required to locate the development on the least environmentally sensitive portion of the parcel;
 - e. that any development being approved under these provisions shall be one of the "allowable uses" as listed under the parcel's zoning classification and that it shall be appealable to the California Coastal Commission in all cases.
- C. If under the foregoing provisions, a property remains undevelopable, then the County or applicant may initiate a land use plan amendment for the subject parcel. For parcels identified in the Land Use Plans or found through implementation of the Land Use Plans to consist of important environmental or other coastal resources worthy of complete, permanent protection, the County Planning Department shall engage in an on-going effort to identify such means of protection and report periodically to the Board of Supervisors on such efforts. These may include, but not be limited to, possible land use plan amendments that would be consistent with the Coastal Act, public or private acquisitions, or other techniques

To make this finding there must first be an analysis under 20.02.060B of whether "the strict application of the area land use plan policies and development standards of this ordinance denies all reasonable use of the subject property." This type of discussion is commonly referred to as a "takings" analysis.

The elements typically discussed in an adequate takings include an evaluation of the applicant's legitimate, investment backed expectation regarding development of the property. If an applicant can demonstrate that he or she has a sufficient real property interest in the site to allow the proposed project and, if the development would not be a nuisance under State law, some development may be allowed. Elements to consider in making a determination on this issue include the applicant's history with the property (date purchased, purchase price, fair market value at the time of purchase, taxes paid, rents collected or other funds generated from the property, offers from third parties to purchase the property), legal constraints on the property

(easements, other restrictive covenants, and changes to the size of the property) and planning history since the applicant's acquisition (General Plan, LCP, Zoning designations at time of purchase, changes since purchase).

Assuming the analysis described above results in a conclusion that, in order to avoid a "takings", some development must be allowed, the next analytical step would be to ensure that any development approved is as consistent as possible with the relevant LCP policies. In other words, a finding that the applicant has a legitimate investment backed expectation to develop his or her property does not authorize the County to suspend or ignore their LCP resource protection policies. In the case of the County's override ordinance, 20.02.060B(a-e) requires that findings be made that ensure maximum consistency with the LCP even in a takings case. These findings must also be supported by adequate factual information.

In order to make the finding under 20.02.060B(d), for example, the staff report should specifically quantify how much maritime chaparral is being removed by the proposed project, including on-site and off-site road widening and fire clearances, to help determine whether the 1/4 acre compensating mitigation is adequate or whether an alternative design and location would reduce or eliminate the impact. Without a detailed site plan showing the extent of grading, fire buffer, stockpile area, drainage facilities, etc., overlaid on a habitat map, it is impossible to precisely determine impacts.

As mentioned above, the best course of action to address the requirements of the LCP is to postpone the Bliss item to allow for adequate evaluation of habitat impacts and takings requirements. In conducting this evaluation, if the County's analysis leads to approval of a reduced-size home, we suggest that the following type of condition be considered:

"The required landscaping plan shall be accompanied by the final site and grading plans overlain on the habitat map, in order to determine precisely the amount of maritime chaparral that will be removed; the limits of clearing shall be clearly indicated; and the restoration planting shall be revised as necessary, so that there is at least a one-to-one ratio between the amount of habitat lost and the compensatory mitigation area. If there is not a suitable area on the site sufficient to accommodate the required restoration, then the applicant shall contribute to an appropriate fund approved by the County. Such contribution shall be for the purpose of performing maritime chaparral restoration elsewhere, or to purchase and preserve maritime chaparral habitat that would otherwise be lost."

A related concern is that several of the proposed permit conditions, primarily regarding fire protection, are ambiguous in a way that could result in unnecessary loss of native plant habitat. It appears that these conditions are taken verbatim from those standard measures that the Fire District recommends for all projects. It is our understanding that the issue of how to balance fire protection and habitat protection with regard to vegetative setbacks and clearings has been resolved. If this is actually the case then the resolution should be incorporated into the conditions and language that seem to allow a variance from the standard 100 foot fire clearance (first sentence of condition # 38). In other words, conditions #38 and #39 should be re-written to incorporate the agreed-upon vegetation management strategy for the area around the perimeter of the proposed house.

Similarly, the road width requirements of condition #26 should be clarified as to where and how they apply. Condition #26 refers to all roads, but it is our understanding that the condition was meant to apply solely to the road on the Bliss property. Assuming that is the case, it seems unnecessary to require the Bliss road segment to be widened to 18 feet, when the rest of the road leading up to Lobos Ridge is not that wide. A one-lane road with turnouts should suffice. Again, the analysis described above to allow some ESHA disturbance would apply equally to the road as well as the house. At a minimum, the condition could state that road widening up to 18 feet may be deferred until the entire road leading to the site is similarly improved and subject to additional environmental review for habitat and erosion impacts.

Critical Viewshed Impacts. It is essential that the integrity of the County's Local Coastal Program (LCP) Critical Viewshed policy be maintained for the entirety of the highly scenic Carmel-Big Sur Coast corridor. The LCP's policies discourage ridgetop development, and prohibit new development that would be seen in the critical viewshed. Pt. Lobos is one of the designated critical viewshed vantage points identified in the LCP.

Project proponents state that the revised project will not be seen in public views from Pt. Lobos. On the other hand, project opponents contend that the restaked project is visible to the unaided eye from at least three different public use areas at Pt. Lobos. Also, the staking does not account for visual impacts resulting from site grading and clearing, nor for the impacts of reflective surfaces in the late afternoon sun, nor night lighting. As confirmed in the field by our staff, both grading and reflective surfaces on Lobos Ridge are directly visible from multiple locations within Pt. Lobos State Reserve. We understand that only the revised staking is represented as hidden from view, and is screened by existing vegetation. Even if the staked representations are accurate, once the vegetation is removed for fire clearance or other reasons, won't the graded surfaces and/or constructed building(s) then be exposed to public view?

Accordingly, we strongly advocate that a condition be added that will insure that the described non-visibility of the project will be a reality. An appropriate condition would require complete and immediate removal of any portion of the development that is visible to the unaided eye from any public use area within Pt. Lobos State Reserve. Such condition should be recorded and run with the land, so no future owners will be tempted to cut down screening vegetation, add lights, antenna dishes or reflective surfaces that will harm the scenic views. If the project proponents are confident in their claim of non-visibility, they should have no objection to such a condition.

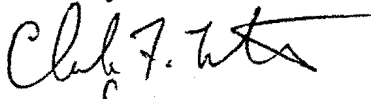
Oversize development. Section 30251 of the Coastal Act calls for new development in highly scenic areas to be subordinate to the character of its setting. In carrying out this policy, the County's Local Coastal Program leaves the determination of maximum house size to be a discretionary decision. We are aware that a revised design has been proposed that would reduce the building to some 11,600 square feet, with a footprint of around 10,000 sq. ft. We believe this is still too large. It might also be observed again that takings analysis would focus our attention on a reasonable economic use, and investment backed expectations as guiding standards for appropriate scale of development. Consider, for example, that in the Pescadero watershed area of Pebble Beach, the maximum structural coverage standard is only 5,000 square feet. Here, in the Pt. Lobos-Big Sur Coast area, it is even more important that new development be subordinate to the character of the landscape. Our hope is that you will exercise your discretion to further reduce the footprint, to something less than the maximum that

had been approved in this area prior to certification of the Local Coastal Program (about 5,000 sq.ft.).

Appeal jurisdiction. The revised staff report states that the project is not appealable to the Coastal Commission. We can not support this statement, because some aspects of the project may in fact be appealable. For example, if the approval will directly or indirectly result in rebuilding the entire road from Highway One to a width of 18 feet, such a use would effectively comprise a new road. New roads are not principal permitted uses, and are therefore appealable. Furthermore, it appears that the only way to approve the house is by making special findings to override the ESHA policies. At that point, pursuant to Sec. 20.02.060 B (e) of the County Ordinance, the project becomes appealable to the Coastal Commission.

Conclusion. In summary, the revised design may in some respects represent an improvement. However, we strongly recommend that action on this permit be postponed to allow for an adequate analysis of the "takings" issue, additional conditions to reduce overall building size, avoid impacts to ESHA, and make certain that any elements not consistent with the claims of non-visibility will definitely be removed. The findings need to be revised accordingly. These changes are essential for conformance with LCP policies.

Sincerely,



Tami Grove
Deputy Director

Encl.

EXHIBIT NO. <i>F 5 of 5</i>
APPLICATION NO. <i>3-00-002-EDD</i>

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



January 11, 2000

Todd Bessire
Lombardo and Gilles
318 Cayuga Street
Salinas, CA 93901

Subject: *Boundary Determination 43-99, Bliss Parcel Monterey County APN 416-011-017*

Dear Todd:

This is our follow-up response to previous letters of November 10, and November 16, 1999 regarding the Bliss property in Carmel Highlands. Our second letter retracted the first letter. To that first letter of November 10, 1999 was attached a map showing the appeal boundaries on the subject site: APN 416-011-017 in Monterey County. Although the mapping is correct, the cover letter prematurely and inappropriately concluded that the identified project area lies outside of the Coastal Commission appeal jurisdiction suggesting that the project is not appealable.

The jurisdictional question of what is or is not appealable is not one that turns solely on narrow technical cartographic considerations relative to locating a line on the ground. Rather, a decision on appeal jurisdiction also involves questions of interpretation and judgements about policy and policy application depending on the facts and circumstances associated with each individual case. Under the California Code of Regulations and the Monterey County Code, the County is the entity to first determine whether a proposed project in the coastal zone is appealable. County staff reports for the November 9 and December 7, 1999 Board of Supervisors' hearings regarding the proposed Bliss project indicated that the coastal permit, if granted by the County, was appealable to the Coastal Commission. Last Friday, we received the December 22, 1999 County staff report for the Board of Supervisors' January 11, 2000 hearing in which the County reverses its position relative to the appealability of the project. We concur in the county's original determination that the project is appealable because a portion of the Bliss parcel lies within the mapped appeals area.

A major factor in our determination that this project, if approved by the County, is appealable is the fact it is being built on a parcel of land that lies partially within the specifically mapped appeals area. The Commission's unit of analysis relative to any project that comes before it and relative to the application of Coastal Act and local coastal program policies as standards of review is always the entire legal parcel on which development is being proposed. Furthermore, projects invariably have impacts extending well beyond the building envelope or footprint of the primary structure (e.g., access roads, utilities, landscaping, fire fuel modifications, ancillary structures and features such as fencing, drainage and runoff from use of the site, visual impacts, habitat effects, etc.)

As we understand this particular proposal, some aspects of development will either be located within or will directly impact lands within the mapped appeal area. Because the

EXHIBIT NO. <i>G 1 of 2</i>
APPLICATION NO. <i>3-00-002-500</i>

PersonsToLetter
ReasonForLetter
DateOfLetter
Page 2

project reflected in the most recent staff report has been substantially modified, we are presently evaluating the consistency of the changed project with the County's certified LCP and plan to submit comments accordingly to the Board for consideration at their meeting today. Based on the general parameters of the proposal that have been included to date, it appears that the project (if approved and conditioned as recommended by County staff) will necessitate physical work within or that will directly affect lands in the appeals area. It is important to further note that in reviewing all proposals under its regulatory purview, the Commission is obligated to analyze an entire development as an indivisible whole.

Section 20.70.115 (E) of the County Code provides a process for the Executive Director of the Commission to address disputes over the question of appealability of any project. We will expect to invoke this process if the applicant or an interested person challenges the final determination of the County relative to the appealability of the Bliss project. The Commission, through its staff and ultimately by its own decision, has the ability to disagree with a local determination that a project is not appealable and if that is the position taken in this matter relative the project as we now understand it to be proposed before the County, we intend to exercise this authority and bring the matter to the Commission on appeal.

As noted above, our attention is currently focusing on the consistency of the modified project with the LCP. We will also send you a copy of our expected comment letter to the Board of Supervisors for today's hearing.

Sincerely,



Tami Grove
Deputy Director
Central Coast District Office

Cc: Board of Supervisors
Ken Gray, State Parks
Zad Leavy, Big Sur Land Trust
Gillian Taylor, Sierra Club

EXHIBIT NO. <i>G 2 of 2</i>
APPLICATION NO. <i>3-00-002-EDD</i>

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200



January 26, 2000

Louis Calcagno, Chair
Monterey County Board of Supervisors
PO Box 1728
Salinas, Ca. 93902

Subject: *Request for a Determination of Appeal Status of the Bliss Coastal Development Permit*

Dear Chair Calcagno,

I am writing regarding the County's recent determination that the locally approved Coastal Development Permit (CDP) for the construction of a single family home on the Bliss parcel (AP# 416-011-017) is not appealable to the Coastal Commission (Local File No. 980149). As discussed in my January 11, 2000 letter to the Board of Supervisors, I believe that County planning staff's original determination that the project *is* appealable is the correct decision. I am therefore requesting, as provided in Section 20.70.115 (E) of the County Code and CCR Title 14 Section 13569 of the Commission's regulations, that you notify the Executive Director of the Coastal Commission of this dispute as required by these regulations and ask for his determination as to whether this locally issued CDP is appealable or non-appealable to the Coastal Commission. The most expedient course would be to send such notice and all of the information relied upon in rendering the County's decision on appealability to the Executive Director at this District Office address. Thank you in advance for the County's prompt attention to this request.

Sincerely,

A handwritten signature in cursive script that reads "Tami Grove".

Tami Grove
Deputy Director
Central Coast District Office

Cc: William Phillips, Planning Director

EXHIBIT NO. H

APPLICATION NO.

3-00-002- EDD

CALIFORNIA COASTAL COMMISSION

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



July 11, 2000

Wanda Hickman
Monterey County Planning and Building Inspection Department
P.O. Box 1208
Salinas, CA 93902

Subject: *Insufficient Final Local Action Notice for Local Permit Number 980149 (Bliss)*
Commission File Number 3-MCO-00-329

Dear Ms Hickman,

We are writing to inform you that the Final Local Action Notice (FLAN) for the above referenced project is not adequate because 1) it incorrectly states that the project is not appealable to the Coastal Commission and 2) as submitted, the project description is unclear. Please see Notification of Deficient Notice, attached.

As we have discussed, Commission staff disagrees with the County's description of the project as not appealable to the Coastal Commission. We have stated in past correspondence (dated January 11 and January 26, 2000) that a determination of appealability would need to be made by the Executive Director if the County maintains this position. The Board's Resolution 00-024 (revised June 20, 2000) maintains that the project is not appealable. Given our previous correspondence on this item, and since the County did not formally pursue the prescribed process of requesting a determination on the project's appealability, we interpret this action as confirmation that the County continues to differ with Commission staff on the appeal status of the project, and that therefore our office should pursue a determination from the Executive Director. **If this is not the case, please contact us by Monday, July 17, 2000.** Otherwise we will proceed with the appealability determination as prescribed by the Commission's regulations. In the alternative, the County could renote and resubmit the resolution showing the project as appealable.

Additionally, the resolution submitted to our office indicates that the project as originally proposed has been revised, but did not include any revised plans to show the change in design and location. The County file submitted included two different plans of the site, however one set had no date on it and no indication as to whether these were revised plans or not. We showed the plans to the applicant's agent, Tony Lombardo, who could not confirm that they were the revised plans. Therefore, please submit a full size copy and a set of 8.5 ' x 11" reduced set of the current approved plans for the project to us.

EXHIBIT NO. *I/023*

APPLICATION NO.

3-00-002-600

Wanda Hickman
Bliss Appeal
July 11, 2000
Page 2

Please be advised that pursuant to CCR 13570 and 13572, the effective date of the local government action has been suspended and the 10 working day Commission appeal period will not commence until a sufficient notice of action is received in this office.

Sincerely,



Tami Grove
District Deputy Director
Central Coast District Office

Cc: Philip and Betsy Bliss
Tony Lombardo, Lombardo and Gilles
Zad Leavy, Big Sur Land Trust
Diane Landry, Coastal Commission Central Coast District Legal Counsel
Ralph Faust, Coastal Commission Chief Legal Counsel
Peter Douglas, Coastal Commission Executive Director
Dave Potter, Monterey County Board of Supervisors

EXHIBIT NO. I 2 of 3
APPLICATION NO. 3-00-002-EDD

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



NOTIFICATION OF DEFICIENT NOTICE

DATE July 10, 2000
TO Wanda Hickman, Project Planner
County of Monterey, Planning & Building Inspection Department
P.O. Box 1208
Salinas, CA 93902
FROM Rick Hyman, District Deputy Chief Planner
RE: Local Permit No. 980149 (Commission File No. 3-MCO-00-329)

Please be advised of the following deficiency(ies) in the notice of local action we have received for Local Permit No. 980149 pursuant to 14 Cal. Admin. Code Section 13571 or 13332.

Applicant(s) Mr. & Mrs. Philip Bliss

Description: 1) A Coastal Development Permit and Design Approval to allow for the construction of a single family dwelling with swimming pool, grading, septic system and water tank; and
2) a Coastal Administrative Permit and Design Approval to allow for the construction of a pool house.

Location: Easterly of Highway One and southerly of Point Lobos Ridge Road, in the Carmel Highlands Area, Monterey.

Deficiency noted by check mark

1. ☒ Project description not included or not clear.
2. ☐ Conditions for approval and written findings not included.
3. ☒ Procedures for appeal of the decision to the Coastal Commission are incorrect.
4. ☐ Notice not given to those who requested it.

As a result of the deficiency(ies) noted

Post-Certification LCP

☒ The effective date of the local government action has been suspended, and the 10 working day Commission appeal period will not commence until a sufficient notice of action is received in this office. (14 Cal. Admin. Code Sections 13570, 13572.)

Post-Certification LUP

☐ The effective date of the local government action has been suspended, and the 20 working day Commission appeal period will not commence until a sufficient notice of action is received in this office. (14 Cal. Admin. Code Sections 13570, 13572.)

If you have any questions, please contact Kelly Cuffe at the Central Co

EXHIBIT NO. <i>I 30f3</i>
APPLICATION NO. <i>3-00-002-EDD</i>

**FINAL LOCAL
ACTION NOTICE**

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

REFERENCE # 3-MCO-007
APPEAL PERIOD _____

Resolution No. 00-024:

Resolution to Adopt a Negative Declaration and Approve
the Combined Development Permit for Phillip and Betsy
Bliss (980149) Consisting of: 1) A Coastal Development
Permit and Design Approval to Allow for the Construction
of a Single Family Dwelling with Swimming Pool, Grading,
Septic System and Water Tank; and 2) A Coastal Adminis-
trative Permit and Design Approval to Allow for the
Construction of a Pool House, on property Located Easterly
of Highway One and Southerly of Point Lobos Ridge Road,
in the Carmel Highlands Area of the Coastal Zone)

RECEIVED

JUN 29 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

WHEREAS, this matter was heard by the Board of Supervisors (Board) of the County of Monterey on November 9, 1999 and January 11, 1999, pursuant to appeals by the California Department of Parks and Recreation, The Big Sur Land Trust and Ventana Chapter, Sierra Club.

WHEREAS, the site is located easterly of Highway One and southerly of Point Lobos Ridge Road, in the Carmel Highlands Area of the Coastal Zone, in the County of Monterey (the property).

WHEREAS, the applicant, Phillip and Betsy Bliss, filed an application for a Combined Development Permit consisting of: 1) A Coastal Development Permit and Design Approval to allow for the construction of a single family dwelling with swimming pool, grading , septic system and water tank; and 2) A Coastal Administrative Permit and Design Approval to allow for the construction of a poolhouse (the application).

WHEREAS, Phillip and Betsy Bliss application for the Combined Development Permit came for consideration before the Planning Commission at a public hearing on July 14, 1999 and August 25, 1999.

WHEREAS, at the conclusion of the public hearing on July 14, 1999, the Planning Commission adopted a resolution of intention to approve the Combined Development Permit and directed staff to prepare the appropriate findings, evidence and conditions.

WHEREAS, on August 25, 1999 the Planning Commission adopted a Negative Declaration and approved the Combined Development Permit based on the findings, evidence and conditions contained in Planning Commission Resolution No. 99050.

(Bliss)

EXHIBIT **J**
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WHEREAS, the appellants, the California Department of Land and Natural Resources, Sierra C Planning Commission decision alleging that the hearing, the findings were not supported by the evidence to law.

WHEREAS, pursuant to the provisions of the Mo 20) and other applicable laws and regulations, January 11, 2000, heard and considered the appeal

WHEREAS, at the conclusion of the hearing, the a decision. Having considered all the written and the staff reports, oral testimony, and other evidence Supervisors, the Board now renders its decision conditions in support of the Combined Development Permit as follows:

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Findings of Fact

1. FINDING: The Combined Development Permit consists of: 1) a Coastal Administrative Permit and Design Approval to allow for the construction of a single family dwelling, swimming pool, grading, septic system and water tank; and 2) a Coastal Administrative Permit and Design Approval to allow for the construction of a 425 square foot poolhouse.

The site is located on and southerly of Point Lobos Ridge Road, easterly of Highway One (Assessor's Parcel Number 416-011-017-000), in the Carmel Highlands Area of the Coastal Zone. The forty-acre parcel is located on a ridge on the west slope of the Santa Lucia Mountains overlooking the Pacific Ocean and Point Lobos Reserve. Numerous ridges divided by steep ravines, with sandy soil mixed with decomposed granite characterize the area. Vegetation consists of chaparral dominated by shaggy bark manzanita mixed with Hooker manzanita.

EVIDENCE: Biological Reports prepared by Jud Vandever and Associate dated June 22, 1998 and July 12, 1999 and follow-up letters dated December 7, 14 and 15, 1999.

EVIDENCE: Geological Report prepared by Grice Engineering and Geology Inc., dated November 1997, as found in File No. 980149.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing, as found in Planning Commission File PLN980149.

2. FINDING: The development proposed in this application together with the provisions of its design and as conditioned, is consistent with the

policies of the Carmel Area Land Use Plan and the Development Standards of the Local Coastal Program.

The site is zoned and designated as WSC/80 (CZ) (Watershed and Scenic Conservation, 80 acre minimum) which allows for single family dwellings and accessory uses.

EVIDENCE: The Board of Supervisors finds that the project as proposed is consistent with:

- (1) The certified Carmel Area Land Use Plan, and
- (2) Chapter 20.114 of the Monterey County Coastal Implementation Plan, "Regulations for Watershed and Scenic Conservation" or WSC (CZ) Zoning Districts in the Coastal Zone,
- (3) Chapter 20.146 of the Monterey County Coastal Implementation Plan, "Regulations for Development in the Carmel Area Land Use Plan area."

EVIDENCE: Section 20.64.020 of the Coastal Implementation Plan regarding regulations for poolhouses.

EVIDENCE: The Carmel Unincorporated/Highlands Advisory Committee recommended approval of the proposal with conditions on November 16, 1998.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000 as found in Planning Commission File PLN980149.

3. FINDING: The proposed project is located within the viewshed as defined by Policy 2.2.1 of the Carmel Area Land Use Plan and Section 20.146.20.Z of the Coastal Implementation Plan (CIP).

EVIDENCE: General Viewshed, Map A, as found in The Carmel Area Land Use Plan.

EVIDENCE: The on-site investigation by Planning and Building Inspection Department staff pursuant to Chapter 20.146.030A of the Coastal Implementation Plan.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

4. FINDING: The proposed project was staked as required by Section 20.146.030.A of the Coastal Implementation Plan. Staff determined, based on a field trip conducted on December 3, 1999, that the project site would not be visible from within the Point Lobos Reserve, specifically from Whalers Cove, Cypress Point and the frontage road from Cypress Point to Seal Point with binoculars.

EVIDENCE: Site visit by the project planner pursuant to Section 20.146.030.A of the Monterey County implementation Plan.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

5. FINDING: On the field trip, the proposal was viewed at the project site and from the Point Lobos Reserve, specifically from Whalers Cove, Cypress Point and the frontage road from Cypress Point to Seal Point.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

6. FINDING: The project is consistent with development standards of Section 20.146.030 of the Coastal Implementation Plan and the following policies of the Carmel Area Land Use Plan: Policy 2.2.2 (basic viewshed policy of minimum visibility); Policy 2.2.3.1 (structures shall not detract from the undeveloped ridgelines and slopes); Policy 2.2.3.3 (development on slopes and ridges shall be sited where existing topography can ensure structures will not be visible); Policy 2.2.3.4 (the least visible portion of the lot is most appropriate for the location of new structures); Policy 2.2.3.6 (structures shall be subordinate to and blended into the natural environment); Policy 2.2.4.10.a (on ridges building shall be sufficiently setback from the precipice to avoid silhouetting); and Policy 2.2.4.10.c (structures located in the viewshed shall be designed so they blend into the site and site surroundings).

The project as redesigned will not have a significant impact on the viewshed and is consistent with the aforementioned policies. The Planning Commission on June 2, 1999 viewed the project from Point Lobos State Reserve. As discussed in Finding and Evidence number 5, the Commission has indicated that the project, based on the staking, was not visible from Point Lobos, with or without visual aids. Section 20.146.20 of the Coastal Implementation Plan states that "visibility will be considered in terms of normal, unaided vision in any direction for any amount of time at any season." As conditioned, exterior color with landscaping will serve to blend the structure into the surrounding area.

EVIDENCE: Staff site visit pursuant to Section 20.146.030 of the Local Coastal Program.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Conditions 5, 18 and 21.

7. FINDING: The proposed project is consistent with regulations of the Coastal Implementation Plan dealing with exterior lighting. The Planning Commission required an exterior lighting demonstration to ensure that exterior lighting would not be intrusive. This was performed on the site July 8, 1999. No lights were seen from any area defined as public viewshed. Since Point Lobos State Reserve closes at dusk no evaluation could be conducted from this area. However, conditions of approval require lighting to be unobtrusive and harmonious with the local area.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing, as found in Planning Commission File PLN980149.

EVIDENCE: Condition 18.

8. FINDING: Jud Vandevere and Associates, Biological Consultants prepared a Biological Report for the site on June 22, 1998 and July 12, 1999 and follow-up letters dated December 7, 14 and 15, 1999. The report states that the predominant vegetation type on the site is Maritime chaparral, which consists of: 1) shaggy barked manzanita, 2) Hooker's manzanita, 3) small leaved lomatium and 4) wartleaf ceanothus. Hooker manzanita and small leaved lomatium are caterizorized as environmentally sensitive habitat. Also the parcel contains abandoned Monterey dusky-footed woodrats nests.

The biological report indicates that of the forty acres of maritime chaparral habitat on the site, approximately one acre of the natural habitat will be lost due to this development. The reports concludes that if the 39 acres of maritime chaparral are preserved and other degraded areas are planted with Hooker's manzanita and small leaved lomatium then impacts will be adequately mitigated.

Correspondence from the Department of Fish and Game indicates that they have reviewed the biological report prepared by Jud Vandevere for this project. They also indicate that the project should avoid or minimize impacts where feasible, but if this is not possible, mitigation should be provided. Fish and Game has stated that restoration of Hooker's manzanita, and preservation of the existing chaparral habitat through a conservation easement will adequately mitigate for impacts and to the Monterey dusky-footed woodrat. Recommended mitigations have been incorporated as conditions of approval.

EVIDENCE: Biological Report prepared by Jud Vandevere and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Conditions 5, 6 and 20

9. FINDING: The Board of Supervisors finds that the proposed project is consistent with policy 2.3.3.1 of the Carmel Area Land Use Plan that states that: "Development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be avoided in critical and sensitive habitat areas, riparian corridors, wetlands, sites of known rare and endangered species of plants and animals, rookeries and major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as critical. Resource-dependent uses, including nature education and research, hunting, fishing, and aquaculture, shall be allowed within environmentally sensitive habitats and only if such uses will not cause significant disruption of habitat values. Only small-scale development necessary to support the resource-dependent uses may be located in sensitive habitat areas if they can not feasibly be located elsewhere."

EVIDENCE: The Watershed-Scenic Conservation Land Use Plan designation and zoning allow for single family dwellings and accessory uses. Based on the biological report prepared for the site over 80 percent of the vegetation on the site is Maritime chaparral. The only non-vegetated areas are located in existing road cuts. Any development on this site would be in and adjacent to environmentally sensitive habitat. Allowing only a resource dependent use would deny the owner substantial use of the property. A portion of the development will be located in an area that supports low growing flora. Degraded areas will be planted with manzanita and small leaved lomatium, and 39 acres of maritime chaparral will be place in scenic easement in perpetuity. The biological report indicates that biotic feature of the property, special status species and possible impacts to them are addressed, and together with long term mitigation would assure protection of the resources. The Department of Fish and Game agrees with the recommended mitigations.

EVIDENCE: Biological Report prepared by Jud Vandever and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

10. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.2 of the Carmel Area Land Use Plan that states that: "Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource". As indicated in Finding and Evidence number 9 by limiting development to the location as proposed and placing the property in a scenic easement in perpetuity shall provide a long-term maintenance and protection of the resources.

EVIDENCE: Biological Report prepared by Jud and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

11. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.4 of the Carmel Area Land Use Plan that states that: "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, contiguous areas of undisturbed land in open space use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to avoid habitat impacts".

The proposed development is clustered as shown in the site plan. Existing road cuts will be utilized. Although the Fire Agency requires fire clearances and a greater road width, conditions 26 and 39 allows for exemptions to these requirements. Development will

impact approximately one acre and the remaining 39 acres of the parcel shall be placed in a scenic and conservation easement.

EVIDENCE: Biological Report prepared by Jud Vandevere and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Condition Nos. 26 and 39.

12. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.5 of the Carmel Area Land Use Plan that states that: "Where private or public development is proposed in documented or expected locations of environmentally sensitive habitats - particularly those habitats identified in General Policy No. I - field surveys by qualified individuals or agency shall be required in order to determine precise locations of the habitat and to recommend mitigating measures to ensure its protection. If any habitats are found on the site or within 100 feet from the site, the required survey shall document how the proposed development complies with all the applicable habitat policies".

Jud Vandevere and Associates, Biological Consultants prepared a Biological Report for the site on June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999. The report identified habitat on the site and recommended mitigations. As indicated in Finding and Evidence 9 and 10 to protect species on the site development will be limited to the proposal. The remaining 39 acres shall be placed in scenic and conservation easement in perpetuity and existing degraded areas shall be replanted with natives.

EVIDENCE: Biological Report prepared by Jud Vandevere and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

13. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.6 of the Carmel Area Land Use Plan that states that: "The County shall require deed restrictions or dedications of permanent conservation easements in environmentally sensitive habitat areas where development is proposed on parcels containing such habitats. Where development has already occurred in areas supporting sensitive habitat, property owners should be encouraged to voluntarily establish conservation easements or deed restrictions. Condition number 20 requires a scenic easement over approximately 39 acres of the site".

EVIDENCE: Biological Report prepared by Jud Vandevere and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Condition No. 20.

14. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.7 of the Carmel Area Land Use Plan that states that: "Where development is permitted in or adjacent to environmentally sensitive habitat areas, the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to that needed for the structural improvements themselves".

Condition number 7 restricts development for only roads and structural improvements. Although the Fire Agency requires fire

clearances and a greater road width, conditions 26 and 39 allows for exemptions to these requirements.

EVIDENCE: Biological Report prepared by Jud Vandevere and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Condition Nos. 20, 26 and 39

15. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.8 of the Carmel Area Land Use Plan that states that: "The County shall require the use of appropriate native species in proposed landscaping".

Condition 5 requires the use of native species in landscaping.

EVIDENCE: Biological Report prepared by Jud Vandevere and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Condition Nos. 5, 13, 14 and 16

16. FINDING: The Board of Supervisor finds that the proposed project is consistent with policy 2.3.3.10 of the Carmel Area Land Use Plan that states that: "The County should request advice and guidance from the California Department of Fish and Game in evaluating proposals for new or intensified land uses - including public

access, recreation, and associated facilities - in or adjacent to environmentally sensitive habitat areas".

Fish and Game has reviewed the proposal and agrees with the mitigations as recommended by Jud Vandever.

EVIDENCE: Biological Report prepared by Jud Vandever and Associate, dated June 22, 1998 and July 1999 and follow-up letters dated December 7, 14 and 15, 1999, contained in Planning File 980149.

EVIDENCE: Section 20.146.040, Environmentally Sensitive Habitat Development Standards, found in the Monterey County Coastal Implementation Plan.

EVIDENCE: Chapter 2.3, Environmentally Sensitive habitat, as found in the Carmel Area Land Use Plan.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

17. FINDING: The project is consistent with Section 20-146.050.E.4 of the Coastal Implementation Plan dealing with erosion and sedimentation control. The geological report prepared for the site by Grice Engineering, and Geology Inc., dated November 1997, indicates "although some short, steep slopes exists near or on the properties, the site soils are not eroded, therefore, no erosion deterioration is expected". As a condition of approval compliance with the geological report is required.

EVIDENCE: Condition Nos.2, and 42.

18. FINDING: The proposed project is consistent with policies of the Local Coastal Program dealing with development in hazardous areas. The site is located in a hazardous geologic zone III. The geologic report prepared for the site by Grice Engineering, and Geology Inc., dated November 1997, concludes that no geological hazards exists on the site.

EVIDENCE: Appendix 2C, Resource Maps, of the Monterey County Coastal Implementation Plan.

EVIDENCE: Geologic Report prepared for the project by Grice Engineering, and Geology Inc., dated November 1997, contained in project file 980149.

EVIDENCE: Conditions No. 42.

19. FINDING: The proposed project is consistent with policies of the Local Coastal Programs dealing with development in hazardous areas. The project site is located in a high fire hazard zone. According to the Monterey County Coastal Implementation Plan, condition of

project approval require that a deed restriction be recorded which states that fire hazards exist on the site and that development may be subject to certain restrictions. The Carmel Highlands Fire Protection District has placed 16 conditions of approval on the project to mitigate potential fire hazards on the site.

EVIDENCE: Appendix 2C, Resource Maps, of the Monterey County Coastal Implementation Plan.

EVIDENCE: Condition Nos. 19, 26 through 41.

20. FINDING: The project as proposed is consistent with Section 20.146.080 of the Coastal Implementation Plan dealing with development in archaeologically sensitive areas.

EVIDENCE: Archaeological Consulting has performed an archaeological survey on the project site. The report states that there are no significant archaeological resources on site. A condition of approval requires that Monterey County and an archaeologist be notified immediately if, during the course of any development, archaeological resources are found on site.

EVIDENCE: Conditions No. 54.

21. FINDING: The proposed project will not have a significant adverse impact on the environment. An Initial Study was prepared with appropriate mitigation measures incorporated into the project as conditions of approval. Based on the study it was determined that the project would have no significant impact. As a result, a Negative Declaration, which reflects the independent judgment of the County, was filed with the County Clerk on February 26, 1999, noticed for public review, and circulated to the State Clearinghouse. Several issues were identified in correspondence received from the State Parks Department.

State Parks Department concerns are listed below:

- 1) Potential increased traffic on the unpaved road that leads to the Bliss property.

Response: Development in the area is limited and cumulative impacts are not expected to be significant.

- 2) Ability of State Parks to use prescribed burning to manage its property as a wildland.

Response: The project has been conditioned to meet the requirements of the Carmel Highlands Fire Protection Agency.

- 3) Potential impacts of water withdrawals and septic tank discharges on water quality and quantity.

Response: The project has been conditioned to meet the requirements of the Water Resource Agency and the Environmental Health Division.

- 4) Potential visual impacts of the development.

Response: As discussed in Finding Number 5 and 6, the project is not visible to the naked eye, and the structure is sited on the least visible and environmentally sensitive portion of the parcel. Landscaping and color will be used to blend the structures into the surrounding area.

The project will impact approximately a quarter acre of Hooker's manzanita (*Arctostaphylos hookeri*), a California Native Plant society List 1b species. The parcel also contains Old Monterey dusky-foot woodrat (*Neotoma fuscipes Luciana*) nest. The woodrat is a species of special concern. The Department of Fish and Game has indicated in a correspondence, dated July 13, 1999, Mitigation's on this site shall include the restoration of a quarter acre of Hooker's manzanita, as well as mitigation's as recommended in the Biological report prepared by Jud Vandever. Restoration of habitat and conservation easement will adequately mitigate for impacts to the Monterey dusky-footed woodrat.

The Board of Supervisor finds that with the implementation of mitigation measures as a condition of approval the proposed project will not have an adverse significant impact and that all-potential significant impact were either addressed or mitigated below a level of significance.

EVIDENCE: Initial Study and Negative Declaration contained in Project File No. 980149.

EVIDENCE: Correspondence dated March 15, 1999 from the State Parks and Recreation Department.

EVIDENCE: Correspondence dated July 13, 1999 from the Department of Fish and Game.

EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.

EVIDENCE: Condition Nos. 1-55.

22. 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 administrative record as a whole indicate the project may or will result in changes to resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The project includes the loss of about one percent of cover containing Hooker's Manzanita.
- EVIDENCE: Initial Study and Negative Declaration contained in Project File No. 980149.
- EVIDENCE: Conditions Nos. 1, and 25.
23. FINDING: The Coastal Act requires the provision of maximum access and recreational opportunities consistent with the need to protect public safety, public rights, private property owners and natural resources. Development shall be required to provide public access where: 1) public access has been determined to be existing, 2) public access has been determined to be needed, or 3) if public access is proposed. The site was reviewed for the requirement of public access. An alignment of a proposed trail was not shown on this site in the Carmel Area Land Use Plan. Public access is not existing or proposed on this site.
- EVIDENCE: General Viewshed, Map A, as found in The Carmel Area Land Use Plan.
- EVIDENCE: The on-site investigation by Planning and Building Inspection Department staff pursuant to Chapter 20.146.030A of the Coastal Implementation Plan.
- EVIDENCE: Administrative record, oral testimony, tapes and minutes of the July 14, 1999 and August 25, 1999 Planning Commission hearing and Board of Supervisors hearings on November 9, 1999 and January 11, 2000, as found in Planning Commission File PLN980149.
24. FINDING: The establishment, maintenance, or operation of the use or building 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 or to the general welfare of the County.
- EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Division of Environmental Health, Public Works Department, Carmel Highlands Fire Protection District and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the county in general.

EVIDENCE: Conditions No. 2-54.

25. FINDING: The project, as approved by the Board of Supervisor's, is not appealable to the California Coastal Commission.

EVIDENCE: Sections 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

EVIDENCE: Correspondence dated December 6, 1999 from Lombardo and Gilles titled the appealability of the Bliss project.

EVIDENCE: The evidence submitted in the report of Mr. Norman and Mr. Vandevere regarding environmentally sensitive habitat and impacts thereto, supports a finding that no overriding finding is necessary under the Local Coastal Program with regard to adverse impacts on environmentally sensitive habitat; administrative record in Planning and Building Inspection Department (PBID) file (No.980149).

EVIDENCE: Regarding the appeal jurisdiction of the California Coastal Commission under Public Resources Code Section 30603 (a), evidence presented by the applicant's counsel regarding the final location of the footprint, supports a finding that it is not within the relevant distances of any of the coastal geographic features described in that section; Administrative Record in PBID file 980149.

EVIDENCE: Regarding the appeal jurisdiction of the California Coastal Commission under Public Resources Code Section 30603 (a)(3), evidence confirmed by the California Coastal Commission staff, supports a finding that there are no sensitive coastal resource areas mapped within Monterey County.

EVIDENCE: Regarding the need for construction of a road or any other improvements that are "not designated as the principal permitted use under the zoning ordinance or zoning district map...", no such improvements or uses are a part of this application; therefore, Public Resources Code Section 30603 (a)(4) is inapplicable; Application materials and administrative record in file 980149.

DECISION

THEREFORE, it is the decision of said Board of Supervisor that the Negative Declaration be adopted and said application be approved with the following conditions.

1. The Combined Development Permit consists of a Coastal Administrative Permit and Design Approval to allow for the construction of a single-family dwelling, swimming pool, grading, septic system and water tank; and a Coastal

(Bliss)

EXHIBIT J
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Administrative Permit and Design Approval to allow for the construction of a 425 square foot poolhouse. 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)

Prior to the Issuance of a Grading and Building Permits:

2. Prior to the issuance of a grading and building permit, provide a drainage plan that addresses on-site and off-site impacts and incorporates the recommendations contained in the Geotechnical and Geological Hazards Report prepared by Grice Engineering, Inc. Storm water runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. (Water Resources Agency)
3. Prior to the issuance of a grading and building permit, the applicant shall indicate on building plans that the project is in compliance with Ordinance No. 3932, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons; all shower heads shall have a maximum flow capacity of 2.5 gallons per minute; and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources Agency & Planning and Building Inspection)
4. Prior to the issuance of a grading and building permit, the applicant shall provide to the Monterey County Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available and the number of hook-ups. (Water Resources Agency)
5. Prior to the issuance of a grading and building permit, provide three copies of a landscaping plan. The landscape plan shall be reviewed by the landscape consultant and consulting biologist. The plans shall included plants that are native to the site and the restoration/replanting plan as required by the biological

report, prepared by Jud Vandevere, dated June 22, 1998 and July 12, 1999. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. The landscaping plan shall also include landscaping to sufficiently screen the structure from Point Lobos. (Planning and Building Inspection)

6. Prior to the issuance of a grading and building permit, a quarter of an acre of Hooker's manzanitas and ten Small-leaved Lomatiums shall be planted in areas of the property that lack vegetation.
7. Prior to the issuance of a grading and building permit, record a Deed restriction with the Monterey County recorders office that states: "that removal of indigenous vegetation and land disturbance shall be restricted to only those amounts necessary for the construction of a home, poolhouse, septic system, water tank, driveway and pool".
8. Prior to the issuance of a grading and building permit, a weed control plan shall be prepared and implemented during and after construction.
9. The sensitive habitat that is located close to the construction site shall be protected from inadvertent damage from construction equipment by fencing with protective materials. Said protection shall be demonstrated prior to issuance of building or grading permits or any construction activities. Fencing shall be subject to the approval of a qualified biologist and the Director of Planning and Building Inspection. (Planning and Building Inspection)
10. Prior to any construction activities the owner shall record a deed restriction, which states: "No dirt or other excavated material shall be placed outside of the immediate building location." The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department. (Planning and Building Inspection)
11. Plans submitted for plan check shall indicate a stockpile area and a staging area for construction equipment. Prior to the issuance of a grading and building permits, provide evidence that a Consulting biologist has approved these areas. (Planning and Building Inspection)
12. Prior to any construction activities, a deed restriction shall be recorded with the Monterey County Recorders office, which reads "All construction activities and improvements shall be limited to the building envelopes". The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department. (Planning and Building Inspection)
13. Prior to the issuance of a grading and building permit, a deed restriction shall be recorded with the Monterey County Recorders office, which reads "Care shall be

taken during construction to minimize root compaction of Manzanita. Any revegetation or enhancement of area outside of building and driveways shall be done with only native plants of local origin." The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department.
(Planning and Building Inspection)

14. Prior to any construction activities, a deed restriction shall be recorded with the Monterey County Recorders office that reads "Landscaping within and outside building envelopes shall use only local native plants appropriate to the site and habitat." The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department.
15. Prior to any construction activities, a deed restriction shall be recorded with the Monterey County Recorders office that reads, "No invasive species of plants shall be planted on the property. Invasive plants include pampas grass (*Cortaderia jubata*), Hottentot fig or iceplant (*Carpobrotus edule*)." The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department.
16. Prior to any construction activities, a deed restriction shall be recorded with the Monterey County Recorders office that reads "Landscaping approved within development areas shall emphasize preservation of the natural character of the communities present. Individual trees and larger shrubs originally present on the land shall be integrated into approved landscape plans where possible." The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department.
17. Prior to any construction activities, a deed restriction shall be recorded with the Monterey County Recorders office which reads that "If any limited fuel reduction program should become necessary in the native habitats for fire protection, it shall be developed with the aid of a qualified forester, biologist, Fire Department and Planning and Building Inspection staff so as to best help reduce fire danger and maintain or improve habitat values." The deed restriction shall be subject to the approval of the Director of Planning and Building Inspection Department.
18. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and all off-site glare is fully controlled and not visible from Point Lobos Reserve. Any exterior lights that are found to be obtrusive, after construction shall be removed. The Director of Planning and Building Inspection, prior to the issuance of building permits must approve the location, type, and wattage of all exterior lights.
(Planning and Building Inspection)
19. The applicant shall record a deed restriction which states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.146.080.D.3 of the Coastal Implementation Plan and

per the standards for development of residential property" prior to the issuance of building or grading permits. (Planning and Building Inspection)

20. A "Scenic and Conservation Easement" shall be granted to the County of Monterey for slopes of greater than 30 percent and areas with environmentally sensitive habitat. No development shall occur outside of the envelope as approved by the Board of Supervisor. The envelope area includes the footprint of the house including garages, pool, poolhouse, septic area, and water tank area and driveway alignment. The "Scenic and Conservation Easement" shall be submitted to and approved by the Director of Planning and Building Inspection, prior to the issuance of building or grading permits. (Planning and Building Inspection)
21. The application shall record a deed restriction stating "Because of the visual sensitivity of the area, all landscaping shall be approved by the Planning and Building Inspection Department. All exterior design changes, including color changes associated with repainting, re-roofing, exterior lighting changes, and landscaping changes shall be approved through the design approval process." The deed restriction shall be subject to the approval of the Director of Monterey County Planning and Building Inspection Department, prior to the issuance of building or grading permits. (Planning and Building Inspection)
22. Prior to issuance of a building permit, applicant shall submit for review and approval of the Board of Supervisor, and subsequently record, a deed restriction stating, "The poolhouse shall be without kitchen or cooking facilities, clearly subordinate and incidental to the main building on the same building site, and not to be separately rented, let or leased whether the compensation be direct or indirect. (Planning and Building Inspection)
23. Pursuant to State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before filing of the Notice of Determination. Prior to the issuance of a building permit and/or grading permit, proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection Department)
24. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and

attorney's 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 such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (Planning and Building Inspection Department)

25. That the applicant shall record a notice that states: "the Monterey County Board of Supervisor approved a permit for Assessor's Parcel Number 416-011-017-000. The permit was granted subject to 55 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)
26. All roads shall be constructed to provide a minimum of two nine-foot traffic lanes providing two-way traffic flow, unless local jurisdictions or local subdivision requirements mandate other standards or additional requirements. (Carmel Highlands Fire Protection District)
27. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of fire apparatus. (Carmel Highlands Fire Protection District)
28. The grade for all roads, streets, private lanes and driveways shall not exceed 15 percent. (Carmel Highlands Fire Protection District)
29. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. (Carmel Highlands Fire Protection District)
30. Roadway turnarounds shall be required on driveways and dead-end roads in excess of 150 feet of surface length. Required turnarounds on access roadways shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the road. If a hammerhead/T is

used, the top of the "T" shall be minimum of 60 feet in length. (Carmel Highlands Fire Protection District)

31. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. (Carmel Highlands Fire Protection District)
32. Size of letters, numbers and symbols for addresses shall be a minimum of 3-inch letter height, 3/8-inch stroke, contrasting with the background color of the sign. (Carmel Highlands Fire Protection District)
33. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. (Carmel Highlands Fire Protection District)
34. Approved fire protection water supply systems must be installed and made serviceable prior to the time of construction. (Carmel Highlands Fire Protection District)
35. For development of only one single family dwelling on a single parcel with no further land division possible, the minimum on-site fire protection water supply shall be based on specifications contained in the following table:

*Cumulative Square Footage of
all building to be
Protected On-Site Storage*

0 - 999	3,000 gallons
1,000 - 1,999	5,000 gallons
2,000 - 2,999	7,500 gallons
3,000 - above	10,000 gallons

(Carmel Highlands Fire Protection District)

36. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. (Carmel Highlands Fire Protection District)
37. Minimum hydrant standards shall include a brass head and valve with at least one 2 1/2-inch National Hose outlet supplied by a minimum 4 inch main and riser. The Reviewing Authority may apply more restrictive hydrant requirements. (Carmel Highlands Fire Protection District)
38. Because of extra hazardous conditions, remove flammable vegetation from within 100 feet of structures. Limb trees 6 feet up from the ground. Remove limbs within 10 feet of chimneys. If, approved by the local Fire District the requirement to

remove flammable vegetation from within 100 feet can be reduced. (Carmel Highlands Fire Protection District)

39. Environmentally sensitive areas may require alternative fire protection, to be determined by the Reviewing Authority and the Director of Planning and Building Inspection. (Carmel Highlands Fire Protection District and Planning and Building Inspection)
40. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:

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

41. The swimming pool shall be plumbed for fire department access. (Carmel Highlands Fire Protection District)

Prior to Final/Occupancy

42. The project shall be designed and constructed pursuant to recommendations contained in the "Geotechnical and Geological Hazards Report with Development Recommendation for a New Residence of Mr. and Mrs. Philip Bliss" dated August 14, 1998. (Planning and Building Inspection)
43. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded, with native grasses or otherwise treated to control erosion, subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)

Continuous Permit Conditions

44. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. (Planning and Building Inspection)
45. A Grading Permit shall be required pursuant to the Monterey County Code relative to Grading; Chapter 16.08. (Planning and Building Inspection)
46. The applicant shall continuously maintain all landscaped area and/or fences and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)

47. All materials shall be non-reflective and earth tone to blend into the surroundings and subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)
48. New utility and transmission lines shall be placed underground. (Planning and Building Inspection)
49. The Director of Planning and Building Inspection shall approve the location, type and size of all antennas, satellite dishes, towers, and similar appurtenances. (Planning and Building Inspection)
50. That the poolhouse shall be without kitchen or-cooking facilities, clearly subordinate and incidental to the main building, on the same building site, and not to be separately rented, let, or leased, whether compensation be direct or indirect. (Planning and Building Inspection)
51. Poolhouses shall share the same utilities with the main residence, unless prohibited by public health requirements. (Planning and Building Inspection Department)
52. The poolhouse shall be limited to a maximum of six linear feet of counter space, excluding counter space in a bathroom. There shall be a maximum of eight square feet of cabinet space, excluding clothes closets. (Planning and Building Inspection Department)
53. Poolhouses shall not exceed 425 square feet of livable floor area. (Planning and Building Inspection Department)
54. If archaeological resource or human remains are accidentally discovered during construction, work shall be halted within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented. (Planning and Building Inspection Department)
55. Only one kitchen shall be allowed in the single-family dwelling. (Planning and Building Inspection department)

NOW, THEREFORE, BE IT RESOLVED that the Monterey County Board of Supervisors hereby approves the application for a Combined Development Permit.

PASSED AND ADOPTED on this 11th day of January, 2000, upon motion of Supervisor Pennycook, seconded by Supervisor Salinas, by the following vote, to-wit:

REVISED 6/20/00

AYES: Supervisors Salinas, Pennycook and Calcagno.
NOES: Supervisor Potter.
ABSENT: Supervisor Johnsen.

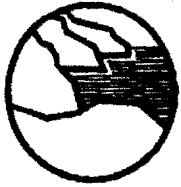
I, Sally R. Reed, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 70, on January 11, 2000.

Dated: January 11, 2000

Sally R. Reed, Clerk of the Board of Supervisors, County
of Monterey, State of California.

By Nancy Lukensbill
Deputy

THIS DETERMINATION IS FINAL AND NOT SUBJECT TO APPEAL PURSUANT TO CALIFORNIA PUBLIC RESOURCES CODE SECTION 30603. ANY JUDICIAL CHALLENGE OF THIS DETERMINATION MUST BE FILED WITHIN THE APPLICABLE STATUTE OF LIMITATIONS PURSUANT TO CALIFORNIA CIVIL PROCEDURE CODE SECTION 1094.6 AND CALIFORNIA PUBLIC RESOURCES CODE SECTION 21167.



THE BIG SUR LAND TRUST

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P.O. Box 221864
 Carmel, CA 93922
 Tel 831 625 5523
 Fax 831 625 0716
 mail@bigsurlandtrust.org
 www.bigsurlandtrust.org

July 27, 2000

Via Fax to 427-4877
 California Coastal Commission
 Attn: Tami Grove, District Director
 725 Front Street, Suite 300
 Santa Cruz CA 95060

Re: **APPLICATION OF PHILLIP & BETSY BLISS**
August 10, 2000, Agenda Item 8, Coastal Development Permit -
Determination of Appeal Jurisdiction and Applicable Hearing and
Notice Provisions

Dear Tami:

In support of the Department of Parks and Recreation's (State Parks') position on this project, The Big Sur Land Trust (BSLT) hereby confirms its understanding that the above project is appealable to the Coastal Commission. Coastal Commission review of the project is critical to ameliorate the negative consequences of a development of this size and scope on land which constitutes an Environmentally Sensitive Habitat Area (ESHA) in the middle of a future State Park.

BSLT has been carefully following this project from the outset and has always understood from both the Coastal Commission and the County of Monterey that this project is appealable to the Coastal Commission. We understand (1) that all or a portion of this project is located in the "appeal area" as shown on the Commission's Appeal Jurisdiction Map, (2) that the project's significant impacts extend well into said appeal area, and (3) that the project is located in ESHA due in part to the endangered maritime chaparral which survives there and which will be damaged and further fragmented by this project. The County approved the project only by making an unwarranted exception to its own LCP rule prohibiting building in ESHA – such an exception indicates appealability.

Additionally, most of the surrounding land has been and is being purchased to protect open space and wildlife habitat utilizing millions of dollars of Mountain Lion Initiative funding (Proposition 117) for the benefit of the public and the creation of a new State Park. Allowing the Bliss project to proceed in its County approved form is inconsistent with the provisions of the LCP which protect sensitive habitat, the substantial expenditure of public funds to preserve wildlife habitat, and the program to create a new State Park.

(Bliss)

EXHIBIT K
 Preserving the natural beauty of California's Central Coast

3-00-002-EDD

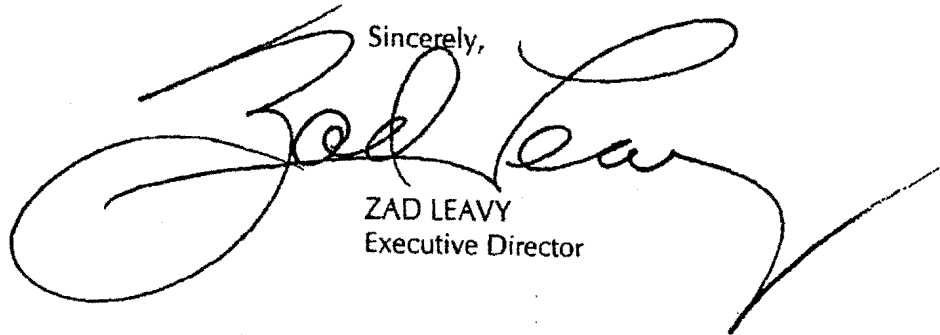
1 of 2

California Coastal Commission
Attn: Tami Grove, District Director
ZAD LEAVY
July 27, 2000

Page 2

BSLT urges the Coastal Commission to find that the project is appealable and to critically review the project as approved by the County.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Zad Levy', is written over the typed name and title.

ZAD LEAVY
Executive Director

ZL/RKj:rj

cc: Peter Douglas, Executive Director
Rick Hyman, Senior Planner
Supervisor Dave Potter, Vice-Chair
Mary Wright, Chief Deputy Director,
Department of Parks and Recreation

(Bliss)

EXHIBIT *K*
pg. *2 of 2*

3-00-002-EDD

JUD VANDEVERE AND ASSOCIATES
BIOLOGICAL CONSULTANTS

93 Via Ventura
Monterey, CA 93940

BIOLOGICAL REPORT

of

Betsy and Philip Bliss Property
APN: 416-011-017
Point Lobos Ridge
Monterey County

Prepared for

Betsy and Philip Bliss
P. O. Box 5805
Carmel, CA 93921

22 Jun 98

3-00-002-EDD
(Bliss)
EXHIBIT L

1 of 20

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BLISS
980147
W HICKMAN/PLANNING

Biological Report: for Betsy and Philip Bliss, Point Lobos Ridge, APN 416-011-017

1. This is a biological report addressing the survey requirements and development standards of the Monterey County Coastal Implementation plan, including rare and endangered species and overall habitat summaries.
2. & 4. This report was prepared by Jud Vandevere and Associates, 93 Via Ventura, Monterey 93940, for Betsy and Philip Bliss, P. O. Box 5805, Carmel 93921.
3. Fieldwork was conducted on 17 Apr 98 by Vandevere with Betsy and Philip Bliss.
5. The site is east of Point Lobos State Reserve, on the Lobos Ridge Road. APN 416-112-017 & 018.
6. Summary results:
 - a. Presence of rare, endangered or threatened species:

Plants:

Hooker's manzanita, *Arctostaphylos hookeri* ssp. *hookeri*, California
Native Plant Society (CNPS) List 1B
small-leaved lomatium, *Lomatium parvifolium*, CNPS List 4, a watch list

Animals

peregrine falcon, *Falco peregrinus anatum* (potentially present)
sharp-shinned hawk, *Accipiter striatus* (potentially present)
golden eagle, *Aquila chrysaetos* (potentially present)
purple martin, *Progne subis* (potentially present)
monarch butterfly, *Danaus plexippus* (potentially present)
Monterey dusky-footed woodrat, *Neotoma fuscipes luciana* (potentially present)

- b. Predominant vegetation type is Maritime Chaparral. about 50% of which is shaggy-barked manzanita, *Arctostaphylos tomentosa* ssp. *tomentosa*. which is not a plant of concern. However, approximately 5% of cover is Hooker's manzanita and 2% is small-leaved lomatium.

I. INTRODUCTION:

In this report the biotic features of the property, special-status species and possible impacts to them are addressed, together with long-term procedures that would assure protection of the resources. Recommended mitigations, if implemented, should reduce impacts to an insignificant level, conforming to all applicable development standards regarding environmentally sensitive habitats.

II. REGIONAL SETTING:

The site is on Point Lobos Ridge, above Point Lobos Ranch, is about two miles south of Carmel-by-the Sea and is about one mile north of the Carmel Highlands. Much of Point Lobos Ranch is being acquired by the Big Sur Land Trust.

III. LOCAL VEGETATION:

The proposed building site was carefully examined for biotic features with all seen species listed. Sensitive plant taxa were mapped.

Several hundred meters below this site, which contains Maritime Chaparral, is the Mark's Addition to Point Lobos State Reserve, with its stands of CNPS List 1B Gowen cypress, *Cupressus goveniana* and List 1B Monterey pine, *Pinus radiata*. At Point Lobos State Reserve is List 1B Monterey cypress, *Cupressus macrocarpa*. Redwood Forest habitat occurs in many of the canyons.

IV. RARE AND ENDANGERED SPECIES:

A small population of Hooker's manzanita will be lost when the vegetation in the footprint of the proposed home and pool is cleared. This taxa is threatened by development and fire suppression. Although not in this location, it is also threatened by competition with introduced *Eucalyptus*. CEQA consideration is mandatory.

A small population of List 4 small-leaved lomatium occurs in the area proposed for a home and pool. This species is rare, but found in sufficient numbers and distributed widely enough that the potential for extinction is low at this time. It is endangered in a portion of its range and has neither a federal or state listing.

At some time a peregrine falcon, sharp-shinned hawk, golden eagle or purple martin might visit the property.

3-00-002-EDD

(Bliss)

EXHIBIT L

3 of 20

V. THREATENED SPECIES:

White-tailed kites, a species of concern, has nested in pines in Carmel and has foraged over the coastal terrace in the Reserve immediately south of Monastery Beach and may use the site as hunting and foraging habitat.

The endangered peregrine falcon has not nested at Pt. Lobos since the early '50s. An increasing number of migrating individuals have been observed at Pt. Lobos and may occasionally pass through Pt. Lobos Ranch.

A pair of sharp-shinned hawks, a species of special concern, may have nested recently in the Pt. Lobos area and are likely to occasionally hunt or nest on Lobos Ridge.

Golden eagles, a species of special concern, have not been seen nesting recently in the Pt. Lobos area, but have frequently been observed flying over Lobos Ridge.

Purple martins, a species of special concern, used to nest in the Carmel Highlands and migrating martins may occasionally pass over Lobos Ridge.

Over-wintering monarch butterflies, a species of special concern, use sites at Point Lobos State Reserve and moved to trees at the top of Corona Road in Feb 92 after a controlled burn at the Reserve. Although butterflies occur at Lobos Ridge, whether pines on the Ridge have been used for over-wintering is unknown.

The parcel contains abandoned Monterey dusky-footed woodrat's nests. If there should be nearby young striking out on their own, they might take an interest in fixer-uppers on the parcel.

Spotted skunks, *Spilogale putorius*, have not been seen in the Carmel Highlands for decades.

VI. IMPACT ASSESSMENT AND MITIGATION MEASURES:

Removal of indigenous vegetation and land disturbance shall be restricted to only those amounts necessary for the construction of a home and pool.

The footprint for the home and pool supports low growing flora, as though the soil nutrients here are inadequate for normal growth. Therefore, the loss of this space for plant growth will not be as significant as would be the loss of a more fertile area.

A wartleaf ceanothus, *Ceanothus papillosus*, which is not a plant of concern, is growing northwest of the footprint, and with care might be protected during construction of both the home and pool.

Impact 1. Loss of about 5% of cover containing Hooker's manzanita.

Mitigation 1. Plant ten Hooker's manzanitas in areas of the property that lack vegetation.

Impact 2. Loss of approximately 2% of cover containing small-leaved lomatium.

Mitigation 2. Plant ten small-leaved lomatiums on parts of the acreage that are without plants.

Impact 3. Growth of invasive weeds could be significant.

Mitigation 3. If a weed control plan is implemented during and after construction, then impacts will be less than significant.

Jud Vandevere
Jud Vandevere
Consulting Biologist

BIOLOGICAL REPORT: BLISS, LOBOS RIDGE, APN 416-011-017

Trees:

Approximate percentage of cover:

<i>Chrysolepis chrysophylla</i> var. <i>minor</i>	chinquapin	21
<i>Quercus chrysolepis</i>	canyon live oak	2
<i>Garrya elliptica</i>	coast silk-tassel	3

Shrubs, Subshrubs and Woody Vines:

<i>Arctostaphylos tomentosa</i>	shaggy-barked manzanita	50
<i>ssp. tomentosa</i>		
<i>Arctostaphylos hookeri</i> ssp. <i>hookeri</i>	Hooker's manzanita CNPS List: 1B	5
<i>Adenostoma fasciculata</i>	chamise	4
<i>Ceanothus papillosus</i>	wartleaf ceanothus	2
<i>Heteromeles arbutifolia</i>	toyon	3
<i>Rhamnus californica</i>	California coffeeberry	3
<i>Vaccinium ovatum</i>	evergreen huckleberry	4

Herbaceous Species:

<i>Galium californicum</i>	California bedstraw	2
<i>Iris douglasiana</i>	Douglas iris	2
<i>Lomatium parvifolium</i>	small-leaved lomatium var. parvifolium CNPS List: 4	2
<i>Xerophyllum tenax</i>	bear grass	3
<i>Pedicularis densiflora</i>	Indian warrior	2
<i>Zigadenus fremontii</i> var. <i>fremontii</i>	Fremont's star lily	1

3-00-002-EDD

(Bliss)

EXHIBIT L

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BY *EW* DATE *7/1*

**JUD VANDEVERE
BIOLOGICAL CONSULTANT**

93 Via Ventura
Monterey, CA 93940

A REVISED BIOLOGICAL REPORT

for the

Betsy and Philip Bliss Property
APN: 416-011-017
Point Lobos Ridge
Monterey County

Prepared for

Betsy and Philip Bliss
P. O. Box 5805
Carmel, CA 93921

12 Jul 99

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A REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
POINT LOBOS RIDGE, APN 416-011-017

1. This is a revised biological report addressing the survey requirements and development standards of the Monterey County Coastal Implementation Plan, including rare and endangered species and overall habitat summaries.
2. & 4. The report has been prepared by Jud Vandevere, 93 Via Ventura, Monterey 93940, for Betsy and Philip Bliss, P. O. Box 5805, Carmel 93921.
3. Fieldwork was conducted on 17 Apr 98 by Vandevere with Betsy and Philip Bliss, on 25 Jun 99 and again on 8 Jul 99
5. The site is about two and one half miles east of Point Lobos State Reserve by the Lobos Ridge Road. APN 416-111-017.
6. Summary results:

a. Presence of rare, endangered or threatened species:

Plants:

Hooker's manzanita, *Arctostaphylos hookeri* ssp. *hookeri*, California Native Plant Society (CNPS) List 1B, rare, threatened or endangered

small-leaved lomatium, *Lomatium parvifolium*, CNPS List 4, a watch list

Animals:

peregrine falcon, *Falco peregrinus anatum* (potentially present)

sharp-shinned hawk, *Accipiter striatus* (potentially present)

golden eagle, *Aquila chrysaetos* (potentially present)

purple martin, *Progne subis* (potentially present)

monarch butterfly, *Danaus plexippus* (potentially present)

Monterey dusky-footed woodrat, *Neotoma fuscipes luciana* (potentially present)

- b. Predominant vegetation type is Maritime Chaparral, with about 30%, shaggy-barked manzanita, *Arctostaphylos tomentosa* ssp. *tomentosa*, which is not a plant of concern. However, approximately 25% of cover is Hooker's and 1% is small-leaved lomatium.

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**A REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
POINT LOBOS RIDGE, APN 416-011-017**

I. INTRODUCTION:

In this report the biotic features of the property, special-status species and the possible impacts to them are addressed, as well as long-term procedures that would assure protection of the resources. Recommended mitigations, if implemented, should reduce impacts to an insignificant level, conforming to all applicable development standards regarding environmentally sensitive habitats.

II. REGIONAL SETTING:

The site is about two miles south of Carmel-by-the Sea and about one mile north of Carmel Highlands. It is on Point Lobos Ridge, above Point Lobos Ranch, most of which is being acquired by the Big Sur Land Trust.

III. LOCAL VEGETATION:

The proposed building site, which is in the southwest portion of a 40 acre lot, was carefully examined on 17 Apr 98, 25 Jun 99 and 8 Jul 99. Biotic features were noted, all species listed and sensitive plant taxa were mapped.

The lot is of Maritime Chaparral. Several hundred meters below is the Mark's Addition to Point Lobos State Reserve, which contains two CNPS List 1B trees: Gowen cypress, *Cupressus goveniana* and Monterey pine, *Pinus radiata*. Point Lobos hosts a third CNPS List 1B tree; Monterey cypress, *Cupressus macrocarpa*. Redwood Forest habitat occurs in many of the surrounding canyons.

IV. RARE AND ENDANGERED SPECIES:

About 1% of Hooker's manzanita on the 40 acres will be removed to make way for improvements. This taxa is threatened by development, fire suppression and competition with introduced *Eucalyptus*, although not in this location. CEQA consideration is mandatory.

A small population of List 4 small-leaved lomatium occurs in the area proposed for a home and pool as well as on other portions of the 40 acres. This species is rare, but found in sufficient numbers and distributed widely enough that the potential for extinction is low at this time. It is endangered in a portion of its range and has neither a federal nor state listing.

At some time a peregrine falcon, sharp-shinned hawk, golden eagle or purple martin might visit the property.

REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
PT LOBOS RIDGE, APN 416-011-017

THREATENED SPECIES:

Red-tailed kites, a species of concern, has nested in pines in Carmel and has extended over the coastal terrace in the Reserve immediately south of Monastery Ranch and may use this site as hunting and foraging habitat.

Endangered peregrine falcon has not nested at Pt. Lobos since the early '50s. An increasing number of migrating individuals have been observed at Pt. Lobos and occasionally pass through Pt. Lobos Ranch.

Pairs of sharp-shinned hawks, a species of special concern, may have nested recently in the Pt. Lobos area and are likely to occasionally hunt or nest on Lobos Ranch.

Golden eagles, a species of special concern, have not been seen nesting recently in the Pt. Lobos area, but have frequently been observed flying over Lobos Ridge.

Common nighthawks, a species of special concern, formerly nested in the Carmel Highlands and migrating martins may occasionally pass over Lobos Ridge.

Overwintering monarch butterflies, a species of special concern, use sites at Pt. Lobos State Reserve and moved to trees at the top of Corona Road in Feb 92 after a controlled burn at the Reserve. Although butterflies occur on Lobos Ridge, whether they have been used for overwintering is unknown.

The parcel contains abandoned Monterey dusky-footed woodrat's nests. If there should be nearby young striking out on their own, they might take an interest in the uppers on the parcel.

Red foxes, *Spilogale putorius*, which are not a mammal of concern, have not been seen in the Carmel Highlands for decades.

**A REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
POINT LOBOS RIDGE, APN 416-011-017**

VI. IMPACT ASSESSMENT AND MITIGATION MEASURES:

Removal of indigenous vegetation and land disturbance should be restricted to only those amounts necessary for the construction of a home and pool.

The area that is equidistant from and between the four garages, supports low growing flora, as though the soil nutrients there are inadequate for normal growth. Therefore, the loss of this area for plants will not be as significant as the loss of a more fertile space. However, about one of the 40 acres will lose its plant cover because of the planned project. The remaining 39 acres should be made a Maritime Chaparral Plant Preserve.

Species that occur on the parcel and are not plants of concern such as wartleaf ceanothus, *Ceanothus papillosus* and rayless arnica, *Arnica discoidea* and others could be used in the native landscaping in the courtyard and in areas that have received fill.

Impact 1. Loss of about one quarter of an acre of Hooker's manzanita.

Mitigation 1. Hooker's manzanita should be used for native landscaping and in fill areas. The summer, 1999, Elkhorn Native Plant Nursery publication lists the availability of 47 one gallon containers of this species.

Impact 2. Loss of about one tenth of an acre of small-leaved lomatium.

Mitigation 2. Incorporate at least 30 lomatium in the landscaping and in areas containing fill. The number of plantings should allow for a possible 50% loss. They should be kept watered and weeded until established.

Impact 3. Growth of invasive weeds could be significant.

Mitigation 3. A weed control plan should be implemented during and after construction.

Native grasses should be planted to prevent erosion.

Possible sources for replacements are: Elkhorn Native Plant Nursery, P.O.Box 270, Moss Landing 95039, Tel: (831) 763-1207 - Fax: (831) 763-1659; Rana Creek Habitat Restoration, 35351 East Carmel Valley Road, Carmel 93924, Tel: (831) 659-3820, ex. 11 - Fax: (831) 659-4851, Web: www.ranacreek.com; Tom Moss, 252 Chestnut St., Pacific Grove 93950, (831) 373-8573; Suzanne Schettler, 1820 Graham Hill Road, Santa Cruz 95060, (831) 438-3103; Patti Kreiberg, P.O.Box 221, Watsonville 95077.

A REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
POINT LOBOS RIDGE, APN 416-011-017

If 39 acres composed of about 25% Hooker's manzanita and about 1% small-leaved lomatium are made a Maritime Chaparral Plant Preserve and these three impacts are mitigated then the planned disturbance could be reduced to a biologically-sustainable level.

Jud Vandevere

Jud Vandevere
Consulting Biologist

**A REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
POINT LOBOS RIDGE, APN 416-011-017**

List of Species Encountered on Site:

Approximate
percentage
of cover:

Trees:

<i>Chrysolepis chrysophylla</i> var. <i>minor</i>	chinquapin	12
<i>Garrya elliptica</i>	coast silk-tassel	2
<i>Quercus chrysolepis</i>	canyon live oak	

Shrubs, Subshrubs & Woody Vines:

<i>Adenostoma fasciculata</i>	chamise	2
<i>Arctostaphylos hookeri</i> ssp. <i>hookeri</i>	Hooker's manzanita CNPS List 1B	25
<i>Arctostaphylos tomentosa</i> ssp. <i>tomentosa</i>	shaggy-barked manzanita	30
<i>Ceanothus papillosus</i>	wartleaf ceanothus	
<i>Heteromeles arbutifolia</i>	toyon	
<i>Rhamnus californica</i>	California coffeeberry	3
<i>Vaccinium ovatum</i>	evergreen huckleberry	12

Herbaceous Species:

<i>Dryopteris arguta</i>	wood fern	
<i>Flago gallica</i>	narrow-leaved flago	
<i>Galtum californicum</i>	California bedstraw	
<i>Gaultheria shallon</i>	salal	
<i>Gnaphalium californicum</i>	California cudweed	
<i>Gnaphalium purpureum</i>	purple cudweed	
<i>Helianthemum scoparium</i>	rush-rose	
<i>Iris douglasiana</i>	Douglas iris	
<i>Lomatium parvifolium</i>	small-leaved lomatium CNPS List4	1
<i>Lotus benthamii</i>	Bentham's lotus	
<i>Mimulus aurantiacus</i> var. <i>bifidus</i>	Santa Lucia sticky monkey flower	
<i>Navarretia atractylodes</i>	holly-leaved navarretia	
<i>Navarretia pubescens</i>	downy navarretia	
<i>Pedicularis densiflora</i>	Indian warrior	
<i>Pteridium aquilinum</i>	western bracken	13
<i>Rubus ursinus</i>	California blackberry	
<i>Senecio vulgaris</i>	common groundsel	
<i>Sonchus asper</i>	prickly sow thistle	
<i>Xerophyllum tenax</i>	bear grass	
<i>Zigadenus fremontii</i> var. <i>fremontii</i>	Fremont's star lily	

Birds seen:

<i>Chamaea fasciata</i>	wrentit
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Mammals (old nests seen):

<i>Neotoma filiscipes luciana</i>	Monterey dusky-footed woodrat
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A REVISED BIOLOGICAL REPORT FOR BETSY AND PHILIP BLISS,
POINT LOBOS RIDGE, APN 416-011-017

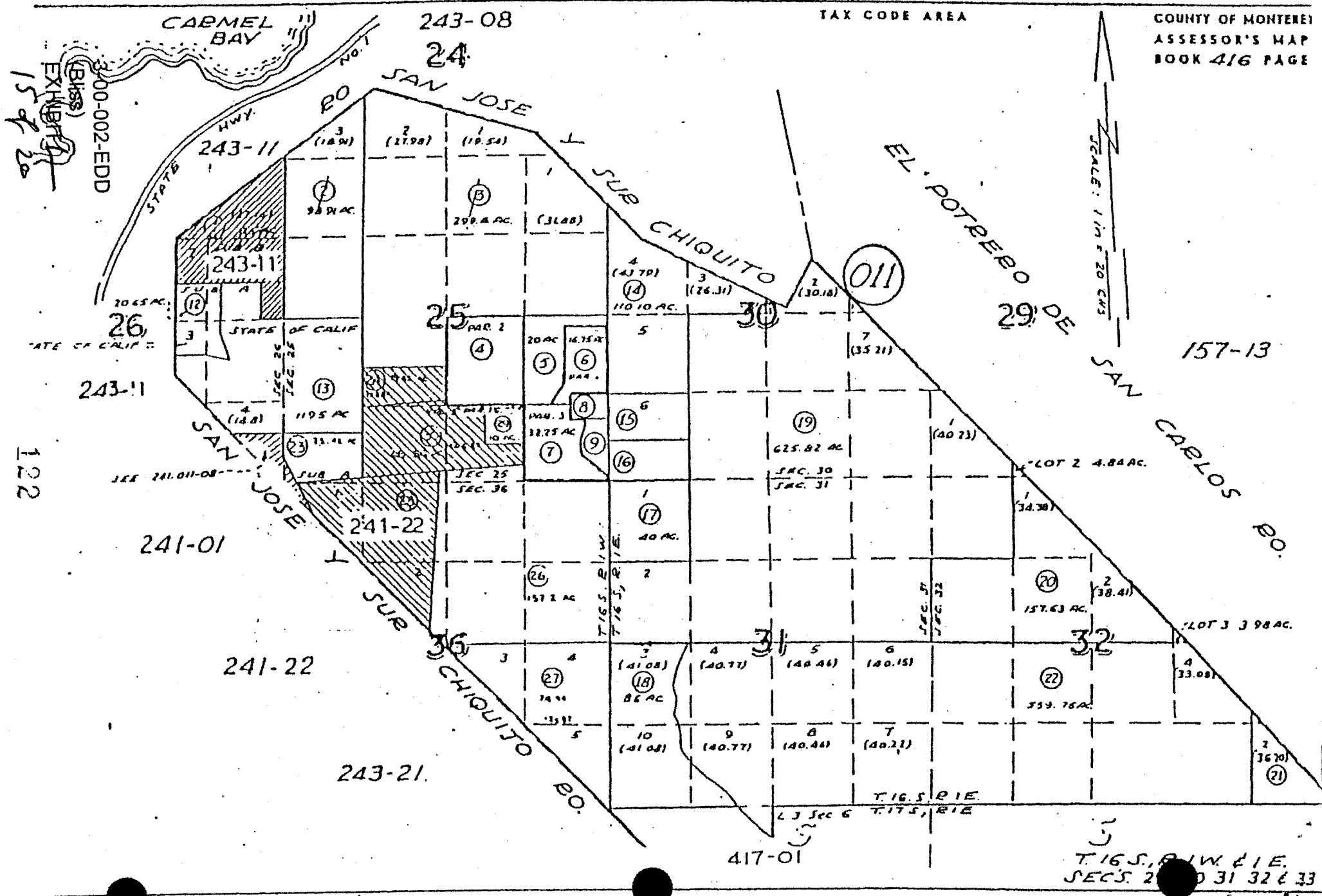
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WSC/80(62)



Jeff Norman
Consulting Biologist
P. O. Box 15
Big Sur, CA 93920
(831) 667-0105
5 January 2000

Todd Bessire
Lombardo and Gilles
318 Cayuga St.
Salinas CA 93902-2119

RE: Bliss Project (APN 416-011-017)

Dear Todd:

Thanks for sending on the copy of Planning Commission Resolution No. 99050, which details findings of the commission and conditions for the permit. I understand that the California Department of Fish and Game has agreed on the mitigations recommended as per the Biological Reports submitted by Jud Vandevere and Associates.

On 3 January 2000 I accompanied Jud Vandevere on a visit to the Bliss site. Based on that visit and discussions with Jud in the field, as well as my review of the Resolution and earlier botanical reconnaissance of the site, I offer the following recommendations:

1. Mitigation must be provided for a rare plant not mentioned in earlier documents. Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*) has already received impacts from the project, and will receive more impact during full implementation. Using the quantification in the Vandevere reports, no less than 0.10 acre of Monterey ceanothus should be replanted. Thus, the aggregate area for revegetation would be 0.45 acre (0.25 ac. Hooker's manzanita + 0.10 ac. small-leaved lomatium + 0.10 ac. Monterey ceanothus).
2. I recommend that these plantings be mixed—i.e., the aggregate area should be evenly revegetated with the three rare plant species, and not planted in segregated plots.
3. After discussion with Jud, and as per your indication that the applicant would voluntarily do so, I recommend the revegetation of an excess of the above-mentioned 0.45 acre. The large amount of excess excavated material that the project will generate can be used to recontour the existing superfluous roads on the property. The restored roadbeds can then be replanted with the above-mentioned rare plants. In order to enhance the restoration of these areas, I recommend including several other species in the planting selection: warty-leaved ceanothus (*Ceanothus cuneatus* var. *roweanus*), Hooker's manzanita (*Arctostaphylos tomentosa* ssp. *tomentosa*), evergreen

(Bliss)

EXHIBIT L

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huckleberry (*Vaccinium ovatum*), salal (*Gaultheria shallon*), and rayless arnica (*Arnica discolor*). I would also recommend to the applicant that an expert in maritime chaparral restoration be retained for this sensitive project: Paul Krelberg, Sunset Coast Nursery, Watsonville, CA 95076, phone 726-1672 or 726-3615.

Since the thin soil is podsolized (underlain by a hard impervious layer), it will be necessary to reserve the upper layer of soil from the excavation site for restoration. This material consists of a light, fluffy, sandy loam of pre-flandrian origin, which overlies a granitic layer. Soil of granitic origin must not be used in restoration, as its composition is unfavorable to the rare maritime chaparral plants which have evolved on the sandy loam.

4. Plants used for revegetation should be derived from site-specific material. Seeds and cuttings should be taken from plants on the Bliss property. If possible, transplantation may also be utilized. The revegetated area should be monitored three times a year, for three years, by a qualified biologist.

→ The restoration of 0.45 acres of maritime chaparral (19,602 square feet) represents 178% of the current footprint of the proposed residence (11,000 square feet). It is assumed that other improvements will convert somewhat more maritime chaparral habitat than the confines of the footprint; however, restoration of 0.45 acres will result in a net increase in the presence of this rare plant community. Coupled with a thorough and sustained weed eradication program, these mitigations will be beneficial to the long-term maintenance of maritime chaparral habitat on the Bliss property.

Sincerely,


Jeff Norman

3-00-002-EDD

(Bliss)

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Jud Vandevere
Biological Consulting
93 Via Ventura
Monterey, CA 93948
372-6001
4 Nov 99

Todd D. Bessire
Lombardo & Gilles
318 Cayuga Street
Salinas 93901

Re: Bliss, Pt. Lobos Ridge, APN: 416-011-017

Dear Mr. Bessire:

On this date I again visited the footprint of the proposed home for Betsy and Philip Bliss. I determined that there is no wetland, there is no estuary and there is no stream within 100 feet of the planned home.

Sincerely,

Jud Vandevere

Jud Vandevere

3-00-002-EDD

(Bliss)

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BY YBC DATE 11-5-99

Rasmussen Land Surveying, Inc.

PO Box 3135
Monterey, California 93942
(831)375-7240 Fax: (831)375-2545

November 4, 1999

Todd Bessire
Lombardo & Gilles
318 Cayuga
Salinas, CA 93901

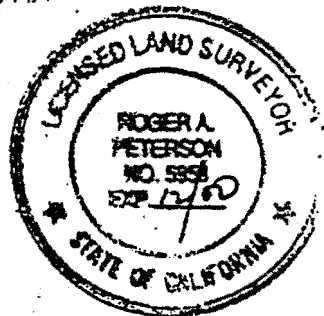
Re: Betsy Bliss Property

Dear Todd:

Based on a field observation, we find that there are no streams, wetlands or estuaries within 100' of the proposed building site area.

Yours truly,


Roger Peterson, PLS5958



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(Bliss)

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DEPARTMENT OF FISH AND GAME

MARINE REGION

20 LOWER RAGSDALE DRIVE, SUITE 100

MONTEREY, CA 93902

(831) 649-2870

6d

EXHIBIT

July 13, 1999

(Bliss)



Ms. Wanda Hickman
Monterey County
Planning and Building Inspection Department
P.O. Box 1208
Salinas, CA 93902

Dear Ms. Hickman:

Bliss Property
Negative Declaration, SCH# 99031011
Monterey County

Department of Fish and Game personnel previously reviewed the Negative Declaration for this project. Because the biological information in the document indicated there would be only minor impacts to sensitive plants, and adequate mitigation, the Department did not comment.

Jud Vandevere, the property owner's consultant, provided an updated biological report July 12, 1999 which indicates impacts will be somewhat greater than those discussed in the Negative Declaration. The project will impact about one quarter acre of Hooker's manzanita (*Arctostaphylos hookeri hookeri*), a California Native Plant Society List 1b species. The parcel also contains old Monterey dusky-footed woodrat (*Neotoma fuscipes luciana*) nests. The woodrat is a species of special concern.

The project likely will impact a larger area than described due to the need for fire clearance around the home. It is the Department's position that projects should avoid or minimize impacts where feasible. If this is not possible, mitigation should be provided. Mitigation should include the restoration of one quarter acre of Hooker's manzanita as well as the mitigation measures previously identified in the Negative Declaration. I believe avoidance of impacts, or the restoration of Hooker's manzanita, and preservation of the existing chaparral habitat on-site through a conservation easement also will adequately mitigate for impacts to the Monterey dusky-footed woodrat.

If you have any questions, or need additional information, please contact me at (408) 848-2576.

Sincerely,

Terry L. Palmisano
Associate Wildlife Biologist

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JUL-14-1999 08:17

(Bliss)

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