CALIFORNIA COASTAL COMMISSION



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STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION

2001 (see Exhibit D)

Appeal NumberA-3-MCO-01-087

Appellants:Citizens for Hatton Canyon, Attn: Christine Gianoscol Responsible Consumers of our Monterey Peninsula, Attn: David Dilworth

- Exhibits A, B, C) Carmel Area (Monterey County).
- Project description Widening Highway One by adding one northbound lane between Morse Drive and approximately 500 feet north of Carmel Valley Road; grading of 2,100 cubic yards of cut and 2,500 yards of fill; drainage modifications, guardrails, below-roadway retaining walls; and removal of 58-81 trees over 6 inches in diameter within the Highway One right-of-way, (see Exhibit C) Carmel Area (Monterey County).
- File documents......County coastal permit file PLN010261; Monterey County Board of Supervisors Resolution # 01-353; Monterey County Local Coastal Program. including Carmel Area Land Use Plan and Monterey County Coastal Implementation Plan.

Staff recommendation ... Project raises no Substantial Issue.

Summary of Staff Recommendation:

Staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Staff has determined that Resolution # 01-353 (PLN010261), which includes 24 special conditions established by the Monterey County Board of Supervisors, generally conforms to the standards set forth in the Monterey County Certified Local



Coastal Program, which includes the Carmel Area Land Use Plan, the Coastal Implementation Plan Part 4 – Regulations for Development in the Carmel Area Land Use Plan Area, and Title 20 (Zoning Ordinance).

The project is located in the Carmel area of the Coastal Zone in Monterey County (project vicinity and site location maps are shown in Exhibits A and B, respectively). The County's action allows for the widening of Highway One to provide an additional northbound travel/climbing lane, and all work will be done within the existing Highway 1 right-of-way. The project proposes to widen a 2,930-foot portion of Highway One between Morse Drive south to approximately 500 feet north of Carmel Valley Road, just east of the city of Carmel-by-the Sea. This highway segment is currently very congested, especially during commuting traffic hours and special events.

The current highway layout consists of one northbound lane and one southbound lane, with differing shoulder widths. This project proposes four-foot shoulders on each side of the highway and three twelve-foot wide travel lanes. The project also will require removal of approximately 58-81 trees, 6-inch or greater diameter at breast height (dbh), from the adjoining forested corridor as well as grading consisting of 2,100 c.y. of cut and 2,500 c.y. of fill.

The County has prepared on site mitigation for project impacts which include planting of Coast Live Oaks, Monterey Pine and Cypress trees, at a 4:1 replacement ratio, along with other vegetation designed to screen the highway from residential areas. The County has sufficiently conditioned the Coastal Development Permit to mitigate the impacts of the project. Conditions of approval were also included to address erosion control, noise impacts, biological monitoring and air quality.

Following County approval, Resolution # 01-353 was subsequently appealed to the Coastal Commission by Citizens for Hatton Canyon on September 18, 2001, and Responsible Consumers for Monterey Peninsula (RCMP) on September 19, 2001.

The appellants contend, among other things, that (1) that the project does not comply with the Local Coastal Program in that approval of the project allows development inconsistent with environmentally sensitive habitat, (2) the design is not sensitive to the aesthetic and visual requirements of the LCP, (3) the development removes the forested corridor and removes landmark trees, and (4) environmental review was inadequate and piecemeal. The full text of the appeals is attached as Exhibit F.

As discussed in the substantial issue section of this report, the approved project is generally consistent with applicable regulations for development as established by the Monterey County Local Coastal Plan (LCP). With regard to the issues raised by the appeal, the evidence in the record shows that they were satisfactorily addressed by the County. Therefore the appellants' contentions raise no substantial issue with respect to policies of the LCP.

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IV. Exhibits

- A. Regional Location Map
- B. Project Vicinity Map
- C. Excerpts from Project Plans
- D. Final Local Action from Monterey County Board of Supervisors, Resolution #01-353 Findings and Conditions
- E. Excerpt from Monterey County Board of Supervisors Staff Report for September 4, 2001 Meeting
- F. Appellant's Contentions
- G. Plant List and Planting Specifications
- H. Schaaf & Wheeler Letter Dated September 4, 2001
- I. 2001 Aerial Photo of Highway 1 Forested Corridor in Project Area.

I. Local Government Action

The Monterey County Planning Commission originally approved a County sponsored project to widen Highway One in an unincorporated portion of the Carmel Area (PLN010261), on August 8, 2001. The proposed project involves widening Highway by 1 adding one northbound lane between Morse Drive and approximately 500 feet north of Carmel Valley Road. The project also includes grading of 2,100 cubic yards of cut and 2,500 yards of fill, drainage modifications, guardrails, below-roadway retaining walls, and the removal of 58-81 trees over 6 inches in diameter within the Highway One right-of-way.

The Planning Commission's approval of the highway-widening project was appealed to the Monterey County Board of Supervisors on August 17, 2001 by Hatton Fields Residents Association, and by Citizens for Hatton Canyon, and Responsible Consumers of the Monterey Peninsula on August 20, 2001. The Monterey County Board of Supervisors conducted a *de novo* hearing on September 4, 2001, to consider these appeals, as well as all written and documentary information, staff reports, oral testimony and other evidence presented before the Board.

Following the *de novo* hearing, the Board of Supervisors denied the appeals submitted by the three appellants and thereby upheld the decision of the Planning Commission on the Combined Development Permit PLN010261. The Board of Supervisors Resolution # 01-353 includes adoption of the Mitigated Negative Declaration as amplified by a Response to Comments document dated July 2001, adoption of the Mitigation Monitoring Program, and approval of a Combined Development Permit (PLN010261), subject to 24 special conditions of approval. All permit findings and conditions are included in Exhibit D.

II. Summary of Appellants' Contentions

The two appellants, Citizens for Hatton Canyon and Responsible Consumers of our Monterey Peninsula, have appealed the final action taken by Monterey County Planning Commission (Resolution 01-035),



asserting that approval of the project is inconsistent with policies of the Monterey County Local Coastal Plan in the following areas:

- a. Visual Resources
- b. Forestry Resources
- c. Need for Comprehensive Environmental Review
- d. Environmentally Sensitive Habitat Areas (ESHA)
- e. Water & Marine Resources
- f. Geologic Hazards.
- g. Public Access and Safety

The complete text of the appellants' contentions can be found in Exhibit F.

III. Standard of Review for Appeals

The grounds for appeal to the California Coastal Commission under section 30603 of the California Coastal Act are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. This project is appealable because Section 30603(a)(5) allows for appeals of any development that constitutes a major public works project. As the project is a public transportation facility costing well over \$100,000, the project is considered a major public works project (PRC 30114: CCR § 13012).

IV. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that <u>no substantial issue</u> exists with respect to the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

MOTION : Staff recommends a "YES" vote on the following motion:

"I move that the Commission determine that Appeal No A-3-MCO-01-087 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal



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Act.

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

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

RESOLUTION:

The Commission hereby finds that Appeal No. A-3-MCO-01-087 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description and Location

The project is located in the Carmel Area of unincorporated Monterey County 500 feet north of Carmel Valley Road, and it extends north to Morse Drive. Currently, California State Highway 1 is a four-lane undivided highway between Carpenter Street and Ocean Avenue, but it narrows to a two-lane undivided highway between Ocean Avenue and Mesa Drive, in the vicinity of the proposed project. Surrounding land uses adjacent to the project area include the Carmel High School southeast of the Ocean Avenue/Highway 1 intersection, and single family residential units on both the east and west sides of Highway 1. A major commercial area is located southeast of the project area between Carmel Valley Road and Rio Road.

The highway in this area currently consists of two 12-foot travel lanes with typical shoulder widths of four to eight feet. Several residential streets and driveways intersect this section of Highway 1, and the existing forested corridor serves as a natural barrier between these residences and the roadway, as well as a visual buffer for both residents and drivers on the highway. The proposed construction work will not increase traffic capacity on Highway One, nor is it expected to generate additional trips, but it is expected to ameliorate congestion at an existing bottleneck area.

This project is an independent, stand-alone project planned by Monterey County to ease traffic congestion on Highway One from 500 feet north of Carmel Valley Road to Morse Drive in the Carmel area of Monterey County (See Exhibit C). The project that is the subject of this appeal is to construct an additional northbound lane, grading of 2,100 cubic yards of cut and 2,500 cubic yards of fill, drainage



modifications, approximately 950 linear feet of guard rails, approximately 800 linear feet of belowroadway retaining walls. Road widening will consist of cutting back the existing bank, requiring the removal of 58-81 trees over 6 inches in diameter (Exhibit C). All work for this project will be located in the right-of-way of California State Highway 1, owned by Caltrans, primarily on the western side of the highway.

Mitigation work includes replanting of native such as Coast Live Oak, Monterey Pine and Monterey Cypresses on site, at a ratio of approximately 4:1, to mitigate for the loss of approximately 19% of the forested corridor in the project area. Shrubbery will also be planted to provide additional visual screening (See Exhibit G, Plant List and Planting Specifications). The project was conditioned by the Planning Commission to include a mitigation monitoring period of three years for revegetation, to do pre-construction surveys for raptors and bats, and to prepare erosion control and stormwater pollution prevention plans, among other things (see Exhibit D).

This project should not be confused with Caltrans Operational Improvement #4, which proposes to widen Highway 1 in the same area, but on a larger scale. The County-Sponsored Widening Project is a stand-alone project which is not dependent on future Caltrans Operational Improvements. The Monterey County-Sponsored Widening Project differs from Operational Improvement #4 based on the amount of widening proposed and the number of trees proposed for removal. Table 1, below, illustrates the main differences between the two projects.

County-Sponsored Widening Project	Caltrans Operational Improvement #4	
Involves 2930 Ft. of Highway 1.	Involves roughly one mile of Highway 1.	
Widening would be limited to western side of	Involves widening of Highway 1 on both western	
Highway 1	and eastern sides.	
Proposes: 4-foot shoulders	Proposes: 8-foot shoulders	
two 12-foot lanes and one 11-	Three 12-foot lanes	
foot lane		
Proposes to remove 58-81 trees 6" dia. or	Proposes to remove 100-200 mature trees	
greater.		
Proposes to construct retaining walls below the	Will require a retaining wall 600 feet long and 10	
roadway surface so they will not be visible	feet high south of Mesa Dr., and potentially a noise	
from Highway 1.	wall 330 feet long on the eastern side of Highway 1	
	just south of Morse Dr.	
Stand-alone project sponsored by Monterey	Caltrans Operational Improvement for which an	
County DPW.	Environmental Impact Report is being prepared.	

Table 1	Doodwork	Proposed	for County.	Spansarad	Widoning Project
Table I.	NUAUWUIK	Troposcu	tor County-	-sponsoreu	Widening Project



B. Analysis of Appeal Issues

1. Visual Resources

A. Appellant's Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- The project is located within the public viewshed of a State Scenic Highway.
- The project does not protect scenic resources.
- The County has not complied with staking provisions.
- The project will have significant visual impact on the neighborhood and the motoring public along this State Scenic Highway.
- The aesthetic impacts from this project are not "less than significant".

The appellants specifically reference the following LCP and LCIP policies: 2.2.3.3; 2.2.4.1; 2.2.4.6; 2.2.4.10.e; 2.5.1 Overview; 5.3.3.4 Visual Access Policy a; 5.3.3.4 Visual Access Policy c; 20.146.030.A.1; 20.146.030.C.1.c; 20.146.030.C.1.e; 20.146.060.D.2; 20.146.130.E.5.e.4 and 20.146.130.E.5.e.5.

B. Local Coastal Program Provisions

The appellants specifically reference the following Carmel Area Land Use Plan (LUP) and Coastal Implementation Plan (CIP) policies regarding visual resources:

- 2.2.3.3 New development on slopes and ridges within the public viewshed shall be sited within existing forested areas or in areas where existing topography can ensure that structures and roads will not be visible from major public viewpoints and viewing corridors. Structures shall not be sited on non-forested slopes or silhouetted ridgelines. New development in the areas of Carmel Highlands and Carmel Meadows must be carefully sited and designed to minimize visibility. In all cases, the visual continuity and natural appearance of the ridgelines shall be protected.
- 2.2.4.1 All applications for development within the viewshed shall require individual on-site investigations. The dimensions, height, and rooflines of proposed buildings shall be accurately indicated by poles and access roads by stakes with flags.
- 2.2.4.6 The existing forested corridor along Highway 1 shall be maintained as a scenic resource and natural screen for existing and new development. New development along Highway 1 shall be sufficiently set back to preserve the forested corridor effect and minimize visual impact.



- 2.2.4.10.e Existing trees and other native vegetation should be retained to the maximum extent possible both during the construction process and after the development is completed. Landscape screening may be used wherever a moderate extension of native forested and chaparral areas is appropriate. All new landscaping must be compatible with the scenic character of the area and should retain existing shoreline and ocean views.
- 2.5.1 Overview The Carmel Coastal Segment also contains an unusual diversity of plant life associated with the forest environment that are of significant scientific, educational, and aesthetic value. The rare Monterey and Gowen cypresses occur naturally only in Monterey County in a restricted area, most of which is now part of Point Lobos Reserve. The dramatic contrast between the forest and brush-covered mountain slopes accounts for much of Carmel's rugged scenic grandeur. This diversity of plant life and the scenic rocky shoreline were largely responsible for the interest in setting aside Point Lobos as a State Reserve in the 1930s. The scenic beauty of the area has made Point Lobos an ever-popular visitor destination. (Emphasis added.)
- 5.3.3.4 Visual Access Policy a. Future land use planning should be compatible with the goal of retaining visual access. Visual access to the shoreline from major public viewing corridors and residential roads in Carmel Highlands-Riviera should be protected for visitors and residents alike.
- 5.3.3.4 Visual Access Policy c. Structures and landscaping hereafter placed upon land on the west side of Highway 1 shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway.
- CIP 20.146.030.A.1 ... Proposed building shall be accurately indicated as to dimensions, height and rooflines by poles with flags. The location of proposed access roads shall be accurately indicated by stakes with flags. Both poles and stakes shall remain in place for the duration of the project review and approval process... (Ref. Policy 2.2.4.1).
- CIP 20.146.030.C.1.c Structures located in the public viewshed shall be designed to minimize visibility and to blend into the site and site surroundings. The exterior of building should give the general appearance of natural materials (e.g., buildings are to be of weathered wood or painted in earth tones). The height and bulk of buildings shall be modified as necessary to protect the viewshed (Ref. Policy 2.2.3.3).
- CIP 20.146.030.C.1.e Existing trees and other native vegetation shall be retained to the maximum extent possible both during the construction process and after the development is completed. Landscape screening utilizing native species may be used wherever a moderate extension of native forested and chaparral areas is appropriate. Drought-resistant native species will be the appropriate species to use for this landscaping. All new landscaping must be compatible with the scenic character of the area and shall retain existing shoreline and ocean views. Refer to the County's "A Drought-Tolerant Plant List for the Monterey Peninsula" for appropriate landscape plant species. (Ref. Policy 2.2.4.10).
- 20.146.060.D.2 Removal of any trees which would result in the exposure of structures in the critical viewshed shall not be permitted, subject to the provisions of Section 20.146.030.A
- 20.146.130.E.5.e.4 Visual access to the shoreline from major public viewing corridors and



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residential roads in Carmel Highlands-Riviera shall be protected for visitors and residents alike (Ref. Policy 5.3.3.4.c).

• 20.146.130.E.5.e.5 Structures and landscaping on land west of Highway 1 shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway (Ref. Policy 5.3.3.4.c).

C. Local Government Action

Finding numbers 9, and 10 in the County's action (Resolution 01-353, Exhibit D) address visual issues. Finding #9 (Exhibit D, Page 8) states that the project is consistent with LUP policy 2.2.3.3 and CIP section 20.146.030.C.1.c relating to structures in the public viewshed. Evidence listed here states that retaining walls have been moved to give them the appearance of a lower profile to the residential areas, in addition to proposed plantings to screen the walls from residential areas. Retaining walls will be located below the roadway and thus will not be visible from major public viewpoints or viewing corridors.

Finding #10 (Exhibit D, Page 9) states that the project is consistent with CIP section 20.146.030.C.1.e and the portions of LUP policy 2.2.4.10 relating to retaining native vegetation. The Forest Management Plan, prepared by Stephen R. Staub and dated June 5, 2001, and project plans "demonstrate that the minimum number of trees will be removed. Remaining trees will be protected as conditions of approval (conditions 10 and 15)", and landscape screening will utilize species that are drought resistant and consistent with natives found in the area.¹

In addition to the County's findings, conditions of approval are placed on the project to mitigate for potential visual impacts. Condition #3 regulates construction lighting, #4 requires landscaping, and #5 requires a revegetation plan.

D. Substantial Issue Analysis and Conclusion

The appellants contend that this project is located within a public viewshed of a State Scenic Highway and that it does not protect scenic resources. This project is located within a public viewshed, however, LUP policy 2.2.3.3 and CIP section 20.146.030.C.1.c do not prohibit development within the public viewshed. This project does involve a retaining wall, and to comply with LCP, the retaining walls are proposed to be located below the roadway, so they will not be visible from major public viewpoints. In addition, the project design has also been modified to reduce the visibility of the retaining walls from adjacent residential areas. Therefore, even though the project is located within the public viewshed it raises no substantial issue with regards to these policies.

Regarding the appellants' contentions that the project was not staked in compliance with LUP policy 2.2.4.1 and CIP section 20.146.030.A.1, these policies apply to proposed buildings and access roads. This project proposal does not include any buildings, and is not an access road; thus the County had no

¹ Board of Supervisors Resolution 01-353. Exhibit D.



staking provisions to comply with, and these policies present no substantial issue. However, because the project involves tree removal within the forested corridor, the County flagged trees proposed for removal.

The Responsible Consumers of our Monterey Peninsula's appeal contains a statement concerning the aesthetic value of this area, and cites LUP policy number 2.5.1 Overview (see above). This policy does mention that the forest environment contains significant aesthetic value, but the intent of this policy is to provide general guidance for the Monterey and Gowen cypress forest of the Point Lobos Reserve, not the forested corridor along Highway One. Thus, this policy does not apply to the project area and presents no substantial issue.

Similarly, the Citizens for Hatton Canyon appeal lists LUP policies 5.3.3.4 Visual Access Policy a, 5.3.3.4 Visual Access Policy c, and CIP sections 20.146.130.E.5.e.4 and 20.146.130.E.5.e.5 as the basis for their contention that this project "destroys the visual scenic beauty of the forested corridor". However, these policies refer to visual access to the shoreline from major public viewing corridors and Highway One, not maintenance of the forested corridor. There is no visual access to the shoreline from the project area due to topography, distance, the residential areas, and arguably, the existence of the forested corridor, therefore these policies do not apply to the project area and present no substantial issue.

To address LUP policy 2.2.4.10.e and CIP section 20.146.030.C.1.e, the County has conditioned the project to retain the maximum number of trees possible, and to plant native, drought-tolerant plants including shrubs for screening. These plantings will also help to maintain the scenic properties of the existing forested corridor, as required by LUP policy 2.2.4.6 and CIP section 20.146.060.D.2.

Based on the site description, project design and the forestry report prepared for the project, the number of trees to be removed is the absolute minimum necessary to complete the project, which retains the largest amount of native vegetation possible. Additionally, substantial revegetation mitigation measures proposed will maintain the scenic resources and screening properties of the existing vegetation. The project as proposed and conditioned by the County will not diminish the visual resources of the Carmel area along the Highway 1 corridor, and so is in conformance with visual resource policies of the Monterey County LCP. Therefore, no substantial issue is raised with respect to these issues.

2. Forestry Resources

A. Appellants' Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- This project removes the forested corridor.
- This project destroys the scenic beauty of the forested corridor.



- Landmark trees will be removed.
- Mature trees are being removed to be replaced by much smaller trees.
- Removed trees will be replaced with retaining walls as sound barriers.

The appellants specifically reference the following LCP and LCIP policies: 2.2.4.6; 2.5.2 Key Policy; 5.3.3.4 Visual Access Policy a; 5.3.3.4 Visual Access Policy c; 20.146.130.E.5.e.4; 20.146.130.E.5.e.5; 20.146.060.D.1; 20.146.060.D.3 and 20.146.060.D.6.

B. Local Coastal Program Provisions

The appellants specifically reference the following Land Use Plan (LUP) and Coastal Implementation Plan (CIP) policies regarding forestry resources:

- 2.2.4.6 The existing forested corridor along Highway 1 shall be maintained as a scenic resource and natural screen for existing and new development. New development along Highway 1 shall be sufficiently set back to preserve the forested corridor effect and minimize visual impact.
- 2.5.2 Key Policy The primary use of forested land in the Carmel area shall be for recreation, aesthetic enjoyment, educational, scientific, watershed and habitat protection activities. Limited selective logging activities may be allowed provided that all natural resource protection policies of this plan and requirements of the State Forest Practice Act are met. The protection and conservation of old growth redwood is a primary goal of this plan.
- 5.3.3.4 Visual Access Policy a. Future land use planning should be compatible with the goal of retaining visual access. Visual access to the shoreline from major public viewing corridors and residential roads in Carmel Highlands-Riviera should be protected for visitors and residents alike.
- 5.3.3.4 Visual Access Policy c. Structures and landscaping hereafter placed upon land on the west side of Highway 1 shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway.
- 20.146.130.E.5.e.4 Visual access to the shoreline from major public viewing corridors and residential roads in Carmel Highlands-Riviera shall be protected for visitors and residents alike (Ref. Policy 5.3.3.4.c).
- 20.146.130.E.5.e.5 Structures and landscaping on land west of Highway 1 shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway (Ref. Policy 5.3.3.4.c)
- 20.146.060.D.1 Landmark trees of all native species shall not be permitted to be removed. A landmark tree is a tree which is 24 inches or more in diameter when measured at breast height, or a tree which is visually significant, historically significant, exemplary of its species, or more than 1000 years old. An exception may be granted by the decision-making body for removal of a landmark tree within the public right-of-way or area to be purchased for the right-of-way where no feasible and prudent alternatives to such removal are available, subject to obtaining a coastal development



permit... (Emphasis added.)

- 20.146.060.D.3 Removal of native trees shall be limited to that which is necessary for the proposed development. Prior to the application being considered complete, the development shall be adjusted for siting, location, size and design as necessary to minimize tree removal.
- 20.146.060.D.6 Native trees to be removed which are 12 inches or more in diameter when measured at breast height shall be replaced on the parcel. Replacement shall be at a rate of one tree of the same variety for each tree removed, except where demonstrated in the Forest Management Plan or Amended Plan that this would result in an overcrowded, or unhealthy forest.

C. Local Government Action

The County's action (Resolution 01-353, Exhibit D) allows for the removal of 58-81 mature trees, including landmark trees in the forested corridor.

Finding #2 (Page 4 of Resolution 01-353, Exhibit D) states that the "removal of the 58 to 81 native trees and other non-protected trees and vegetation will not cause the loss of the forested corridor consistent with policy 2.2.4.6 of the LUP and exposure of structures consistent with Section 20.146.060.D.2 of the CIP." The project location and design minimize the number of trees required to be removed, and as designed, the project removes less than 19% of the trees in the project area.

The project is conditioned to replace removed trees at a 4:1 ratio, have an approved landscaping plan and revegetation program, as well as a mitigation monitoring plan. Additionally, the project is conditioned to provide for the removal of exotic, invasive species and for the protection of trees not planned for removal.

Regarding Landmark trees, finding #22 of Resolution 01-353 (Exhibit D, Page 15) determines that the proposed "project is consistent with CIP regulation 20.146.060.D.1 relating to preservation of landmark trees..." as no feasible alternatives to removal are available.

D. Substantial Issue Analysis and Conclusion

Citizens for Hatton Canyon contend that this project proposes to remove the forested corridor along Highway 1 and is not in compliance with LCP policy 2.2.4.6. The project does propose to remove a portion of the western side of the forested corridor, which is located on both sides of Highway 1. However, the project has been designed and sited to minimize the number of trees to be removed (Finding #22, Exhibit D) to minimize visual impact.

This project has been heavily conditioned to mitigate for the loss of trees through revegetation efforts on site, to provide for the eradication of invasive, exotic species of plants, which are detrimental to the forested corridor, and to incorporate a replanting ratio of 4 trees planted for every one removed. Conditions include a mitigation monitoring period of three years. This contention is refuted by the fact that the forested corridor is not being removed and it is being maintained as a scenic resource, and therefore raises no substantial issue.



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In response to the Citizens for Hatton Canyon's comment that mature trees are being replaced with much smaller trees, the biologist's comment letter dated 8/24/01 states that "vegetation being planted is of multiple age classes and strata.". The forested corridor will be preserved by identifying gaps in the canopy and utilizing larger trees and shrubs to fill in those gaps, as well as the mitigations mentioned above.

The revegetation plan also includes provisions to plant shrubs to help maintain the visual screening properties of the existing corridor, as mitigation to comply with Coastal Implementation Plan (CIP) Section 20.146.060.D.2.

Regarding the removal of 17 landmark trees, the County's finding #22 (Exhibit D, Page 15) clearly states its compliance with Section 20.146.060.D.1, which provides an exception for projects where Landmark trees are located in the public right-of-way where there are no feasible and prudent alternatives to the removal. As discussed above, this project has been designed and sited to be in compliance with CIP section 20.146.060.D.3 to reduce the number of trees that will be impacted by the work, and it is conditioned to protect trees that are to remain.

Other alternatives would require larger numbers of trees to be removed or would increase the amount of grading necessary to complete the project. In accordance with CIP section 20.146.060.D.6, not just landmark trees greater than 12 inches dbh will be planted on the parcel, but all revegetation efforts will be located in the Cal-Trans right of way in the project area.

The Citizens for Hatton Canyon appeal states that this project is not in compliance with LUP key policy 2.5.2. This policy is relevant to logging activities and is meant to protect State Forests and old growth redwoods. Tree removal in the project area is not timber harvesting, does not involve a State Forest, nor does it have impacts on old growth redwoods. Furthermore, the Forestry Report states that the trees in this area are mainly planted as evidenced by the existence of Monterey Cypresses out of their normal range.

As discussed above, the Citizens for Hatton Canyon appeal lists policies 5.3.3.4 Visual Access Policy a, 5.3.3.4 Visual Access Policy c, CIP section 20.146.130.E.5.e.4 and 20.146.130.E.5.e.5 when discussing the forestry resources of the project area. However, these policies are irrelevant to the project area because they address visual access from public viewing corridors to the shoreline. Since the shoreline is distant and blocked by topography and residential development, there is no visual access to the shoreline from this highway segment, and they raise no substantial issue.

The appeal from RCMP states that the removed trees will be replaced with sound walls. The County-Sponsored Widening Project does not include sound walls, and so this issue is irrelevant and raises no significant issue.

The project has been redesigned and re-sited to reduce the number of trees to be removed and to provide protection for trees that are close to the limit of work that may be able to remain. The project has been conditioned to implement a revegetation plan, in addition to a mitigation monitoring plan, and is in conformance with forestry resource policies of the Monterey County LCP. Based on the site description,



project design and the forestry report prepared for the project, the number of trees to be removed is the absolute minimum necessary to complete the project. Furthermore, the removal of a portion of the forested corridor is not a significant impact when considered with the revegetation mitigation measures proposed. The project as proposed and conditioned by the County will not alter the integrity of the forested corridor along Highway 1 in the project area, and thus the Commission finds that no substantial issue is raised with respect to these issues.

3. Need for Comprehensive Review

A. Appellants' Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- The County-Sponsored Widening Project (CSWP) may operate to the disadvantage of long-term environmental goals.
- The Hatton Canyon Parkway EIR determined that the environmental impacts associated with the short-term "interim" improvements along Highway 1 could not be justified.
- The CSWP has environmental effects which are individually limited but cumulatively considerable.
- The operational improvements will increase noise and runoff, and significantly degrade the scenic corridor.
- The County should acknowledge the overall cumulative effect of the widening project in a single EIR.
- The Initial Study and Negative Declaration are legally inadequate and violate CEQA.
- This project constitutes improper piecemealing and violates CEQA.
- The Certified Local Coastal Program is significantly out of date.
- Growth-inducing impacts are ignored.

The appellants do not specifically reference any LCP and LCIP policies with regard to the issue of comprehensive environmental review.

B. Local Coastal Program Provisions

The Monterey County LCP has no directly relevant policy regarding California Environmental Quality Act (CEQA). However, projects issued a coastal development permit must either be exempt from or in compliance with CEQA.



C. Local Government Action

Finding #5 in Resolution 01-353 (Exhibit D, Page 5) states that the proposed project, permits and approval will not have significant adverse impacts on the environment, that a Mitigated Negative Declaration has been prepared and is on file in the Department of Planning and Building Inspection in Monterey County. The project proposal includes all mitigation measures identified in the Initial Study/Mitigated Negative Declaration and all project changes required to avoid significant detrimental effects on the environment have either been incorporated into the project or have been made conditions of approval. This includes implementation of a mitigation monitoring program.

D. Substantial Issue Analysis and Conclusion

The appellants raise a number of contentions related to CEQA review, such as the assertions that the Initial Study and Mitigated Negative Declaration are illegal and that this project constitutes piecemealing and violates CEQA. These contentions are not directly relevant to Coastal Commission review, as the Coastal Commission's standard of review for appeals is not CEQA, but the certified LCP.

Nonetheless, the applicant did prepare an Initial Study/Mitigated Negative Declaration for the project as CEQA compliance is required. The IS/MND details potential impacts to aesthetics, biological resources, and water quality in addition to cumulative impacts, and discusses how mitigation measures reduce the project's potential impacts to a less than significant level. Both the Monterey County Planning Commission and Board of Supervisors accepted the Mitigated Negative Declaration.

The Citizens for Hatton Canyon appeal asserts that the Hatton Canyon Parkway EIR determined that the environmental impacts associated with the short-term "interim" improvements along Highway 1 could not be justified. This document is over ten years old and analyzed a project that has since been rejected. This contention is not relevant to the proposed project, as it does not provide any basis for appeal under the certified LCP, and consequently it raises no substantial issue.

The RCMP appeal contends that the project does not deal with the growth-inducing impacts of the widening of Highway 1 in this area. Because this project is designed to alleviate congestion and not to provide any additional capacity, there are no significant growth-inducing impacts to this project. Therefore this contention raises no substantial issue with respect to the certified LCP and raises no substantial issue.

The contention that the Local Coastal Program is outdated does not provide any direct grounds for appeal under the certified LCP. While this may or may not be the case, it does not present a substantial issue with regards to the Highway 1 widening project. Thus, no substantial issue is raised by this contention.

Therefore, the Commission finds that no substantial issue exists with regard to the need for comprehensive review of this Monterey County project in conjunction with the twelve operational improvements proposed by Cal-Trans prior to the authorization of the coastal development permit for the CSWP. The County Sponsored Widening Project is a stand alone project that does not require the



completion of any other components for its viability, will not have any significant long-term or cumulative impacts, and will not prejudice any future actions with regard to any of the other operational improvements planned for Highway 1 in this area.

4. Environmentally Sensitive Habitat Areas

A. Appellants' Contentions

The appellants contend that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- The Monterey Pine forest constitutes ESHA.
- The project improperly defers the study of impacts to ESHA by using pre-construction surveys to identify and protect sensitive areas.
- No recommendations or comments from Fish and Game are included in the project design or conditions.
- Because a California Red-Legged frog was found in Hatton Canyon, an Endangered Species Act Section 10 consultation should occur.
- No setbacks to riparian vegetation or wetlands are proposed with this project.
- Potential impact on wetlands and the riparian corridor are unknown.
- This project will have significant impact on the environment.
- The mitigations proposed to address the significant impact to these natural coastal resources are wholly inadequate.

The appellants specifically reference the following LCP and LCIP policies: 20.146.040.B.1; 20.146.040.B.2; 20.146.040.B.10; 20.146.040.B.12; 20.146.040.C.2.c; and 20.146.040.C.3.a. Additionally, Responsible Consumers of our Monterey Peninsula (RCMP) also contends that there would be potential cumulative impacts to wetland and riparian resource areas that could potentially impact California Red-Legged frogs.

B. Local Coastal Program Provisions

The appellants specifically reference the following Land Use Plan (LUP) and Coastal Implementation Plan (CIP) policies regarding environmentally sensitive habitat areas:

- 20.146.040.B. The biological/botanical report prepared for the specific project shall detail how the proposed development conforms to all applicable development:
 - 1. Only small-scale development necessary to support resource-dependent uses may be located



in environmentally sensitive habitat areas if they can not be feasibly located elsewhere. (Ref. Policy 2.3.2)

- 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. (Ref. Policy 2.3.3.1)
- 10. Landscaping with native riparian species is required as a condition of approval for projects adjacent to riparian corridors (Ref. Policy 2.3.4. Riparian Corridors and Other Terrestrial Wildlife Habitats Policy #3).
- 12. Wildlife management considerations shall be included in the evaluation of development proposals, particularly land division proposals. Large and, where possible, contiguous areas of native vegetation shall be retained in order to meet the various needs of those wildlife species requiring large areas of undisturbed habitat (Ref. Policy 2.3.4; Riparian Corridors and Other Terrestrial Wildlife Policy #5).
- 20.146.040.C.2.c Riparian plant communities shall be protected by establishing setbacks consisting of a 150 foot open space buffer zone on each side of the bank of perennial streams and 50 feet on each side of the bank of intermittent streams or the extent of the riparian vegetation, whichever is greater. The setback requirement may be modified if it can be demonstrated that a narrower corridor is sufficient to protect existing riparian vegetation. Staff may require that this determination of the setback and/or extent of riparian vegetation be made by a qualified biologist. (Ref. Policy 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats Policy #1).
- 20.146.040.C.3.a A setback of 100 feet from the edge of all coastal wetlands shall be provided and maintained in the open space use. No new development shall be allowed in this setback area (Ref. Policy 2.3.4; Wetlands and Marine Habitats Policy #1).

Additional related policies of the Carmel Area LCP include the following:

- 2.3.2 Key Policy ... Since not all Monterey Pine Forest areas are environmentally sensitive habitat, the restrictions of these policies shall only apply where such forests are determined to be sensitive on a case by case basis... (Emphasis added)
- 2.3.3.10 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.
- 20.146.040 The sensitivity of Monterey Pine habitats in the Carmel Area shall be determined on a case-by-case basis through the completion of a biological/botanical report for the project. Examples of Sensitive Monterey pine forest include **naturally occurring groves** (Emphasis added) which:
 - a. function as habitat for rare or endemic plant or animal species;
 - b. have special value for wildlife due to the presence of snags suitable for cavity-dwelling species, or occurrence with Coast live oak, or native shrub understory.



c. have high aesthetic value due to their location within the public viewshed.

- 20.146.040.B.6 For projects in or adjacent to environmentally sensitive habitat areas, the County shall refer projects to the California Department of Fish and Game for evaluation of impacts from development and suggested mitigations for those impacts. These impacts shall include but not be limited to development of new or intensified land uses such as public access, recreation and associated facilities. Recommendations from the California Department of Fish and Game shall be included as conditions of project approval.
- 2.3.3.7 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.
- 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats Policy #1 Riparian plant communities shall be protected by establishing setbacks consisting of a 150-foot open space buffer zone on each side of the bank of perennial streams and 50 feet on each side of the bank of intermittent streams, or the extent of riparian vegetation, whichever is greater...
- 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats Policy #3 The County should encourage a program of riparian woodland restoration as a part of the development and environmental review process. As a condition of approval of projects adjacent to riparian corridors, the County, where appropriate, should require landscaping with native riparian species.
- 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats Policy #7 To allow for wildlife movement from one open space area to another, adequate corridors (greenbelts) connecting open space areas should be maintained or provided. Such a corridor shall be specifically retained for movement of wildlife to and from uplands east of Point Lobos Reserve and the Reserve itself.
- Wetlands and Marine Habitats Policy #1 A setback of 100 feet from the edge of all coastal wetlands shall be provided and maintained in open space use. No new development shall be allowed in this setback area...

C. Local Government Action

Finding #14 in Resolution 01-353 (Exhibit D, Page 11) states that the project is consistent with LUP policy 2.3.3.2 and CIP section 20.146.040.B.3 relating to land uses adjacent to environmentally sensitive habitats.

Finding #17 (Exhibit D, Page 13) states that the project is consistent with LUP policy 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats #3 and CIP section 20.146.040.B.10 relating to riparian vegetation.

Finding #18 (Exhibit D, Page 13) is consistent with LUP policy 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats #5 and CIP section 20.146.040.B.12 regarding wildlife corridors.

Finding #33 (Exhibit D, Page 20) in Resolution 01-353 states that the project is consistent with LUP



policy 2.3.2, along with CIP section 20.146.040.B.1 and 20.146.040.B.2 with regard to protecting environmentally sensitive habitat areas by limiting uses.

Finding #15 (Exhibit D, Page 12) states that the project is in compliance with LUP policy 2.3.3.10 and CIP section 20.146.040.B.6 regarding comments by the California Department of Fish and Game (DFG) and the US Fish and Wildlife Service (USFWS).

The project was conditioned by the County to prepare an erosion control plan, delineate the nearby wetland area, perform a riparian habitat assessment, and to install a silt fence near the toe of the slope just above said habitat areas for extra protection. The project was also conditioned to remove exotic/invasive species, landscape with native species, protect trees and vegetation not planned for removal, and do pre-construction surveys for nesting raptors and roosting bats in the project area.

D. Substantial Issue Analysis and Conclusion

The Commission notes that there is no ESHA on site to be destroyed or removed. County findings #17 (Page 13 of Resolution 01-353, Exhibit D), #18 (Page 13 of Resolution 01-353) and #33 (Page 20 of Resolution 01-353) all state that the project area does not include ESHA. Evidence for finding #17 states that "...the proposed project is not located in a designated riparian corridor and will not directly impact a riparian woodland area...". Evidence for finding #18 states that the two narrow, linear greenbelts between the highway and the residential development areas is a degraded habitat. Exhibit I verifies the County's findings that the slim, linear band of trees running along the highway is surrounded by residential development.

Evidence for finding #33 references CIP Section 20.146.040, which states that "...the sensitivity of the Monterey Pine habitats in the Carmel areas shall be determined on a case-by-case basis." Additionally, LUP Key Policy 2.3.2 states in part "...Since not all Monterey Pine Forest areas are environmentally sensitive habitat, the restrictions of these policies shall only apply where such forests are determined to be sensitive on a case by case basis."

The appellants contend that Monterey pines are sensitive plants and constitute ESHA. While policy 2.3.2 does list Monterey pine forests as sensitive plants, it also states that not all Monterey pine forest areas are ESHA (see above), and the determination in this case is that the area is not ESHA. CIP section 20.146.040 provides the basis for determination, and limits the ESHA classification to those Monterey pine forests that are naturally occurring. The biologist and forester agree that the majority of the forested corridor was planted due to the existence of Monterey cypress trees, and the fact that many of the trees were planted at the same time.

The County's biologist consulted with the Army Corps of Engineers and DFG to determine if any wetland or riparian areas were located within the project area. It was determined that no Army Corps of Engineers (ACOE) jurisdictional wetlands or riparian habitats are present on the project site. As discussed below, further investigation of potential wetland resources has confirmed a finding that are no wetland resources in the project area. Although the project area does not contain any ACOE



jurisdictional wetlands or riparian habitats, there is a very small wetland area adjacent to the project area. However, this is an isolated wetland, created as a result of the drainage from Highway 1, that is impacted by invasive plants, and thus it has a low potential to provide wildlife habitat.

While work will not take place in the wetland area itself, it will occur within the buffer area outlined by the LCP. The project has been conditioned to prevent any impacts to this area from increased stormwater runoff through the use of silt barriers and includes a condition to fence off this area to prevent people and machinery from creating impacts to it. Conversely, the habitat value of the area may actually be improved by the proposed project due to removal of invasive species and revegetation in the area with natives. The County has also prepared an erosion control plan which compensates for any potential water quality impacts to this area, consistent with the certified LCP, and the project has been conditioned to delineate the nearby wetland and to place siltation barriers and fencing adjacent to the off site wetland area. Therefore, no substantial issue is raised by this contention with regards to adverse impacts to riparian vegetation.

Citizens for Hatton Canyon assert that no recommendations or comments from the California Department of Fish and Game are included in the project design or conditions. Finding #15 of the Board of Supervisors Resolution 01-353 contends that the project is in compliance with LUP policy 2.3.3.10 and CIP section 20.146.040.B.6 regarding comments by the California Department of Fish and Game (DFG). Evidence presented as support for finding #15 states that DFG was notified as well as the US Fish and Wildlife Service (USFWS), and no comments were received by either agency. Consequently, no substantial issue is raised with regard to the contention that the County did not consult the Department of Fish and Game.

RCMP contends that a California Red-Legged frog was found in Hatton Canyon, which should trigger a Section 10 consultation under the Environmental Species Act. The Hatton Canyon area is not located within the project area boundaries, although it is adjacent to the project area and the two are separated by residential development. Section 10 consultations are required by the US Fish and Wildlife Service. Finding #15 (Exhibit D, Page 12) states that the Initial Study was sent to the USFWS, and that no comments were received. In any event, this contention provides no strong ground for appeal with respect to the certified LCP, and hence this contention raises no substantial issue.

Citizens for Hatton Canyon contend that the forested corridor is a "greenbelt" area with biological significance. Finding #16 of Resolution 01-353 (Exhibit D, Page 12) relates to the minimization of native vegetation removal in accordance with LUP Policy 2.3.3.7 and CIP Section 20.146.040.B.8. The biologist refutes this, describing the area as having "minimal biological function" because it is a "biologically isolated linear band" which is subjected to "significant reoccurring disturbance" due to residential and highway construction and use (see Exhibit I).²

The only LUP policy that references greenbelts is 2.3.4 Riparian Corridors and Other Terrestrial Wildlife Habitats Policy #7, which refers to corridors connecting open space, and specifically references the areas

² Biological Information Report by Denise Duffy and Associates dated August 24, 2001. See Exhibit E, Page14.



east of Point Lobos Reserve and the Reserve itself. Thus, no substantial issue is raised by this contention. Finding #18 states that the project is in accordance with the LCP policies regarding wildlife corridors because the project area is two linear bands separating the highway from residential areas and is a degraded habitat (see Exhibit I).

Additionally, the project has been conditioned to protect any sensitive animals that may be present at the project site and to maintain the forested corridor. Conditions #8 and #9 (Exhibit D, Page 23) require that pre-construction surveys be performed to look for nesting raptors and roosting bats respectively, and also require that buffer zones be maintained, animals be removed if necessary, and that roosting areas be constructed if bats will be moved from maternity roosting areas. Condition #10 requires a wetland delineation and riparian habitat assessment and for any sensitive areas to be fenced off to protect them.

Citizens for Hatton Canyon contend that the project improperly defers the study of impacts to ESHA by using pre-construction surveys to identify and protect sensitive areas. Condition # 10 requires a wetland delineation and riparian habitat assessment to be performed to protect the areas, rather than requiring this information prior to review and approval. However, although the County should have required these studies before the project was approved, both a wetland delineation and a riparian habitat assessment have been completed at this time. While the County did not adhere to procedure on this account, regardless of timing, the information that was required is available at this time. These assessments reaffirm that there will be no impacts to wetlands or riparian corridors in the project area as neither are present.

Regarding the pre-construction surveys required by Conditions #8 and #9 for nesting raptors and roosting bats respectively, these conditions acknowledge the fact that these species may be present at the project site and require mitigations to protect them from construction impacts. The pre-construction surveys shall be completed to ensure that raptors and bats will be further protected if they are present at the time of construction and raise no substantial issue.

Lastly, the appellants contest that the project will have significant environmental impacts and that the proposed mitigations are inadequate to protect the existing coastal resources. Finding #5 states that the applicant analyzed environmental impacts in a Mitigated Negative Declaration (see section B.3.D above) and the project was approved implementing the proposed mitigations. Therefore, this issue provides no ground for appeal under the certified LCP, and does not raise a substantial issue.

Biological impacts are mitigated through conditions of approval on the project, including the reduction of trees to be removed, decreasing the light and noise impacts, the fencing off of a nearby wetland area, and planting efforts to replace the trees removed at a 4:1 ratio. Although the trees to be planted as part of the revegetation plan for the most part will not be mature, trees of differing sizes will be planted to more closely replicate the aspects of the existing corridor. Therefore, with respect to environmentally sensitive habitat areas, the Commission finds no substantial issue.

Based on the evidence noted above, coupled with the site description, and evidence obtained during a biologic survey that the Monterey Pines on site were planted and consist of degraded habitat, the project area does not contain any environmentally sensitive habitat areas. The County has determined that the



only potential for adverse impact is from runoff water to an adjacent area of wetland vegetation with a low habitat value, and is requiring that a Stormwater Pollution Prevention Plan be prepared. The project has been conditioned by the County to require diligence in protecting the natural environment in the project area and the surrounding areas. As a result, no ESHA will be removed or destroyed by this project, and no substantial issue is raised by this contention.

5. Water and Marine Resources

A. Appellants' Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- Erosion impacts from this project could violate water quality standards.
- The CSWP will increase runoff by adding additional impervious coverage.
- The CSWP has the potential to increase flooding in a flood-prone area.
- There is no data showing that runoff rates will be maintained at predevelopment rates.
- Grading during the wet season on slopes greater than 15% is prohibited.

The appellants specifically reference the following LCP and LCIP policies: 2.4.3.2; 2.4.4.C.1; 2.4.5 Recommended Actions #6; 20.146.050.D.2 and 20.146.080.D.1.d.

B. Local Coastal Program Provisions

The appellants specifically reference the following Land Use Plan (LUP) and Coastal Implementation Plan (CIP) policies regarding water quality:

- 2.4.3.2 New development including access roads shall be sited, designed and constructed to minimize runoff, erosion, and resulting sedimentation. Land divisions shall be designed to minimize the need to clear erodable slopes during subsequent development. Runoff volumes and rates should be maintained at pre-development levels, unless provisions to implement this result in greater environmental damage.
- 2.4.4.C.1 All grading requiring a County permit which would occur on slopes steeper than 15 percent shall be restricted to the dry season of the year.
- 2.4.5 Recommended Actions #6. The County should adopt and implement the policies and development standards listed in the AMBAG 208 Water Quality Management Plan for Erosion and Sedimentation Control. These measures, along with those specified by the specific policies for erosion and sedimentation control, could be incorporated in the County's Grading Ordinance as suggested in Recommended Action No. 5. AMBAG's policies and standards are listed in the Appendix.



- 20.146.050.D.2 New development including access roads shall be sited, designed and constructed to minimize runoff, erosion, and resulting sedimentation. Land divisions shall be designed to minimize the need to clear erodable slopes during subsequent development. Runoff volumes and rates shall be maintained at pre-development levels, unless provisions to implement this result in greater environmental damage (Ref. Policy 2.4.3.2 Water and Marine Resources).
- 20.146.080.D.1.d New roads across slopes of 30% and greater shall be allowed only where potential erosion impacts can be adequately mitigated (i.e. proposed road construction will not induce landsliding or significant soil creep, nor increase existing erosion rates). Mitigation measures shall not include massive grading or excavation or the construction of protective devices that would substantially alter natural landforms (Ref. Policy 2.7.4. Geologic Hazards #4).

Additional relevant policies of the Carmel Area LCP include the following:

- 2.7.4 Geologic Hazards Policy #4 New roads across slopes of 30 percent or greater shall be allowed only where potential erosion impacts can be adequately mitigated (i.e. the proposed road construction will not induce landsliding or significant soil creep, nor increase existing erosion rates.) Mitigation measures shall not include massive grading or excavation or the construction of protective devices that would substantially alter natural landforms.
- 2.4.4.C.4 The native vegetation cover, temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized as soon as possible with planting of native annual grasses and shrubs, appropriate non-native plants, or with approved landscaping practices.
- 2.4.4.C.5 Provisions shall be made to conduct, surface water to storm drains or suitable watercourses to prevent erosion. Onsite drainage devices shall be designed to accommodate increased run-off resulting from site modification. Where appropriate, on-site retention of stormwater should be required.
- CIP 20.146.050.E.4.a An erosion control plan shall be required for the following types of development:
 - 1. diking, dredging, filling and construction activities within shoreline, estuary and wetland areas;
 - 2. Any development with the potential to create significant erosion or drainage impacts and;
 - 3. Any development located in "MDR" (Medium Density Residential) or "VSC" (Visitor-Serving Commercial)
- 20.146.050.E.4.e.10 In addition to the requirements contained in the Erosion Control Ordinance, the following criteria must also be followed in the Carmel Area:
 - a. All grading requiring a County permit which occurs on slopes steeper than 15 percent shall be restricted to the dry season of the year (Ref. Policy 2.4.4.C.1 Erosion and Sedimentation Control).



- 16.12.090.b When winter operations do take place, the following measures must be taken to prevent accelerated erosion. Additional measures may be required.
 - 1. Between October 15 and April 15, disturbed surfaces not involved in the immediate operations must be protected by mulching and/or other effective means of soil protection.
 - 2. All roads and driveways shall have drainage facilities sufficient to prevent erosion on or adjacent to the roadway or on downhill properties. Erosion-proof surfacing may be required in areas of high erosion hazard.
 - 3. Runoff from a site shall be detained or filtered by berms, vegetated filter strips, and/or catch basins to prevent the escape of sediment from the site. These drainage controls must be maintained by the permittee and/or property owner as necessary to achieve their purpose throughout the life of the project.
 - 4. Erosion control measures shall be in place at the end of each day's work.
 - 5. The Director of Building Inspection shall stop operations during periods of inclement weather if he determines that erosion problems are not being controlled adequately. (Ord. 2806, 1981).

C. Local Government Action

Finding #19 of County Resolution 01-353 (Exhibit D, Page 14) states that the project is consistent with CIP regulation 20.146.050.D.2 and LUP policy 2.4.3.2 relating to water quality and runoff. Condition #6 of the final resolution requires the preparation and review of an erosion control plan, and also details what components the plan should contain to maintain water quality.

Condition #6 requires additional erosion control measures for grading during wet weather as required by the erosion control ordinance (16.12.090.b)

Condition #16 requires disturbed areas to be re-vegetated immediately following construction with native species, and condition #18 requires the protection of all disturbed areas of bare soil and slopes, #19 states that grading work should be completed during the dry season to reduce erosion, and condition #24 requires the preparation and approval of a Storm Water Pollution Prevention Plan.

D. Substantial Issue Analysis and Conclusion

According to evidence for Finding #19 of Resolution 01-353 (Exhibit D, Page 14), runoff in the vicinity of the County-Sponsored Widening Project will be captured by existing drainage channels running east and west of the project site to avoid greater ground disturbance, evidence that the project complies with LUP policy 2.4.4.C.5. Additionally, conditions # 6 and #18 bring the project into compliance with CIP section 20.146.050.E.4.a and LUP policy 2.4.4.C.4, which require an erosion control plan and soils to be stabilized with native vegetation or other suitable stabilization methods, respectively.

RCMP contends that grading during the wet season on slopes greater than 15% is prohibited. It is prohibited by LUP policy 2.4.4.C.1 and CIP section 20.146.050.E.4.e.10.a. However, while this project



may not be in strict compliance with these programmatic provisions of the LCP, it has addressed other substantive policies to protect water quality through implementation of an approved erosion control plan and a stormwater pollution prevention plan. The primary function of the above policies is to protect water quality through the prevention of unnecessary erosion.

The project has been conditioned to reduce the likelihood of erosion by requiring slopes and disturbed surfaces both inside and outside of the project limits to be maintained through temporary cover and permanent vegetative cover (Condition #6, Exhibit D, Page 22). Condition #6 is also in compliance with the Erosion Control Ordinance section 16.12.090.b which relates to winter operations. This condition requires runoff from the site to be detained to prevent escape of sediment from the site, and includes a requirement for the contractor to stop operations during periods of inclement weather if erosion problems are not being controlled adequately. Additionally, condition #18 requires the use and monitoring of Best Management practices by a qualified person, as well as the stockpiling of topsoil, which the erosion control plan requires to be covered.

Although this project does conflict with the LCP policies regarding grading on slopes greater than 15% during the wet season, which does present an issue, it has been adequately conditioned to prevent and control erosion. Because it has also been conditioned to maintain water quality, the project complies with the intent of the erosion control/water quality policies of the LCP and in this instance does not rise to the level of a substantial issue.

The appellants contend that this project will increase runoff by adding impervious coverage and that it has the potential to increase flooding in a flood-prone area. Road widening associated the project will add 0.46 acres of impervious surface coverage, but will not significantly increase the amount of runoff generated from the roadway. A letter from the County's civil engineer, Harvey Oslick, PE, dated 09/04/01 (see exhibit H) states that the current peak discharge rate during a 25-year flow at the downstream end of the project is 37.5 cubic feet per second (cfs). That rate will be increased by 2.3% to 38.4 cfs.

Although this project does increase the potential amount of runoff, the amount is insignificant when compared to the peak discharge rate of the Carmel River, during a similar rainfall event, of approximately 17,000 cfs. This project is in compliance with LUP policy 2.4.3.2 and CIP section 20.146.050.D.2 regarding maintaining the runoff rates and volumes to pre-development levels, because these policies go on to say "unless provisions to implement this result in greater environmental damage." Evidence for Finding #19 states "In order to avoid greater ground disturbance and potential for related environmental damage, the proposed project's drainage control design incorporates the existing drainage channels...[to] capture existing and new runoff and channel it to the existing drainage course." Therefore, these findings comply with the certified LCP and raise no substantial issue.

The appellants contend that this project is not in compliance with LUP policies 2.4.3.2, 2.7.4 Geologic Hazards Policy #4, and CIP sections 20.146.050.D.2 and 20.146.080.D.1.d, which limit development of new roads across slopes of 30% and greater, stating that they will be allowed only where potential erosion impacts can be adequately mitigated, and that they must be sited and designed to minimize



erosion. This policy does not apply to the CSWP because it refers specifically to construction of new roads and therefore presents no substantial issue. Nonetheless, this project is consistent with these policies' requirements to mitigate for potential erosion impacts.

The RCMP appeal contends that this project is not consistent with the LUP policy 2.4.5 Recommended Actions #6 (see above), however, no substantial issue is raised by this contention as this is not a policy intended to regulate, but a recommended action statement intended to offer guidance for the future.

As designed and sited, the project will minimize ground disturbance, runoff, erosion and sedimentation. There is some concern about the potential for runoff water to drain to the east side of the highway, and the County has required the preparation of a Storm Water Pollution Prevention Plan to insure that erosion and sedimentation associated with the project will remain on site.

Other mitigation measures included in the project will minimize erosion and sedimentation associated with construction activities to help preserve water quality. Erosion and sedimentation resulting from construction activities will be prevented from entering storm water discharge. The area for the widening project is not subject to flooding, and will add an insignificant amount of impervious surface relative to the existing amount of impervious surfaces in the residentially developed area, and so is not expected to increase the risk of flooding in the area.

The Commission finds that no substantial issue exists with regard to water and marine resources and flooding. The project as proposed and conditioned includes adequate design and mitigation measures to protect water quality and marine resources, without increasing the risk of flooding in the area, and so conforms to the water quality and marine resources policies of the Monterey County LCP.

6. Geologic Hazards

A. Appellants' Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- The project involves building on slopes in excess of 30%.
- The project will scar the side of the State Scenic Highway.
- No geologic or geotechnical reports were done to assess the potential impacts to the slopes.
- The "no project" alternative will prevent building on slopes in excess of 30%.

The appellants specifically reference the following LCP and LCIP policies: 2.2.3.7 and 20.146.030.C.8.

B. Local Coastal Program Provisions

The appellants specifically reference the following Land Use Plan (LUP) and Coastal Implementation



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Plan (CIP) policies regarding geologic hazards:

- 2.2.3.7 Structures shall be located and designed to minimize tree removal and grading for the building site and access road. Where earth movement would result in extensive slope disturbance or scarring visible from public viewing points and corridors, such activity will not be allowed. Extensive landform alteration shall not be permitted.
- 20.146.030.C.8 Structures shall be located to minimize tree removal and grading for the building site and access road. If proposed earth movements would result in extensive slope disturbance or scarring visible within the public viewshed, the proposed grading/ground disturbance will not be allowed. Extensive landform alteration shall not be permitted (Ref. Policy 2.2.3.7).

Additional related policies of the Carmel Area LCP include the following:

- CIP 20.146.030.C.1.a ... Development shall not be located on slopes of 30% or greater. The Director of Planning may grant a waiver to the standard upon applicant request and explanation of the request justification if:
 - 1) there is no alternative which would allow development to occur on slopes of less than 30% or, ...
 - 2) The proposed development better achieves the resource protection objectives and policies of the Carmel Area Land Use Plan and development standards of this ordinance.

C. Local Government Action

Finding #4 of Resolution 01-353 (Exhibit D, Page 5) states that the "proposed development to be located on slopes greater than 30 percent is consistent with LUP policy 2.2.3.3 and Section 20.146.030.C.1.a.1 of the CIP as no other alternative exists which would allow development to occur on slopes of less than 30 percent."

Condition of Approval #6 (Exhibit D, Page 22) states that an erosion control plan shall be prepared and details what should be included in the plan, including the control of runoff from the site through detention and/or catch basins and the maintenance of all slopes and disturbed surfaces to control erosion.

Additional conditions intended to control erosion of slopes include: Condition #16 which states that disturbed areas shall be re-vegetated with native species and native erosion control seed mix immediately following construction; Condition #18 which requires all disturbed slopes to be protected from erosion both during construction and after; and Condition #19 states that grading should be completed during the dry season to reduce erosion and that the project shall implement the approved erosion control plan.

D. Substantial Issue Analysis and Conclusion

Citizens for Hatton Canyon contend that this project involves building on slopes in excess of 30%. This project does involve building on slopes in excess of 30%, however, the LCP provides an exception to



build on slopes greater than 30% when no other alternative exists (CIP section 20.146.030.C.1.a.1). The County found that this project is in compliance with this policy, stating that the road cannot be widened without grading the existing cut slopes (Finding #4) and that the slopes were created by the construction of the existing highway, so no natural 30% slopes will be affected by the project (Finding #27).

The appellant additionally contends that a "no project" alternative would prevent building on slopes greater than 30%. While this project alternative would prevent building on slopes greater than 30%, it is not seen as the preferred option because it would not provide any relief from traffic congestion in this area. Because the LCP provides an exception to allow building on slopes greater than 30% if there is no other alternative, this claim raises no substantial issue with regards to building on 30% slopes.

Citizens for Hatton Canyon also contend that no geologic or geotechnical reports were done to assess the potential impacts to the slopes. A geotechnical report was prepared by Twining Laboratories, Inc on July 2, 2001 for the Highway 1 Widening project, thus this contention raises no substantial issue.

Additionally, the Citizens for Hatton Canyon contend that this project will scar the slopes of the State Scenic Highway. The County stated in their Board of Supervisors Staff Report for the September 4, 2001 hearing, that the area contains only man-made slopes greater than 30% resulting from the cut and fill operations for the creation of the existing highway. These slopes are approximately 1:1, and are considered to be stable due to their existence for decades. Therefore, since the slopes are not natural slopes, and revegetation is proposed as a mitigation measure, this issue does not raise a substantial issue.

Furthermore, the County required the preparation of an erosion control plan, and has placed numerous conditions on the project to reduce the likelihood of erosion both during and post construction, such as protecting disturbed slopes and revegetation with native species. Therefore, with respect to development on slopes greater than 30%, the Commission finds that no substantial issue exists.

7. Public Access and Safety

A. Appellants' Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons:

- The project will create noise impacts that cannot be mitigated.
- The project will create an unsafe three-lane road.
- There will be inadequate room for emergency vehicles to pass.
- The project creates substandard lane widths.
- There is no traffic analysis to substantiate the County's claim that there will be "no net impact" to traffic, driveways and cross streets.



- The project will not provide the long-range goal of improving traffic congestion in the project area.
- The project fails to comply with requirements to provide a bicycle path along this section of Highway 1.
- Transportation policies are ignored.

The appellants do not specifically reference any relevant LCP or LCIP policies with regard to the issues of traffic safety, noise or bicycle access.

B. Local Coastal Program Provisions

Relevant LCP policies regarding Public Access, Hazards and Transportation provisions include the following:

- 2.7.4 Fire Hazards Policy #3 Roads serving new residential development, other than infill of existing developed areas, shall be adequate to allow access by emergency vehicles. The County Public Works Department roadway standards should be applied to all new developments (other than infill); however, these standards shall be adjusted to allow maximum avoidance of hillside scarring and cut and fill operations while at the same time providing for adequate access for emergency vehicles
- 3.1.1 Overview The limited capacity of Highway 1 to accommodate local and recreation traffic at a level that affords reasonable service and emergency use as well as an enjoyable scenic recreational experience is a major concern. Traffic volumes along sections of Highway 1 are at or approaching capacity during peak use periods, and future demand is expected to exceed the capacity of Highway 1. The ultimate capacity will be a major constraint on the long-range development of the Carmel area south of the Carmel River. Highway capacity north of the river may be increased through improvements (Emphasis added) or alternate alignments such as the proposed Hatton Canyon Freeway.
- 3.1.2 Key policy Monterey County will take a strong and active role in guiding future use and development of Highway 1 and all categories of land use related to and dependent on the highway. State Route One south of the Carmel River will remain a two-lane highway.
- 3.1.3 Highway 1 and Transportation Policy #1. To conform to the Coastal Act, most remaining highway capacity should be reserved for coastal priority uses: recreation and visitor-serving facilities, agriculture, and coastal-dependent industry. Commitment to further residential development through subdivision should be extremely limited. Traffic shall be monitored in order to provide a basis for decision-making.
- 3.1.3 Highway 1 and Transportation Policy #2. In order to afford reasonable traveling speeds for residents and visitors, protect emergency use of the highway, and enhance the quality and enjoyment of the scenic driving experience, reductions in peak use period traffic should be sought. A combination of measures, including public education and regulation of highway use during peak periods should be considered to achieve an improved service level.



A-3-MCO-01-087 Highway One Widening stfrpt 9.20.01

- 3.1.3 Highway 1 and Transportation Policy #5 All highway improvements shall be consistent with the retention of Highway 1 as a scenic two-lane road south of the Carmel River. This policy is not intended to preclude widening of the Carmel River bridge, if necessary, or providing adequate access to properties in the vicinity of Point Lobos. The overall objective for Highway 1 should be to maintain the highest possible standard of scenic quality in management and maintenance activities carried on within the State right-of-way. Bike lanes and left turn lanes are permitted. (Emphasis added)
- 3.1.4 Recommended Actions #1. A program should be initiated by Monterey Peninsula Transit or other public carriers, in cooperation with appropriate recreational agencies, the County, and community representatives, to provide bus stops at appropriate access points and to expand bus service to recreation areas and visitor-serving facilities. Bus routes should be scheduled to serve residents' needs as well as the needs of visitors.
- 3.1.4 Recommended Actions #2. An expanded education and promotion program should be implemented in cooperation with other appropriate recreation agencies to provide information on bus service and recreational areas that are accessible by bus.

C. Local Government Action

Evidence for finding #4 of the Board of Supervisors Resolution 01-353 (Exhibit D, Page 5) states that the existing, narrowest width between the slopes in the northern part of the project is approximately 36 feet wide. This project proposes two four-foot shoulders, and three 12-foot wide lanes for a total of 44 feet of planned pavement width.

The project goal, as stated on page 12 of the Board of Supervisors Staff Report (Exhibit E), is to alleviate congestion at the Carmel Valley Road and Highway lintersection, not to increase capacity in this area.

Condition of approval #23 of Resolution 01-353 is placed upon the project to address potential adverse noise impacts.

Staff Response to Appeal Comment #14 (Exhibit D, Page 11) details how this project is in compliance with road width in regards to passage of emergency vehicles.

D. Substantial Issue Analysis and Conclusion

Evidence for finding #4 of the Board of Supervisors Resolution 01-353 (Exhibit D, Page 5) states that the existing, narrowest width between the slopes in the northern part of the project is approximately 36 feet wide. This project proposes two four-foot shoulders, and three twelve-foot lanes, for a total of approximately 44 feet of planned pavement width. Some sections of the existing highway in this area have only 32 feet of pavement width.

This provides adequate room for emergency vehicles to pass even with a car in every lane, assuming that vehicles pull over to the side of the road as is required. Considering that the widest vehicles on the road are eight feet, with the majority of them being 6 feet wide, and giving them a shy distance around each



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vehicle, the most room that a vehicle will need is ten feet. If three vehicles all stop at the same point on the highway, two facing north and one facing south, they will use roughly 30 feet of pavement. This leaves 14 feet of roadway for an emergency vehicle to pass. Currently the average width of roadway available to emergency vehicles to pass is 12 feet, if two cars are stopped at the same point on the road. Therefore, this project protects emergency use of Highway 1, and provides no substantial issue for appeal.

Regarding the potential for impacts to driveways and cross streets, the LCP does mention this issue in 3.1.1 Overview, but in the context of regulating the placement of driveways for new development. Therefore, this issue does not provide ground for appeal under the certified LCP, which states that the grounds for appeal "shall be limited to the allegation that the development does not conform to the standards set forth in the certified local coastal program...". Thus, the Commission finds no substantial issue exists with respect to the issue of adverse impacts to crossroads and private driveways.

The stated goal of the County-Sponsored Widening Project is intended to alleviate congestion at the Carmel Valley Road and Highway 1 intersection. It is not intended to affect capacity of Highway 1 or to cause an increase in event traffic. The only expected traffic impacts will be to ease overcrowding at the intended intersection. Nonetheless, these contentions do not provide any grounds for appeal under the certified LCP, and thus no substantial issue is raised by these contentions.

Additionally, Citizens for Hatton Canyon contend that this project creates substandard lane widths and creates an unsafe three-lane road. These unsubstantiated claims do not provide any grounds for appeal with respect to the certified LCP and do not raise a substantial issue.

Responsible Consumers for our Monterey Peninsula also have three unsubstantiated assertions related to traffic impacts. They maintain that this widening project ignores transportation policies, that it fails to comply with requirements for a bicycle path along this section of Highway 1, and that this project is the same as the interim improvements referenced in the Hatton Canyon Parkway EIR.

Transportation policies mentioned by the appellant include 3.1.2 Key Policy and 3.1.3 Highway 1 and Transportation Policy #1, which state that Highway 1 will remain a two-lane highway south of the Carmel River and that highway capacity should be reserved for coastal priority uses, respectively. The project area is located north of the Carmel River, and so policy 3.1.2 Key policy is not relevant to this project. Also, this project does not affect highway capacity, but it will alleviate congestion along this section of Highway One, which is heavily traveled by visitors, and thus should better provide access to the Big Sur coastline.

Other transportation policies mentioned by RCMP are LUP policy 3.1.3. Highway 1 and Transportation Policy #2; 3.1.4. Recommended Actions #1 and 3.1.4 Recommended Actions #2. LUP policy 3.1.3. Highway 1 and Transportation Policy #2 is a policy, but is a programmatic policy. This policy is intended to provide guidance for development, not regulation of development, and thus projects do not have to conform to this policy as the standard of review. Furthermore, because both Recommended Actions policies #1 and #2 are merely recommended actions, not policies intended to regulate development, these contentions provide no ground for appeal with respect to the certified LCP and raise



no substantial issue.

With respect to unsubstantiated claims that this project fails to provide a required bicycle path, there is no LUP policy requiring a bicycle path along Highway 1. Moreover, where the LUP references bike lanes in 3.1.3 Highway 1 and Transportation Policy #5, it states that bike paths are permitted, not required. Additionally, the LUP states in part in 3.1.1 Overview that ...bicycling along Highway 1 with its narrow lanes, blind curves, and heavy traffic is considered hazardous. Congested traffic conditions combined with steep grades and strong winds are factors that discourage bicycling along the coast. Caltrans is working on improvements which will provide paved shoulders along the highway. These improvements should provide for a safer and more enjoyable recreational experience... In any event, this project proposes 4-foot shoulders on each side of the road which bicyclists can use. Therefore, this contention does not provide any ground for appeal with respect to the certified LCP and hence raises no substantial issue.

Based on the site description, LCP policies and project plans, the Commission finds that no substantial issue is raised with respect to traffic safety issues, public safety and access.

B. Substantial Issue Analysis- Conclusions

In conclusion, the appeal does not raise a substantial issue in terms of compliance with the LCP, visual issues, forestry resources, the need for comprehensive environmental review, environmentally sensitive habitat, water and marine resources, geologic hazards and public access and safety issues. Therefore, as conditioned by Monterey County, Board of Supervisors Resolution #01-353 conforms with LCP policies and protects the natural resources of the Carmel area as required by the Monterey County Certified Local Coastal Program.





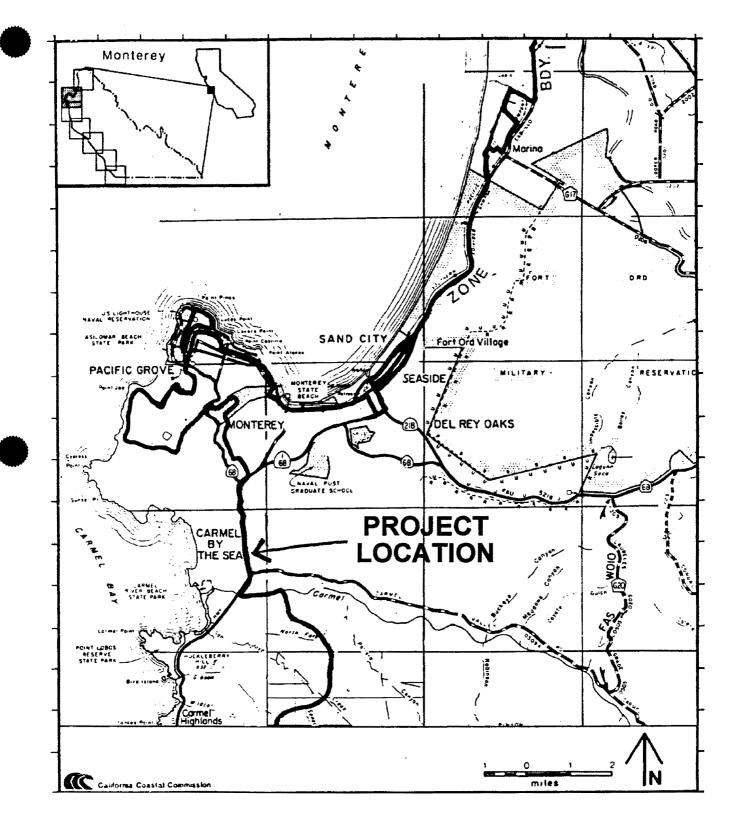
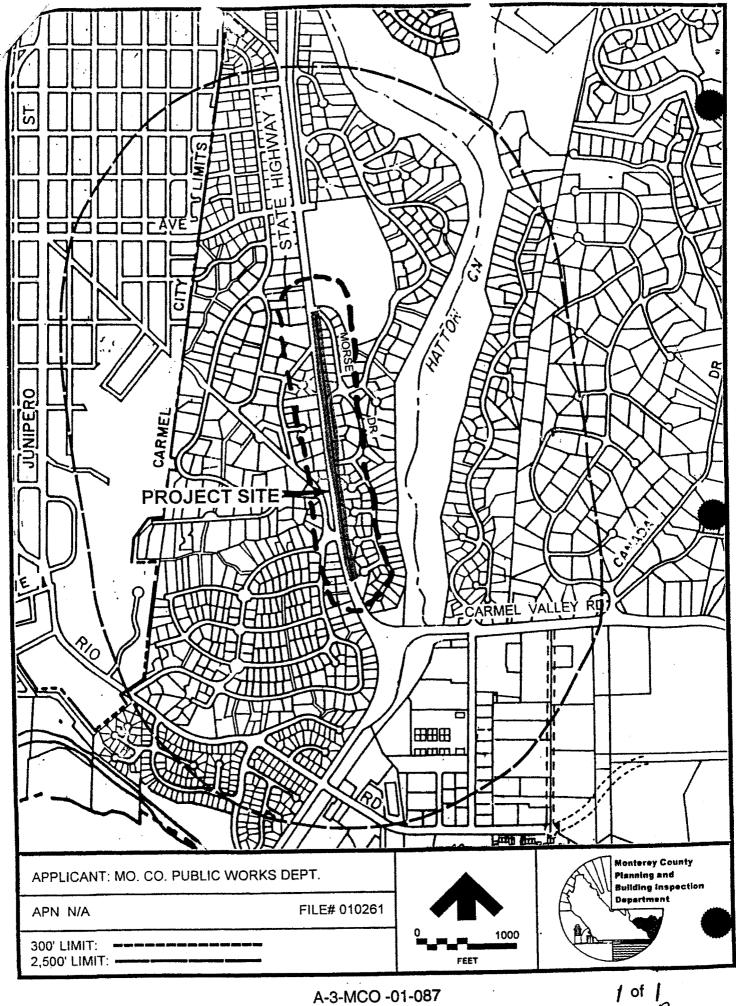
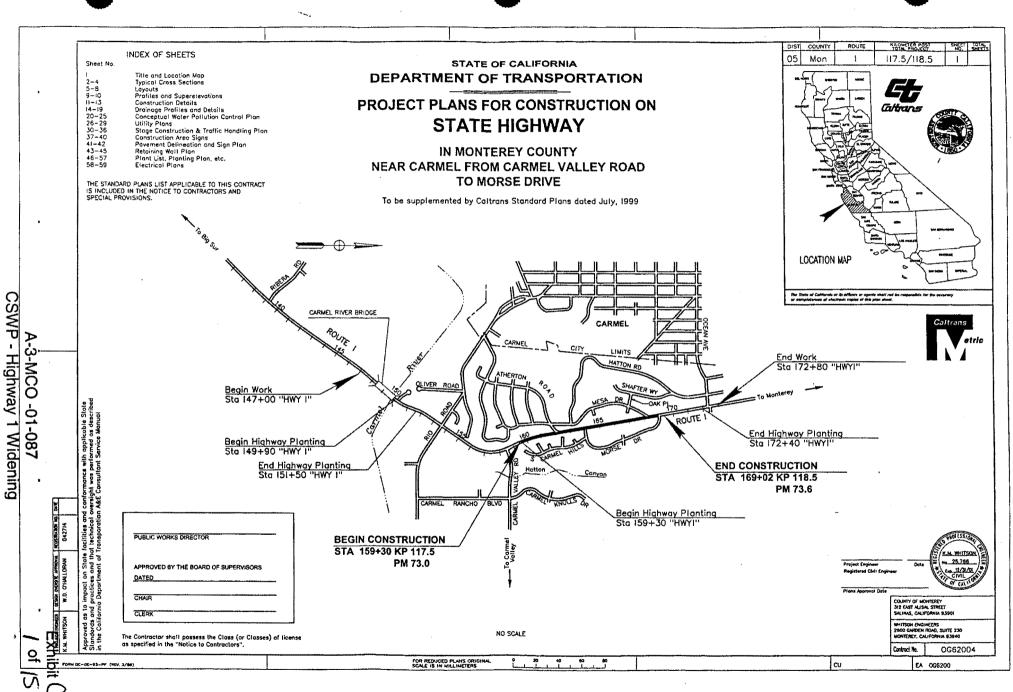


Exhibit A Regional Location Map Highway 1 Widening A-3-MCO-01-087



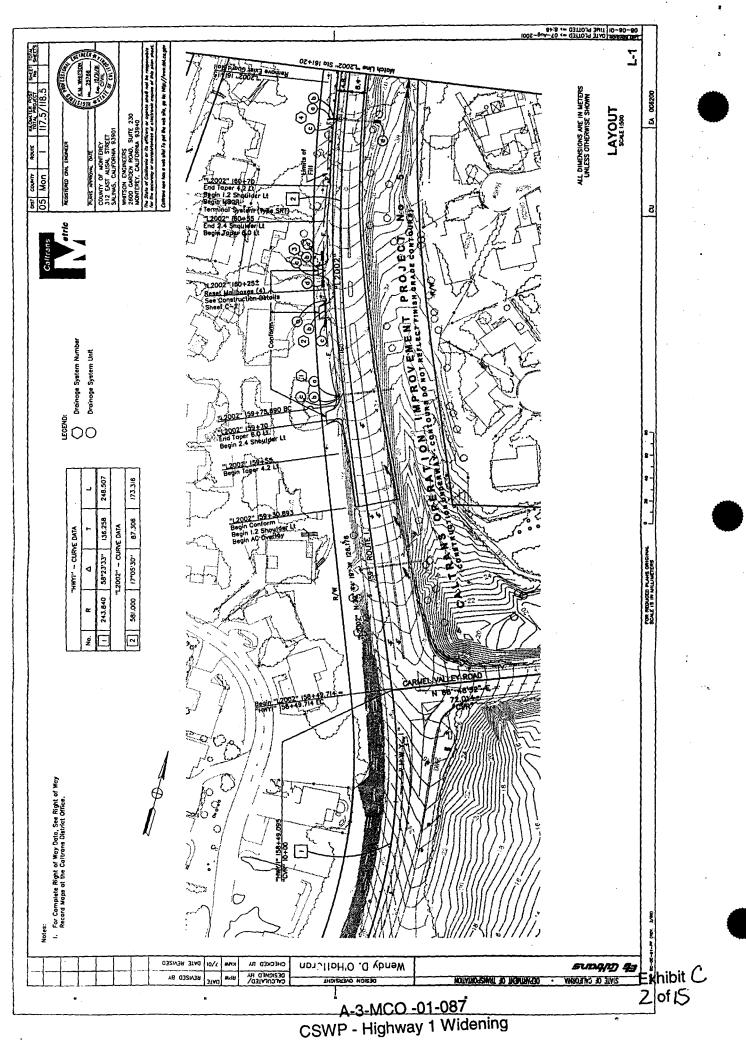
CSWP - Highway 1 Widening

1 of 1 Exhibit B

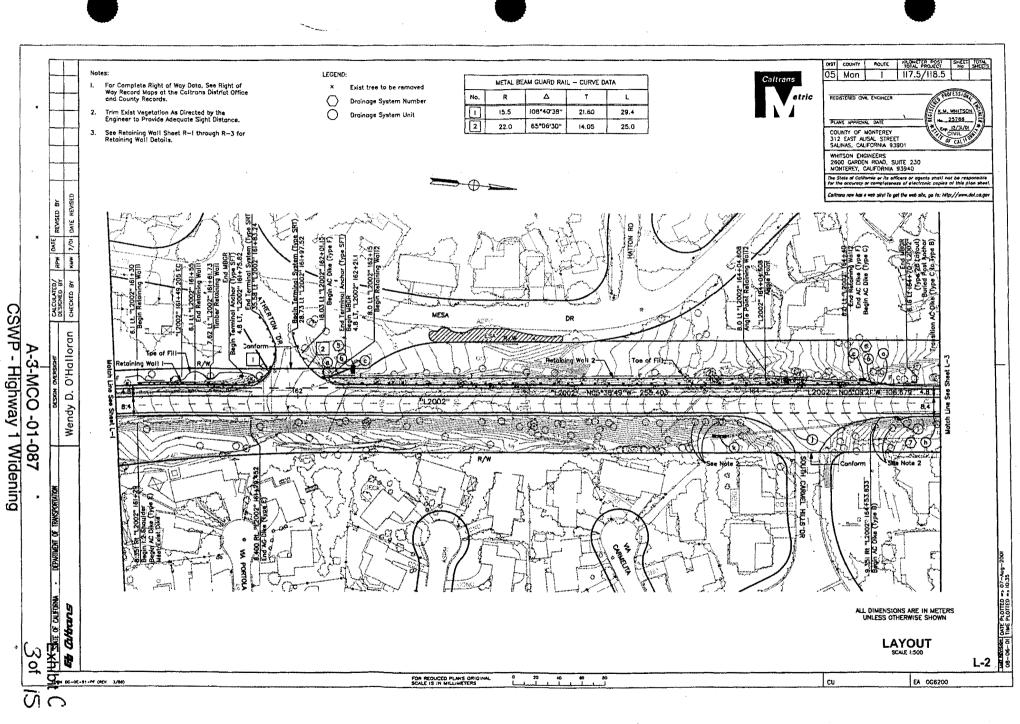


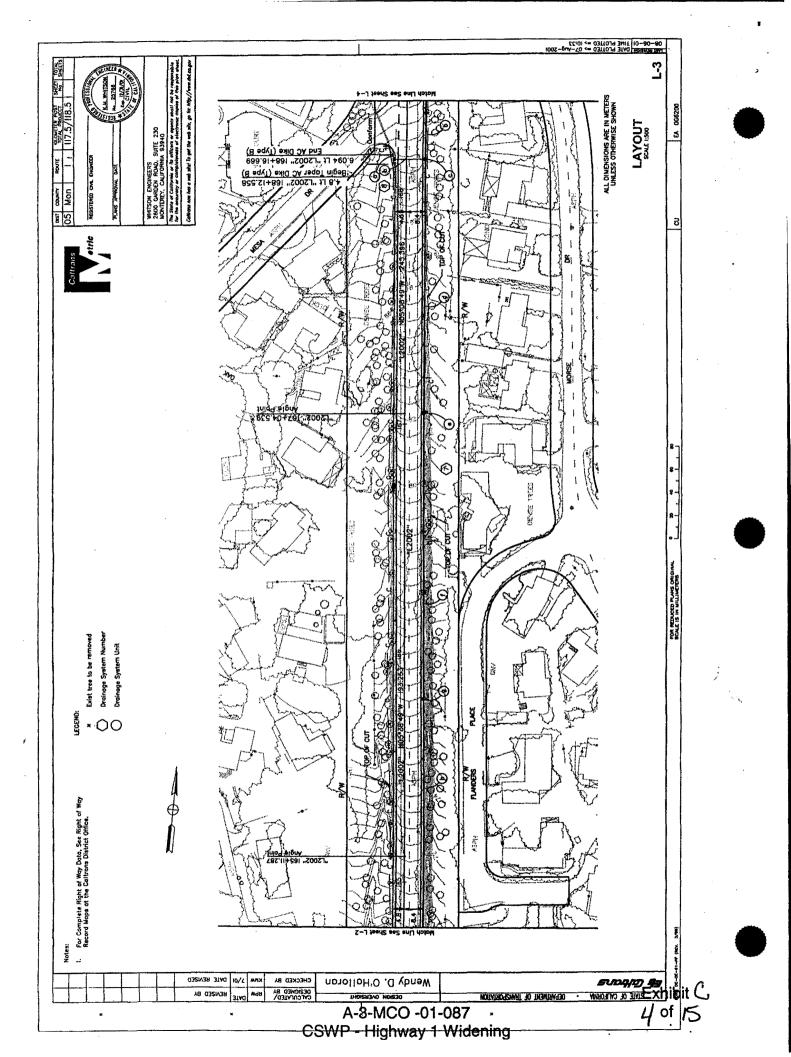
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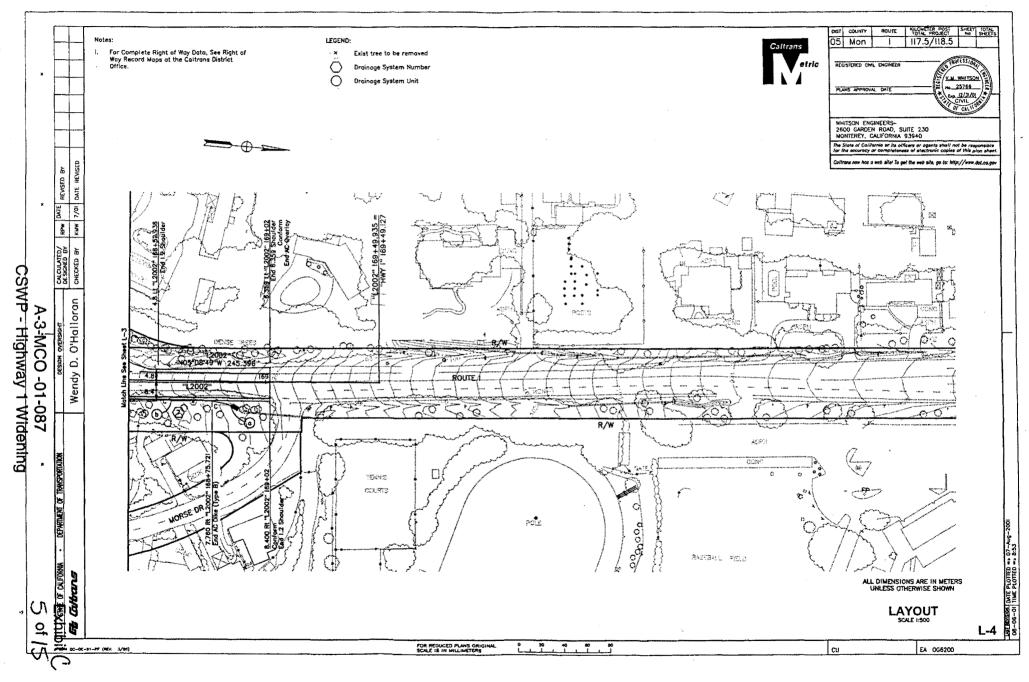
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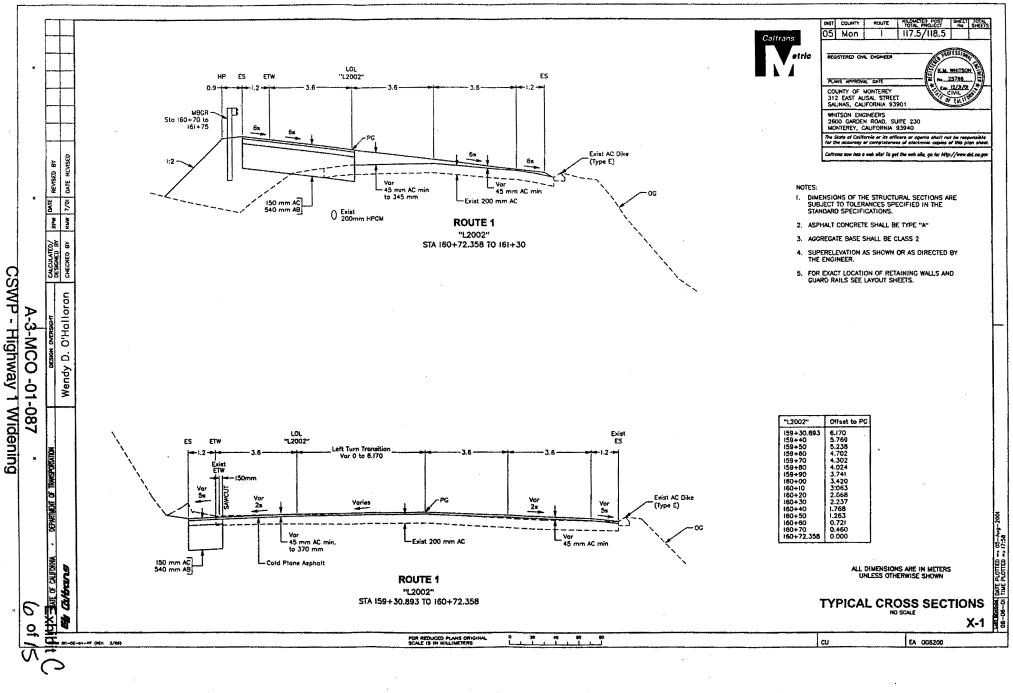


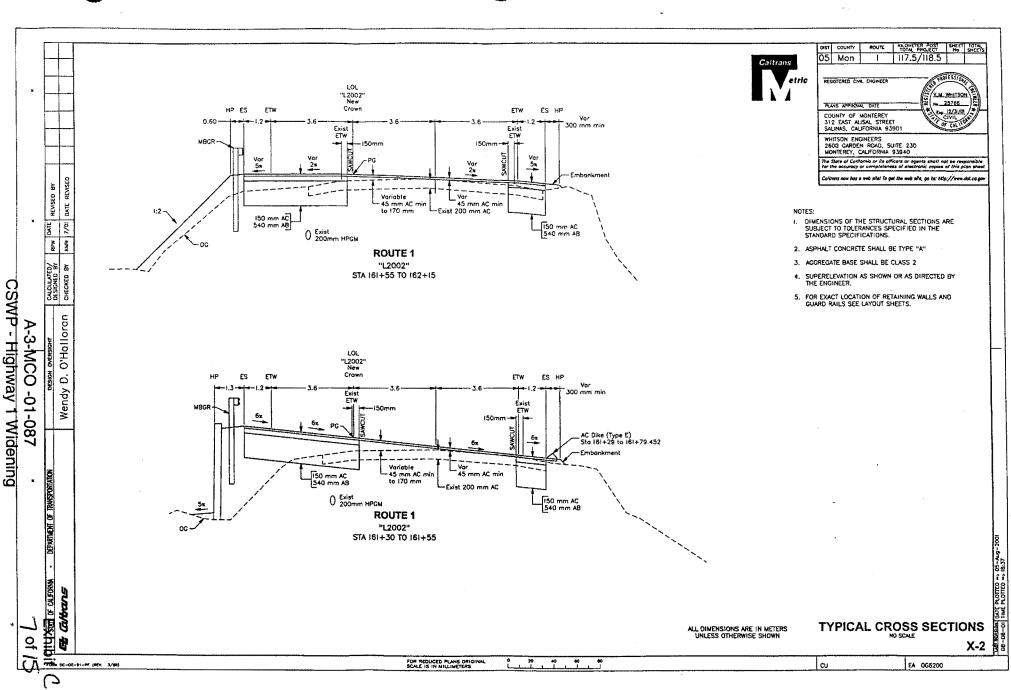




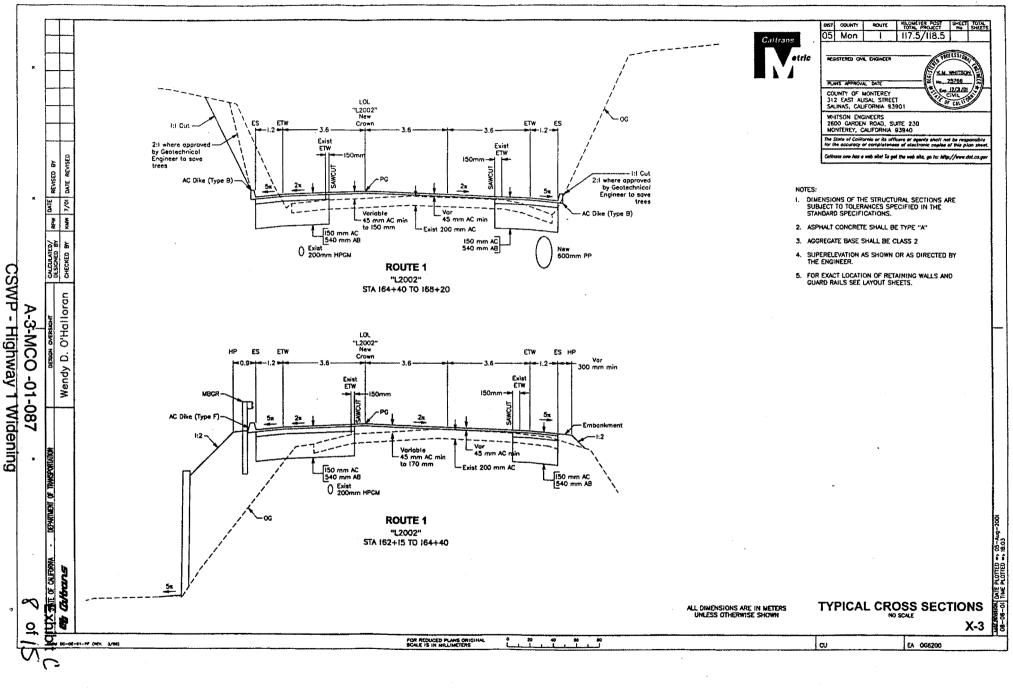


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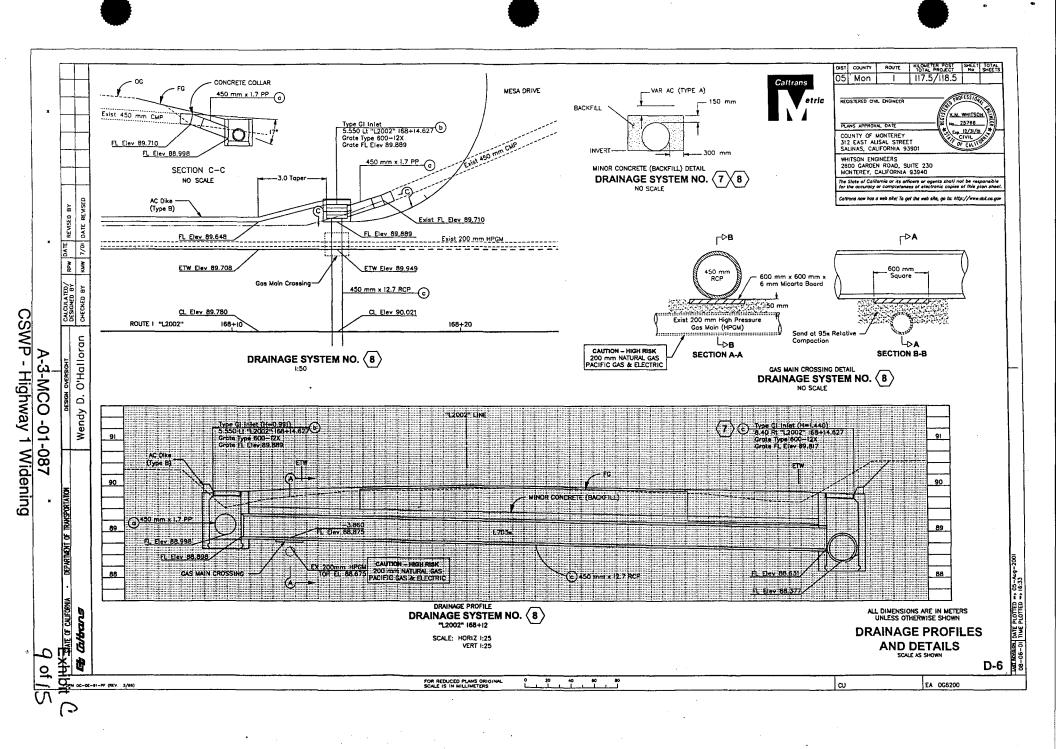


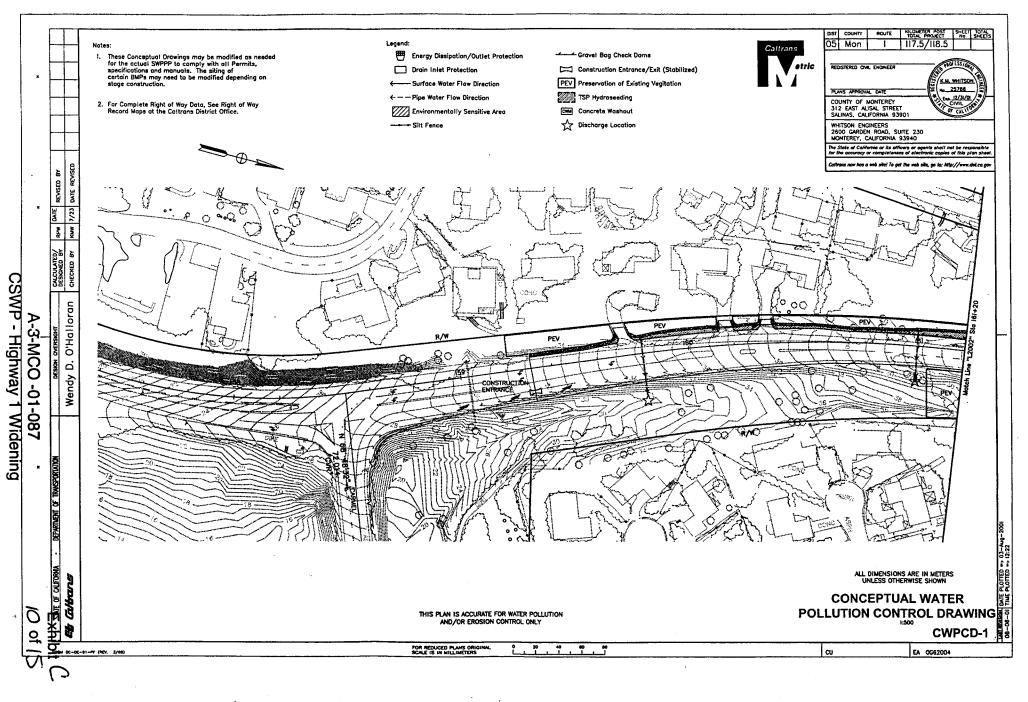


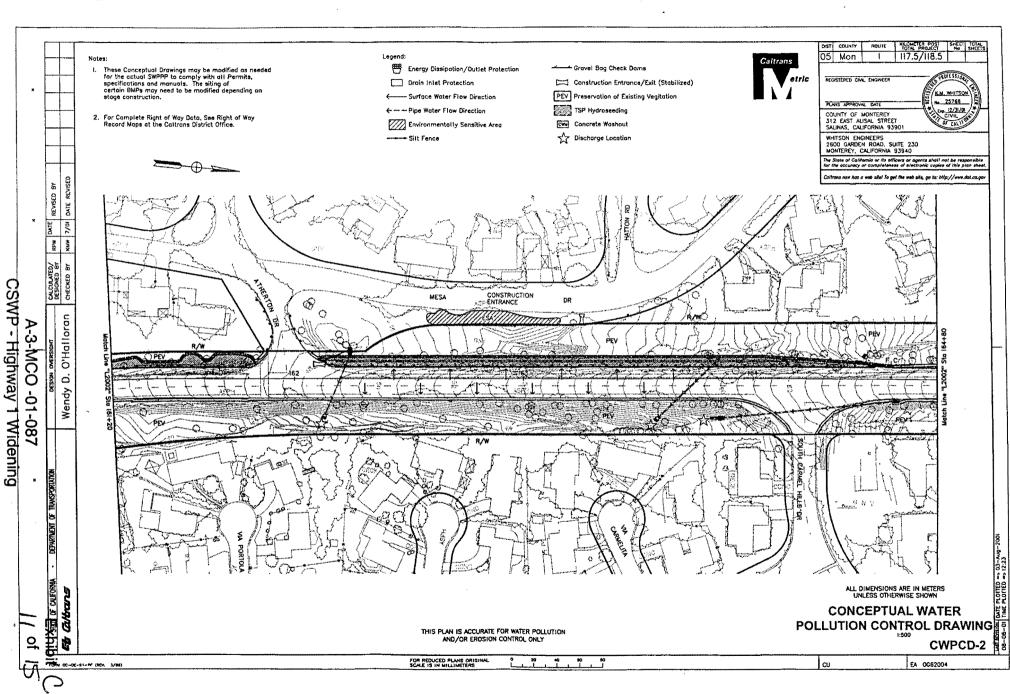
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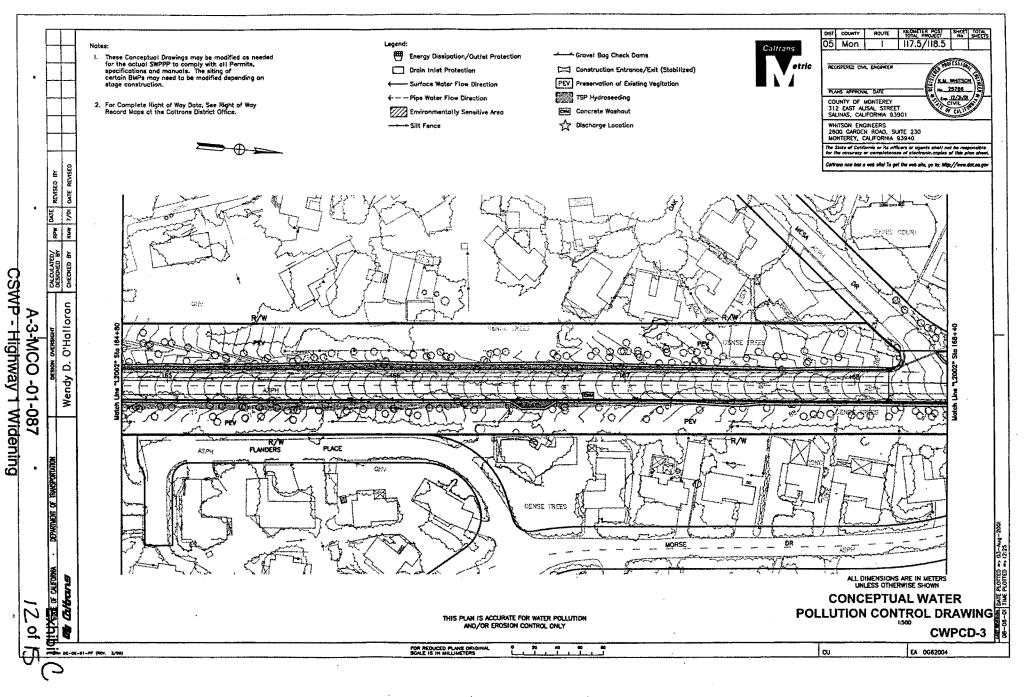






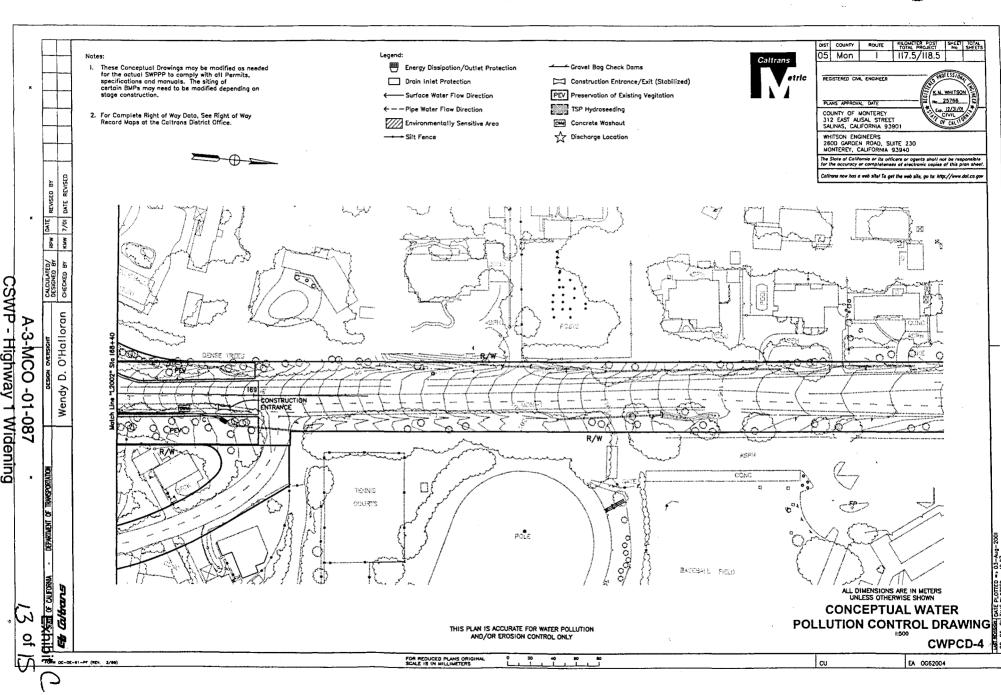




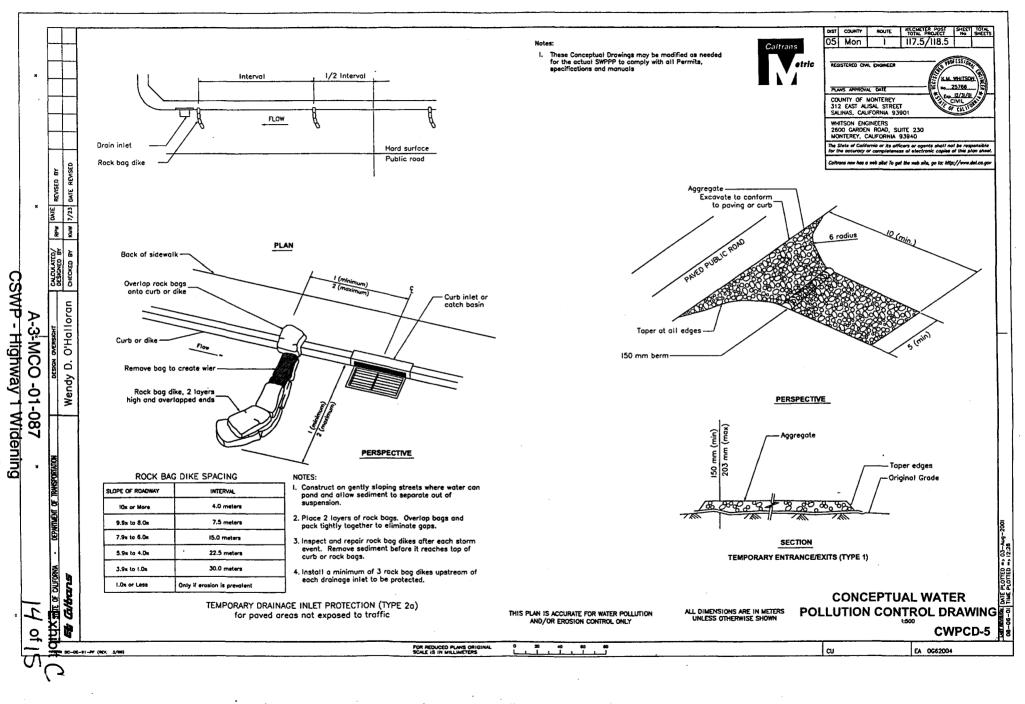


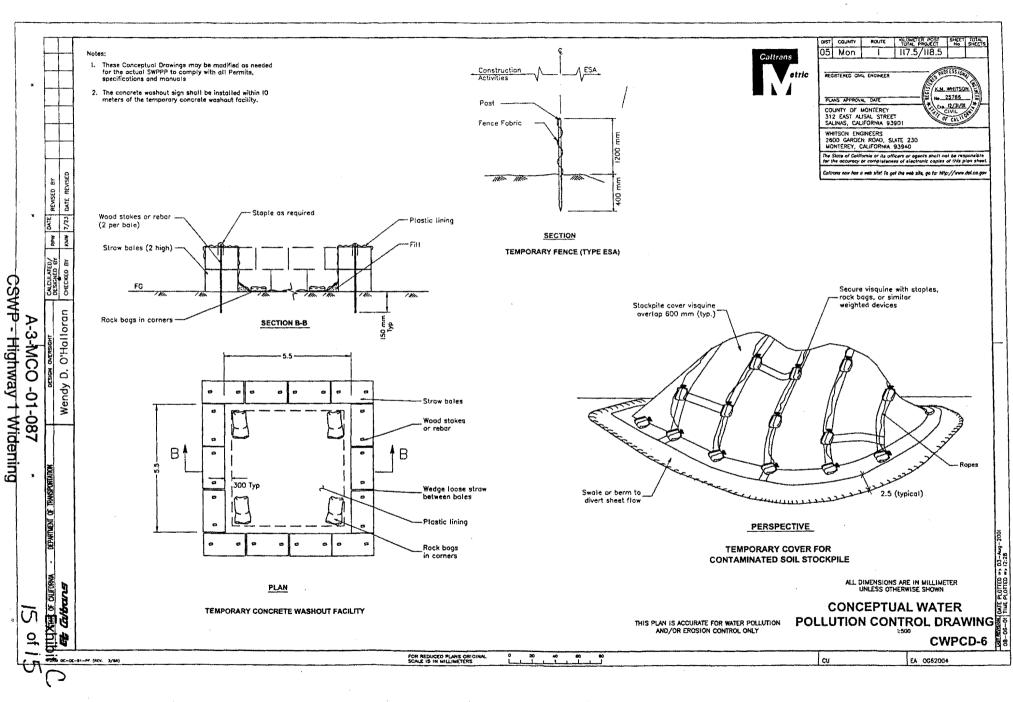
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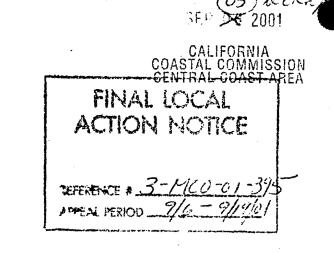




Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 01-353

Resolution of the Monterey County Board of Supervisors 1) denying the appeal of HATTON FIELDS RESIDENTS ASSOCIATION, CITIZENS FOR HATTON CANYON, and RESPONSIBLE CONSUMERS OF THE MONTEREY PENINSULA from the Decision of the Planning Commission granting approval of Combined Development Permit PLN010261 widening State Highway 1 beginning 500 feet north of Carmel Valley Road and running north to Morse Drive in the Carmel Area, and 2) adopting the Mitigated Negative Declaration as amplified by the Response to Comments document dated July 2001, adopting the Mitigation Monitoring Program, and approving the Combined Development Permit.



REC

THIS APPEAL was heard by the Board of Supervisors of the County of Monterey ("Board") on September 4, 2001 pursuant to appeals filed by HATTON FIELDS RESIDENTS ASSOCIATION, CITIZENS FOR HATTON CANYON, and RESPONSIBLE CONSUMERS OF THE MONTEREY PENINSULA ("appeals") from the decision of the Planning Commission adopting a Mitigated Negative Declaration as amplified by a Response to Comments document dated July 2001, adopting a Mitigation Monitoring Program, and approving a Combined Development Permit (PLN010261) for a proposed project located on Highway 1 between Morse Drive and Carmel Valley Road, in the Carmel Area, Coastal Zone. Said proposal includes:

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- 1. Coastal Development Permit for widening of Highway 1 adding one northbound lane beginning 500 feet north of Carmel Valley Road and running north to Morse Drive, and
- 2. Grading of 2,100 cubic yards of cut and 2,500 cubic yards of fill; drainage modifications; guard rails; retaining walls (below roadway), and
- 3. Coastal Development Permit for removal of 58 to 81 trees over 6 inches in diameter

At the conclusion of the *de novo* hearing, the matter was submitted to the Board for a decision. Having considered all the written and documentary information submitted, the staff reports, oral testimony and other evidence presented, the Board now renders its decision denying the appeals, adopting the Mitigated Negative Declaration as amplified by the Response to Comments document dated July 2001, adopting the Mitigation Monitoring Program, and approving the Combined Development Permit (PLN010261) subject to conditions of approval listed herein, and adopts the following findings in support of its decision:

FINDINGS IN SUPPORT OF DENYING THE APPEAL

I.Finding:The project proposal which is the subject of the appeals is located on State Highway 1between 500 feet north of Carmel Valley Road and Morse Drive in the Carmel area of the Coastal ZoneEvidence:Planning and Building Inspection Department file No. PLN010261.

2. <u>Finding</u>: On June 15, 2001, the Monterey County Public Works Department applied to the Planning and Building Inspection Department for a Combined Development Permit consisting Exhibit () A-3-MCO -01-087 / of 30 CSWP - Highway 1 Widening

- 1. Coastal Development Permit for widening of Highway 1 adding one northbound lane beginning 500 feet north of Carmel Valley Road and running north to Morse Drive, and
- 2. Grading of 2,100 cubic yards of cut and 2,500 cubic yards of fill; drainage modifications; guard rails; retaining walls (below roadway), and
- 3. Coastal Development Permit for removal of 58 to 81 trees over 6 inches in diameter <u>Evidence</u>: Materials in file No.PLN010261.

3. Finding: A Mitigated Negative Declaration for the proposed project was filed with the County Clerk on June 11, 2001, and circulated for review through the State Clearinghouse (#2001061038).
 Evidence: Materials in file No.PLN010261.

4. <u>Finding</u>: On August 8, 2001, the Monterey County Planning Commission adopted the Mitigated Negative Declaration as amplified by the Response to Comments document dated July 2001, adopted the Mitigation Monitoring Program, and approved the Combined Development Permit PLN010261.

Evidence: Materials in File No. PLN010261; Planning Commission Resolution No. 01048; administrative record.

5. <u>Finding</u>: Pursuant to Chapter 20.86 of the Monterey County Zoning Ordinance, three appeals from the decision of the Planning Commission were filed timely with the clerk of the Board of Supervisors, on the asserted basis that there was a lack of fair and impartial hearing, that the Planning Commission's findings and evidence were not supported by the evidence, and that the Planning Commission's decision was contrary to law.

Evidence: Notice of Appeal by HATTON FIELDS RESIDENTS ASSOCIATION, filed with the Monterey County Clerk on August 17, 2001; Notice of Appeal by CITIZENS FOR HATTON CANYON, filed with the Monterey County Clerk on August 20, 2001; Notice of Appeal by RESPONSIBLE CONSUMERS OF THE MONTEREY PENINSULA filed with the Monterey County Clerk on August 20, 2001.

6. <u>Finding</u>: A fair and impartial hearing was conducted by the Planning Commission on August 8, 2001.

Evidence: Staff Report for the July 25, 2001 Planning Commission Hearing as modified by the August 1, 2001 and August 8, 2001 staff memos contained in the project file PLN010261; Supplemental Response to Comments document in the project file PLN010261; Oral testimony presented at the August 8, 2001 Planning Commission hearing; Attachment "A" of September 4, 2001 Board Report; August 8, 2001 Planning Commission agenda, minutes, and record of administrative proceedings; administrative record.

7. Finding: The Planning Commission's Findings and Evidence are supported by the evidence. Evidence: Staff Report for the July 25, 2001 Planning Commission hearing as modified by the August 1, 2001 and August 8, 2001 staff memos contained in the project file PLN010261; Supplemental Response to Comments document in the project file PLN010261; Oral testimony presented at the August 8, 2001 Planning Commission hearing; August 8, 2001 Planning Commission agenda, minutes, and record of administrative proceedings; administrative record.

8. <u>Finding</u>: The Planning Commission's decision was not contrary to law.

Evidence: Staff Report for the July 25, 2001 Planning Commission Hearing as modified by the August 1, 2001 and August 8, 2001 staff memos contained in the project file PLN010261; Supplemental Response to Comments document in the project file PLN010261; Oral testimony presented at the August 8, 2001 Planning Commission hearing; August 8, 2001 Planning Commission agenda, minutes, and record of administrative proceedings; administrative record.

Exhibit DZ of 30 9. **Finding**: The project is consistent with the Local Coastal Program.

1.

Evidence: Staff Report for the July 25, 2001 Planning Commission Hearing as modified by the August 1, 2001 and August 8, 2001 staff memos contained in the project file PLN010261; Supplemental Response to Comments document in the project file PLN010261; Oral testimony presented at the August 8, 2001 Planning Commission hearing; administrative record.

FINDINGS IN SUPPORT OF ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM AND APPROVAL FOR THE COMBINED DEVELOPMENT PERMIT APPLICATION

FINDING: The subject Combined Development Permit (PLN010261) and Design Approval, as described in condition #1, and as conditioned, conforms with the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Carmel Area Land Use Plan (LUP), and Parts 1, 4 and 6 of the Coastal Implementation Plan (CIP) (Regulations for Development in the Carmel Area Land Use Plan). The project site is located on State Highway 1 beginning 500 feet north of Carmel Valley Road and running north to Morse Drive in the Carmel area of the Coastal Zone. The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20, and any zoning violation abatement costs have been paid.

- EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
 - A) The certified Carmel Area Land Use Plan
 - B) Chapter 20.146 Monterey County Coastal Implementation Plan regulations for development in the Carmel Area Land Use Plan.
- EVIDENCE: On-site inspection by the project planner on June 29 and July 15.
- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 1, 2001.
- EVIDENCE: The subject property is not described as an area where the Local Coastal Program requires access.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Sheriff's Department, Environmental Health Division, Cypress Fire Protection District, and Caltrans. There has been no indication from these agencies that the site is not suitable for the proposed development. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

Exhibit D 3 of 20

The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Planning Commission on August 8, 2001 and the Board of Supervisors on September 4, 2001.

EVIDENCE: Staff reports to the Planning Commission and the Board of Supervisors; administrative record.

EVIDENCE: Plans and materials submitted with application.

FINDING: Removal of the 58 to 81 native trees and other non-protected trees and vegetation will not cause the loss of the forested corridor consistent with policy 2.2.4.6 of the LUP and exposure of structures consistent with Section 20.146.060.D.2 of the CIP.

LUP Policy 2.2.4.6 states: The existing forested corridor along Highway 1 shall be maintained as a scenic resource and natural screen for existing and new development. New development along Highway 1 shall be sufficiently set back to preserve the forested corridor effect and minimize visual impact.

Section 20.146.060.D.2 states: Removal of any trees which would result in the exposure of structures in the critical viewshed shall not be permitted, subject to the provisions of Section 20.146.030.A.

- EVIDENCE: On-site inspection by the project planner on June 29 and July 15.
- **EVIDENCE:** Finding and Evidence 1.
- EVIDENCE: Plans and materials submitted for application.
- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 1, 2001.
- EVIDENCE: County staff and consultants have walked the site and identified that much of the tree removal along the existing highway's western edge will be done on the edge of a thickly forested area that will remain (539+20, as shown on engineering plans, Layout, sheets L-2 and L-3, to Morse Drive). More than half of the trees will be removed north of the Atherton/Highway 1 intersection (532 to 539+20). Replacement tree planting is proposed in the county right-of-way along Mesa Drive in this segment, with tall-growing shrub planting in this area within the Caltrans right-of-way. This area already has existing exposure of structures to and from the highway. Planting in this area will enhance the forested corridor where some gaps currently exist. The other area where a forest corridor will lose a significant density of trees is the southwest corner of the Atherton/Highway 1 intersection. Thirteen trees will be removed in this area, which does not have many trees currently. Tall-growing shrubs are required to be planted in this area to achieve visual screening (condition 4).
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, dated July 2001. Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: August 1, 2001 and August 8, 2001 staff memos to the Planning Commission contained in the project file PLN010261.
- **EVIDENCE:** Staff reports to the Planning Commission and the Board of Supervisors; administrative record.
 - **FINDING:** The project is consistent with LUP policy 2.2.4.10.d and CIP regulation 20.146.030.C.1.d regarding lighting.

LUP policy 2.2.4.10.d states: Exterior lighting shall be adequate shifting or A-3-MCO -01-087 CSWP - Highway 1 Widening

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shall be designed at near-ground level and directed downwards to reduce its long-range visibility.

Section 20.146.030.C.1.d states: Exterior lighting shall be unobtrusive and harmonious with the local area. Lighting fixtures shall be adequately shielded and designed at near-ground level so that only the intended area is illuminated and off-site glare is fully controlled.

EVIDENCE: Night lighting will be needed during nighttime construction, primarily for paving activities. Condition 3 requires that any lighting used during night construction be unobtrusive and utilize shielded lights or other adequate methods to minimize adverse impacts during construction.

FINDING: The request for the proposed development to be located on slopes greater than 30 percent is consistent with LUP policy 2.2.3.3 and Section 20.146.030.C.1.a.1 of the CIP as no other alternative exists which would allow development to occur on slopes of less than 30 percent.

LUP policy 2.2.3.3 states in part: New development on slopes and ridges within the public viewshed shall be sited within existing forested areas or in areas where existing topography can ensure that structures and roads will not be visible from major public viewpoints and viewing corridors. Structures shall not be sited on non-forested slopes or silhouetted ridgelines.

Section 20.146.030.C.1.a.1 states: Buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face. Development shall not be located on slopes of 30% or greater. The Director of Planning may grant a waiver to the standard upon applicant request and explanation of the request justification if:

- 1) there is no alternative which would allow development to occur on slopes of less than 30%
- **EVIDENCE:** The existing width between cut slopes in the northern portion of the project is approximately 36 feet at its narrowest point. This project requires a width of 44 feet to accommodate three 12-foot lanes and two 4-foot shoulders. The road cannot be widened without grading the existing cut slopes, which are steeper than 30 percent. Earlier grading to construct Highway One created the old cut slope. The old cut slope on the west side will be graded back to accommodate the widened roadway. Some minor grading will occur on the east side of the highway, generally at the toe of the existing slope.

EVIDENCE: On-site inspection by the project planner on June 29 and July 15.

EVIDENCE: Plans and materials submitted for application.

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FINDING: The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File #PLN010261) in the Department of Planning and Building Inspection. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. A Program for Monitoring and/or Reporting on Solidations of A-3-MCO -01-087

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Approval (hereafter "the Program") has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Program is attached to this resolution and is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning and Building Inspection Department, located at 240 Church Street, Room 116, Salinas is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.

- **EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.
- EVIDENCE: County staff hired a consulting firm, which prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on June 12, 2001, and circulated through the State Clearinghouse (#2001061038). The following evidence has been received and considered: all comments on the Initial Study; evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:
 - 1. Illingworth & Rodkin, Inc. Highway 1 Improvements Environmental Noise Assessment, May 16, 2001.
 - 2. Letter from Hexagon Transportation Consultants, dated March 14, 2001.
 - 3. Denise Duffy & Associates, Inc. Natural Environment Study for the Highway 1 Operational Improvement Project, Monterey County, California, January 2001.
 - 4. Staub Forestry. Forester's Assessment of Potential Tree Removal Impacts Associated with Highway I County-Sponsored Widening Project, June 5, 2001.
- **EVIDENCE:** The Program for Monitoring and/or Reporting on Conditions of Approval, prepared and required pursuant to Section 21081.6 of the Public Resources Code, is attached and is designed to ensure compliance during project implementation.
- **EVIDENCE:** No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.
- EVIDENCE: Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

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- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: Staff reports to the Planning Commission and the Board of Supervisors; administrativ record.
- **EVIDENCE:** Restoration in on-site and off-site mitigation areas has been determined to have no significant effects on the environment, including specifically wetlands, cultural resources, biological resources, and water. The biologist for the project has worked with the landscape designer (revegetation) to ensure all restoration does not adversely affect biological resources. No cultural resources were identified on the site, as discussed in the Initial Study.
- **EVIDENCE:** See Evidence for Finding 8 regarding water use, Evidence for Finding 7 regarding minor changes to the project, and Evidence for Finding 6 regarding lead in soil.
- 6. FINDING: Since preparation of the Initial Study, Caltrans has adopted new requirements regarding Aerial Deposited Lead. The soil has been sampled and remediation measures will be required (condition 13).
 - EVIDENCE: Caltrans letter dated July 10, 2001.
 - EVIDENCE: Twining Laboratories, Inc. conducted sampling on June 30, 2001. Geoanalytical Laboratories, Inc., conducted the analytical testing and completed the testing on July 3, 2001.
 - EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- 7. FINDING: Minor changes to the project since preparation of the Initial Study will not change the conclusions regarding preparation of the Initial Study and will not change the conclusions regarding impacts and mitigation measures. These changes will not cause any new impacts or require any additional mitigation measures as the footprint and operational effects of the project are not changed by these revisions.
 - **EVIDENCE:** The retaining walls have been moved to the toe of slope, which will give the appearance from the residential areas of a lower profile, rather than the earlier location farther up the fill slope at the edge of pavement. In addition to the visually lower profiles, landscape screening is proposed to help screen the walls from residential areas. The area of disturbance does not change from the original wall location.
 - EVIDENCE: The amount of cut and fill has been modified to approximately 2100 cubic yards (1750 cubic meters) of cut and approximately 2500 cubic yards (2075 cubic meters) of fill.
 - EVIDENCE: The width of all three travel lanes is now 12 feet. The Initial Study identified one travel lane as being 11 feet wide. When the plans were converted to the metric information acquired from Caltrans, it was determined that the area disturbed by project construction could accommodate the full width, 12-foot lane with four foot shoulders.
 - EVIDENCE: Plans and materials submitted for application.
- 8. **FINDING:** The project will not intensify water use.

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- **EVIDENCE:** Water will normally be used for the establishment of native vegetation proposed for planting in the project restoration areas for a period of one or two growing seasons, depending on the weather. Planting will occur during the appropriate season so as to require a minimum water use for vegetation establishment. This temporary use will not lead to an intensification of historic water use in the area, except for this short duration. All revegetation areas will be planted with native species that will not need watering after the vegetation becomes established. The only revegetation that may require watering for more than the first year is any specimen size trees. This will be a nominal amount of water as only 13 specimen trees are proposed. Irrigation systems established would be temporary systems connected to a coupler for a water source, such as a water truck.
- EVIDENCE: Personal communication with the project biologist on June 29 and July 12, 2001, and landscape designer (revegetation) on June 29.
- EVIDENCE: Revegetation plan prepared by Denise Duffy and Associates, Inc., dated July 2001.
- EVIDENCE: Landscape plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- 9. **FINDING:** The project is consistent with CIP regulation 20.146.030.C.1.c and LUP policy 2.2.3.3 relating to structures in the public viewshed:

LUP policy 2.2.3.3 states: New development on slopes and ridges within the public viewshed shall be sited within existing forested areas or in areas where existing topography can ensure that structures and roads will not be visible from major public viewpoints and viewing corridors. Structures shall not be sited on non-forested slopes or silhouetted ridgelines. New development in the areas of Carmel Highlands and Carmel Meadows must be carefully sited and designed to minimize visibility. In all cases, the visual continuity and natural appearance of the ridgelines shall be protected.

Section 20.146.030.C.1.c states: Structures located in the public viewshed shall be designed to minimize visibility and to blend into the site and site surroundings. The exterior of buildings should give the general appearance of natural materials (e.g., buildings are to be of weathered wood or painted in earth tones). The height and bulk of buildings shall be modified as necessary to protect the viewshed

EVIDENCE: See Findings and Evidence numbers 7, 10, 12, and 13.

- **EVIDENCE:** Retaining walls are necessary for construction of this project, to avoid disturbance of a larger vegetated area and more grading. The walls will be below the roadway with the wall face not seen from major public viewpoints or viewing corridors. The color and texture of material (split faced block) used will blend with the color of some of the surrounding vegetation. Additional vegetation screening of the retaining walls is proposed as part of site restoration and biological mitigation.
- EVIDENCE: Revegetation plan prepared by Denise Duffy and Associates, Inc., dated July 2001.
- EVIDENCE: Landscape plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: Staff reports to the Planning Commission and the Board of Supervisors; administrative Exhibit D record. A-3-MCO -01-087

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10. **FINDING:** The project is consistent with CIP regulation 20.146.030.C.1.e and portions of policy 2.2.4.10 relating to retaining native vegetation:

LUP policy 2.2.4.10 states: The following siting and design control measures shall be applied to new development to ensure protection of the Carmel area's scenic resources, including shoreline and ocean views:

- a. On ridges, buildings shall be sufficiently set back from the precipice to avoid silhouetting and to be as visually unobtrusive as possible. Buildings located on slopes shall be sited on existing level areas and sufficiently set back from the frontal face. Buildings should not be located on slopes exceeding 30 percent, except when all other plan guides are met and siting on slopes over 30 percent better achieves siting consistent with the policies of the plan.
- b. n/a
- c. Structures located in the viewshed shall be designed so that they blend into the site and surroundings. The exterior of buildings must give the general appearance of natural materials (e.g., buildings should be of weathered wood or painted in "earth" tones). The height and bulk of buildings shall be modified as necessary to protect the viewshed.
- d. Exterior lighting shall be adequately shielded or shall be designed at nearground level and directed downwards to reduce its long-range visibility.
- e. Existing trees and other native vegetation should be retained to the maximum extent possible both during the construction process and after the development is completed. Landscape screening may be used wherever a moderate extension of native forested and chaparral areas is appropriate. All new landscaping must be compatible with the scenic character of the area and should retain existing shoreline and ocean views.

Section 20.146.030.C.1.e states: Existing trees and other native vegetation shall be retained to the maximum extent possible both during the construction process and after the development is completed. Landscape screening utilizing native species may be used wherever a moderate extension of native forested and chaparral areas is appropriate. Drought-resistant native species will be the appropriate species to use for this landscaping. All new landscaping must be compatible with the scenic character of the area and shall retain existing shoreline and ocean views. Refer to the County's "A drought-Tolerant Plant List for the Monterey Peninsula" for appropriate landscape plant species.

- EVIDENCE: Retaining walls and guardrails are the only above-ground structures (see Findings and Evidence numbers 7, 9, 11, 12, and 13)
- EVIDENCE: Fifty-eight to 81 native trees will be removed, mostly on the west side of Highway 1 in the area around Atherton Road and Mesa Drive. All of the trees will be on the west side, where an extensive forested corridor already exists, even with the trees proposed for removal (see Evidence for Finding 2). The Forest Management Plan, prepared by Stephen R. Staub and dated June 5, 2001, and the project plans demonstrate that the minimum number of trees will be removed. Remaining trees will be protected as conditions of approval (conditions 10 and 15). Restoration planting of trees to mitigate biological impacts will be located within the Caltrans right-of-way in the project area and off-site in the Caltrans right-of-way adjacent to the Crossroads Shopping Center A-3-MCO -01-087

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9 30 FxhibitD movie theater as specified in the landscaping plans. Species will be consistent with natives found in the area.

- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: Plans and materials submitted for application.
- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- **EVIDENCE:** Finding and Evidence number 3.
- EVIDENCE: Finding and Evidence number 4.
- EVIDENCE: Findings and Evidence numbers 2, 7, 9, 11, 12, 13, 23, 25, and 27.
- **EVIDENCE:** Revegetation areas are planned to avoid the area south of the Highway 1 Carmel River bridge to preserve views of the ocean and shoreline as well as the Palo Corona frontal slope.
- **EVIDENCE:** Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- 11. **FINDING:** The project is consistent with CIP regulation 20.146.030.C.8 and LUP policy 2.2.3.7 relating to minimizing tree removal and grading:

LUP policy 2.2.3.7 states: Structures shall be located and designed to minimize tree removal and grading for the building site and access road. Where earth movement would result in extensive slope disturbance or scarring visible from public viewing points and corridors, such activity will not be allowed. Extensive landform alteration shall not be permitted.

Section 20.146.030.C.8 states: Structures shall be located to minimize tree removal and grading for the building site and access road. If proposed earth movements would result in extensive slope disturbance or scarring visible within the public viewshed, the proposed grading/ground disturbance will not be allowed. Extensive landform alteration shall not be permitted.

- **EVIDENCE:** The widening project proposes the minimum lane width acceptable for safe passage of vehicles and minimizes cut slope areas above the highway by providing as steep a finish slope as feasible. Incorporation of retaining walls into project design in the area between 529+00 to 529+75 and between 531+75 to 539+20 allows a minimum fill area necessary to complete grading for the project. The minimum disturbed area for grading also allows the minimum number of trees to be removed.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: See Findings and Evidence numbers 2, 4, 7, 9, 10, 16, 22 and 23.
- 12. FINDING: The project is consistent with CIP regulation 20.146.030.D.2.b and LUP policy 2.2.4.12 relating to protective barriers:

Exhibit () 10^{of} 30 LUP policy 2.2.4.12 states: Public highway facilities including signs, guardrails, and restrooms shall be of a design complementary to the scenic character of the Carmel area, with preference materials. Private driveway entrances, gates, roadside fences, mailboxes, and signs along Highway 1 should reflect the same design concept. Protective barrier by Caltrans should utilize boulders or walls or rock construction.

Section 20.146.030.D.2.b states: Private driveway entrances, gates, roadside fences, mailboxes and signs along Highway 1 should reflect a similar design concept, if feasible. Protective barriers constructed by Caltrans shall utilize boulders or walls or rock construction, if feasible.

EVIDENCE: The implementation plan interpreted the LUP policy that protective barriers should utilize boulders or walls or rock construction as that they shall be used if feasible. Caltrans has determined that the only feasible guardrail at this time that meets their safety criteria is the wood and metal guardrail, such as those already found in the project area on this section of Highway 1 (personal communication between Mike Novo, Supervising Planner for Monterey County, and David Silberberger, Caltrans, July 13, 2001).

EVIDENCE: Caltrans Traffic Manual, Chapter 7, Section 7-03.2, Guardrail Types.

13. FII

FINDING: The project is consistent with CIP regulation 20.146.030.D.3.a and LUP policy 2.2.4.12 relating to guardrails:

LUP policy 2.2.4.12 states: Public highway facilities including signs, guardrails, and restrooms shall be of a design complementary to the scenic character of the Carmel area, with preference materials. Private driveway entrances, gates, roadside fences, mailboxes, and signs along Highway 1 should reflect the same design concept. Protective barrier by Caltrans should utilize boulders or walls or rock construction.

Section 20.146.030.D.3.a states: Public highway facilities including signs, guardrails and restrooms shall be of a design complimentary to the scenic character of the Carmel area, with preference for natural materials.

EVIDENCE: Finding and Evidence numbers 7, 9, 10, 11, and 12.

14. **FINDING:** The project is consistent with CIP regulation 20.146.040.B.3 and LUP policy 2.3.3.2 relating to land uses adjacent to environmentally sensitive habitats:

LUP policy 2.3.3.2 states: Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.

Section 20.146.040.B.3 states in part: Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses are considered compatible only in a situation in which the proposal incorporates necessary site planning and design features which protect

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habitat impacts and which do not set a precedent for continued land development which with the potential to degrade the resource.

- EVIDENCE: Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- **EVIDENCE:** The project has been designed and planned to minimize adverse impacts to environmentally sensitive habitat areas, consistent with the above cited policy and regulation. Measures have been taken to fully mitigate adverse environmental impacts and to protect sensitive areas during construction in accordance with the Biological Resources Report and Forester's Assessment prepared for the project. This project avoids direct impacts to wetland areas. Indirect impacts are mitigated to a less than significant level. Impacts to trees and vegetation are mitigated to a less than significant level.

EVIDENCE: Plans and materials submitted with application.

EVIDENCE: Finding and Evidence number 5.

15. **FINDING:** The project is consistent with CIP regulation 20.146.040.B.6 and LUP policy 2.3.3.10 relating to comments by DFG:

LUP policy 2.3.3.10 states: 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.

Section 20.146.040.B.6 states: For projects in or adjacent to environmentally sensitive habitat areas, the County shall refer projects to the California Department of Fish and Game for evaluation of impacts from development and suggested mitigations for those impacts. These impacts shall include but not be limited to development of new or intensified land uses such as public access, recreation and associated facilities. Recommendations from the California Department of Fish and Game shall be included as conditions of project approval.

- **EVIDENCE:** The California Department of Fish and Game (DFG) was notified and a copy of the Initial Study was sent to that agency by the State Clearinghouse. The US Fish and Wildlife Service (USFWS) was also sent a copy of the Initial Study for comment. No comments were received from the DFG or USFWS prior to the end of the review period.
- EVIDENCE: State Clearinghouse correspondence dated July 11, 2001, in the project file.
- 16. **FINDING:** The project is consistent with CIP regulation 20.146.040.B.8 and LUP policy 2.3.3.7 relating to minimizing the amount of vegetation removal:

LUP policy 2.3.3.7 states: 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 laterkhibiturbance A-3-MCO-01-087 CSWP - Highway 1 Widening

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(grading, excavation, paving, etc.) to that needed for the structural improvements themselves.

Section 20.146.040.B.8 states: Removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) in or adjacent to environmentall sensitive habitat areas shall be restricted to only those amounts necessary for structural improvements.

EVIDENCE: Findings and Evidence numbers 2, 4, 6, 9, 10, 11, 14, 23, and 33.

17. FINDING: The project is consistent with CIP regulation 20.146.040.B.10 and LUP policy 2.3.4 (and RIP #3) relating to riparian vegetation:

LUP policy 2.3.4, Riparian #3 states: The County should encourage a program of riparian woodland restoration as a part of the development and environmental review process. As a condition of approval of projects adjacent to riparian corridors, the County, where appropriate, should require landscaping with native riparian species.

Section 20.146.040.B.10 states: Landscaping with native riparian species is required as a condition of approval for projects adjacent to riparian corridors.

- **EVIDENCE:** Although the proposed project is not located in a designated riparian corridor and will not directly impact a riparian woodland area, the re-vegetation plan incorporates the use of appropriate native plants and native erosion control seed mix. In addition, pre-construction surveys will be performed to identify and protect sensitive areas and protection methods will be employed accordingly (conditions 8, 9, 10, and 11).
- EVIDENCE: Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: Plans and materials submitted for project application.

EVIDENCE: Findings and Evidence numbers 14 and 16.

18. FINDING: The project is consistent with CIP regulation 20.146.040.B.12 and LUP policy 2.3.4 (and RIP #5) relating to wildlife corridors:

LUP policy 2.3.4, Riparian #5 states: Wildlife management considerations shall be included in the evaluation of development proposals, particularly land division proposals. Large, and where possible, contiguous areas of native vegetation should be retained in order to meet the various needs of those wildlife species requiring large areas of undisturbed habitat.

Section 20.146.040.B.12 states: Wildlife management considerations shall be included in the evaluation of development proposals, particularly land division, proposals. Large and, where possible, contiguous areas of native vegetation shall be retained in order to meet the various needs of those wildlife species requiring large areas of undisturbed habitat.

EVIDENCE: Findings and Evidence numbers 10, 11, 16, 22, and 23.

- EVIDENCE: The project involves two narrow linear greenbelts separating the highway from developed residential areas. The project area is a degraded habitat (personal communication with project biologist on July 12, 2001.)
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- The project is consistent with CIP regulation 20.146.050.D.2 and LUP policy 2.4.3.2 19. FINDING: relating to water quality and runoff:

LUP policy 2.4.3.2 states: New development including access roads shall be sited, designed and constructed to minimize runoff, erosion, and resulting sedimentation. Land divisions shall be designed to minimize the need to clear erodable slopes during subsequent development. Runoff volumes and rates should be maintained at predevelopment levels, unless provisions to implement this result in greater environmental damage.

Section 20.146.050.D.2 states: New development including access roads shall be sited, designed and constructed to minimize runoff, erosion, and resulting sedimentation. Land divisions shall be designed to minimize the need to clear erodable slopes during subsequent development. Runoff volumes and rates shall be maintained at pre-development levels, unless provisions to implement this result in greater environmental damage.

- EVIDENCE: Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: Plans and materials submitted for project application.
- EVIDENCE: In order to avoid greater ground disturbance and potential for related environmental damage, the proposed project's drainage control design incorporates the existing drainage channels running east and west of the project site. This design will capture existing and new runoff and channel it to the existing drainage course.
- EVIDENCE: Erosion Control Plan prepared by Whitson Engineers and dated July 2001.
- EVIDENCE: A Storm Water Pollution Prevention Plan will be prepared (condition 24). The plan is implemented to control storm water impacts caused by erosion during construction.
- 20. FINDING: The project is consistent with CIP regulation 20.146.050.E.1.a and LUP policy 2.4.4.A.1 relating to acceptable water supply:

LUP policy 2.4.4.A.1 states: New development shall be approved only where it can be demonstrated by the applicant that adequate water is available from a water utility or community system or an acceptable surface water diversion, spring, or well. At the County's discretion, applicants may be required to submit a hydrologic report certifying sustained yield of the water source to serve new development ition and the second se

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existing water utility service areas.

Section 20.146.050.E.1.a states: New development shall be approved only ^{*} where it can be demonstrated by the applicant that adequate water is available from a water utility or community system or an acceptable surface water diversion, spring, or well.

EVIDENCE: Finding and Evidence number 8.

- **EVIDENCE:** The project will include short-term water use for construction grading and for revegetation planting. The contractor will be required to bring water to the site by water truck from outside the Coastal Zone and the Monterey Peninsula Water Management District (condition 12). The revegetation areas will be watered through a temporary irrigation system with which the truck will connect its water supply.
- 21. FINDING: The project is consistent with CIP regulation 20.146.050.E.1.d and LUP policy 2.4.4.A.6 relating to drought tolerant landscaping:

LUP policy 2.4.4.A.6 states: Water conservation devices shall be required in conjunction with new development. Drought tolerant landscaping should be required where appropriate. Construction of roads and driveways with pervious surfaces shall be encouraged where appropriate.

Section 20.146.050.E.1.d states: Water conservation devices shall be required in conjunction with new development. Drought-tolerant landscaping is required where appropriate.

EVIDENCE: Finding and Evidence number 8.

- **EVIDENCE:** Water use for the project will be temporary. The re-vegetation plan exclusively includes native and drought tolerant species. Planting will occur at an appropriate time of the year so as to require minimum water. However, during their establishment period, these plants will require limited, focused watering.
- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- EVIDENCE: Plans and materials submitted for project application.

22. FINDING: The project is consistent with CIP regulation 20.146.060.D.1 relating to preservation of landmark trees:

Section 20.146.060.D.1 states: Landmark trees of all native species shall not be permitted to be removed. A landmark tree is a tree which is 24 inches or more in diameter when measured at breast height, or a tree which is visually significant, historically significant, exemplary of its species, or more than 1000 years old.

> Exhibit 1) 15 of 30

An exception may be granted by the decision-making body for removal of a landmark tree within the public right-of-way or area to be purchased for the right-of-way where no feasible and prudent alternatives to such removal are available, subject to obtaining a coastal development permit.

EVIDENCE: Plans and materials submitted for project application.

- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- **EVIDENCE:** Seventeen landmark trees are proposed for removal. All are located within the Caltrans right-of-way and are within the area of ground disturbance for this project. The project includes minimum lane widths, a design exception from Caltrans to reduce a shoulder width from eight feet to four feet, and steep cut slopes to minimize ground disturbance and associated tree and vegetation removal. There is no feasible alternative to removing this minimum number of landmark trees.

EVIDENCE: Findings and Evidence numbers 10, 11, 16, 18, and 23.

23. **FINDING:** The project is consistent with CIP regulation 20.146.060.D.3 relating to limiting removal of native trees:

Section 20.146.060.D.3 states: Removal of native trees shall be limited to that which is necessary for the proposed development. Prior to the application being considered complete, the development shall be adjusted for siting, location, size and design as necessary to minimize tree removal.

EVIDENCE: Findings and Evidence numbers 2, 10 and 11.

- **EVIDENCE:** Eighty-one native trees over 6 inches diameter are proposed for removal. All are located within the Caltrans right-of-way and are within the area of ground disturbance for this project. The project includes minimum lane widths, a design exception from Caltrans to reduce a shoulder width from eight feet to four feet, and steep cut slopes to minimize ground disturbance and associated tree and vegetation removal. There is no feasible alternative to removing this minimum number of trees.
- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Plans and materials submitted for project application.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- 24. **FINDING:** The project is consistent with CIP regulation 20.146.060.D.5 relating to tree removal in or adjacent to the riparian corridor.

Section 20.146.060.D.5 states: Tree removal shall not be permitted within the riparian corridor. Tree felling adjacent to the riparian corridor may be permitted, except where trees, logs or debris could be deposited in the stream. Where a tree might fall into or across a stream, it shall be cabled so that it falls at a right angle to the stream.

EVIDENCE: Findings and Evidence numbers 4, 14, 16, and 17. A-3-MCO -01-087 CSWP - Highway 1 Widening Exhibit D 16 of 30

- EVIDENCE: The area of ground disturbance for the project is not within a riparian corridor. Although portions of the project are located adjacent to riparian vegetation, no trees or vegetation will be put in the riparian areas. All vegetated material will be removed from the site.
- EVIDENCE: Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- 25. FINDING: The project is consistent with CIP regulation 20.146.060.D.6 relating to replacing removed native trees:

Section 20.146.060.D.6 states: Native trees to be removed which are 12 inches or more in diameter when measured at breast height shall be replaced on the parcel. Replacement shall be at a rate of one tree of the same variety for each tree removed, except where demonstrated in the Forest Management Plan or Amended Plan that this would result in an overcrowded, unhealthy forest.

- **EVIDENCE:** On-site tree replacement is the primary goal of the Revegetation Plan and Landscape Plan. Since preparation of the Initial Study, Caltrans has determined that tree planting can occur within the highway right-of-way. The revegetation plan and landscape plan identify that the tree planting will include approximately 200 oak, pine, and cypress trees planted to mitigate the loss of the 81 trees removed. Tree planting will provide a variety of sizes (oaks) and fast growing species (pines and cypress) to achieve aesthetic goals for screening the project from residences. On-site tree planting will be located in the area between the long retaining wall and Mesa Drive.
- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- 26. FINDING: The project is consistent with CIP regulation 20.146.070.C.2 and LUP policy 2.6.4.2 relating to maintaining views across the Odello West property:

LUP policy 2.6.4.2 states: The agricultural use of the entire State-owned prime agricultural parcel should be continued. In order to protect the scenic views from Highway 1 to the ocean, the agricultural usage should continue to be a low type of crop such as artichokes.

Section 20.146.070.C.2 states: The agricultural use of the entire State-owned Odello West prime agricultural parcel shall be continued. In order to protect the scenic views from Highway 1 to the ocean, the agricultural usage shall continue to be a low type of crop such as artichokes.

Exhibit D

- **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 2001.
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- **EVIDENCE:** Finding and Evidence number 10.
- **EVIDENCE:** The Caltrans right-of-way adjacent to the Odello property was considered for off-site vegetation mitigation. Due to the ability to fully mitigate on-site and in the Caltrans right-of-way adjacent to the Crossroads Shopping Center movie theater, the Odello area is no longer considered in order to maintain views of the ocean and shoreline, as well as the Palo Corona Ranch frontal slope.

27. FINDING: The project is consistent with CIP regulation 20.146.080.D.1.d and LUP policy 2.7.4, Geologic #4) relating to roads across steep slopes:

LUP policy 2.7.4, Geologic #4 states: New roads across slopes of 30 percent or greater shall be allowed only where potential erosion impacts can be adequately mitigated (i.e. the proposed road construction will not induce landsliding or significant soil creep, nor increase existing erosion rates). Mitigation measures shall not include massive grading or excavation or the construction of protective devices that would substantially alter natural landforms.

Section 20.146.080.D.1.d states: New roads across slopes of 30% and greater shall be allowed only where potential erosion impacts can be adequately mitigated (i.e. proposed road construction will not induce landsliding or significant soil creep, nor increase existing erosion rates). Mitigation measures shall not include massive grading or excavation or the construction of protective devices that would substantially alter natural landforms.

EVIDENCE: No new roads are proposed. However, the widening will involve cutting into existing 30% slopes. When the existing highway was constructed, cut slopes steeper than 30% were created. No natural 30% slopes will be affected by the project.

EVIDENCE: Plans and materials submitted for the application.

EVIDENCE: Finding and Evidence number 4.

- **EVIDENCE:** Erosion Control Plan, Whitson Engineers, July 2001. Erosion impacts are adequately mitigated through the erosion control plan. Additional measures will be provided in the required Storm Water Pollution Prevention Plan (condition 24).
- 28. **FINDING:** The project is consistent with CIP regulation 20.146.120.C.3 and LUP policy 4.4.3.F-3 relating to Palo Corona Ranch frontal slope views:

LUP policy 4.4.3.F-3 states: In order to protect the high scenic values of the Palo Corona frontal slopes, these slopes shall be designated for "Special Treatment." As specified by General Policy 4.4.2.3, no development shall be allowed on these scenic slopes. The density credited on this portion of the ranch, consisting of approximately 560 acres, shall be one unit per 40 acres and may be transferred elsewhere on the ranch outside of the public viewshed.

Section 20.146.120.C.3 states: No development shall be allowed on the frontal slopes of Palo Corona Ranch, as located within the public viewshed. The density credited on this portion of the ranch, consisting of approximately 560 acres, shall be one unit per 40 acres and may be transferred elsewhere on the ranch outside of the public viewshed.

- **EVIDENCE:** This policy and regulation does not specifically apply to protecting the viewshed from Highway 1 to the slope, but indirectly indicates that the goal is to preserve the view of the frontal slope. No revegetation is proposed along this area of Highway 1 (Finding and Evidence numbers 10 and 26)
- EVIDENCE: Revegetation Plan prepared by Denise Duffy and Associates, Inc. dated July 2001, and Landscape Plan prepared by Bellinger Foster Steinmetz, dated July 2001.
- EVIDENCE: Response to Comments attached to the July 25, 2001 Planning Commission staff report as Exhibit "G" and Supplemental Response to Comments document in the project file PLN010261.
- 29. FINDING: The project is consistent with CIP regulation 20.146.130.E.5.e.4 and LUP policy 5.3.3.4.a relating to visual access to the shoreline:

LUP policy 5.3.3.4.a states: Future land use planning should be compatible with the goal of retaining visual access. Visual access to the shoreline from major public viewing corridors and residential roads in Carmel Highlands-Riviera should be protected for visitors and residents alike.

Section 20.146.130.E.5.e.4 states: Visual access to the shoreline from major public viewing corridors and residential roads in Carmel Highlands-Riviera shall be protected for visitors and residents alike.

EVIDENCE: Finding and Evidence numbers 10 and 26.

30. FINDING: The project is consistent with CIP regulation 20.146.130.E.5.e.5 and LUP policy 5.3.3.4.c relating to retaining public views to the shoreline from Highway 1:

LUP policy 5.3.3.4.c states: Structures and landscaping hereafter placed upon land on the west side of Highway 1 shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway.

Section 20.146.130.E.5.e.5 states: Structures and landscaping on land west of Highway 1 shall be sited and designed to retain public views of the shoreline from Highway 1 and roads seaward of the Highway.

EVIDENCE: Findings and Evidence numbers 10 and 26.

- 31. FINDING: For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.
 - EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The statutory fee must be paid, if applicable to county projects.

- 32. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.
 - **EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, the Cypress Fire Protection District, Sheriff's Department, Water Resources Agency, and Caltrans. 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:** File and application materials, Initial Study with mitigation measures, and Negative Declaration contained in the project file.
- 33. FINDING: The project is consistent with LUP policies 2.3.2 and 2.3.3.1 and CIP sections 20.146.040.B.1 and 2 relating to protecting environmentally sensitive habitat by limiting uses.
 - **EVIDENCE:** LUP policy 2.3.2 provides "The environmentally sensitive habitats of the Carmel Coastal Segment are unique, limited and fragile resources of statewide significance, important to the enrichment of present and future generations of County residents and visitors; accordingly, they shall be protected, maintained and, where possible, enhanced and restored. All categories of land use, both public and private, shall be subordinate to the protection of these critical areas (see Map B)." Although the policy identifies Monterey pine forests as a plant community which may be considered sensitive, the policy further states: "Since not all Monterey Pine Forest areas are environmentally sensitive habitat, the restrictions of these policies shall only apply where such forests are determined to be sensitive on a case by case basis." CIP section 20.146.040 is intended "to provide development standards to protect the environmentally sensitive habitats of the Carmel Coastal Segment. It states that " the sensitivity of the Monterey Pine habitats in the Carmel areas shall be determined on a case-by-case basis."
 - **EVIDENCE:** The evidence in this case shows that the area in question is not an environmentally sensitive area. Forty-four Monterey pines over 6 inches diameter at breast height will be removed because of the project. The Monterey pines to be removed by the project do not constitute "sensitive" habitat or forest within the meaning of the LUP and CIP because these trees are likely planted and are located in an area considered to be biologically degraded. The pine trees were likely planted along the highway right-of-way in this area according to the project forester. The area is degraded by being located in a narrow corridor between residential uses and the highway and by non-native species introduced into the corridor.
 - **EVIDENCE:** Initial Study and Mitigated Negative Declaration prepared for Monterey County Public Works by Denise Duffy and Associates, June 1, 2001. The Initial Study identifies that Monterey pine are special status species, but determines that no sensitive habitat is located within the project boundaries (page 12). The Monterey pines in this area are not considered sensitive habitat as described above.
 - EVIDENCE: Denise Duffy & Associates, Inc. Natural Environment Study for the Highway 1 Operational Improvement Project, Monterey County, California, January 2001. Staub Forestry. Forester's Assessment of Potential Tree Removal Impacts Associated with Highway 1 County-Sponsored Widening Project, June 5, 2001.

EVIDENCE: LUP Policy refers to Map B, which, for illustrative purposes, shows areas Extribignificant

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stands of Monterey Pines." The area where the project will occur is not identified as an area with a significant stand of Monterey pines.

- 34. FINDING: Revised mitigation measures, modifying numbers 1 and 5 in the Initial Study, are equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.
 - **EVIDENCE:** The language in these conditions was changed to reflect the ability to provide more opportunities for on-site mitigation of potentially significant visual and biological effects. The Initial Study had identified both on-site and off-site locations for mitigating tree loss. Caltrans, who owns the property, has agreed to allow the County to enhance on-site planting, thereby eliminating the need for any off-site mitigation. The changes to the two mitigation measures reflect the ability to mitigate the project's potentially significant aesthetic and biological effects in the project area. Less area will be disturbed as a result of planting vegetation in on-site locations, creating less disturbed area relating to revegetation.
 - **EVIDENCE:** The revised mitigation measures are more effective in that they provide for the maximum ability to provide revegetation and screening where the project is removing trees.
- 35. FINDING: The project is appealable to the California Coastal Commission. EVIDENCE: Section 20.86.080 of the Monterey County Coastal Implementation Plan.

DECISION

In view of the above findings and evidence, the Board hereby denies the appeals, adopts the Mitigated Negative Declaration as amplified by the Response to Comments document dated July, 2001, adopts the Mitigation Monitoring Program, and approves the Combined Development Permit as shown on the attached sketch and subject to the following conditions:

1. The subject Combined Development Permit consists of 1) a Coastal Development Permit for widening of Highway 1 adding one northbound lane beginning 500 feet north of Carmel Valley Road and running north to Morse Drive; grading of 2,100 cubic yards of cut and 2,500 cubic yards of fill; drainage modifications; guard rails; retaining walls (below roadway), and 2) a Coastal Development Permit for removal of 58 to 81 trees over 6 inches in diameter. The project site is located on Highway 1 between Morse Drive and 500 feet north of Carmel Valley Road in the Carmel Area of the Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning and Building Inspection)

Prior to construction:

2. Pursuant to the 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 **Exhibit** mount of A-3-MCO -01-087

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\$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection)

- 3. All construction lighting shall be unobtrusive and located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit a lighting plan for approval by the Director of Planning and Building. The request for bids for the project shall include requirements that all lighting equipment utilize shielded lights or other adequate methods to minimize adverse impacts during construction. (Planning and Building Inspection, Public Works)
- 4. The site shall be landscaped. Prior to the beginning of construction, a final landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials. The plan shall include planting of trees or tall shrubs in areas to preserve the forested corridor and screen views from residents to and from the highway. All planting shall be in accordance with the specifications of the landscaping plan. The requirements of Condition 17 shall be incorporated into these plans. (Planning and Building Inspection)
- 5. A final re-vegetation program shall be developed (in consultation with a certified landscape architect) and carried out within the project site and if necessary, at a location to be determined in consultation with Caltrans, within the Highway 1 corridor, north of the Carmel River Bridge and south of Ocean Avenue/Highway 1 intersection. The planting and restoration program shall include a mixture of locally occurring, drought-resistant, native flowering perennials, shrubs, and trees, which will improve the visual character and quality of the designated State Scenic Highway. All plantings shall be monitored for three years and shall be subject to the success criteria and contingency plans outlined in the re-vegetation plan. The requirements of Condition 17 shall be incorporated into these plans. (Planning and Building Inspection, Mitigation Measure 1)
- 6. An erosion control plan shall be prepared for review and approval by the Planning Commission prior to construction. The plan shall include the following provisions, at a minimum:
 - A) All slopes and disturbed surfaces resulting from project construction inside or outside the project limits shall be prepared and maintained to control erosion. This control shall consist of measures to provide temporary cover to help control erosion during construction (i.e., jute netting or mulch), and permanent vegetative cover to stabilize the site after construction has been completed, including County-approved native grass seed or other native vegetation, in consultation with a re-vegetation specialist. The seeded and planted areas shall be maintained and irrigated as needed to adequately establish vegetative cover.
 - B) The following provisions shall apply between October 15 and April 15:
 - C) Disturbed surfaces not involved in the immediate operations must be protected by mulching and/or other effective means of soil protection.
 - D) Runoff from the site, if any, shall be detained or filtered by berms, vegetated filter strips, and/or catch basins to prevent the escape of sediment from the site. These drainage controls must be maintained by the contractor as necessary to achieve their purpose (during construction and until erosion control planting has become established as certified by a re-vegetation specialist).
 - E) Erosion control measures shall be in place at the end of each day's work.

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- F) The contractor shall stop operations during periods of inclement weather if it is determined that erosion problems are not being controlled adequately. (Planning and Building • Inspection, Public Works, Mitigation Measure 15)
- 7. A mitigation and monitoring plan must be prepared and implemented that satisfies the mitigation requirements of Condition of Approval 17 (Mitigation Measure 5) and outlines an annual monitoring plan, including success criteria and contingency planning (if those criteria are not met), to be approved by County staff or a representative thereof with expertise in biological restoration, in accordance with current County requirements for such mitigation and monitoring plans. This plan, and the overall re-vegetation/landscaping plan, must be approved by Caltrans prior to the issuance of an encroachment permit. (Planning and Building Inspection, Mitigation Measure 6)
- 8. Pre-construction surveys for nesting raptors shall be performed within 30 days of construction if construction is to take place during the nesting season (February 15 August 1). If nests are located, a minimum 300-foot buffer in all directions shall be maintained to avoid nest harassment and potential brood mortality. Work within these buffer areas shall cease until such time as fledging has taken place. A biological monitor shall be on-site at the initiation of construction to ensure that the 300-foot buffer is an adequate offset to avoid nest harassment. The biological monitor shall also perform weekly nest checks in the last month of the species specific breeding season to determine when the young are fully fledged and to ensure that harassment does not occur. (Planning and Building Inspection, Mitigation Measure 7)
- 9. Pre-construction surveys for roosting bats shall be performed within 30 days of construction by a qualified biologist who has a Memorandum of Understanding (MOU) with CDFG for the removal of bat species. If bats are found during these surveys and it is determined that they will be impacted by construction activities, the permitted biologist shall remove them. Alternative habitat may need to be provided if bats are to be excluded from maternity roosts, as determined by the on-site biologist. If this is the case, a roost with comparable spatial and thermal characteristics shall be constructed and provided prior to construction. Caltrans and CDFG shall be consulted regarding specific designs. (Planning and Building Inspection, Mitigation Measure 8)
- 10. A wetland delineation and riparian habitat assessment shall be performed in the areas adjacent to the project site prior to construction. All sensitive habitats identified in these surveys shall be fenced off from project activities by qualified personnel. No material may be placed and no operation of any vehicles shall be permitted inside of this fenced area. (Planning and Building Inspection, Mitigation Measure 11)
- 11. A silt fence shall be installed near the toe of the slope just above any riparian/drainage/wetland habitat to prevent soil and materials from entering this habitat. (Planning and Building Inspection, Mitigation Measure 12)
- 12. The project grading and landscaping plans, as well as the project contract specifications, shall include provisions to ensure short-term water use. The contractor will be required to bring water to the site by water truck from outside the coastal zone and the CAL-AM service area. The re-vegetation areas shall be watered through a temporary irrigation system with which the truck will connect its water supply. This requirement shall be included as a note on all grading and landscaping plans. (Planning and Building Inspection, Public Works)

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13. A lead remediation program, approved by the appropriate agency, shall be submitted for approval by the Director of Planning and Building. The program shall conform to the guidelines and standards outlined in responses A1, A.3, and A4 of the Response to Comments document (Exhibit "G"). The requirements of the program shall be incorporated into the grading plans. (Planning and Building Inspection, Public Works)

Continuous Permit Conditions:

- 14. A program of exotic/invasive species removal shall be carried out to the maximum extent practical in the same location as the planting program identified above. Removal of invasive species, such as Scotch broom and ice plant, is necessary to allow for native species to establish and propagate successfully. The invasive species removal program shall be subject to the success criteria and contingency plans to be outlined in the landscaping/re-vegetation plan. (Planning and Building Inspection, Mitigation Measure 2)
- 15. Any trees or vegetation not planned for removal (including the 23 estimated "possible" impacted trees indicated in Table 4 of the Initial Study) shall be protected during construction activity to the maximum extent possible. This includes exclusionary fencing of herbaceous and shrubby vegetation, such as hay bales, and protective wood barriers for trees. (Planning and Building Inspection, Mitigation Measure 3)
- 16. Immediately following construction, any disturbed area shall be re-vegetated using appropriate native species and native erosion control seed mix, in consultation with a qualified re-vegetation specialist. (Planning and Building Inspection, Mitigation Measure 4)
- 17. Monterey pines and oaks removed that are greater than or equal to six inches dbh shall be replaced with appropriate native species (e.g. pine, oak, and cypress). Specifically, ten inches of tree dbh shall be planted as mitigation for every pine or oak tree removed that is greater than or equal to six inches dbh. This ratio should be approximately 4:1 provided the removal of exotic/invasive species within the Caltrans right-of-way portion of the project site is completed to the maximum extent practical, and with the inclusion of replacement trees that are of multiple age classes (i.e., sapling, medium maturity, and specimen), which creates dynamic vegetative community structure, as appropriate to the approved mitigation sites, and that the replanting program provides maximum tree and understory shrub planting localized in the areas of proposed tree removal in order to replace and/or enhance forested canopy within the Highway 1 corridor. Trees shall be planted within the project boundaries to the maximum extent possible, as determined by a forester given the constraint of existing tree densities and in accordance with constraints associated with future highway projects. If it is necessary to plant additional trees to satisfy the mitigation ratio above, trees shall be planted at a location within the Highway 1 corridor in areas identified for restoration planting for additional aesthetic or biologic mitigation. All planting shall be performed in consultation with a qualified arborist. Appropriate irrigation shall be provided by temporary irrigation facilities or a County watering truck for the duration of monitoring. All replacement trees shall be monitored for three years. (Planning and Building Inspection, Mitigation Measure 5)
- 18. All disturbed areas of bare soil and slopes within the project site shall be protected from erosion resulting from construction and post-construction activities. Re-vegetation with appropriate native plants and native erosion control seed mix in conjunction with geotech fabrics, such as jute netting, must be applied and Best Management Practices followed and monitored by qualified personnel. In addition, topsoil removed by grading shall be stockpiled and reapplied at the time of re-vegetation. (Planning and Building Inspection, Mitigation Measure 9)

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- 19. Grading work should be completed during the dry season (April 15 to October 15) to reduce active construction erosion. Alternatively, the project shall implement the required erosion control plan as stated in Condition of Approval 6 (Mitigation Measure 15). (Planning and Building Inspection, Mitigation Measure 10)
- 20. All grading and construction plans shall contain the following note: "If archaeological or paleontological resources or human remains are accidentally discovered during construction, work shall be halted within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist; identify a project archaeologist prior to the onset of construction. If the find is determined to be significant, a mitigation program shall be prepared in conformance with the protocol set forth in the CEQA Guidelines (Section 15064.5). A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented so that the resources are avoided." (Planning and Building Inspection, Mitigation Measure 13)
- 21. Any mitigation program prepared for Condition of Approval 20 (Mitigation Measure 13) shall be incorporated into the overall mitigation and monitoring plan required for the project. (Planning and Building Inspection, Mitigation Measure 14)
- 22. In order to maintain existing air quality and minimize adverse impacts to air quality, the applicant shall implement the following measures during construction:
 - A) Water all active construction areas at least twice daily. Frequency should be based on the ty of operation, soil, and wind exposure.
 - B) Cover all inactive storage piles.
 - C) Prohibit all grading activities during periods of high wind (15 mph).
 - D) Cover all materials transported offsite to prevent excessive dust release.
 - E) Plant vegetative cover in disturbed areas as soon as possible.
 - F) Clean loose soil from equipment and vehicles before exiting the work site.
 - G) Sweep streets if visible soil material is carried out from the construction site.
 - H) Maintain all construction equipment and vehicle internal combustion engines according to manufacturer specifications. (Planning and Building Inspection)
- 23. In order to address potential adverse noise impacts during the construction period, the applicant shall:
 - A) Notify residents adjacent to the roadway within the project limits of construction schedule and designate a contact person.
 - B) Equip all internal combustion engine-driven equipment with proper mufflers in good condition.
 - C) Complete all work possible during the daytime, such as tree removal and other activities outside the travel lanes. Complete noisiest activities as early as possible in nighttime period.
 - D) Where possible, erect portable construction noise barriers (plywood, noise control blankets) between the source of construction noise and the adjacent sensitive receptor. (Planning and Building Inspection)

Exhibit \mathcal{N}

24. The applicant shall prepare and submit for approval by the Director of Planning and Building Inspection a Storm Water Pollution Prevention Plan. The specific water pollution control measures shall be included in the grading plans. (Planning and Building Inspection)

Should any one or more of the above findings be held invalid as a basis for this decision by a court of competent jurisdiction, the Board hereby relies on the remaining valid findings in support of its decision

PASSED AND ADOPTED on this 4th day of September, 2001, upon motion of Supervisor

Potter, seconded by Supervisor **Pennycook**, by the following vote, to-wit:

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

NOES: None.

ABSENT: None.

I, Sally R. Reed, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page <u>--</u> of Minute Book <u>70</u>, on <u>September 4, 2001</u>.

Dated: September 4, 2001

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

By Mancy Kukent

<u>Note</u>: this decision may be appealed to the California Coastal Commission pursuant to Chapter 20.86 of the certified Monterey County Zoning Ordinance (Title 20). A copy of this decision was mailed to the appellants on $\frac{9/4}{01}$.

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Monterey County Planning & Building Inspection Program for Monitoring or Reporting* on Conditions of Approval

Project Name: Highway 1 County-Sponsored Widening Project

File No: <u>PLN 010261</u> *APN:* _____

N/A

Approval by: Board of Supervisors Date: September 4, 2001

LEGEND

PBI	Planning & Building Inspection	WRA	Water Resources Agency	EH	Environmental Health	AG	Ag Commissioner	
FD	Fire District	PW	Public Works	RA	Redevelopment Agency	PD	Parks Department	
СС	County Counsel	MMR	Mitigation Monitoring Reporting Team	CE	Code Enforcement	Other	State which agency	
*Monit	*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.							

Mit. Mon. No.	Final Signoff Date	Mitigation Measures	Standard	Orig. Dept. or Agency	Schedule (Prior to/Continuous) (Report due?) Fill in timeframe D		Person/Agency responsible for Inspection/Monitoring/Review What is to be reviewed? Who is the preparer?
- A-3-MCO CSWP - Highwa	Duit	A final re-vegetation program shall be developed (in consultation with a certified landscape architect) and carried out within the project site and if necessary, at a location to be determined in consultation with Caltrans, within the Highway 1 corridor, north of the Carmel River Bridge and south of Ocean Avenue/Highway 1 intersection. The planting and restoration program shall include a mixture of locally occurring, drought- resistant, native flowering perennials, shrubs, and trees, which will improve the visual character and quality of the designated State Scenic Highway. All plantings shall be monitored for three years and shall be subject to the success criteria and contingency plans outlined in the re-vegetation plan.	Specific mitigation measure	Initial Study	Annually, for 3 years and prior to final clearance of project. Monitoring is required.	Ŷ	At applicant's expense, all monitoring reports shall be prepared by a qualified expert capable of monitoring and reporting on the health of any plants installed.
-01-087 ay 1 Widening		A program of exotic/invasive species removal shall be carried out to the maximum extent practical in the same location as the planting program identified above. Removal of invasive species, such as Scotch broom and ice plant, is necessary to allow for native species to establish and propagate successfully. The invasive species removal program shall be subject to the success criteria and contingency plans to be outlined in the landscaping/re-vegetation plan.	Specific mitigation measure	Initial Study	As stated in the re-vegetation plan and prior to final clearance of project. Monitoring is required.	Y	At applicant's expense, invasive plant material shall be removed. Because these plants are difficult to eradicate, a qualified individual capable of monitoring and reporting on this process is recommended.
3		Any trees or vegetation not planned for removal (including the 23 estimated "possible" impacted trees indicated in Table 4 of the Initial Study) shall be protected during construction activity to the maximum extent possible. This includes exclusionary fencing of herbaceous and shrubby vegetation, such as hay bales, and protective wood barriers for trees.	Specific mitigation measure	Initial Study	Check prior to construction and maintain during construction.		At applicant's expense, barriers and protection shall be installed and maintained during construction.
Exhibit b *2 7°f 30		Immediately following construction, any disturbed area shall be re-vegetated using appropriate native species and native erosion control seed mix, in consultation with a qualified re-vegetation specialist. The requirements of Condition 17 shall be incorporated into these plans.	Specific mitigation measure	Initial Study	Prior to final clearance of project.		At applicant's expense, revegetation shall occur following construction. The plan shall be developed in consultation with a qualified expert and reviewed and approved by PBI.

Mit. Mon. No.	Final Signoff Date	Mitigation Measures	Standard	Orig. Dept. or Agency	Schedule (Prior to/Continu (Report due?) Fill in timeframe		Person/Agency boosible for Inspection/Monitoring/Review What is to be reviewed? Who is the preparer?
5		Monterey pines and oaks removed that are greater than or equal to six inches dbh shall	Specific	Initial	Final Plan		At applicant's expense a tree
		be replaced with appropriate native species (e.g. pine, oak, and cypress). Specifically, ten inches of tree dbh shall be planted as mitigation for every pine or oak tree removed that is greater than or equal to six inches dbh. This ratio should be approximately 4:1 provided the removal of exotic/invasive species within the Caltrans right-of-way portion of the project site is completed to the maximum extent practical, and with the inclusion of replacement trees that are of multiple age classes (i.e., sapling, medium maturity, and specimen), which creates dynamic vegetative community structure, as appropriate to the approved mitigation sites, and that the replanting program provides maximum tree and understory shrub planting localized in the areas of proposed tree removal in order to replace and/or enhance forested canopy within the Highway 1 corridor. Trees shall be planted within the project boundaries to the maximum extent possible, as determined by a forester given the constraint of existing tree densities and in accordance with constraints associated with future highway projects. If it is necessary to plant additional trees to satisfy the mitigation ratio above, trees shall be planted at a location within the Highway 1 corridor in areas identified for restoration planting for additional aesthetic or biologic mitigation. All planting shall be performed in consultation with a qualified arborist. Appropriate irrigation shall be provided by temporary irrigation facilities or a	mitigation measure	Study	approval prior to construction. Monitoring in accordance with the re- vegetation plan Prior to final clearance of project.		replacement plan shall be prepared by a qualified exper Replacement planting shall occur prior to final inspectior by PBI or a designated consultant.
A-3-M0		County watering truck for the duration of monitoring. All replacement trees shall be monitored for three years. The requirements of Condition 17 shall be incorporated into these plans.					
A-3-MCO -01-087		A mitigation and monitoring plan must be prepared and implemented that satisfies the mitigation requirements of Condition of Approval 17 (Mitigation Measure 5) and outlines an annual monitoring plan, including success criteria and contingency planning (if those criteria are not met), to be approved by County staff or a representative thereof with expertise in biological restoration, in accordance with current County requirements for such mitigation and monitoring plans. This plan, and the overall revegetation/landscaping plan, must be approved by Caltrans prior to the issuance of an encroachment permit.	Specific mitigation measure	Initial Study	Prior to construction.	Y	A monitoring plan shall be prepared by a qualified exper and submitted to PBI for review and approval. PBI wi coordinate with Caltrans.
7 Exhibite		Pre-construction surveys for nesting raptors shall be performed within 30 days of construction if construction is to take place during the nesting season (February 15 - August 1). If nests are located, a minimum 300-foot buffer in all directions shall be maintained to avoid nest harassment and potential brood mortality. Work within these buffer areas shall cease until such time as fledging has taken place. A biological monitor shall be on-site at the initiation of construction to ensure that the 300-foot buffer is an adequate offset to avoid nest harassment. The biological monitor shall also perform weekly nest checks in the last month of the species specific breeding season to determine when the young are fully fledged and to ensure that harassment does not occur.	Specific mitigation measure	Initial Study	Prior to any construction activity Monitoring is required and reports shall be submitted monthly to Planning and Building Inspection.	Y	At applicant's expense, surve shall be prepared and any reports submitted to PBI. Al consultant work shall be monitored by PBI and CDFC as necessary.
20		Pre-construction surveys for roosting bats shall be performed within 30 days of construction by a qualified biologist who has a Memorandum of Understanding (MOU) with CDFG for the removal of bat species. If bats are found during these surveys and it	Specific mitigation measure	Initial Study	Prior to any construction activity	Y	At applicant's expense, surveshall be prepared and any reports submitted to PBI. A

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Mit. Mon. No.	Final Signoff Date	Mitigation Measures is determined that they will be impacted by construction activities, the permitted	Standard	Orig. Dept. or Agency	Schedule (Prior to/Continuous) (Report due?) Fill in timeframe		Person/Agency responsible for Inspection/Monitoring/Review What is to be reviewed? Who is the preparer? consultant work shall be
		biologist shall remove them. Alternative habitat may need to be provided if bats are to be excluded from maternity roosts, as determined by the on-site biologist. If this is the case, a roost with comparable spatial and thermal characteristics shall be constructed and provided prior to construction. Caltrans and CDFG shall be consulted regarding specific designs.			Monitoring is required and reports shall be submitted monthly to Planning and Building Inspection.	×	monitored by PBI and CDFG, as necessary.
9		All disturbed areas of bare soil and slopes within the project site shall be protected from crosion resulting from construction and post-construction activities. Re-vegetation with appropriate native plants and native erosion control seed mix in conjunction with gcotech fabrics, such as jute netting, must be applied and Best Management Practices followed and monitored by qualified personnel. In addition, topsoil removed by grading shall be stockpiled and reapplied at the time of re-vegetation.	Title 16- Grading and Erosion Control	Initial Study	Prior to final clearance on project.		Planning and Building Inspection / Public Works
¹⁰ A-3- CSWP - H		Grading work should be completed during the dry season (April 15 to October 15) to reduce active construction erosion. Alternatively, the project shall implement the required erosion control plan as stated in Condition of Approval 6 (Mitigation Measure 15).	Title 16- Grading and Erosion Control	Initial Study	Prior to construction		Planning and Building Inspection / Public Works
A-3-MCO -01-(P - Highway 1 \		A wetland delineation and riparian habitat assessment shall be performed in the areas adjacent to the project site prior to construction. All sensitive habitats identified in these surveys shall be fenced off from project activities by qualified personnel. No material may be placed and no operation of any vehicles shall be permitted inside of this fenced area.	Federal Guidelines	Initial Study	Prior to any construction		At applicant's expense, the delineation shall be completed to ACE standards. PBI shall ensure protection is in place.
ay 1 Widening		A silt fence shall be installed near the toe of the slope just above any riparian/drainage/wetland habitat to prevent soil and materials from entering this habitat.	Title 16- Grading and Erosion Control	Initial Study	Prior to any construction		PBI shall ensure protection is in place.
13 29 of 30 4		All grading and construction plans shall contain the following note: "If archaeological or paleontological resources or human remains are accidentally discovered during construction, work shall be halted within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist; identify a project archaeologist prior to the onset of construction. If the find is determined to be significant, a mitigation program shall be prepared in conformance with the protocol set forth in the CEQA Guidelines (Section 15064.5). A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented so that the resources are avoided."	Specific mitigation measure	Initial Study	During construction. Prior to construction, PBI shall ensure that a notc is on the plans.		Applicant shall inform all construction supervisors of this requirement and immediately inform PBI or PW of any find. PBI
14		Any mitigation program prepared for Condition of Approval 20 (Mitigation Measure 13)	Specific	Initial	If	Y	PBI

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Mit. Final Mon. Signoj No. Date	(f		Orig. Dept. or Agency	Schedule (Prior to/Continuous) (Report due?) Fill in timeframe &		Person/Agency
	shall be incorporated into the overall mitigation and monitoring plan required for the project.	mitigation measure	Study	archaeological resources are discovered.		
15 A-3-MCO -01-087	 An erosion control plan shall be prepared for review and approval by the Planning Commission prior to construction. The plan shall include the following provisions, at a minimum: All slopes and disturbed surfaces resulting from project construction inside or outside the project limits shall be prepared and maintained to control erosion. This control shall consist of measures to provide temporary cover to help control erosion during construction (i.e., jute netting or mulch), and permanent vegetative cover to stabilize the site after construction has been completed, including County-approved native grass seed or other native vegetation, in consultation with a re-vegetation specialist. The seeded and planted areas shall be maintained and irrigated as needed to adequately establish vegetative cover. The following provisions shall apply between October 15 and April 15: 	Title 16- Grading and Erosion Control	Initial Study	Prior to construction activity	Y	The proposed grading/erosion control and revegetation plans shall be reviewed and approve by PBI prior to construction.

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RECEIVED

MONTEREY COUNTY BOARD OF SUPERVISORS AUG 3 0 2001

MEETING:	September 4, 2001 @ 10:00 a.m.	AGENDA NO.:	CALIFORNIA
SUBJECT:	Deny the appeals of Citizens for Hatton Canyo Association, and Responsible Consumers of th	on, Hatton Fields Rest	STAL COMMISSIO
	Association, and Responsible Consumers of th	e Monterey Peninsula	from the
	decision of the Planning Commission approvin	ng the Combined Devel	opment
	Permit (PLN010261); Adopt the Mitigated Ne	gative Declaration; Add	opt
	Mitigation Monitoring Program; and Approve	the Combined Develop	ment Permit
	(PLN010261—Monterey County Public Wo	rks Department) cons	isting of 1)
	a Coastal Development Permit for widening of	f Highway 1, adding on	e
	northbound lane from 500 feet north of Carme	l Valley Road to Morse	Drive;
	grading of 2,100 cubic yards of cut and 2,500	cubic yards of fill; drair	nage
	modifications; guard rails; retaining walls (bel	ow roadway), and 2) a (Coastal
	Development Permit for removal of 58 to 81 th	rees over 6 inches in dia	imeter.
DEPARTME	NT: Planning and Building Inspection		

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- 1) Deny the appeals of Citizens for Hatton Canyon, Hatton Fields Residents Association, and Responsible Consumers of the Monterey Peninsula from the decision of the Planning Commission approving the Combined Development Permit (PLN010261);
- 2) Adopt the Mitigated Negative Declaration as amplified by the Response to Comments on the Draft Initial Study/Mitigated Negative Declaration document dated July 2001;
- Adopt the Mitigation Monitoring Program (attached to Board Resolution—Attachment "B"); and
- 4) Based on the findings and evidence and subject to the conditions of approval found in the Board Resolution (Attachment "B"), approve the Combined Development Permit (PLN010261—Monterey County Public Works Department) consisting of 1) a Coastal Development Permit for widening of Highway 1, adding one northbound lane from 500 feet north of Carmel Valley Road to Morse Drive; grading of 2,100 cubic yards of cut and 2,500 cubic yards of fill; drainage modifications; guard rails; retaining walls (below roadway), and 2) a Coastal Development Permit for removal of 58 to 81 trees over 6 inches in diameter.

SUMMARY:

On August 8, 2001, the Planning Commission held a public hearing and unanimously approved (7-0) the County-sponsored Highway 1 widening project (CSWP) in the Carmel Area (adding one northbound lane beginning 500 feet north of Carmel Valley Road and running north to Morse Drive). Three groups have appealed the decision of the Planning Commission. Almost all of the points presented in the appeals were presented to, and considered by, the Planning Commission prior to their decision. After receiving written and oral testimony and other evidence, the Planning Commission determined that the project is consistent with Local Coastal Program (LCP) policies and regulations, and that the project would not cause any substantial environmental effect with the mitigation measures proposed.

DISCUSSION:

The three appeals have common points, which have been summarized into substantive issues are grouped by category and addressed in Attachment "A." of 15 CSWP - Highway 1 Widening

OTHER AGENCY INVOLVEMENT:

The application was reviewed by Caltrans, the Monterey County Water Resources Agency, Environmental Health Division, Public Works Department, Sheriff's Department, and the Cypress Fire Protection District. The Carmel Unincorporated Land Use Advisory Committee reviewed the project and recommended denial of the project (vote 5 to 2) (Exhibit "K" of July 25, 2001 staff report). The Carmel Valley Land Use Advisory Committee also considered this project because of the effect this project would have on Carmel Valley residents; they unanimously recommended approval.

FINANCING:

On July 31, 2001 the Board approved a Cooperative Agreement with Caltrans to provide \$1,750,000 in SHOPP funding for this project. Regional development impact fees in the amount of \$229,857 have been collected and will be provided to this project. The remainder of the project funding will be provided by the Rancho San Carlos Partnership, L.P. and will be reimbursed from future development fees through the reimbursement agreement. There is no impact on the County General Fund or the Road Fund.

Notes:

1) This project is appealable to the California Coastal Commission.

Mike Novo

Supervising Planner August 28, 2001

Illa

Director, Planning and Building Inspection August 28, 2001

cc: California Coastal Commission; Clerk to the Board (20); Appellants (3); Health Department; Public Works (2—Lew Bauman and Nick Nichols); Cypress Fire Department; Monterey County Sheriff; Monterey County Water Resources Agency; Scott Hennessy; Yvonne Christopher; Dale Ellis; Mike Novo; Lautaro Echiburu; Denise Duffy and Associates; Whitson Engineers; Caltrans (David Silberberger); File

Attachments:	Attachment "A" Attachment "B" Attachment "C" Attachment "D" Attachment "E"	Discussion Board of Supervisors Resolution Planning Commission Resolution 01048 Appeal Letter from Citizens for Hatton Canyon Appeal Letter from Hatton Fields Residents Association
	Attachment "F" Attachment "G" Attachment "H" Attachment "I" Attachment "J" Attachment "K" Attachment "L" Attachment "M"	Appeal Letter from Responsible Consumers of the Monterey Peninsula Memo to Planning Commission dated August 8, 2001 Memo to Planning Commission dated August 1, 2001 Planning Commission Staff Report with Exhibits (Supervisors only) Correspondence received after Planning Commission staff report Consultant Information (Biology, Noise) Project Plans (including Erosion Control Plan to Board only) Planning Commission Minutes, excerpt for 8/8/01 meeting (Draft)

ExhibitE 2^{of}15

ATTACHMENT "A" DISCUSSION

The appeals contain several substantive comments, which are grouped below with a response to each comment. The letter from Christine Gianascol for Citizens for Hatton Canyon (CHC) included a point-by-point discussion of the Findings, which, CHC alleges, are not based on evidence in the record. Many of the comments are repetitive due to the Findings and Evidence format in the Planning Commission staff report. The other two appeals, from Hatton Fields Residents Association (HFRA) and Responsible Consumers of the Monterey Peninsula (RCMP) include many of the same points as the CHC appeal letter. The grouping in this report is done for ease of discussion and consideration by the public and the Board of Supervisors. References in the discussion to specific "Finding" numbers refer to Findings in Planning Commission Resolution No. 01048 (Attachment "C"). Almost all of the comments found in the appeals were presented through oral and written testimony to the Planning Commission, which considered them prior to approving the project.

1. Appeal Comment: Lack of a fair and impartial hearing due to 1) inadequate notice, 2) failure to allow letters by appellant's attorney and a biologist to be read into record, 3) financing by private developer, and 4) the Initial Study is not adequate for disclosure, consideration, and discussion of alternatives. (CHC appeal—Page 1; HFRA—Pages 1 and 2; RCMP—Page 1).

Staff Response for inadequate notice: Notice for availability of the Negative Declaration was given in compliance with Section 21092 of the California Environmental Quality Act (CEQA) and Section 15072 of the CEQA Guidelines. These sections require that the public be notified by either publication in a newspaper of general circulation, mailing to property owners and occupants of property contiguous to the project, or posting on and off the project site. Notice was provided for this project by publishing in the Salinas Californian on June 16, 2001, and Monterey County Herald on June 18, 2001, posting at the County Clerk's office on June 11, 2001, circulation through the State Clearinghouse to applicable responsible and trustee agencies on June 11, 2001, and posting on the site. Notice for the hearing was given in accordance with Section 20.84.040 of the Monterey County Coastal Implementation Plan, Public Hearings, Public Notice Required. The public hearing notice was mailed to owners and occupants of property within 300 feet of the project boundaries and to anyone that requested notice in writing on July 13, 2001, published in newspapers of general circulation on July 13, 2001, and posted on and near the project on July 26, 2001. Additional noticing was done for the August 1, 2001, Planning Commission field trip and August 8, 2001, Planning Commission hearing, beyond that required by Monterey County Title 20 or State law. Aside from the noticing, articles appeared in the Monterey County Herald and Carmel Pine Cone during the weeks prior to the hearing. See also responses P1 and P2 in Response to Comments on the Draft Initial Study/Mitigated Negative Declaration, July 2001.

Staff Response for failure to allow letters read into the record: At the August 8, 2001, Planning Commission hearing, Marikay Morris asked to read letters from Christine Gianascol and Vern Yadon. The Planning Commission Chair stated that the Planning Commission had received the letters in question and did not need them read as they were already part of the record before the Commission. The letters in questions were from Vern Yadon dated August 2, 2001, and Christine Gianascol for Citizens for Hatton Canyon dated August 8, 2001. The

Exhibit E3 of 15

Planning Commission had received the August 2, 2001 Vern Yadon letter and had a letter from Christine Gianascol dated July 10, 2001. The Chair assumed that the letter from Ms. Gianascol was the same they had in their possession. The Chair allowed the individual to read excerpts from the letters. The letter dated August 8, 2001, had much the same substance as the July 10, 2001, letter from Christine Gianascol and as other testimony from the public at the Planning Commission hearing; therefore, the Planning Commission was aware of the same points outlined in the August 8, 2001 letter prior to arriving at their decision. The August 8 letter is attached for the Board's consideration (Attachment "J").

Staff Response for financing by private developer: Lew Bauman, the County Public Works Director, responded to this comment at the Planning Commission hearing. The developer in question is required, per mitigation measures required for an already approved project, to contribute funding toward Highway 1 improvements. The developers have an agreement to fund any costs above the current funds available toward the improvements, but have a reimbursement agreement with the County for any costs incurred above their fair-share obligation. The County will reimburse the developers for amounts beyond their required contributions to Highway 1 improvements. As for the concern regarding the environmental consultants and design engineers being impartial, the environmental consultants are on the County's list of qualified consultants and have done many projects for the County. Additionally, County staff reviewed the Initial Study and made revisions where appropriate prior to public circulation of the document. The County Public Works Department has overseen the design engineering along with Caltrans. See also responses M3 and O1 in *Supplemental Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, August 2001.

Staff Response for inadequate Initial Study: HFRA's allegation relating to disclosure and circulation of the Mitigated Negative Declaration is discussed above in the response to the notice issue. HFRA alleges it had inadequate time to contract with professionals: however, not only has the public had notice of the project since mid-June, but also HFRA states that it has now contracted with experts. In any event, the County hired a consulting firm, which prepared the Initial Study, conducted biological surveys and analysis and used specialists in the field to prepare noise and traffic studies. Prior to circulating the document for public review, County staff further reviewed the Initial Study and made revisions where appropriate. Alternatives analysis is required for an EIR, not a Mitigated Negative Declaration (Section 15126.6(a) of the CEQA Guidelines); however, alternatives to project design and location were considered. The widening of the project to the west, as designed and as approved by the Planning Commission, involved less tree removal, less grading, and less potential for environmental effects than other designs or locations, as explained by Rich Weber of Whitson Engineers (design engineer) at the Carmel Land Use Advisory Committee meeting on July 16, 2001, and by Lew Bauman, Public Works Director, at the Planning Commission hearing on August 8, 2001. See also response to appeal comments 7, 8, 9, 10, 11, 12, 15, 16 and 17.

2. Appeal Comment: The project is inconsistent with the Local Coastal Program (LCP). (CHC appeal--Pages 1 through 9).

Staff Response: A detailed LCP consistency analysis was provided in the Planning Commission Staff Report dated July 25, 2001, and August 1, 2001 Planning Department Exhibit E

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memorandum to the Planning Commission (see Findings 1 through 4, 9 through 30, and 33 in Resolution 01048). The Planning Commission determined, after consideration of all written documents and oral testimony, that sufficient evidence was presented to find the project is consistent with the LCP and to adopt the Findings as recommended. See below for response to individual points presented in the appeals regarding consistency with the LCP. See also response to appeal comments 4, 5, 6, 7, 8, 10, 13 and 18 and response H10 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

3. Appeal Comment: The Findings and Evidence are not supported by the Evidence. (CHC appeal--Pages 1 through 9; HFRA--page 1).

Staff Response: Planning Commission Resolution 01048 includes the Findings and Evidence adopted by the Planning Commission. After each finding, the Planning Commission Resolution cites evidence in support of the finding. See responses below for specific responses to substantive issues identified by the appeals. These issues were addressed in the Response to Comments, dated July 2001, and Supplemental Response to Comments, dated August 2001, and in the Staff Report dated July 25, 2001 and Planning Department memoranda to the Planning Commission dated August 1, 2001, and August 8, 2001. The Planning Commission also heard testimony at the August 8, 2001 public hearing from County staff and consultants responding to these issues.

4. Appeal Comment: The project is inconsistent with Local Coastal Program (LCP) policies and regulations requiring setbacks from riparian and wetland habitats. (CHC appeal--Page 1, Finding 1; Page 4, Finding 5; Pages 6-7, Finding 14; Page 7, Finding 17; Page 8, Finding 24; HFRA--page 1).

Staff Response: The County's biologist has determined, in consultation with the Army Corps of Engineers and California Department of Fish and Game, that no jurisdictional wetlands or riparian habitats exist on the project site. The project widening is almost exclusively located on the west side of the existing highway, which is degraded with invasive species. The Planning Commission received this testimony at the August 8, 2001 public hearing. The regulation referenced in Finding 24 is regarding tree felling within the riparian corridor. No tree felling will occur in or adjacent to a riparian corridor. See also the biologist's response in Attachment "K," the response to appeal comments 6, 9, and 10 and response H9 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

5. Appeal Comment: This project removes the forested corridor, which the LCP requires to be maintained. Landmark trees, which are protected by the LCP, can be retained if the project is not built. (CHC appeal--Page 2, Finding 1; Page 8, Findings 22, 23, and 25; Page 9, Finding 29; HFRA-Page 1; RCMP-Page 2, H).

Staff Response: The project was designed as a widening project to the west side of the existing road and includes retaining walls. The selected location and design minimize the amount of tree removal to that absolutely necessary to accommodate the project. The project removes less than 19% of the trees in the project area. As explained in the Revegetation Plan dated July 2001, and Landscaping Plan dated July 2001, tree replacement planting at a ratio of 4:1 will be utilized to preserve the forested corridor by identifying key gaps in the canopy and utilizing larger trees and shrubs to fill in those areas. The project 'cut' area has a fairly Exhibit E

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wide forested corridor that will remain. The 'fill' area, which currently has gaps in the forested corridor, will be intensively planted in needed areas to fill in existing gaps, replace trees and screen views between the highway and residences. The Planning Commission conducted a field trip on August 1, 2001, where the plans were presented. At the field trip, County staff and their consultants demonstrated how the replanting would preserve the forested corridor, as well as screen views between the highway and residences. Finding 23 relates to minimizing tree removal by relocation, design changes, or size. The design engineer, as stated above, has chosen a location and design to minimize the project footprint and remove the minimum amount of vegetation. Finding 25 relates to regulations requiring that native trees removed be replaced on the parcel. The Planning Commission was presented with a Revegetation Plan and Landscape Plan showing that tree replacement will occur on the project site, and Finding 25, as modified by the August 8 staff memorandum to the Planning Commission, indicates that trees will be replaced on site. The plans seek to fill in existing gaps in the forest canopy and replace trees where needed, and of a size needed, to fill in gaps created by project tree removal. This is achieved by planting specimen size oaks for immediate screening where needed and fast growing pine and cypress trees.

Regarding the removal of landmark trees, the policy and regulations of the LCP provide an exception where there is no feasible alternative to removal for the project (see Finding 22). The project was located and designed to minimize the project footprint, thereby removing the minimum number of trees and minimizing the grading necessary to construct the project. Other alternative designs and locations were considered that would have increased the footprint area, thereby removing more trees and requiring more grading, or widening the project along the east side of the existing highway, which required more tree cutting, grading, and had more potential for adverse effects on biological resources.

See also the biologist's response in Attachment "K," responses D1, F5, H10, I1, and I2 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001 and response O2 in *Supplemental Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, August 2001.

6. Appeal Comment: The project will remove or destroy Environmentally Sensitive Habitat (ESH), which is not allowed by policies in the LCP. (CHC appeal--Page 2, Finding 1; Page 3, Finding 2; Pages 6-7, Finding 14; HFRA—Page 1; RCMP—Page 1, B).

Staff Response: ESH will not be removed or destroyed by the project. County staff addressed this issue in a memorandum to the Planning Commission dated August 1, 2001. See the Finding and Evidence in that memorandum. The LCP states that not all Monterey pine forest is considered to be Environmentally Sensitive Habitat and must be considered on a case-by-case basis. As discussed in the August 1, 2001, memorandum, the pines were likely planted in this area and that the area is biologically degraded as it is located between a residential neighborhood and the existing highway, as discussed in the biological survey and the forestry report. The project biologist determined that the project area does not contain any ESH. Project construction activities will not occur adjacent to any ESH areas. The only potential for adverse effect is from runoff water draining to the east side of the highway. The County is requiring that a Storm Water Pollution Prevention Plan be prepared. In addition, the design and construction of the project will adhere to the requirements specified in the General Construction Permit (Order 99-08-DWQ) and Caltrans NPDES Permit (99-06-Exhibit E

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DWQ). See also the biologist's response in Attachment "K," responses A3, A5, F5, F6, H9, and H10 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

7. Appeal Comment: The project will have visual impacts that have not been mitigated: 1) the project was not adequately staked and flagged, 2) the tree removal cannot be adequately replaced on site to mitigate visual impacts, 3) extensive grading could be avoided if the project is not constructed, and 4) the project will be located in the public viewshed. (CHC appeal--Page 2, Finding 1; Page 3, Finding 2; Page 4, Finding 5; Page 6, Findings 5, 9, 10, and 11; HFRA--Page 1; RCMP--Page 2, H).

Staff Response to flagging and staking requirement: The Coastal Implementation Plan (CIP) requires that all "proposed <u>buildings</u>" be staked and flagged (CIP Section 20.146.030.A.1). The location of the retaining walls, because they are structures, were staked and flagged. In response to the public's request at the August 1, 2001 field trip, the County also had the trees to be removed flagged with tape. This is not a requirement of the CIP, but was done prior to the Planning Commission meeting. The appellant's statement that the CIP required staking of the road widening as an access road is not accurate. Staking for access roads is done to ensure that the location is clear to staff, the public and decision makers. The location of the widening project is not in question. The project is the widening of an existing road, and will clearly widen the roadbed approximately eight feet to the west from the existing alignment.

Staff Response to tree removal mitigation: The project has been designed to minimize the amount of tree removal by using retaining walls in fill areas and by providing the steepest cut slopes determined acceptable by the geotechnical engineer. These design aspects minimize the project footprint, thereby allowing the minimum number of trees to be removed. Caltrans has allowed the County to replant trees within their highway right-of-way (see August 8, 2001, staff memorandum to Planning Commission). Planting within the Caltrans right-of-way along with a large County-owned right-of-way area near Atherton and Mesa Drive allows the opportunity to provide adequate on-site tree replanting, fully mitigating the impacts of tree removal for aesthetic purposes. See also the biologist's response in Attachment "K" and response to appeal comment 5. See also responses D1, F5, G1, H7, I1, and I3 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001 and responses O2 and P8 in *Supplemental Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001 and *Study/Mitigated Negative Declaration*, July 2001.

Staff Response to extensive grading: The CHC appeal states that Finding 11 is not supported by the evidence. This finding relates to a policy and regulation that seeks to minimize earth movement. The amount of grading is similar to that proposed for construction of a large house on a property with a slope of less than 30% (for example, county files PLN000485, PLN000582, PLN990329, PLN000588, PLN010031, and PLN010079, all single family dwellings). The appeal alleges "scarring' will occur, but the cut slope will have the same look as the existing cut slope, which will just be moved back a few feet but will not change in appearance. The project provides the minimum width necessary for the project (see Finding and Evidence 4 in Planning Commission Resolution 01048), thereby minimizing the amount of grading to that minimally necessary (see response to appeal comments 5, 7, 8 and 13). Extensive landform alteration will not occur.

Exhibit E J of 15

Staff Response to visibility within a public viewshed: This road project is by definition within the public viewshed. That does not make it inconsistent with the policy and regulation referenced in Finding 9. The project is not located on non-forested slopes or ridgelines and will not compromise any ridgeline views. The related policy and regulation states that structures shall be designed to minimize visibility. The only proposed structures are retaining walls and guardrails. The split-face block retaining walls will look like stone, will be of earth tone color, will be below the roadbed, and will be screened from adjoining residential areas by existing and proposed vegetation. The wood and metal guardrails are the only acceptable style currently allowed by Caltrans for safety reasons—other types of guardrail do not protect vehicle occupants.

8. Appeal Comment: Caltrans Operational Improvements in this area have been identified as 1) being inconsistent with the LCP, and 2) needing an EIR. This project is essentially the same as the Operational Improvement. There is a fair argument that this project needs an EIR (CHC appeal--Page 2, Finding 1; HFRA—Page 1; RCMP—Page 1, A and Page 2, G).

Staff Response to inconsistency with the LCP: The CSWP is a stand-alone project. The County project is a much smaller project with less effect on coastal resources than the Operational Improvements proposed by Caltrans. Caltrans' Operational Improvement #4, which is in the same area as this project, if ever built, will cause the removal of many more trees and significantly more grading. Operational Improvement #4 is proposed to be a full 20 feet wider than the County's widening project and will likely require the removal of over 200 mature trees. Consequently, it will be more difficult to screen Operational Improvement #4 will also require sound walls. The amount of grading for the County's project, approximately 2100 cubic yards of cut and 2500 cubic yards of fill, is similar to grading for a larger single family dwelling on a lot of less than 30 percent slope (see response to appeal comment 7). See also responses G3, H1, H10, H13, J1, and J3 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

Staff Response to the Operational Improvement needing an EIR (therefore, this project needs an EIR): See response just above and in response to appeal comments 2, 4, 5, 6 and 10 regarding consistency with the LCP. The County's project has a significantly smaller footprint and all environmental impacts can be mitigated. It has not been determined whether all the environmental effects from Operational Improvement #4 can be reduced to a less than significant level. Caltrans is anticipating that, due to the larger footprint of that project, the project will cause significantly more grading activities and tree removal, and the project impacts may not be able to be fully mitigated.

Staff Response to fair argument that CSWP need an EIR: The appeal letter from RCMP says there is a fair argument that the CSWP project will have potentially significant environmental effects that have not been mitigated, but provides no substantial evidence supporting this assertion. For a detailed response to this issue, see responses G1, G3, H4, H6, and H21 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001 and comments P6 and P13 in *Supplemental Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, August 2001.

ExhibitE 8 of 15

9. Appeal Comment: Biological impacts have not been adequately addressed or mitigated. (CHC appeal--Page 2, Finding 1; Page 3, Finding 2; Page 4, Finding 5; Page 7, Findings 16, 17, and 18; HFRA—Page 1).

Staff Response: Biological impacts were studied, and mitigation measures proposed, in the Initial Study. There is no ESH within the project or adjacent to the project where construction will occur, but the project is still designed to minimize the project footprint to minimize tree removal and grading. The project design involves the minimum standard width allowed by Caltrans for a three-lane highway with shoulders. Finding 16 relates to minimizing vegetation removal to the amount necessary to accommodate the project, which has been done for this project. CHC challenges Finding 17 as improperly deferring studies because the finding states that pre-construction surveys for fencing of riparian vegetation will be performed. No riparian areas were found in the project area and that information was presented to the Planning Commission prior to their decision. The policy referenced in Finding 18 requires wildlife management considerations be considered in evaluating development proposals, particularly land division proposals. The widening of the project occurs primarily on the west side, which is a fragmented area with many non-native invasive species lying between a highway and residential neighborhood. It is not an area suited for extensive wildlife populations.

The biological assessment is adequate. The project area consists of a degraded forest corridor consisting of planted and non-native invasive species. See the biologist's response in Attachment "K," response to appeal comments 6 and 10, and responses F4, H8, K3, K4, K5, and K6 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

10. Appeal Comment: The project will increase runoff, which is required to remain at the predevelopment levels. The project will cause flooding of homes and businesses along the Carmel River. Runoff will affect water quality. (CHC appeal--Page 2, Finding 1; Page 4, Finding 5; Page 6, Finding 5; Page 8, Finding 19; HFRA--Page 1).

Staff Response: The widening of the road has been designed and sited to minimize the project footprint, thereby minimizing runoff, erosion, and resulting sedimentation. If the project were to increase runoff, the increase in volume would be minimal in relation to the watershed for the Carmel River, and any provisions, such as creating underground or above ground storage areas, would result in potential environmental damage. Runoff will be fully mitigated by preparation of a Storm Water Pollution Prevention Plan and compliance with Caltrans requirements. See response to appeal comment 6 and responses A3, A5 and H9 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

11. Appeal Comment: No evidence has been presented to substantiate that geology and soil impacts will be less than significant. No geologic or geotechnical reports have been prepared to address slope stability. (CHC appeal--Pages 2-3, Finding 1; Page 5, Finding 5; Page 8, Finding 19; HFRA—Page 1).

Staff Response: A geotechnical report has been prepared by The Twining Laboratories, Inc., dated July 2, 2001, and has been used in the project for both slope and retaining wall design. The impacts have been addressed in the Initial Study. Also, see response to appeal comment Exhibit

A-39MCO -01-087 CSWP - Highway 1 Widening a of 15

13, below. See also response H12 in Response to Comments on the Draft Initial Study/Mitigated Negative Declaration, July 2001.

12. Appeal Comment: Noise impacts will be significant and will not be mitigated. The noise data are out of date. (CHC appeal--Page 3, Finding 1; Page 5, Finding 5; Page 6, Finding 5; HFRA—Page 1).

Staff Response: The Initial Study includes an attached noise analysis that determined that no significant increases in noise levels would occur at sensitive receptors (residences/schools) as a result of this project. Richard Rodkin, the County's noise consultant for the Initial Study, testified at the Planning Commission regarding the noise effects of the project. Also see letter from Illingworth and Rodkin, Inc. dated August 1, 2001 (Attachment "K"), which responds to noise impact comments by the public.

Specific comments were presented regarding the noise data being old and that the conclusions of the Hatton Canyon EIR/EIS invalidate the conclusions of the CSWP noise study. The noise study data is not considered to be out of date. The report is one year old and is still adequate as traffic noise impacts generally increase very incrementally over a long period of time. Not much growth has occurred in the area feeding this segment of Highway 1 over the last year due to water limitations and land use restrictions. In addition, environmental review generally takes up to a year to complete for projects; Caltrans accepts noise data up to 18 months old. Temporary noise impacts during construction were identified and mitigation measures presented to reduce those impacts to a less than significant level. See also responses C1, D4, H13 and J5 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001 and response O3 in *Supplemental Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, August 2001.

13. Appeal Comment: The project can avoid 30% slopes by not being constructed. (CHC appeal--Page 3, Finding 4; Page 6, Finding 10; Page 9, Finding 27; HFRA—Page 1).

Staff Response: The LCP does not require slopes greater than 30% to be avoided. The LCP provides an allowance to build on slopes greater than 30% when no alternative exists to construct a project. Finding #4 of Resolution 01048 is supported by evidence that no alternative exists allowing development with less than a 30% slope. No natural 30% slopes are in the project area; the project area has only man-made slopes from cut and fill activities that created the existing Highway 1 decades ago. See also the evidence for Findings #10 and #27 in Resolution 01048. The geotechnical report (The Twining Laboratories, Inc., July 2, 2001) states that 1:1 (or 0.5:1 slopes when evaluated by the geotechnical engineer on a case-by-case basis) are appropriate for this area. The old cut slopes are approximately 1:1 and appear to be very stable after being in existence for decades. Finding 27 relates to regulations that require erosion impacts to be mitigated. An erosion control plan (Whitson, July 2001) to address erosion control during and after construction has been prepared and was before the Planning Commission when it made its decision.

14. Appeal Comment: The project 1) is unsafe due to construction as a three-lane road, 2) will not provide adequate area for vehicles to pull over for emergency vehicles, and 3) will not achieve the goal of relieving capacity constraints. (CHC appeal—Page3, Finding 4; HFRA—Page 1).

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Staff Response: No evidence has been presented that a three-lane road is unsafe. The County's traffic consultant has found no data that three-lane roads are unsafe (see response D2 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001). Whenever opposing traffic is separated by only a double yellow line, there is the potential for head-on collisions. However, the proposed design is no different than the existing highway in this regard. The existing highway has opposing traffic separated by a double yellow line. With the climbing lane, this will not change. With the lane widths that are proposed, there is still adequate shy distance from the centerline. This project cannot be compared to passing lanes on 55 mile per hour highways. Highway 1 in the project area has a speed limit of 40 miles per hour and the project will not have a merge movement at the end of the 3-lane project.

When emergency vehicles are using sirens, vehicles are required to pull over to the right and stop. The Planning Commission heard testimony that there will be at minimum 14 feet of room with vehicles pulled over. The planned pavement width is 44 feet. The widest vehicles on the road are eight feet (most cars are about six feet wide). Allowing for shy distance, the most room that a vehicle will need is ten feet (County Code Chapter 18.56, which implements state law, requires roads to be a minimum of only nine feet per lane). Three vehicles stopped at the same point (two on the uphill side and one on the down hill side) would occupy, at most, 30 feet. This leaves 14 feet for an emergency vehicle to pass through. By way of comparison, some sections of the existing highway have only 32 feet of pavement width, which leaves 12 feet for an emergency vehicle if two cars are stopped at the same point. Emergency vehicles are at the most eight feet wide.

The project goal is not to increase capacity in this area; it is to relieve intersection congestion at Carmel Valley Road and Highway 1. Caltrans identifies the existing project alignment as a Class 3 bike route, which requires four-foot shoulders. The proposed project includes fourfoot asphalt shoulders along both sides of the entire alignment and will maintain the Class 3 bike route designation. The project will meet this goal (testimony of Gary K. Black, President, Hexagon Transportation Consultants, Inc., at Planning Commission meeting of August 8, 2001). The project will not increase capacity of Highway 1 in this area. See also responses to appeal comments 15 and 16, and responses D2, H15 and J2 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

15. Appeal Comment: No evidence has been presented that there will not be adverse impacts relating to traffic, driveways and cross streets. (CHC appeal--Page 5, Finding 5; HFRA—Page 1; RCMP—Page 1-2, C, D1, E).

Staff Response: See response to appeal comments 14 and 16. The RCMP appeal appears to assert that building any highway improvement will generate more trips, but appellant presents no actual evidence that in this particular case the addition of one, 2930-foot lane will generate more trips or induce development. The CSWP will not increase highway capacity. RCMP alleges that the proposed project will create congestion at Highway 1 and Rio Road intersection by adding one peak hour trip to the intersection. It is not clear how this would occur. By relieving congestion at the Carmel Valley Road and Highway 1 intersection, the number of drivers that now cut through the shopping centers and back roads to utilize Rio Road to avoid the Carmel Valley Road intersection will be reduced, not increased. The Exhibit E

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proposed widening project is not related to event traffic that already exists in the area. The project will alleviate some delays at the intersection, but will not affect capacity of Highway 1 or cause event traffic to be increased. The project's goal is to alleviate congestion at the intersection, but will not increase capacity of the highway. See response to appeal comments 14 and 16. See also response D2 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

16. Appeal Comment: The project will contribute to cumulative impacts and will work to the disadvantage of long-term environmental goals. (CHC appeal—Pages 5-6, Finding 5; RCMP—Page 1, D).

Staff Response: The Initial Study analyzes cumulative impacts of the project on pages 41 to 45. The Initial Study identifies the project's contribution to cumulative impacts and discusses the mitigation measures that reduce the impacts to a less than significant level. There is no certainty that future Caltrans projects will be built; as indicated in Table 4 of the Initial Study, two of the twelve projects originally contemplated by Caltrans have already been eliminated from consideration. In addition, each Caltrans project is an independent improvement at a specific location that does not require the completion of the other improvements. The County has proposed this project, as it can achieve traffic relief at the Carmel Valley Road/Highway 1 intersection without causing environmental impacts that cannot be mitigated.

This project does not require that any future Caltrans Operational Improvements be built for this project to achieve its purpose of alleviating congestion at the Carmel Valley Road/Highway 1 intersection. It is not "intended to work in conjunction with other proposed widening projects" as stated in the appeal. The project will fill in a gap between two northbound lanes coming from Carmel Valley Road and the two northbound lanes that start at Morse Drive and continue for miles to Castroville. The Planning Commission considered this appeal comment and determined that the project will not contribute to significant cumulative effects of other projects. As stated in this section and response to appeal comments 14 and 15, this project will not increase capacity of Highway 1 in this area.

As for the project working against long-term environmental goals, goals have been established in the LCP. The goals that may be implicated by this project are to preserve the forested corridor and preserve screening between the highway and residences in the project area. These goals have been identified as concerns and mitigation measures have been proposed to comply with the goals. No Environmentally Sensitive Habitat areas are adversely affected by the project, and the area is biologically degraded. Additionally the CSWP is intended to provide short-term, localized congestion relief, and is not intended as a long-term solution for local or regional capacity problems. In recommending approval of the project, County staff has determined that the project does not work against long-term environmental goals.

The RCMP appeal states that the cumulative impacts on traffic, water, and listed species were not addressed. While the project will not add capacity, it will have some beneficial effects on traffic. The project will eliminate a significant bottleneck in northbound traffic flow. During the peak hour, the additional lane will be fully utilized by traffic already using the highway but traveling at different times. Thus, it is expected that the corridor will remain congested during the peak hour, and there is no capacity for overall growth in traffic volume. However, Exhibit

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during other hours of the day, referred to as the "shoulder" hours or off-peak hours, the additional lane will improve travel times.

Cumulative impacts to water resources are addressed in Findings 5, 8, 14, 16, 17, 19, 20, and 21 and responses to appeal comments 4, 6, 9, and 10, above. The California Red-legged Frog and West Coast Steelhead were not found in, or identified downstream of, the project area and the project biologist identified no impacts to their habitats. See response K1 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001, and the biologist's response in Attachment "K."

See also response to appeal comments 5, 6, 7, 8, 9, 10, 12, 14, and 15 and responses H17, H18 and K1 in Response to Comments on the Draft Initial Study/Mitigated Negative Declaration, July 2001.

17. Appeal Comment: This project should be considered in a single EIR with Caltrans Operational Improvements. This project is being improperly piecemealed. (CHC appeal--Page 6, Finding 5; Page 9-10; HFRA—Pages 1 and 2; RCMP—Page 2, F).

Staff Response: This project is an independent, stand-alone County project. The County project is not connected to or dependent upon any future Caltrans Operational Improvements. The cumulative impacts of the CSWP and the Caltrans Operational Improvement projects are fully discussed on pages 41 to 45 in the Initial Study. The County-sponsored widening project fully mitigates its impacts. The Caltrans projects in the area, which have already been approved and/or constructed, received individual environmental review. Each project is considered an independent improvement at a specific location that does not require the completion of the other improvements. Each can be evaluated on its own merits and approved or dismissed without affecting the viability of the remaining projects. The remaining projects are under long-term planning, and there is no certainty that they will ever be built. See also responses F2 and H4 in *Response to Comments on the Draft Initial Study/Mitigated Negative Declaration*, July 2001.

18. Appeal Comment: The County did not consult with the California Department of Fish and Game (DFG). (CHC appeal--Page 7, Finding 15; HFRA--Page 1).

Staff Response: The project biologist consulted with DFG in verifying the absence of riparian vegetation. DFG was also sent a copy of the Initial Study and did not provide any comments responding to the document. The US Fish and Wildlife Service was also sent a copy of the Initial Study and did not comment on the document. No ESH was identified in the project site. No adverse impacts to any off-site ESH were identified in the biological survey and Initial Study. See also responses to appeal comments 6 and 10 and the biologist's response in Attachment "K."

Appeal Discussion Unrelated To Cited Finding

Some appeal points, CHC—Page 3, Finding 2; CHC—Page 3, Finding 4; and CHC—Page 9, Findings 29 and 30, questioned particular Findings, although the issues raised were not related to the particular Finding cited. In any event, the substantive issues raised by these points have been addressed in the discussion, above.

> Exhibit E 13 of 15

EXHIBIT "K" BIOLOGICAL INFORMATION Josh Harwayne, Denise Duffy and Associates, Inc.

The following is a response to the comments made as part of the appeals made to the Coastal Development Permit and Initial Study/Negative Declaration for the County Sponsored Widening Project. The comments received fall into four topics: function and value of existing resource, mitigation, special status species evaluation, and wetland and riparian habitat. Although the majority of this information is presented within the environmental document and the Natural Environment Study, some points have been expanded upon in an effort to respond to the comments as completely as possible.

Function and Value of Existing Resource.

The project area has been characterized in many of the comments as a significant biological resource and a green belt that would be destroyed by the proposed project activities. Contrary to this assertion, the project area has minimal biological function or value due to a number of factors, and will be improved by the mitigation proposed. The trees proposed for removal equal less then 19% of the total existing within the project boundaries. The area is surrounded by residential dwellings and roads along its length creating a biologically isolated linear band of vegetation between approximately 15 and 70 feet wide. In addition, the site has been subject to significant reoccurring disturbance including historic road construction as well as current highway use and residential construction. The majority of the existing trees were planted as evidenced by the presence of Monterey Cypress, a species that does not naturally occur this far east of the coast. In addition many of these trees were planted at the same time creating a single age stand which is ecologically undesirable, reducing vigor. Within the project the under-story vegetation is heavily dominated by non-native invasive species such as rattlesnake grass (Briza maxima), panic veldt grass (Ehrharta erecta), poison hemlock (Conium maculatum), mustard (Brassica sp.), and French broom (Genista monspessulana). The presence of non-native invasives at this concentration indicates a highly disturbed environment. The project site is a good example of roadside community function and value. The site will never function as a forest due to the above-mentioned geographic constraints, but provided the mitigation outlined within the environmental document, it will provide greater biological function and value than current conditions will allow.

Mitigation

The mitigation plan proposes to significantly reduce the presence of non-native invasive species, increase the total number of trees, increase the existing age-class diversity of the area, and provide increased visual screening to the adjacent residences.

Some of the comments suggest that replanting the project site will not mitigate for the impacts of the trees proposed for removal. The Revegetation and Landscaping Plans produced for this project have been designed to maximize, to the greatest extent possible, all opportunities to provide and create screening and replace aesthetic value within the project boundaries. The mitigation proposed for this project is beyond that of other projects of its nature, in that the vegetation being planted is of multiple age classes and strata. In addition to replanting trees at a greater than 2:1 ratio, shrubs will be included to provide immediate screening. A large effort was made to install this combination of

Exhibit E 19 of 15

trees and shrubs strategically where large trees are proposed to be removed or where specific site lines are exposed. In many cases the screening will be improved from its current level. A significant portion of the trees being planted are of medium maturity or specimen size. Because more trees are being planted than currently exist and a significant portion of them are mature, the aesthetic value of the forested corridor will most likely be improved within a relatively short time frame.

A three year comprehensive establishment period and monitoring plan, as outlined in the Revegetation Mitigation and Monitoring Plan, shall be initiated which requires 100% survivalship for the installed species and contingency planning if the success criteria are not met. Therefore, adequate and appropriate aesthetic and biological mitigation shall occur within the site of impact that reduces impacts to a less than significant level.

Special Status Species Evaluation

It has been suggested in a number of comments that the Natural Environment Study (NES) is incomplete because the botanical survey was conducted in December. As stated within the NES, the survey was done at a time at which not all species could be identified and therefore the document included a habitat analysis as well. This procedure is well within normal standards for environmental analysis of project sites of this nature. Specifically, the site is relatively small, directly adjacent to extreme disturbance sources (i.e., one of the most heavily traveled two-lane highways in the state), dominated by non-native invasive understory vegetation, and has been surveyed multiple times within the last few years.

Previous surveys within and directly adjacent to the site include Caltrans surveys in March 1996 by Lisa Schicker and Gary Ruggerone, and July 1998 and October 2000 by Tom Edell and Gary Ruggerone. In addition to the botanical survey and habitat analysis conducted in December of 2000, additional surveys in May and July of 2001 were performed. All of these surveys and analysis resulted in the identification of no special status plant species.

An appropriate level of effort, which was within the range normally expected and accepted, was made to ascertain the likelihood of each plant species listed within the NES by analyzing previous work done in the area and conducting a habitat analysis in conjunction with the botanical survey. The methodologies utilized for this analysis were appropriately documented within the NES. The methodologies employed, resources utilized, and professional judgment exercised to produce this NES was of high standard and in alignment with protocols established as industry convention.

Wetland and Riparian Habitat

Although potential habitat was identified in the NES and appropriate mitigation provided, it has been determined through subsequent consultation with the U.S. Army Corps of Engineers and the California Department of Fish and Game that no jurisdictional wetland or riparian habitat exists within the project boundaries.

August 24, 2001

Exhibit E 15^{of} 15

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Please Review Attached Appeal This Form.	Information Sheet Pric	or To Completing	
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5.	Decision	being	appealed	was	made	by	(check	<pre>cne):</pre>	
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a. __Planning Director/Zoning c. __Planning Commission Administrator

b. XCity Council/Board of d. __. ther_____

Date of local government's decision:

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

SECTION III. Identification of Other Interested Persons game Such States

P.2

Exhibit F

2 of 19

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

Name and mailing address of permit applicant: a. Montosey County (Supenicons 1. Public Won 240 Charle St. Salinas, CA

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

(])	Lors Starner 3512 Ocean Ave. Carmol 93923	
(2)	Hatton Fields Rosphants Assoc. 25874 Hatton Rd. Carmol 03923	
(3)		
.(4)		

SECTION IV. <u>Reasons Supporting This Appeal</u>

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

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

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

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

SECTION V. Certification

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

Signature of Appellant(s) or

Authorized Agent

2001 Date

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

Section VI. Agent Authorization

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

Signature of Appellant(s) A-3-MCO -01-087 CSWP - Highway 1 Widening

Exhibit + ot

RCMP - Responsible Consumers of our Monterey Peninsula

Box 1495, Carmel, CA 93921 - 831/624-6500

Coastal Commissioners and Staff California Coastal Commission

September 19, 2001

Re: Appeal of Highway 1 Widening Proposal as It conflicts with the Certified LUP

Dear Coastal Commission:

We respectfully request you consider our appeal as this proposal directly conflicts with several clear directions in the Certified LUP, would admittedly not achieve its goals, is based upon a LCP which is significantly out of date and although it is not your direct concern - because of its fasttrack nature has not undergone adequate CEQA review.

CERTIFIED LUP CONFLICTS

This proposed project directly conflicts with the Certified LUP in that along our State's very first designated "Scenic Highway," Highway 1 past Carmel, it would cause a significant aesthetic loss of an "Existing Forested Corridor", admittedly destroy 17 "Landmark Trees" (Supervisor's Report p 6), fails to prohibit Grading During the Wet Season, and failed to have required story poles so the public could understand the scope of the project.

SIGNIFICANT PROTECTED FORESTED CORRIDOR AESTHETIC LOSS

"2.2.4 Specific Policies # 6. The existing forested corridor along Highway 1 shall be maintained as a scenic resource and natural screen for existing and new development. New development along Highway 1 shall be sufficiently set back to preserve the forested corridor effect and minimize visual impact." (emphasis added)

"The Carmel Coastal Segment also contains an unusual diversity of plant life associated with the forest environment that are of significant scientific, educational, and aesthetic value." LCP pg 47

LCP 2.5.2 Key Policy

The primary use of forested land in the Carmel area shall be for recreation, aesthetic enjoyment, educational, scientific, watershed and habitat protection activities.

County Code Section 20.146.060.D.2 States: Removal of any trees which would result in the exposure of structures in the critical viewshed shall not be permitted, subject to the provisions of Section 20.146.030.A"

PROPOSAL

This project proposes to destroy at least 44 mature, healthy endemic Monterey pines as well as 30 Coast Live Oaks; would remove 17 Landmark Trees, "19 percent of the trees

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CSWP - Highway 1 Widening

in the project area." "The project ... includes retaining walls." (Finding 10 Evidence; Supervisor's Report p 5)

AESTHETIC VALUES

This forested corridor "effect" is recognized by the LCP as important not just for biological values but for <u>aesthetic values</u>. The County only analyzed the forested corridor for its potential biological significance.

Our Certified LUP recognizes Aesthetic value - not merely biological value.

"Designated as the <u>first State Scenic Highway in California</u>, Highway 1 along the Carmel coast is the basic access route to the area. It traverses the length of the Carmel Segment connecting the Monterey Peninsula with Big Sur." Carmel Area LUP pg 65

Highway 1 was not designated as a *scenic* highway so that we could see retaining walls, sound barriers and endure the removal of forest revealing the backyards of houses.

<u>The Certified LUP policy does not say</u> "Some of the existing forested corridor along Highway 1 shall be maintained."</u>

Nor does it say "Most of the existing forested corridor along Highway 1 shall be maintained.

It states clearly and simply "The existing forested corridor along Highway 1 shall be maintained."

All 74 to 81 <u>native</u> trees proposed to be destroyed are significant to maintaining the aesthetics of the forested corridor. "The *other* area where a <u>forest corridor will lose a</u> <u>significant density of trees</u> is the southwest corner of the Atherton/Highway 1 intersection." (Planning Commission Staff report pg 2)

The "narrow" ((Finding 18) forest corridor at less than 50 feet average depth could be called a "Beauty strip." Because of the thin nature of the beauty strip, any loss of single tree diminishes the aesthetics of the existing forested corridor. The loss of a significant portion of the trees (at least 19%) cannot be anything but a direct conflict with this certified Policy. When combined with tree replacement by retaining walls as sound barriers and replanting with "tall-growing shrubs" - the conflicts with the Certified LUP's language "the existing forested corridor along Highway 1 shall be maintained" become mentally uncomfortable.

The project should be denied on this basis alone.

17 (SEVENTEEN) LANDMARK TREES PROPOSED FOR DESTRUCTION

Removal of Landmark Trees is only allowed when no other alternative is possible. "Landmark trees of all native species shall not be permitted to be removed. A Landmark tree is a tree which is 24 inches or more in diameter when measured at breast height, or a

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in peak use period traffic should be sought. A combination of measures, including public education and regulation of highway use during peak periods should be considered to achieve an improved service level."

"Coastal Act policy requires that State Highway 1 be maintained as a scenic two-lane road in rural areas such as the portion of the Carmel area south of the Carmel River. The Coastal Act also requires that remaining highway capacity be reserved for priority uses."

"3.1.4 Recommended Actions"

"1. A program should be initiated by Monterey Peninsula Transit or other public carriers, in cooperation with appropriate recreational agencies, the County, and community representatives, to provide bus stops at appropriate access points and to expand bus service to recreation areas and visitor-serving facilities. Bus routes should be scheduled to serve residents' needs as well as the needs of visitors."

"2. An expanded education and promotion program should be implemented in cooperation with other appropriate recreation agencies to provide information on bus service and recreational areas that are accessible by bus."

Both these options could have reduced the traffic on this section of roadway, but neither have been started. Worse, the **bus service to this area has been cut back and the fares increased - both eroding use of public transit.**

COASTAL PLAN IS SIGNIFICANTLY OUT OF DATE.

Sine the LCP was Certified, the area is now enduring an officially declared Water Supply Emergency, a state declared Electrical Supply Emergency, ESA listings of steelhead, the California red-legged frog, and 5 plants; and an increase in traffic congestion to gridlock many places adjacent to the proposed project.

INADEQUATE CEQA REVIEW

IDENTICAL CAPACITY ! - YET NO EIR

Lew Bauman of Monterey County Public Works admitted "<u>The Cal-Trans Highway One</u> <u>Widening Project will increase capacity by exactly the same amount as this project.</u>" to the Carmel Valley Land Use Advisory Committee on July 16, 2001. <u>Cal-Trans is preparing an</u> <u>EIR explicitly because of the growth inducing impacts caused by their widening.</u> This County project is approved pretending there are no cumulative and growth inducing impacts!

GROWTH INDUCING IMPACTS IGNORED "Highways Create Demand for Travel and Expansion by Their Very Existence."

In January 1997 US Federal District Court, Judge Suzanne B. Conlon for the Northern District of Illinois, Opinion wrote:

founded in 1994, is a non-profit public interest group advocating and teaching consumer choices to local citizens A-3-MCO-01-087 CSWP - Highway 1 Widening "Highways create demand for travel and expansion by their very existence. Swain v. Brinegar, 517 F.2d 766, 777 (7th Cir.1975); Def. 12 (M) Par. 86. However the final impact statement in this case relies on the implausible assumption that the same level of transportation needs will exist whether or not the toll road is constructed." "[FHWA's] decision in this regard was arbitrary and capricious. 5 USC Sec 706(2)(a)."

This federal court opinion further reinforces the consensus of expert and legal opinion that expanded road capacity generates changes in travel and land activities that must be accounted for in project and plan appraisals. As one of the panelists at a Transportation Research Board (TRB) Annual Meeting session on the induced travel effects of highway capacity changes observed last week, to general agreement from all other panelists, including Kevin Heanue, Director of Environment and Planning at FHWA, "There is no longer a question that these dynamics occur. The only question is how large are the effects in a particular case."

It should be obvious that since a lack of roads constrains growth, any increase in roads allows growth.

"Environmental Impact Statements on highways and sewage treatment plants seldom evaluate the resulting impact on urban growth patterns. These secondary effects may, however, be more damaging than the primary effects. The second form of shortsightedness is the tendency to consider only changes in the physical environment and to ignore changes in the social environment. Yet impacts on pollution patterns or community behavioral patterns may affect the quality of the human environment much more than impacts on air or solid waste." -U.S. EPA, letter to the President's Council of Environmental Quality 21 December, 1971

PIECEMEALING TO AVOID ESHA IMPACT ANALYSIS

Analysis of this project's potentially significant environmental impact must be combined with the (12 or so) other related projects including one from CALTRANS involving Handley Drive for which we just received a NOP.

California Red-Legged frogs are a Federally listed Threatened species as of May 23 1996 (61 FR 25813). Monterey County is well within the range of this species and the entire Carmel River watershed including all portions of this project are within its Critical Habitat.

Mark Twain became famous when he wrote an account of a jumping frog contest in Calaveras County. Those Celebrated Frogs of Mark Twain's article, the red-legged frogs, as the only large native frogs in California, were undoubtedly the contestants in that event.

A California Red-Legged frog was observed in Hatton Canyon, A tributary of the Carmel River, by a CalTrans Biologist in 1996, less than 100 yards from portions of this project and just outside the Coastal Zone.

Because of this occurrence immediately adjacent to the project and because the project is within officially designated Critical Habitat an Endangered Species Act (ESA) Section 10 Consultation must occur.

DRY-LAND TRAVELERS

<u>Responsible Consumers of Our Monterey Peninsula</u> founded in 1994, is a non-profit public interest group adventing and teaching consumer choices to local citizens A-3-MCO-01-087 CSWP - Highway 1 Widening California Red-Legged frogs (CRLF) have been documented as moving as much as two miles (3.2 km) from aquatic sites "without regard for topography." Federal Register Sept, 11, 2000, pg 54894

(The following is quoted from the US Fish & Wildlife Service - "Guidance on Site assessment and Field surveys for California red-legged frogs, Appendix - California red-legged frog ecology and distribution." Dated February 18, 1997.

"Movement California red-legged frog may move up to 1.6 km (ONE MILE) UP OR DOWN A DRAINAGE and are known to wander throughout riparian woodlands up to several dozen meters from the water. On rainy nights california red-legged frog may ROAM AWAY FROM AQUATIC SITES AS MUCH AS 1.6 KM (ONE MILE). California red-legged frog will often move away from the water after the first winter rains, causing sites where California red-legged frog were easily observed in the summer months to appear devoid of this species."

According to the USFWS Biological Opinion on nearby Rancho San Carlos (dated September 6, 1996) the - "California red-legged frog could inhabit any aquatic and riparian areas within the range of the species and also any landscape features near riparian areas that provide cover and moisture."

"Any aquatic and riparian areas within the range of the species"

The Federal Register ESA Listing of the Frog expands on and gives additional examples of Frog habitat. "California red-legged frogs have been found up to 30 m (98 feet (ft)) from water in adjacent dense riparian vegetation for up to 77 days."

"Estivation habitat is essential for the survival of California red-legged frogs within a watershed."

"Estivation habitat for the California red-legged frog is potentially all aquatic and riparian areas within the range of the species and includes any landscape features that provide cover and moisture during the dry season within 300 feet of a riparian area. This could include boulders or rocks and organic debris such as downed trees or logs; industrial debris; and agricultural features, such as drains, watering troughs, spring boxes, abandoned sheds, or hay-ricks. Incised stream channels with portions narrower than 18 inches and depths greater than 18 inches may also provide estivation habitat." (From the Federal Register for Thursday, May 23, 1996)

THESE FROGS CAN LIVE WITHOUT PONDS OR WETLANDS

A US-FWS letter to Monterey County in Mar 1998 on the "September Ranch" FEIR states "Concluding the CRLF does not occur on the project site because the site does not have ponds or other wetland habitat with riparian vegetation is erroneous because this species exhibits complex temporal variations in behavior and habitat use."

THREATS

"Accidental spills of hazardous materials or careless fueling or oiling of vehicles or equipment could degrade water quality or upland habitat to a degree where CRLF are adversely

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Exhibit +

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CSWP - Highway 1 Widening

affected or killed." The contamination of the stream by wet concrete could cause potential skin and respiratory system irritation in CRLFs. Work in live streams or in floodplains could cause unusually high levels of siltation downstream. This siltation could alter the quality of habitat downstream and preclude its use by CRLF." US-FWS Biological Opinion on Arroyo Seco Bridge Replacement. April 27 1999

LOCATIONS

CRLF are abundant in the Carmel River watershed according to studies done for The Monterey Peninsula Water Management District.

The MND was apparently not verified as the reference for the California Red-Legged Frog (Rana aurora draytonii) which they claim is reported on in a book about birds!

LIMITING IMPERVIOUS SURFACE AREAS

"2.4 WATER AND MARINE RESOURCES"

"2.4.5 Recommended Actions"

"6. The County should adopt and implement the policies and development standards listed in the AMBAG 208 Water Quality Management Plan for Erosion and Sedimentation Control. These measures, along with those specified by the specific policies for erosion and sedimentation control, could be incorporated in the County's Grading Ordinance as suggested in Recommended Action No. 5. AMBAG's policies and standards are listed in the Appendix."

"APPENDIX AMBAG 208 WATER QUALITY PLAN 91978"

"B. Development Standards and Controls"

"2. <u>Limit roadway widths and other impervious surfaces</u> to that size which can accommodate public traffic and other public needs, but balance any increase in such limits against adverse effects associated with increased erosion, sedimentation, and reduced aquifer recharge when other overriding considerations such as public safety do not preclude this." Pg 121

Since the County admits there will be no increase in capacity, the roadway should be limited to its present dimension.

Thank you sincerely for your consideration of our concerns,

David Dilworth, Co-Chair

Exhibit +

HARRY L. NOLAND (1904-1991) PAUL M. HAMERLY (1920-2000) MYRON E. ETIENNE, JR. JAMES D. SCHWEFEL, JR. STEPHEN W. PEARSON LLOYD W. LOWREY, JR. ANNE SECKER PAULA ROBINSON RANDY MEYENBERG MICHAEL MASUDA CHRISTINE P. GIANASCOL JO MARIE OMETER LISA KIMIKO NAKATA LAURA A. DAVIS DALE E. GRINDROD JOHN E. KESECKER SHARILYN R. PAYNE LESLIE E. FINNEGAN

Of Counsel Peter T. Hoss Martin J. May Blanca E. Zarazua

VIA HAND DELIVERY

California Coastal Commission 725 Front Street, Suite 300 Santa Cruz, CA 95060-4508

NOLAND, HAMERLY, ETIENNE & HOSS A Professional Corporation Attorneys at Law 333 Salinas Street Post Office Box 2510 Salinas, California 93902-2510

September 18, 2001

Area Code 831 Salinas 424-1414 (From Monterey) 372-7525 Monterey 373-3622 King City 386-1080 Salinas Fax 424-1975 www.nheh.com E-Mail cgianascol@nheh.com 15170.003

RECEIVED

SEP 1 8 2001

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

Re: Appeal: Monterey County Department of Public Works-County Sponsored Widening Project

Gentlemen:

Enclosed for filing please find an Appeal From Coastal Permit Decision of Local Government relating to the Monterey County Department of Public Works County Sponsored Widening Project. In the event the Executive Director should determine that a filing fee is required, please contact the undersigned and the required fee will be provided. Please note that I will be unavailable through September 25, 2001 and any contact on this matter should be directed to the attention of Randy Meyenberg in my office at (831) 424-1414 and by facsimile at (831) 424-1975.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS A Professional Corporation

Christine P. Giangscol

CPG:vsy Enclosures

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Exhibit + 10 of 19

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE 725 FRONT STREET, SUITE 300 CRUZ, CA 95060

27-4863

2.



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please review attached appeal information shee	et prior to completing	g this form.
· · ·		RECEIVED
SECTION I. Appellant(s):		SEP 1 8 2001
Name, mailing address and telephone number of Citizens for Hatton Canyon	of appellant(s):	CALIFORNIA
c/o Christine P. Gianascol P. O. Box 2510		CENTRAL COMMISSION
Salinas, CA 93902	(831) 424-	1414
Zip SECTION II. Decision Being Appealed	Area Code	Phone No.
1. Name of local/port government: County of Monterey, Califonia		
 Brief description of development being appending 1. Coastal Development Permit for wider beginning 500 feet north of Carmel V 	ning of Highway	
2. Grading of 2,100 cubic yards of cut	and the second	ويريده والمعاركة والمتراجع والمترك والمتحاد والكراك والمتحاد والمتحر والمحرور والمحرور والمحرور والمحرور والمحرور
modifications; guard rails; retaining 3. Coastal Development Permit for remove 3. Development's location (street address, asse	val of 58 to 81	trees over 6 inches in diameter
Highway One between Morse Drive and Ca	armel Valley Road	d in the Carnel area.

4. Description of decision being appealed:

- a. Approval; no special conditions: _
- b. Approval with special conditions: <u>x</u>
- c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-01-087 DATE FILED: September 18, 2001 DISTRICT: Central

Exhibit F 11 of P

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

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

	a	Planning Director/Zoning Administrator	c Planning Commission	
	b. <u>X</u>	577775568858/Board of Supervisors	d Other:	
6.	Date of	local government's decision: _	September 4, 2001	•
7.	Local go	vernment's file number:	PLN 010261	
SE		I Identification of Other Intere	sted Persons	

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

a. Name and mailing address of permit applicant: Monterey County Department of Public Works-County Sponsored Widening Project

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

- (1) Hatton Fields Residents Association 25874 Hatton Road Carmel, CA 93923
- (2) <u>Responsible Consumers of the Monterey Peninsula</u> <u>P. O. Box 1495</u> Carmel, CA 93921
- (3) See also, Identification of Other Interested Persons List attached

.

(4) _____

SECTION IV. Reasons Supporting This Appeal

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

A-3-MCO -01-087	
CSWP - Highway 1 Widenir	ŋ

Exhibit F 12 of 19 See attached Reasons for Appeal.

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Exhibit F

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

NHEH

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

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

SECTION V. Certification

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

CITIZENS For HAMON CANYO' Jois Starnow

Signature of Appellant(s) or Authorized Agent

Date 6 17 2001

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

SECTION VI. Agent Authorization

IWe hereby authorizeCHRISTINE P. GIANASCOL (831) 424-1414-14 to act as my/our
representative and to bind me/us in all matters concerning this appeal.
representative and to bind me/us in all matters concerning this appeal.
Soi Sterner Foundaria momber
Signature of Appellant(s)
Date

A-3-MCO -01-087 CSWP - Highway 1 Widening

ATTACHMENT Reasons Supporting Appeal

MONTEREY COUNTY PUBLIC WORKS DEPARMENT COUNTY SPONSORED WIDENING PROJECT – HIGHWAY 1

The grounds for this appeal are that the County Sponsored Widening Project ("CSWP") does not conform to the standards set forth in the certified local coastal program. The project is not consistent with the Carmel Area Land Use Plan (CALUP), the Carmel Area Coastal Implementation Plan (CIP) and/or Title 20 as evidenced by the following:

The CALUP requires that "[t]he existing forested corridor along Highway 1 shall be maintained as a scenic resource and natural screen for existing and new development." (CALUP, Policy 2.2.4.6.) This project removes the forested corridor.

The Monterey Pine forest is an area of environmental sensitivity habitat. CIP Section 20.146.040.B.1 allows only small-scale development in the areas of environmental sensitivity. Additionally, only resource dependent uses are to be allowed in environmentally sensitive habitat areas (CIP section 20.146.040.B.2.)

The project is not consistent with CIP section 20.146.030.C.1.c and CALUP Policy 2.2.3.3. The project is clearly within the public viewshed on a State Scenic Highway and within a forested corridor. The project removes large portions of the forested corridor. A "no build" alternative would prevent the damage to this scenic resource and would be consistent with the LUP and CIP policies to protect the scenic viewshed.

The project is not consistent with CIP section 20.146.030.C.1.e and CALUP 2.2.4.10. The project does not protect scenic resources. The project removes 44 Monterey Pines and 30 Coastal Live Oaks and also involves building on slopes in excess of 30% slope.

CIP Section 20.146.040 C.2.c requires a 150-foot setback from riparian vegetation. Section 20.146.040 C.3 a requires a 100-foot setback from the edge of all coastal wetlands. No setbacks are proposed with this project.

The project is not consistent with CIP section 20.146.030.C.8 and CALUP 2.2.3.7. The project removes 44 Monterey Pines and 30 Coastal Live Oaks, involves building on slopes in excess of 30% slope, and involves 2,100 cu. yds. of cut and 2,500 cu. yds. of fill and will scar the side of the State Scenic Highway.

The project is not consistent with CIP sections 20.146.060.D.1 and 20.146.060.D.3. The project removes 44 native Monterey Pine trees and 30 native Coastal Live Oaks many of which are "landmark" trees. A "no build" alternative would protect these landmark trees. The project is not consistent with CIP section.

The project is not consistent with CIP section 20.146.060.D.6. Forty-Four mature healthy Monterey Pines and 30 Coastal Live Oaks are being removed to be replaced by much smaller trees. On site planting opportunities are limited by the existing forest canopy.

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A-3-MCO -01-087 CSWP - Highway 1 Widening Exhibit F 14 of 19 The project is not consistent with CIP section 20.146.040.B.10 and CALUP 2.3.4. The project improperly defers the study of the impact of the project on environmentally sensitive habitat, including wetlands and riparian corridors, by putting off this analysis and proposed mitigation to "pre-construction surveys" which "will be performed to identify and protect sensitive areas".

The project is not consistent with CIP section 20.146.040.B.12 and CALUP Policy 2.3.4. The Department of Fish and Game did not comment on the Initial Study and Negative Declaration. No recommendations or comments from Fish and Game are included in the project design or conditions. As pointed out by Vern Yadon, biologist, the open space/greenbelt areas have biological significance. This project will destroy the greenbelt area. Also, as Vern Yadon pointed out, the biological assessment is wholly inadequate being conducted at a time when many plants and animals are dormant. This was confirmed by the project's environmental consultant at the Board of Supervisor's hearing. Moreover, Mr. Yadon observed numerous plants which were not even listed in the County's biological assessment.

The project is not consistent with CIP sections 20.146.130.E.5.e.5 and 20.146.130.E.5.e.4, and CALUP Policies 5.3.3.4.a. and 5.3.3.4.c. The project destroys the visual scenic beauty of the forested corridor which is the gateway to Big Sur along this State Scenic Highway.

Section 20.146.030 of the CIP and CALUP Policy 2.2.4 require the location of all development, including proposed access roads, to be indicated with staking and flagging, which are to remain in place for the duration of the project review and approval process. The County has not complied with this staking provision. It is impossible to determine the overall visual impact that will occur as a result of the CSWP without the staking and flagging.

The project is inconsistent with CALUP Policy 2.2.4.6 and CIP Section 20.146.060.D2. Highway 1 in this area is a state Scenic Highway. The project will have a significant visual impact on the neighborhood and the motoring public along this State Scenic Highway and the gateway to Big Sur.

The inconsistencies with the Carmel Area Plan and Coastal Implementation Plan are acknowledged in numerous Caltrans' documents discussing the operational improvements.

Additionally there are physical constraints which make the site not suitable for the proposed development. The project involves the removal of 44 mature healthy Monterey Pine trees, as well as 30 Coastal Live Oaks and other plants. As indicated in the forestry report, the trees being removed are healthy, not diseased, and are large and mature. Loss of this habitat will have a significant impact on the environment, including environmentally sensitive habitat and visual impacts and the open space corridor adjacent to the existing alignment. The CSWP has the potential to significantly impact biological resources. The 44 Monterey Pines being removed are special status plants. Tree removal also decreases bank stabilization, allows the introduction of invasive plant species, and decreases available wildlife habitat. As pointed out by both Hugh Smith, Forester, and Vern Yadon, Biologist, the mitigations proposed to address the significant impact to these natural coastal resources are wholly inadequate. As further pointed out by Vern Yadon, the biologic assessment is

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A-3-MCO -01-087 CSWP - Highway 1 Widening

Exhibit F 15^{of} 19

fundamentally flawed as it was done at the wrong time of the year and fails to discuss or list numerous plants and animals which inhabit the area.

The project area contains wetland and riparian corridors, yet no wetland delineation or riparian habitat assessment has been prepared. Without wetland a jurisdictional delineation, mapping, and riparian assessment, the potential impact on wetlands and the riparian corridor is unknown. The Initial Study acknowledges that the area contains wetland and riparian corridors. The Initial Study goes on to make an unsubstantiated statement that "no direct impacts to riparian habitat or wetlands" will occur. This conflicts with the statement on page 37 that, "[w]ater quality standards could be violated by the proposed project in relation to potential erosion impacts on this tributary, the Carmel River, and the associated riparian and wetland habitats." Without wetland a jurisdictional delineation, mapping, and riparian assessment, the potential impact on wetlands and the riparian corridor is unknown. Moreover, without proper mapping, delineation and assessment, proper mitigations cannot be proposed.

The project is not consistent with CIP section 20.146.080.D.1.d and CALUP Policy 2.7.4. The CSWP will increase runoff by adding an additional lane of impervious coverage/asphalt for nearly 3,000 feet (approximately 2,930 feet), all of which will drain directly into an area with a history of significant flooding creating loss to agriculture, homes and businesses. These effects will be even greater when examined in conjunction with the other operational improvements planned in the vicinity. Under CIP Section 20.146.050.D and CALUP Policy 2.4.3.2, runoff rates are to be maintained at predevelopment rates. There is no data showing that this requirement is being met. The project involves 2,100 cubic yards of cut, cutting into slopes of 30% or greater slopes, and cutting into banks which are steep and highly erodible. No geologic or geotechnical reports were done to assess the potential impacts, despite the fact that the project is located in an area with the highest landslide and erosion susceptibility.

The CSWP has the potential to significantly affect water quality and hydrology through increased runoff, siltation and toxic loading, as well as increased flooding in an area already prone to severe flooding along the Carmel River. Homes and businesses along the Carmel River adjacent to Highway 1 have experienced severe flooding in the past several years.

The project will create noise impacts which cannot be mitigated as described in the Hatton Canyon Freeway EIR/S which analyzed several alternatives to the freeway including Alternative 3 (which is essentially the CSWP) and found potential noise impacts to be significant at several locations. (See Hatton Canyon EIR at IV-18, IV-20.)

There are alternatives which prevent building on slopes in excess of 30% slope. A "no project" alternative would prevent the building on slopes in excess of 30% slope. A "no build" alternative is preferred as the proposed project is ill conceived and unwarranted. The project will create an unsafe three (3) lane road with substandard four (4) foot wide shoulders. When both lanes of traffic going up the hill and the single lane going down the hill are full, there will be no where for cars and trucks to pull to the side to allow emergency vehicles to pass. The project will create an even worse bottleneck than exists now. The existing traffic lights, cross traffic, and driveways, etc. will all remain. CalTrans admits in the Negative Declaration that this is only an "interim" project and that it will be replaced

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A-3-MCO -01-087 CSWP - Highway 1 Widening

Exhibit F 16 of A

another project in the future. Moreover the project provides no real traffic relief. <u>Contrary</u> to the statement in the Negative Declaration that the one page traffic report (Appendix F) found that there would be significant improvement in traffic; the traffic "report", in fact, states the opposite – stating, "The localized effect of this improvement is to reduce the severe level of congestion in this highway segment. <u>However, capacity constraints still exist on</u> <u>either side of the Carmel Valley Road intersection at Highway 1 and Rio Road and the</u> <u>intersections of Highway 1 with Ocean Avenue and Carpenter Street. These signalized</u> <u>intersection constraints continue to limit the capacity of the corridor, although the flow</u> <u>would be much improved in the vicinity of Carmel Valley Road</u>." (Hexagon Transportation Consultants, Neg. Dec. Appendix F). The "no project" alternative will prevent building on slopes in excess of 30% slope.

In addition, the project is deficient because the County failed to properly analyze the environmental impacts of the project and mitigate those impacts. Examples of the deficiencies follow:

Caltrans has expressed concern over the design and viability of the CSWP. There is no engineering or traffic analysis presented to substantiate the Initial Study's claim that there will be "no net impact" to traffic, driveways, cross streets, etc. This is merely a conclusionary statement. In fact, the design requires design exceptions from Caltrans, creates substandard lane widths and creates a three-lane road increasing the potential for head-on collisions. Additionally when both northbound lanes are full, the will be nowhere for cars to pull over to allow emergency vehicles to pass.

Moreover, the potential cumulative impacts from the project, along with the other operational improvements, as a whole are even greater.

The CSWP may operate to the disadvantage of long-term, environmental goals. The Initial Study acknowledges, "[t]his minor improvement will provide interim reduction in traffic congestion pending construction of future highway capacity improvements." (IS, p. 7.) Hence, the CSWP will not even fulfill the long-range goal of improving traffic congestion in the area.

The Environmental Impact Report for the Hatton Canyon Parkway determined that the environmental impacts associated with the short-term "interim" improvements along Highway 1 could not be justified, on environmental grounds, given the long-term significant environmental impacts which will occur compared to the short-term minimal benefits to the community arising from the operational improvements. This analysis contravenes the conclusion of the Initial Study that the project does not have the potential to achieve short-term to the disadvantage of long-term environmental goals.

The CSWP has environmental effects which are individually limited, but cumulatively considerable. As set forth, the CSWP is not a stand-alone project, it is intended to work in conjunction with other proposed widening projects along Highway 1 including Operational Improvement No. 5. These improvements, in fact, are planned to dovetail with the other improvements planned along the existing Highway, ultimately producing a significant, near-continuous widening of Highway 1 in the Project area. Therefore, the cumulative effects of the CSWP along with the operational improvements as a whole must be

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ExhibitF 17 of 19 considered. As a whole, the operational improvements project may remove as many as 310 mature trees. (IS, p. 43.) The operational improvements will also increase noise and runoff, and significantly degrade the scenic visual corridor with significant tree removal.

The Initial Study makes a convoluted conclusion that because the impacts associated with the CSWP are ostensibly less than those associated with the Hatton Canyon Freeway project or Operational Improvement No. 4, the aesthetic impacts from this project are "less than significant. This is not so.

Rather than examining the remaining portions of the operational improvements in a separate EIR, the County, along with Caltrans, should acknowledge the overall cumulative effect of the widening project and prepare a single EIR. There is no suitable justification for piecemeal consideration of the CSWP.

The Initial Study concludes, without discussion, that the CSWP will have less than significant environmental effects which will cause adverse effects on human beings, either directly or indirectly." (IS. P. 27.) However, residents living along Highway 1, and the motoring public in general, will be directly affected by the tree removal, vegetation loss in this scenic corridor, increased noise and increased runoff.

The Initial Study and Negative Declaration are legally inadequate and violate the California Environmental Quality Act (CEQA). The CSWP is a modified version of Operational Improvement No. 4, one of a package of 12 operational improvements planned for Highway 1 near Carmel. Consideration of the CSWP as a separate "project" or "action," in and of itself, apart from the entire operational improvements package constitutes improper piecemealing and violates CEQA which requires that the County prepare a single environmental document for the entire operational improvements project.

The County cannot avoid a CEQA piecemealing argument by becoming the lead agency in view of the other operational improvements projects being proposed by CalTrans within the same highway corridor.

Both in 1998 and 1999 the Monterey County Planning Commission denied CalTrans' requests for coastal development permits for various portions of the operational improvements package because of piecemealing and environmental concerns.

Even if the CSWP were to constitute a single project or action, the Initial Study is inadequate because: (a) there is substantial evidence that the CSWP will cause potentially significant adverse effects; (b) cumulatively, with other related or reasonably foreseeable projects or actions, the CSWP will cause potentially significant adverse effects; and (c) there is significant public controversy regarding the potential environmental effects of the CSWP.

Even if the CSWP were to constitute a single project or action, the Initial Study is inadequate because its findings and conclusions are often mere conclusions unsupported by studies or evidence in the record, and where significant impacts are identified, the proposed mitigations are inadequate and often rely on future studies to address these potentially significant impacts.

A-3-MCO -01-087 CSWP - Highway 1 Widening Exhibit 18 of 19 The CSWP is an improper use of State Highway Operation and Protection Program (SHOPP) funds as it is a capacity-increasing project.

Highway 1 in this area is part of an established bicycle route system. With the 4-foot shoulders and design exceptions required to allow these narrow shoulders, the project fails to comply with requirements to provide a bicycle path along this section of Highway 1.

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Exhibit F

19 of 10

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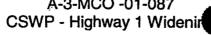
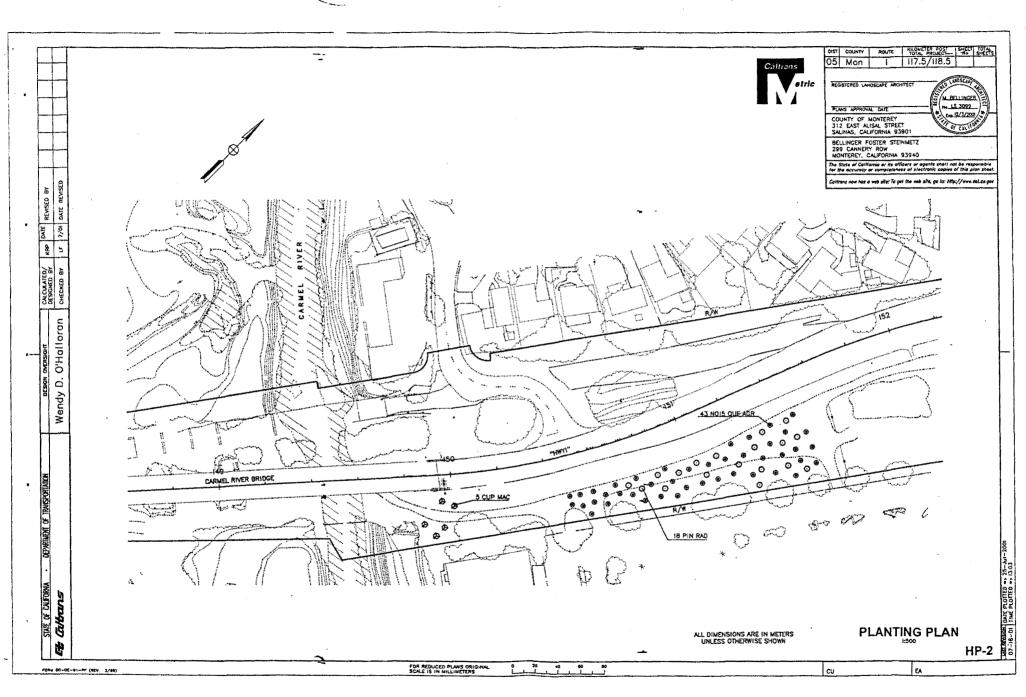


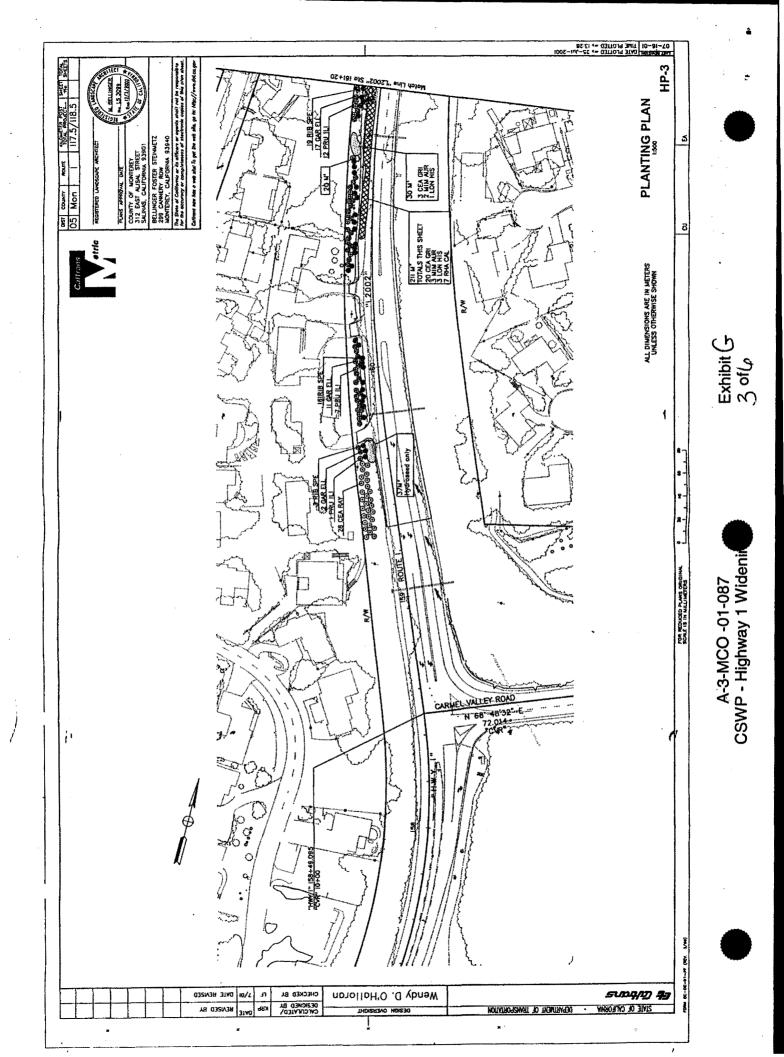
Exhibit G

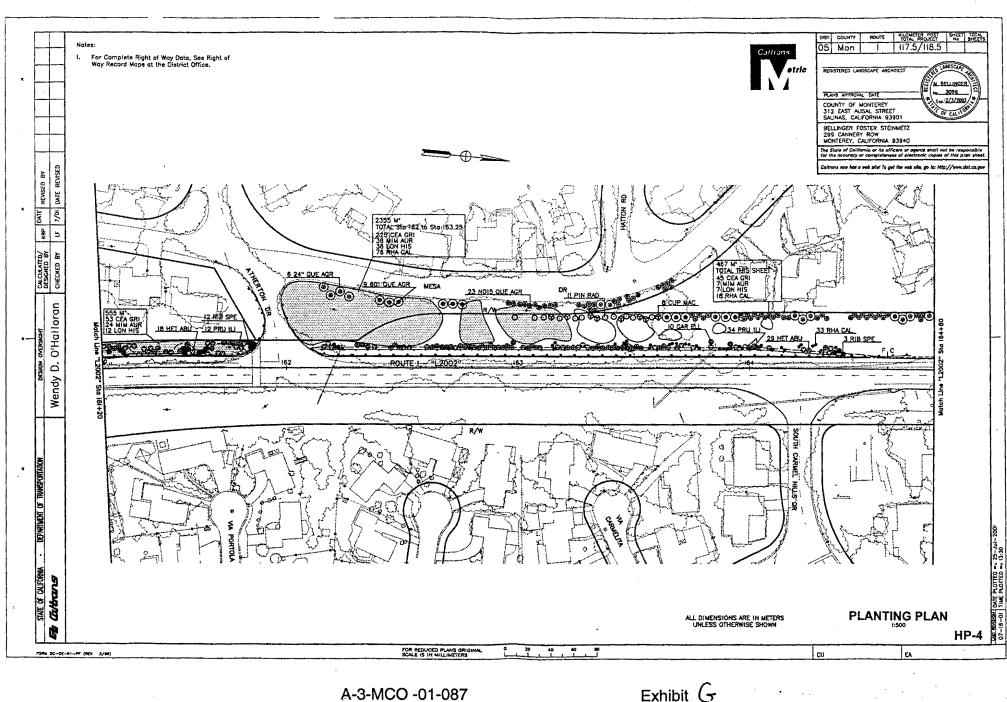


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Exhibit G 2 of 6

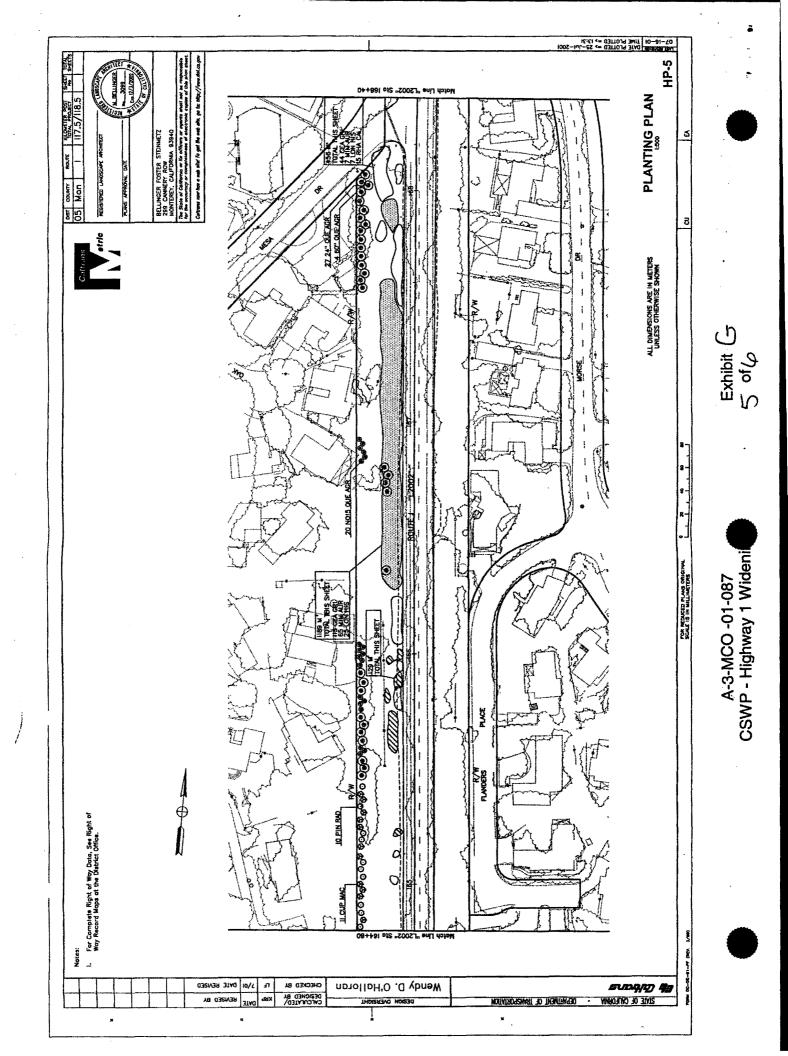
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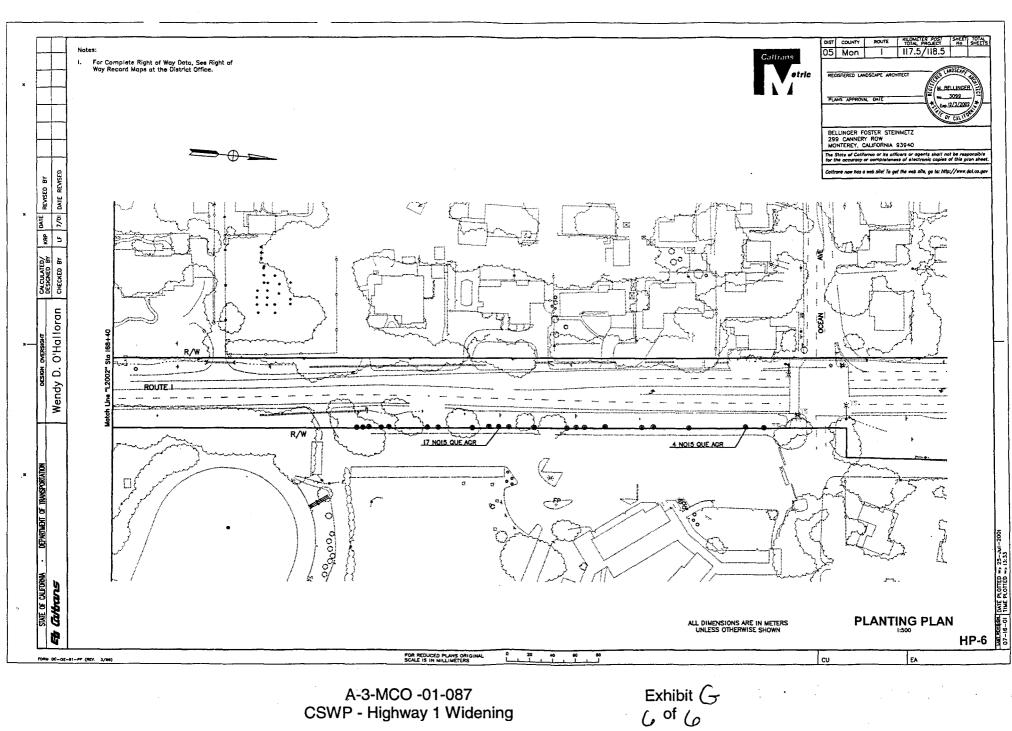




CSWP - Highway 1 Widening

Exhibit G 4 of G





CSWP - Highway 1 Widening



James R. Schaaf, PE Kirk R. Wheeler, PE David A. Foote, PE Peder C. Jorgensen, PE Katherine M. Oven, PE Charles D. Anderson, PE 100 Twelfth Street, Building 2900 Marina, CA 93933-6000 (831) 883-4848 FAX (831) 883-2424 swmb@swsv.com Offices in Silicon Valley Puget Sound Area San Francisco Castro Valley

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September 4, 2001

Mr. Richard Weber, PE Whitson Engineers 2600 Garden Road, Suite 230' Monterey, CA 93940

Re: Effect of Proposed Highway 1 Project, Carmel Valley Road to Morse Drive, on Carmel River Flows

Dear Rich:

As discussed in the letter dated August 28, 2001, the combined effect of adding the proposed 0.46 acres of pavement and storm drain is expected to increase the 25-year peak discharge rate at the downstream end of the project from 37.5 cubic feet per second (cfs) by 2.3 percent to 38.4 cfs.

The letter from the Monterey County Planning & Building Inspection Department, dated August 29, 2001, requested information regarding how much the project would contribute to flood events on the Carmel River.

The Carmel River watershed covers over 250 square-miles east of Highway 1. The peak discharge on the Carmel River is expected to exceed 17,000 cfs at Highway 1, an average of once every 25-years. Peak flows from the proposed project are small relative the peak discharges from the Carmel River watershed. Also, it would be expected that runoff from the proposed project would typically reach the river long before runoff from the majority of the River's drainage area.

Please do not hesitate to call me at (831) 883-4848 if you have any questions or need additional information related to drainage aspects of this project.

Very truly yours, SCHAAF & WHEELER

Harvey Oslick, PE

A-3-MCO -01-087 CSWP - Highway 1 Widening Exhibit H

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Exhibit I 2001 Aerial Photo Hwy. 1 Corridor in Project Area CSWP- Highway 1 Widening A-3-MCO-01-087

