

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION

Local government:..... City of Morro Bay

Local Decision:..... Permit Number CDP 117-00R- Concept Plan, Approved with conditions (see Exhibit G)

Appeal Number:..... A-3-MRB-01-096

Applicant:..... Wayne Colmer/Colmer Development

Appellant:..... Ms. Betty Winholtz

Project location:..... Two parcels surrounded by Morro Ave., Main St., South St., and Olive St. (APN 066-172-02 & 066-174-001), City of Morro Bay (see Exhibits A, B, and C)

Project description:..... Approval of a Concept Plan for a Tentative Tract Map, Conditional Use Permit and Coastal Development Permit for the establishment of a 30-lot subdivision, 30 single family detached homes with attached garages, one new private street, addition of 30 public parking spaces along the Embarcadero and the dedication of a bluff-top lot to the City of Morro Bay for the purposes of permanent open space (see Exhibit D).

File documents:..... City of Morro Bay coastal permit file CDP 117-00R- Concept Plan; City of Morro Bay Local Coastal Program, including *Morro Bay Coastal Land Use Plan* and *City of Morro Bay Coastal Implementation Plan* (Title 17 of County Code).

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 CDP # 0117-00R- Concept Plan, which includes 56 conditions of approval established by the Morro Bay City Council, generally conforms to the standards set forth in the City of Morro Bay Certified Local Coastal Program, which



California Coastal Commission
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Staff: SAM Approved by: (LX. 10/25/01

includes the Morro Bay Coastal Land Use Plan and Title 17 (Zoning Ordinance).

The project is located in both the Central Morro Bay (Area 7) and the Bayfront Area (Area 6) of the Coastal Zone (project vicinity and site location maps are shown in Exhibits A and B, respectively). The interior lot is located within Area 7 and the blufftop lot is located within the Bayfront Area. The City's action allows for approval of a Tentative Tract Map for the establishment of a 30-lot subdivision which includes 30 single family detached homes with attached garages. The project proposes to create one private street, Morro Cove Road, for the purpose of providing access to houses to be located along Main St. to maintain the neighborhood's character, and the addition of 30 public parking spaces along the Embarcadero in the boat wash area. The project also includes the dedication of the blufftop lot to the City to be kept in open space permanently. This blufftop lot currently contains Monarch butterfly habitat, which will also be enhanced.

The County's approval of the project as described in Coastal Development Permit No. 117-00R is consistent with the LCP policies that designate these two parcels as R-2 and OA-1, Duplex Residential and Open Area respectively. The project is consistent with required land uses of the two parcels, including the dedication of the OA-1 blufftop parcel to the City for the purpose of permanent open space and the implementation of a Planned Unit Development. This project allows for a residential subdivision of the interior parcel, which is consistent with the R-2 zoning designation. As discussed in the substantial issue section of this report, the project is consistent with LCP visual and geologic hazard policies, and has fulfilled comprehensive environmental review requirements. With regard to the issues raised by the appeal, the evidence in the record shows that they were satisfactorily addressed by the City. Therefore the appellant's contentions raise no substantial issue with respect to policies of the LCP, and staff recommends that the Commission find that **no substantial issue** exists with regards to land use and development issues, visual resources, geologic hazards and the need for comprehensive environmental review.

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I. Local Government Action

On September 10, 2001 the Morro Bay City Council approved CDP 117-00R, consisting of the Concept Plan for the tentative tract map and establishment of a 30-lot subdivision, construction of 30 single-family detached homes with attached garages. The project involves the creation of one new private street, addition of 30 public parking spaces along the Embarcadero near the boat wash area, and the dedication of a bluff-top lot to the city of Morro Bay for the purposes of permanent open space. The City Council resolution CDP 117-00R-Concept Plan includes adoption of the Mitigated Negative Declaration and approval of the Tentative Tract Map (TTM 01-00), Conditional Use Permit (CUP 73-00) and Coastal Development Permit (CDP 117-00R), subject to 56 conditions of approval. All permit findings and conditions are included in Exhibit G.



II. Summary of Appellants' Contentions

The appellant, Ms. Betty Winholtz, has appealed the final action taken by the Morro Bay City Council (Coastal Development Permit No. 117-00R- Concept Plan), on the basis that approval of the project is inconsistent with policies of the City of Morro Bay Local Coastal Plan with regards to land use and development, visual, geologic hazards, and comprehensive environmental review policies. The complete text of the appellant's contentions can be found in Exhibit H.

III. Standard of Review for Appeals

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located between the first public road and the sea and because it is within 300 feet of the inland extent of the mean high tideline of the sea.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the first public road and the sea, which is the case with this project.

IV. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that no substantial issue 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-MRB-01-096 raises no substantial issue



with respect to the grounds on which the appeal has been filed **under § 30603 of the Coastal Act.**”

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 finds that Appeal No. A-3-MRB-01-096 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 Location and Description

The project area consists of two legal lots of record, APN 066-172-002 located in Area 6, the Bayfront Area, and 066-174-001, located in area 7, Central Morro Bay, in the City of Morro Bay. APN 066-174-001 is zoned Duplex Residential and APN 066-172-002, the blufftop parcel, is zoned Open Area. The total area of the two parcels is 4.43 acres, and they are surrounded by Morro Ave., Main St., South St., and Olive St. and the Embarcadero.

These two lots were the impetus for a recent LCP amendment, which the Commission approved with modifications on May 11, 2000. On September 12, 2001 the City of Morro Bay accepted the modifications. Previously, this area was zoned for Visitor-Serving Commercial and Duplex Residential with a Planned Development overlay (C-VS/R-2 (PD/S.4). The LCP amendment changed the zoning designation of the interior (eastern) lot to R2 - Duplex Residential and changed the zoning designation of the eastern, bluff-top lot to OA-1 Open Space (See Exhibit E).

This project consists of a Concept Plan for a Tentative Tract Map (See Exhibit D), Conditional Use Permit and Coastal Development Permit for the establishment of a 30-lot subdivision, construction of 30 single family detached homes with attached garages to be located on the interior parcel. The project also includes the creation of one private street, Morro Cove St., and the dedication of the 1.48-acre bluff-top lot to the City of Morro Bay for the purposes of permanent, public open space. The bluff-top parcel abuts the Embarcadero and includes .26 acres required for parkland dedication, an additional 1.22 acres for a total of 1.48 acres, and the addition of 30 public parking spaces along the Embarcadero near the boat wash area at the toe of the bluff.

Under the planned development overlay (PD), general development standards may be modified if greater than normal public benefits may be achieved by the deviations. As found by the City of Morro Bay,



proposed greater than normal public benefits of this project include improvements to the boat wash-down parking lot area at the bottom of the bluff to enhance visitor-serving and coastal dependent uses in the area, as well as contribution toward maintenance of existing public access stairway(s) in the area. Additional public benefits of this project include assisting in the acquisition of additional, permanent, community water supplies through a \$250,000 contribution toward the "Shandon Water" acquisition and upgrading of area drainage facilities. Table 1, below, outlines the exceptions and modifications included as part of the project proposal and the greater than normal public benefits.

Table 1. Planning Exceptions and Public Benefits of CDP 117-00R- Concept Plan

Exceptions/Modifications/Abandonments	Greater than Normal Public Benefits
<ul style="list-style-type: none"> • Lot sizes: Minimum proposed area: 3,583 s.f. Minimum Required area: 6,000 s.f. • Lot Dimensions: Minimum proposed width and depth: 42 feet & 75 feet. Minimum required width and depth: 40 feet & 90 feet (average) • Setbacks: Minimum proposed: 7.5 feet front and 5 feet exterior side. Minimum required: 20 feet front and 10 feet exterior side • Private Street: Standard City right-of-way 56 feet + Proposed private street easement 38 feet. • Right-of-Way Abandonments along Morro Avenue (variable to 27 feet); Olive Street (9 feet); South Street (4 feet). • Loss of 11 to 19 on-street parking spaces along east side of Morro Avenue (depending on final parking design). • Construction in a single phase rather than limited to 13 units per year (25% of annual Measure F permit allocation). 	<ul style="list-style-type: none"> • Dedication of 1.48 acre bluff parcel to the City (of which .26 acre would have been required by Ordinance) • Reconstruction and expansion of the boat wash-down parking lot area. • \$250,000 payment toward acquisition of water prior to final map recordation. • Upgrade area drainage facilities to account for surrounding development. • Excellent architectural design.



B. Analysis of Appeal Issues

1. Land Use and Development Issues

A. Appellant's Contentions

The appellant contends in part that:

- The proposal does not comply with LUP policies to preserve neighborhood character.
- The City did not comply with Chapter II Policy D.04.
- The development is not compatible with surrounding land uses.
- The development is inconsistent with the established physical scale of the area (Coastal Act § 30603.b.3 and LUP policy 12.01).
- The project does not meet zoning standards for lot size, house size and road size.
- The development's "greater than normal public benefits" are not greater than normal.
- The development violates City ordinance Measure F.
- The development conflicts with various Coastal Act policies.
- The project does not comply with Land Use and Housing Element provisions of the General Plan.

Complete text of the appellant's contentions is located in Exhibit H.

B. Local Coastal Program Provisions

The appellant specifically references the following Morro Bay Coastal Land Use Plan (LUP) policies regarding land use and development:

LUP Chapter II Policy D.04 Prior to the issuance of a coastal development permit, the City shall make the finding that the development complies with all applicable Land Use Plan policies.

LUP Chapter XIII policy D.6 Protection of Neighborhood Character states in part: "... It should be noted that protection of community character does not mean protection of or continuation of dilapidated building, no community improvements or no progress. It means that the enjoyable qualities of the area should be preserved as much as possible."

LUP policy 12.01 The scenic and visual qualities of coastal areas shall be consider [sic] and protected as a resource of public importance. Permitted development shall be sited and



designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, and where feasible, to restore and enhance visual quality in visually degraded areas...

Measure F (Ordinance 266) Measure F sets the City's population limit at 12, 200. This limit cannot be exceeded except by a majority vote of the people. Measure F created a residential growth cap at 63-77 residential units per year until the year 2000, and also sets regulations for non-residential development.

Additional related policies of the City of Morro Bay LCP include the following:

CIP section 17.40.030.D MBMC states in part: "*General Development Standards. The standards for development within a PC overlay zone shall be those of the base zoning district, provided however, that standards may be modified by the planning commission or city council as they relate to: building heights; yard requirements; and minimum lot area for dwelling units in the density range provided that any specific design criteria of the general plan and coastal land use plan, applicable to the property, is not exceeded...Modifications of standards shall only be approved upon a finding that greater than normal public benefits may be achieved by such deviations. Such benefits may include, but are not limited to improved or innovative site and architectural design, greater public or private usable open space and provisions of housing for the elderly or low/moderate income families, provision of extraordinary public access, provision for protecting environmentally sensitive habitat (ESH) areas, but in all cases these provisions shall meet the coastal land use policies.*" (Emphasis added)

C. Local Government Action

Finding G of the County's action (CDP 117-00R, Exhibit G, Page 3), states in part that the development "... will comply with all applicable project conditions and City regulations." Additionally, finding L (Exhibit G, Page 4) states in part that "The concept plan approval is consistent with the applicable provisions of the certified local coastal program because the development does not conflict with coastal policies..." The project as proposed was designed so that the houses to be located along Main St. will have garage access in the back of the lot so that those houses are more in keeping with the character of Main St.

Finding I of CDP 117-00R (Exhibit G, Page 4) states that the "*30-lot subdivision is a permitted use within the zoning district applicable to the project site and said structures will comply with all applicable project conditions and City Regulations.*" The finding goes on to say that the project complies with Section 17.40.030 because of the greater than normal public benefits of the project and goes on to list them (See Table 1). The City's resolution CDP 117-00R also outlines other coastal policies with which this project complies, such as policies 1.03, 1.07A, and 2.01, which require the dedication of the blufftop parcel to preserve public views, on site parking for residences, and the provision of a low-cost visitor-serving facility with the dedication of the blufftop lot and provision of public parking, respectively.



D. Substantial Issue Analysis and Conclusion

The appellant voices several concerns about how the project will blend with surrounding land uses and the neighborhood character. She contends that the project does not comply with LUP policies to preserve neighborhood character, that it is not compatible with surrounding land uses and that the City did not comply with LUP policy D.04 because this project does not comply with all applicable Land Use Plan policies.

Land Use Plan policy D.6 requires the preservation of neighborhood character in this area of the City. While the preservation of neighborhood character is considered to be a priority, this policy is programmatic, written to provide guidance and outline issues rather than to regulate development. This policy does state, however, that "protection of neighborhood character" should not be equated with "no community improvements or no progress." The project has been designed specifically to maintain the ambiance of the neighborhood along Main Street by placing the garages at the back of the house and providing access to these houses through the creation of Morro Cove Road. This design modification results in houses fronting directly on Main Street, and rather than a garage separating the house from the street, the front yards of the houses connect the house to the street and create the feel that a passerby is in a neighborhood rather than in a tract development. Moreover, the LUP policy specifically states that it should not be used to prevent development or community improvements. Thus, this project does comply with this policy to preserve neighborhood character and no substantial issue is raised by this contention.

The appellant contends that the project is not compatible with surrounding land uses, and describes the surrounding land uses as being "zoned R-2 through R-4" and "established single family homes". It is unclear how this contention illustrates that the project is incompatible with surrounding land uses. In fact, it correctly describes the surrounding land uses (see Exhibit J for area photos) and presents an argument that the proposed single-family homes are compatible with the surrounding existing residential use. Exhibit J consists of photos submitted by the applicant to show the existing surrounding land uses, which are residential. The proposed houses will be two-story single family homes, similar in scale to the existing residential uses nearby, and they have been designed to provide eclectic styles typical of the neighborhood. Since the proposed project is for a primarily residential use and the surrounding use is residential, this contention provides no grounds for appeal with respect to the certified LCP and therefore raises no substantial issue.

The appellant contends that the development is inconsistent with the established scale of development in the area, and references Coastal Act § 30603.b.3 and LUP policy 12.01. Although there is no section 30603.b.3, Coastal Act Section 30603.b establishes that the grounds for appeal "*shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program...*". Because the City of Morro Bay does have a certified LCP, it is established as the standard of review, not the Coastal Act. LUP policy 12.01 relates to visual resources and requires development to be "visually compatible with the character of surrounding areas". The applicant has submitted photos (see Exhibit J) which confirm the appellant's contention that the existing, surrounding land uses are residential, and they are also useful to establish the neighborhood's scale and character. The proposed houses are similar in scale to the existing residences, therefore, this issue provides no ground for appeal



under the certified LCP, and does not raise a substantial issue.

The appellant contends that the City did not comply with LUP policy D.04. LUP policy D.04, as stated above, requires the City to make a finding that the development complies with all applicable Land Use Plan policies, which the City did in Finding L of Resolution CDP 117-00R (Exhibit G, Page 4). The City cannot make this finding indiscriminately, as the Commission has review authority over projects such as this one that are located in the coastal zone. Finding L states in part that "The concept plan approval is consistent with the applicable provisions of the certified local coastal program because the development does not conflict with coastal policies...". The City's finding that the project does not conflict with coastal policies is further strengthened by the statement that the project specifically implements the following coastal policies: 1.03, 1.07A and 2.01. These coastal policies require dedication of the blufftop parcel, on site parking for each residence, and the provision of a low-cost visitor-serving facility in the form of the blufftop parcel and public parking adjacent to the bluff. Therefore this contention provides no ground for appeal with respect to the certified LCP, and hence this contention raises no substantial issue.

With regard to the appellant's contentions that the project does not meet zoning standards and that the development's "greater than normal benefits" are not greater than normal, both issues are addressed by the zoning ordinance. Section 17.40.030 of the zoning ordinance deals with the Planned Development (PD) overlay zone, applicable to both lots, and lists the general development standards in section D. This section states that standards for development "*may be modified by the planning commission or city council as they relate to: building heights, yard requirements; and minimum lot area for dwelling units...*". All modifications that have been approved by the city council for this development, such as lot size, lot dimensions, and setbacks are in keeping with this regulation.

The appellant also contends that the project's greater than normal public benefits are not greater than normal. Section 17.40.030.D requires the City to make a finding "that greater than normal public benefits may be achieved by such deviations" if they are to be granted, which the City did in Finding I of Resolution CDP 117-00R. It also lists public benefits considered to be greater than normal, including but not limited to "*improved or innovative site and architectural design, greater public or private usable open space and provisions of housing for the elderly or low/moderate income families, provision of extraordinary public access, provision for protecting environmentally sensitive habitat (ESH) areas...*".

The public benefits provided by this development are: the reconstruction and expansion of the parking area located on the Embarcadero near the boat wash-down area, an upgrade of area drainage facilities to account for the new development, a \$250,000 payment toward water acquisition, and the dedication of the 1.48 acre blufftop lot to the City for permanent open space to be used for public access and maintenance of Monarch butterfly habitat. An additional intangible benefit claimed by the applicant, which is listed as a greater than normal public benefit by the LCP, is excellent architectural design. While this is a more subjective public benefit, it is nonetheless accompanied by the four tangible public benefits which meet the LCP's definition of "greater than normal public benefits" by Section 17.40.030.D of the zoning ordinance. Therefore, these contentions provide no grounds for appeal with regard to the certified LCP and thus raise no substantial issue.



The appellant also has three contentions which are irrelevant to the appeal: the development violates City ordinance Measure F, the development conflicts with Coastal Act policies, and the project does not comply with Land Use and Housing Element provisions of the General Plan. Regarding the contention that the development violates City ordinance Measure F, the Commission is of the opinion that City ordinance Measure F, which expired in 2000 by its own terms, is no longer included as part of the certified LCP. Therefore, this contention is irrelevant to the project and provides no grounds for appeal with regard to the certified LCP. Thus, the contention raises no substantial issue.

Although the appellant cites inconsistencies with Coastal Act sections 30603.b.3 and 30603.b.5, these sections do not exist. Coastal Act Section 30603.b.1 though, states in part that "*the grounds for an appeal... shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division*". The only relevant Coastal Act policies in an appeal of an application in an area with a certified LCP are public access concerns. The appellant references Coastal Act policies with regard to land use and development issues and geologic hazards. Therefore, no substantial issue is raised.

Regarding the relevance of the contention that this project does not conform to the Housing Element of the General Plan, affordable housing is not a coastal resource over which the Commission has jurisdiction. Therefore, the contentions that the development does not conform to Coastal Act policies and the Housing Element of the General Plan provide no grounds for appeal with regard to the certified LCP and thus present no substantial issue.

Based on the evidence noted above, this project is in compliance with all relevant land use policies of the certified Local Coastal Program. Allowable zoning modifications have been offset by the required "greater than normal public benefits", the project is in keeping with the scale of the surrounding land uses and neighborhood character has been preserved, thus these contentions raise no substantial issues.

2. Visual Resource Issues

A. Appellant's Contentions

The appellant contends in part that:

- The property is in Area 7- Central Morro Bay, whose major coastal issues are visual and community character.
- Finding L.a. relates to preserving blufftop views, contradicts with Condition 55 which requires a 50% increase in tree density on the blufftop parcel.
- The project fails to protect public views (Coastal Act 30603.b.2 and LUP policy 12.01).

Full text of the appellant's contentions is located in Exhibit H.

B. Local Coastal Program Provisions



The appellant specifically references the following Morro Bay Coastal Land Use Plan (LUP) provision and policy regarding visual resources:

Planning Area Characteristics Area 7-Central Morro Bay. c. Coastal Issues. *The major coastal issues are limited to housing rehabilitation, visual and community character concerns...*

LUP Policy Chapter X111.E Visual Resources Policies 12.01 *The scenic and visual qualities of coastal areas shall be consider [sic] and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, and where feasible, to restore and enhance visual quality in visually degraded areas...*

C. Local Government Action

Finding L.a of the City's Resolution CDP numbered 117-00R (Page 4 of Exhibit G) allows for preservation of public views through the dedication of the blufftop lot, located westward of Morro Ave, the first public road, to the City for the purpose of permanent open space.

Condition of approval number 54 (Page 13 of Exhibit G) states that the biological survey identified the bluff parcel as an autumn habitat for Monarch butterflies, not an over-wintering site. This condition requires the applicant to enhance the Monarch habitat found on the bluff to mitigate for the habitat that will be lost from the interior parcel by increasing the tree density on the blufftop parcel. The tree density on the bluff will be 50% greater than the current habitat on the interior parcel, and the plantings will be monitored for two years.

Additionally, condition of approval number 18 (Page 7 of Exhibit G) prohibits further development west of the toe of the bluff below the bluff parcel adjacent to the boat wash-down area and also requires the applicant to improve existing public access stairways.

D. LCP Amendment Background

The LCP amendment that changed the zoning designation for the two lots which encompass the project site, also dealt with the issue of Environmentally Sensitive Habitat Areas (ESHA) in the form of Monarch butterfly habitat. Eucalyptus groves exist on each of the two lots, and the biological review done at the time stated that the habitat value provided by the two parcels was autumnal roosting habitat, not overwintering habitat, due to thermal characteristics, and it also mentioned numerous overwintering sites in the vicinity. Commission staff reviewed the biological report and concurred that while the trees do have habitat value, that there is insufficient site-specific evidence to conclude that they constitute ESHA as defined by the LCP. Additionally, Commission staff requested that blufftop mitigation proposed for impacts to the interior parcel habitat would be well developed and include long-term monitoring, as is the case with this proposal.

The LCP amendment anticipated and allowed for the removal of the portion of eucalyptus habitat on the interior parcel for residential use. This was deemed acceptable if the LCP was modified to require that



the open space area be deed restricted for public access and view protection as well as incorporate Best Management Practices to control polluted runoff, both of which were done. The Coastal Commission approved the LCP amendment on May 11, 2000 with modifications, and the City of Morro Bay accepted the modifications on September 12, 2001, amending the land use plan to be consistent with section 30240 of the Coastal Act. The proposed project is consistent with the LCP as amended.

E. Substantial Issue Analysis and Conclusion

The appellant contends that the project area is located within City of Morro Bay Coastal Land Use Plan planning Area 7, Central Morro Bay. The appellant further states that the major coastal issues for this planning area are visual and community character. The LUP, in Chapter I, describes the City's Planning Area Characteristics. The interior parcel of this project is indeed located in Area 7- Central Morro Bay (see Exhibit F), and the LUP provision states that "The major coastal issues are limited to housing rehabilitation, visual and community character concerns...". The blufftop lot is located in Area 6, the Bayfront Area, whose major coastal issues include visual resources and access. It is unclear how this contention is relevant to the appeal, as it merely reflects what the certified LCP states. Therefore, this contention provides no grounds for appeal with regard to the certified LCP and raises no substantial issue.

The appellant also contends that the City's finding, L.a, which relates to preserving blufftop views, contradicts with Condition #55 which requires a 50% increase in tree density on the blufftop parcel. While it is true that finding L.a does state that the blufftop lot will be dedicated to the City and "preserves vistas of the coast", Condition #55 relates to the preservation of cultural resources. It is assumed that the appellant meant to cite Condition #54, which requires blufftop planting to mitigate for Monarch habitat lost on the interior parcel.

The blufftop lot in question currently provides Monarch habitat, and is vegetated with eucalyptus trees. Condition #54 is a requirement to enhance the existing habitat on the blufftop parcel to provide mitigation for the Monarch habitat that will be lost from the interior parcel. This condition does not require plantings that may screen ocean views on a lot which currently has no such obstructions, it requires an increase in the amount of vegetation that already exists on site. Exhibit K is an aerial photograph, taken in 1993, which shows the amount of vegetative cover on the blufftop lot. Clearly the lot is vegetated, and while planting a number of trees equal to 50% of the trees on the interior lot may further reduce the view of the ocean for someone who is driving down Morro Avenue, the parcel will be in open space and available for the public to access on foot or bicycle, which preserves visual access.

Additionally, it would not be prudent to require removal of the trees located on the blufftop to create views and allow removal of habitat on the interior parcel for the subdivision without mitigation. Furthermore, if habitat enhancement is provided in proximity to the existing habitat, it is more likely to be utilized than if the loss was mitigated at some other location, and because the proposed project is residential, the habitat mitigation is required by the recent LCP amendment. Exhibit L is a portion of the conceptual blufftop planting plan, which illustrates that the portion of the blufftop lot designated for planting is roughly half of the lot. The balance of the blufftop lot will be left in its natural state or



planted with low-growing plants and shrubs.

Finding L.a, which states that the blufftop lot has been set aside to protect public views does not contradict with Condition #54 because it is being protected as permanent open space. This designation maintains the lot as open space and precludes the possibility that the zoning could be changed back to Visitor-Serving Commercial, or some other zoning designation, in which case the lot could have some development on it. Therefore this contention provides no ground for appeal with regard to the certified LCP and thus raises no substantial issue.

The appellant also contends that the project fails to protect public views under Coastal Act section 30603.b.2 and LUP policy 12.01. As noted above, Coastal Act section 30603.b.2 is not a section that addresses public views, but rather establishes the certified LCP as the standard of review for appeals in areas with certified LCP's. LUP policy 12.01, as stated above, protects visual and scenic qualities of coastal areas and requires that development be "sited and designed to protect views to and along the ocean and scenic and coastal areas...". This project has been designed to cluster the single-family home development on the interior lot, which facilitates the dedication of the blufftop lot to the City for purposes of open space. The project was also designed to preserve a notably large eucalyptus tree which adds to the neighborhood's character. The blufftop lot will provide public access along with enhanced Monarch butterfly habitat, both qualities which arguably enhance public views. Therefore, the contention raises no grounds for appeal with regard to the certified LCP, and thus raises no substantial issue pertaining to visual resources.

3. Geologic Hazard Issues

A. Appellant's Contentions

The appellant contends in part that:

- Condition 55 includes grading, planting and five years of watering that could cause geologic instability. (LUP policy 9.02)

Full text of the appellant's contentions located in Exhibit H.

B. Local Coastal Program Provisions

The appellant specifically references the following Morro Bay Coastal Land Use Plan (LUP) policy regarding geologic hazards:

LUP Policy 9.02 All new development shall ensure structural stability while not creating nor contributing to erosion or geologic instability or destruction of the site or surrounding area.

C. Local Government Action

The City, through conditions of approval (see Exhibit G), has mitigated potential adverse impacts caused by erosion and stormwater runoff. Conditions 32, 33, 34 and 40 all outline requirements for drainage and



erosion control mitigations to reduce both the amount of potential erosion and the potential for polluted stormwater runoff. Condition 9 addresses water usage, and requires the use of water saving devices to reduce the amount of water available to cause erosion through drainage facilities. Condition number 56 directs the applicant to install a storm drain system with oil, water and sedimentation containment structures in drainage inlets to further prevent polluted stormwater runoff. Additionally, condition of approval number 54 addresses the blufftop plantings and monitoring program, which serve the purpose of enhancing Monarch butterfly habitat already present on the site, and requires a 2-year monitoring program.

D. Substantial Issue Analysis and Conclusion

The appellant's concern is that excessive watering of mitigation plantings will eventually cause geologic instability of the bluff. Although she states that the mitigation plantings will be watered for five years, as permitted, the monitoring program lasts for two years, as required by Condition #54, during which time the plantings will be watered (Page 13, Exhibit G).

A geotechnical report was prepared for the project site by Mid-Coast Geotechnical on October 8, 1997, and a bluff study was prepared by Earth Systems Consultants on October 10, 1997. Both reports describe the blufftop lot as being relatively stable because of its interior location in Morro Bay, and the Earth Systems Consultants bluff study declares that the bluff should only retreat 6 feet in 75 years¹. This study also claims that the greatest threat to bluff stability is from uncontrolled drainage flowing over the blufftop lot and causing erosion of the bluff face. However, the presence of Morro Avenue prevents most surface water from flowing over the top of the bluff. Additionally, Earth Systems Consultants observed no evidence of erosion on the bluff face. Hence, the bluff currently faces little threat from runoff-caused erosion.

The appellant contends that irrigation of the habitat mitigation plantings will create the threat of erosion on the blufftop lot. While specific details of the irrigation schedule, including duration and method of irrigation, are not included as part of the City's approval for the concept plan, they will be included in the precise plan and reviewed at that stage. Additionally, the Biological Survey Review of Conceptual Bluff Planting Plan requires irrigation systems to be installed under the guidelines and specifications provided by the City of Morro Bay, which include section 17.48.290 of the zoning ordinance. Specifically, section 17.48.290.C.4 requires drip irrigation where feasible, which is less likely to result in overwatering of the bluff than the use of other methods, such as sprinkler systems. Furthermore, because the geotechnical report and bluff study both describe the bluff as being stable, the Commission finds that temporary irrigation of the parcel for a period of two years, for the purpose of establishing necessary habitat mitigation, does not present a substantial issue with regards to geologic stability of the bluff.

Although Condition of Approval #54 currently allows the monitoring and maintenance program, including irrigation, to continue for a period of two years, a City of Morro Bay planner indicated that the monitoring and maintenance period might be extended to five years. Should this amendment occur, it

¹ Earth Systems Consultants Bluff Study Prepared October 10, 1997, Page 10.



would be important that the monitoring program not include irrigation of the eucalyptus trees, unless absolutely necessary to establish the habitat mitigation, as they are drought-tolerant and should not need irrigation beyond two years. As permitted by the City to limit irrigation to two years, the issue of blufftop irrigation does not rise to the level of a substantial issue. However, amendment of the program extending the irrigation to five years would need separate review by the City.

4. Comprehensive Environmental Review

A. Appellant's Contentions

The appellant contends in part that the CEQA review done by the City of Morro Bay is inadequate and that various CEQA declarations should be changed. Full text of the appellant's contentions is located in Exhibit H.

B. Local Coastal Program Provisions

The City of Morro Bay 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 A of CDP 117-00R (Exhibit G, Page 3) states that the project is "*subject to a Mitigated Negative Declaration based on aesthetics, biological resources water quality and drainage, recreation, and transportation/circulation issues...*". Finding A also states that "*Any potential impacts associated with the proposed development will be brought to a less than significant level through project conditions and the mitigation measures and associated monitoring requirements incorporated by the Applicant into the project as noted..*" and that "*The Planning Commission and City Council have considered the contents of the Initial Study and MND and all public comments provided during the public review process and concluded that there is no substantial evidence that the project will have a significant effect on the environment and that the MND reflects the City's independent judgement and analysis of this project.*"

D. Substantial Issue Analysis and Conclusion

The appellant raises a number of contentions related to CEQA review, such as the assertion that the Initial Study and Mitigated Negative Declaration fails to include discussion of cumulative impacts and do not fully address potentially adverse impacts. This contention is 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, water quality and drainage, recreation and transportation/circulation issues in addition to cumulative impacts, and discusses how mitigation measures reduce the project's potential impacts to a less than



significant level. Both the City of Morro Bay Planning Commission and City Council have "*considered the Initial Study/Mitigated Negative Declaration and all public comments provided during the public review process and have concluded that there is no substantial evidence that the project will have a significant effect on the environment.*".

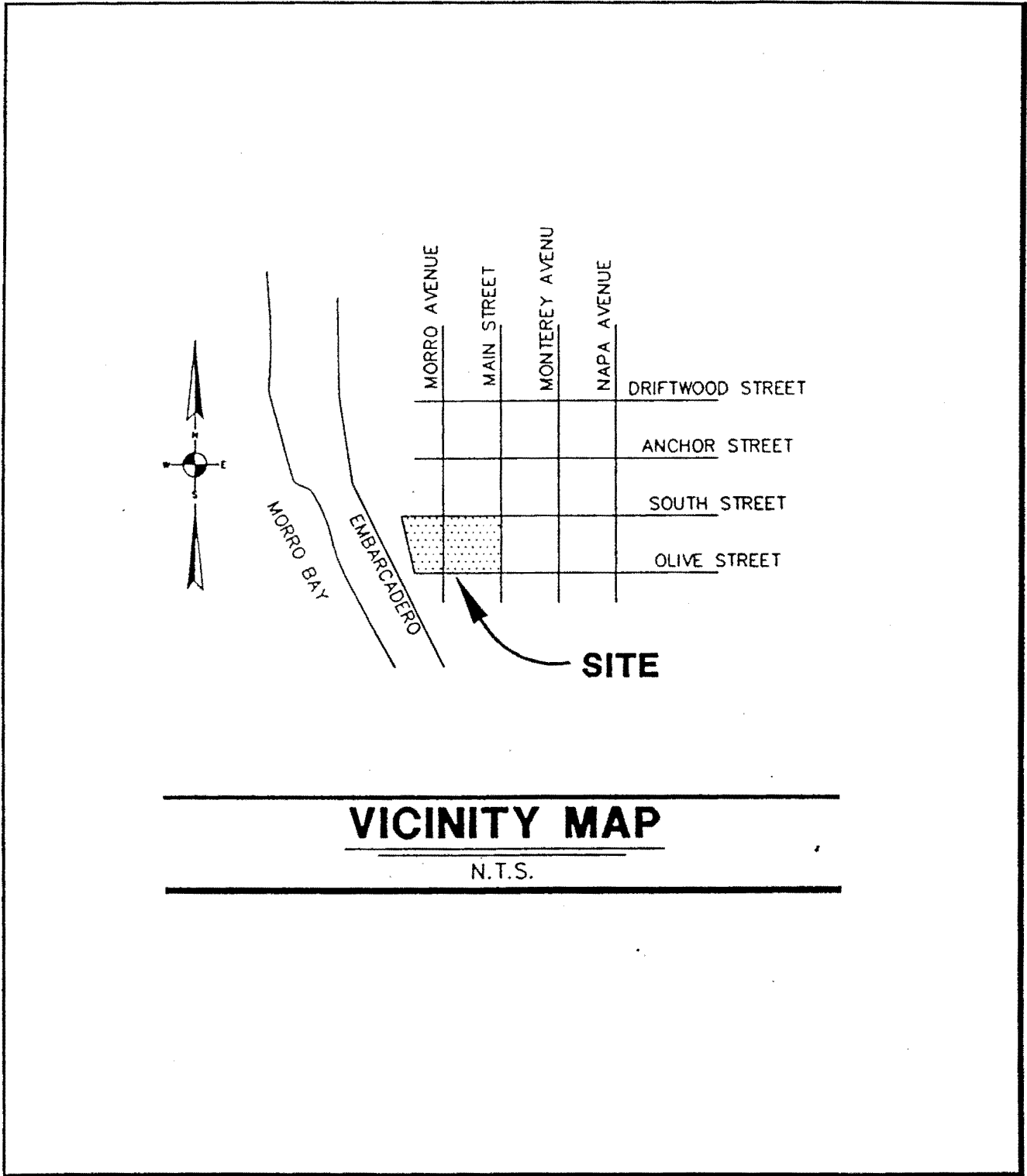
Therefore, the Commission finds that no substantial issue exists with regard to the need for comprehensive review of this project. This project will not have any significant long-term or cumulative impacts, and has been conditioned to protect public views and enhance sensitive biological habitat.

D. Substantial Issue Analysis- Conclusions

In conclusion, the appeal does not raise a substantial issue in terms of compliance with the LCP, land use development issues, visual issues, geologic hazard issue, or the need for comprehensive environmental review. Therefore, as conditioned by the City of Morro Bay, City Council Resolution CDP 117-00R conforms with LCP policies and protects the natural resources of the Morro Bay area as required by the City of Morro Bay Certified Local Coastal Program.

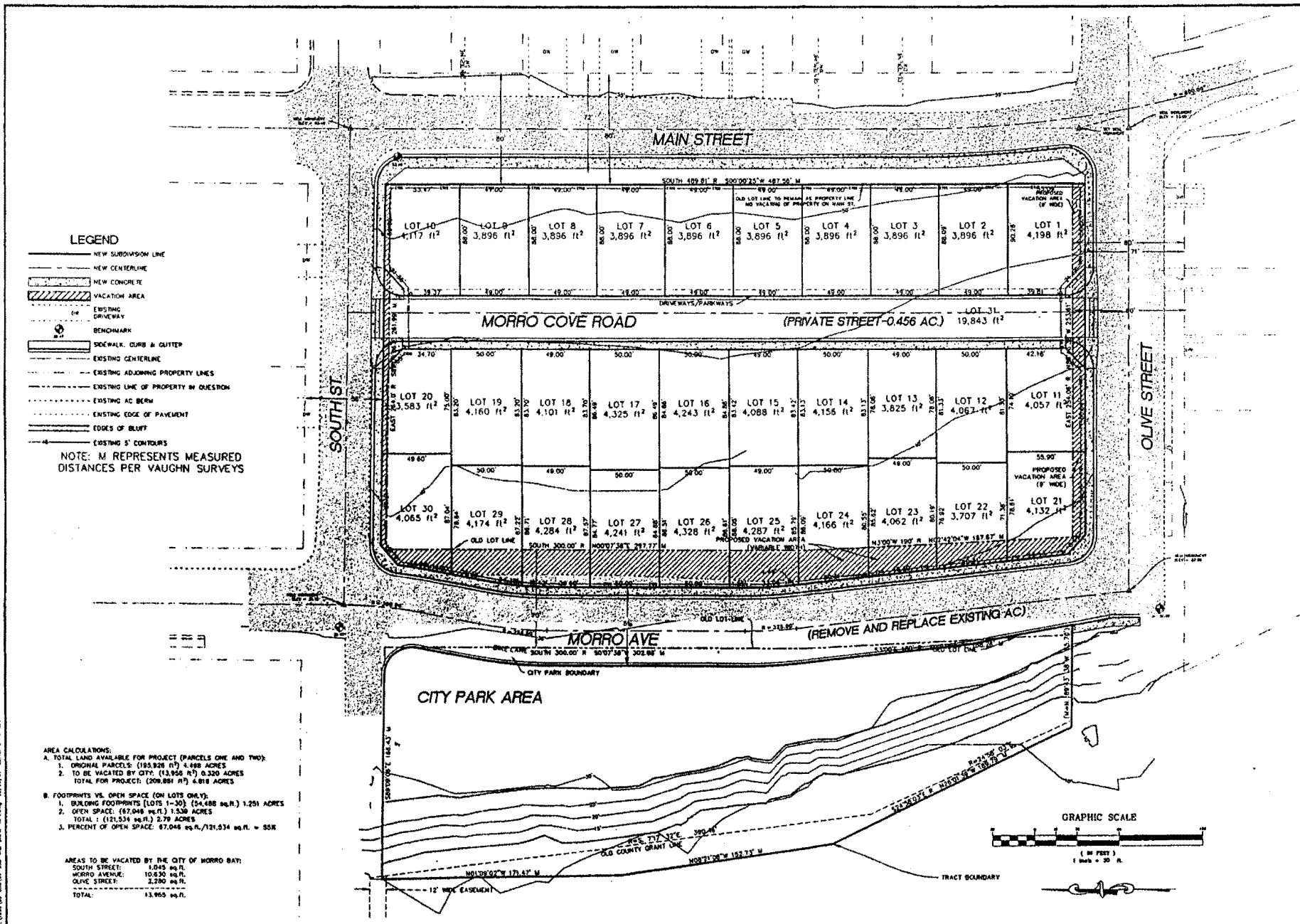


VICINITY MAP

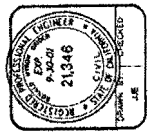


VICINITY MAP

N.T.S.



DATE	DESCRIPTION



EMK & Associates, Inc.
 ENGINEERING • PLANNING • SURVEYING
 1005 FAIRPOLE ST. • PASO ROBLES, CA 91346 • 805/7

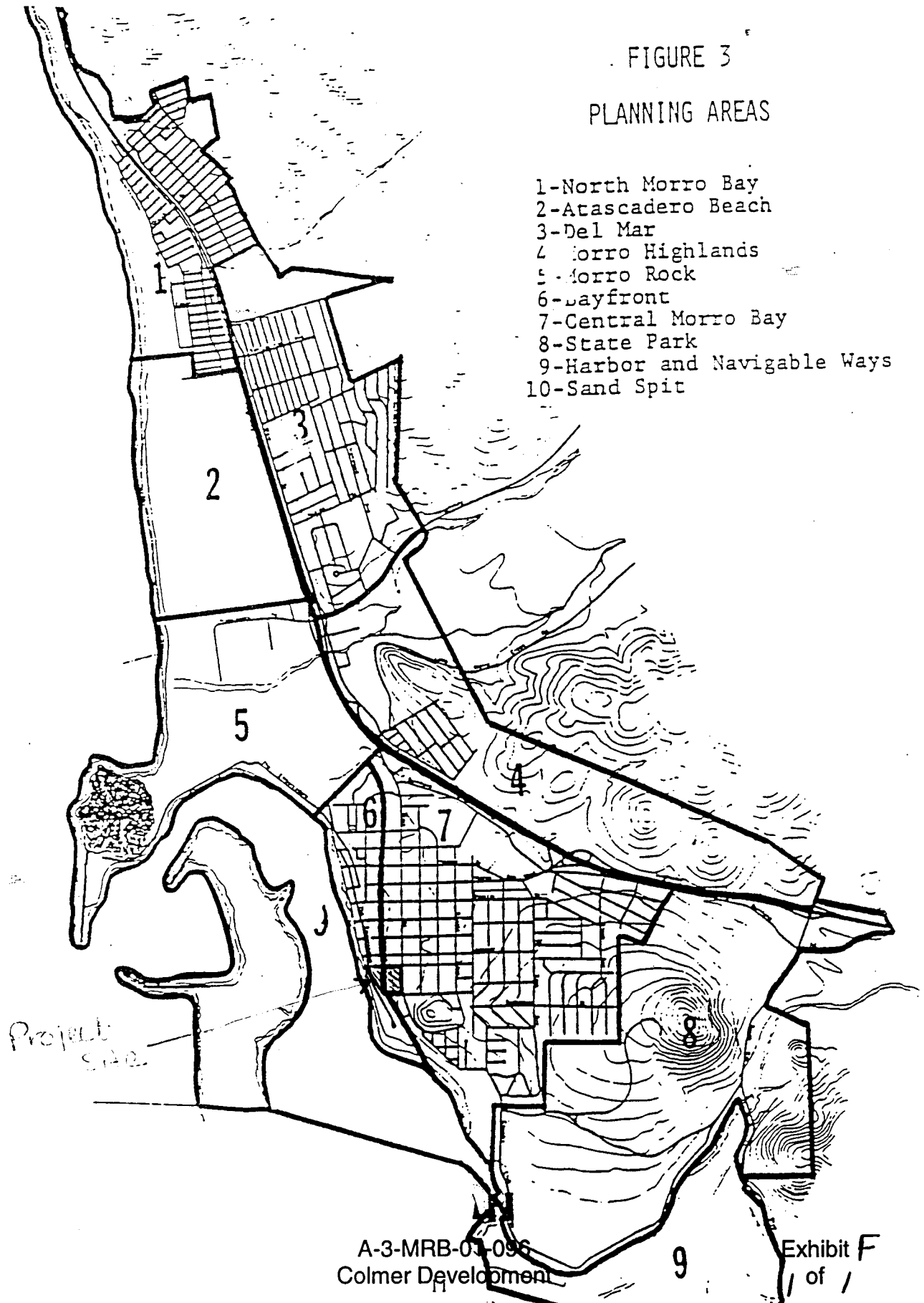
TENTATIVE MAP TRACT 2285
 BOUNDARIES, VACATED AREAS
 AND PROPOSED PROPERTY LINES

SCALE: 1" = 30'
 DATE: 03/24/2001
 JOB NO: 99-535

SHEET 2 OF 5

FIGURE 3
PLANNING AREAS

- 1-North Morro Bay
- 2-Atascadero Beach
- 3-Del Mar
- 4-Morro Highlands
- 5-Morro Rock
- 6-Bayfront
- 7-Central Morro Bay
- 8-State Park
- 9-Harbor and Navigable Ways
- 10-Sand Spit





City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200

PUBLIC SERVICES DEPARTMENT PLANNING DIVISION

NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT PERMIT

NOTICE OF FINAL CITY ACTION
on Coastal Development Permit No.

117-00R - Concept Plan

The Following project is located in the Morro Bay Coastal Zone and a Coastal Permit Application has been acted on by the City.

Applicant: WAYNE COLMER/COLMER DEVELOPMENT

Address: 5000 Parkway Calabasas, Suite 110, Calabasas, CA 91302

Project Description: A request for approval of a Concept Plan for a Tentative Tract Map, Conditional Use Permit, and Coastal Development Permit for the establishment of a 30-lot subdivision for 30 single family detached homes with attached garages, one new private street, along with the dedication of a bluff-top lot to the City of Morro Bay for the purposes of permanent open space.

Project Location Two parcels surrounded by Morro Ave., Main St., South St., and Olive St.

APN No. 066-172-02 & 066-174-001 Lot Area: 4.43 acres

Zoning: R-2 & OA-1

LUP/General Plan: Duplex Residential/Open Area

Filing Date: December 11, 2000

Action Date: September 10, 2001

Action By: City Council

Action Taken: APPROVED W/CONDITIONS

Attachments: Permit, Findings, if any, and Conditions of Approval



YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10) Calendar days, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL



This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 408-427-4855

RECEIVED

FINAL LOCAL ACTION NOTICE
REFERENCE # 3-MRB-01-1
APPEAL PERIOD 9/18 - 10/1/01

FINANCE
595 Harbor Street

ADMINISTRATION
595 Harbor Street

FIRE DEPARTMENT
715 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero

A-3-MRB-01-096
Colmer Development
850 Morro Bay Boulevard

SE
C,
COAST/
CENTR/
REC

EXHIBIT NO. <u>G</u>
APPLICATION NO.
<u>A-3-MRB-01-096</u>
<u>1 of 24</u>
California Coastal Commission

COASTAL DEVELOPMENT PERMIT

CASE NO: CDP 117-00R

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR::

SITE ADDRESS: Colmer Subdivision

APPLICANT: Wayne Colmer

APN: 066-172-002 & 066-174-001 LEGAL: LOTS 7,8,9,10,17,18,19,20, TRACT 2285

DATE APPROVED: September 10, 2001 APPROVED BY: CITY COUNCIL

APPROVED BASED UPON ATTACHED FINDINGS (*Findings and Conditions of Approval Attached*)

CEQA DETERMINATION: A MITIGATED NEGATIVE DECLARATION HAS BEEN PREPARED

DESCRIPTION OF APPROVAL: A request for approval of a Concept Plan for a Tentative Tract Map, Conditional Use Permit, and Coastal Development Permit for the establishment of a 30-lot subdivision for 30 single family detached homes with attached garages, one new private street, along with the dedication of a bluff-top lot to the City of Morro Bay for the purposes of permanent open space.

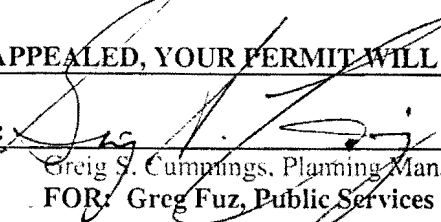
THIS APPROVAL IS CONDITIONAL AND IS VALID *ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAL PERIOD*. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

PERMIT EFFECTIVE DATE & INFORMATION APPLICABLE TO YOUR PROJECT IS OUTLINED FOLLOWING THE BOX CHECKED BELOW:

YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10) Calendar days, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL

YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION. This City decision is appealable to the California Coastal Commission pursuant to the California Public Resource Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) Working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 408-427-863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6261.

IF NOT APPEALED, YOUR PERMIT WILL BE EFFECTIVE: September 24, 2001

ATTEST:  DATE: September 11, 2001
FOR: Greg Fuz, Public Services Director

THIS IS A DISCRETIONARY APPROVAL AND DOES NOT CONSTITUTE A BUILDING PERMIT

EXHIBIT A: FINDINGS

TTM 01-00/CUP 73-00/CDP 117-00R, A request for a Tentative Tract Map, Conditional Use Permit, and Coastal Development Permit for the establishment of a 30-lot subdivision for 30 single family detached homes with attached garages, one new private street, along with the dedication of a bluff-top lot to the City of Morro Bay for the purposes of permanent open space.

California Environmental Quality Act (CEQA)

- A. That for purposes of the California Environmental Quality Act, Case No. TTM 01-00/CUP 73-00/CDP 117-00R is subject to a Mitigated Negative Declaration based on aesthetics, biological resources, cultural resources, water quality and drainage, recreation, and transportation/circulation issues. Any potential impacts associated with the proposed development will be brought to a less than significant level through project conditions and the mitigation measures and associated monitoring requirements incorporated by the Applicant into the project as noted in the Mitigated Negative Declaration (MND). The Planning Commission and City Council have considered the contents of the Initial Study and MND and all public comments provided during the public review process and concluded that there is no substantial evidence that the project will have a significant effect on the environment and that the MND reflects the City's independent judgement and analysis of this project.
- B. The custodian of documents and a record of proceedings upon which this decision is based are in the keeping of the City Clerk of the City of Morro Bay.

Subdivision Review Board Findings

- C. That the Subdivision Review Board has found the completeness and accuracy of the tentative maps and ancillary reports and the suitability of the land for purposes of subdivisions.
- D. That the Subdivision Review Board has found the overall design of the subdivision complete and in compliance with all pertinent requirements of the Subdivision Map Act, Zoning Ordinance, General Plan, and Local Coastal Plan.
- E. That the Subdivision Review Board has found provisions for and suitability of street improvements, underground utilities, fire hydrants, street lights, storm drains, streets, trees, sidewalks, including adequacy of the water supply, sewage disposal, and easements for utilities and drainage.
- F. That the Subdivision Review Board has found provisions for public areas including parks, public utility facilities.

Conditional Use Permit Findings

- G. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood in that the 30-lot subdivision is a permitted use within the zoning district applicable to the project site and said structures will comply with all applicable project conditions and City regulations.
- H. The project will not be injurious or detrimental to property and improvements in the neighborhood and the general welfare of the City in that the 30-lot subdivision will provide a public benefit by dedicating the bluff parcel to the City as permanent open space.

- I. The project will not be detrimental to the health, safety, morals, comfort and general welfare of the City in that the 30-lot subdivision is a permitted use within the zoning district applicable to the project site and said structures will comply with all applicable project conditions and City regulations. The project has proposed amendments from the development standards of the primary zone as permitted by Section 17.40.030. As required by that section the applicant is proposing better design and other greater than normal public benefits. Better design and greater than normal public benefits of this project include:
 - a. Dedication of 1.22 acres of bluff top land beyond the .26 acres required for park land dedication through dedication of the bluff top parcel of 1.48 acres.
 - b. Improvements to the boat wash-down parking lot area at the bottom of the bluff to enhance visitor serving and coastal dependent uses in the area.
 - c. Contribution toward maintenance of existing public coastal access stairway(s) in the area.
 - d. Assisting in the acquisition of additional, permanent, community water supplies through a \$250,000 contribution toward the "Shandon Water" acquisition.
 - e. Upgrading of area drainage facilities beyond those required of the new development.
 - f. Excellent architectural design and superior architectural appearance from Main Street.

- J. With approval of the Concept Plan, including funding offered by the applicant for acquisition of additional water resources, the applicant may develop the property and the three off-site affordable houses in a single phase in the year that development will commence on the interior parcel.

- K. With approval of the Concept Plan, the Planning Commission finds that allowing the modification of development standards is validated by the "greater than normal" public benefits proposed.

Coastal Development Permit Finding

- L. The concept plan approval is consistent with the applicable provisions of the certified local coastal program because the development does not conflict with coastal policies and specifically implements the following coastal policies:
 - a. Policy 1.03: the bluff top parcel to be dedicated to the City of Morro Bay preserves vistas of the coast and improvements to right-of-ways to help implement bicycle circulation through the city.
 - b. Policy 1.07A: On site parking is required for each residence.
 - c. Policy 2.01: Low-cost visitor serving facility is provided with the dedication of the bluff parcel to public use and provision of public parking adjacent to the bluff.

EXHIBIT B: REVISED CONDITIONS OF APPROVAL
(TTM 01-00, CUP 73-00 & CDP 117-00R)

STANDARD CONDITIONS

1. Project Description: Approval of this application is for the Concept Plan, Tentative Tract Map, and Coastal Development Permit only. This permit is granted for the land described in the staff report referenced above, dated July 16, 2001 for the projects depicted on the attached plans labeled "Exhibit C" April 23, 2001 and on file with the Public Services Department, as modified by these conditions of approval. The project is described as follows:

A Concept Plan for a Tentative Tract Map, Conditional Use Permit, and Coastal Development Permit for the establishment of a 30-lot subdivision for 30 single family detached homes with attached garages, one new private street, along with the dedication of a bluff-top lot to the City of Morro Bay for the purposes of permanent open space. This approval includes the following Exceptions/Modifications/Abandonments and Greater than Normal Public Benefits pursuant to Section 17.40.030 D MBMC:

Planning Exceptions/Modifications & Abandonments	Greater than Normal Public Benefits
<ul style="list-style-type: none"> • <i>Lot sizes:</i> Minimum proposed area 3,583 s.f., minimum required area by Ordinance 6,000 s.f. • <i>Lot Dimensions:</i> Minimum proposed width and depth 42 feet & 75 feet; Minimum required width and depth by Ordinance 40 feet and 90 feet (average). • <i>Setbacks:</i> <u>Minimum Proposed:</u> Front (7.5 feet) and Exterior Side (5 feet); <u>Minimum required by Ordinance:</u> Front (20 feet), Exterior Side (10 feet); • <i>Private Street</i> with reduced width: Standard City right of way 56 feet+; Proposed private street easement 38 feet. • <i>Right-of-way abandonments</i> along Morro Avenue (variable to 27 feet); Olive Street (9 feet); South Street (4 feet). • <i>Loss of 11 to 19 on-street parking spaces</i> along east side of Morro Avenue (depending on final parking design) • <i>Construction in a single phase</i> rather than limited to 13 units per year (25% of annual Measure F permit allocation) 	<ul style="list-style-type: none"> • Dedication of 1.48 acre bluff parcel to the City (of which .26 acre would have been required by Ordinance) • Reconstruction and Expansion of the Boat wash-down parking lot area • \$250,000 payment toward acquisition of water prior to final map recordation. • Upgrade area drainage facilities to account for surrounding development • Excellent architectural design

2. Permit: This Concept Plan approval is granted for the land described in the staff report, referenced above, and all attachments thereto, and as shown on the attached exhibits, and on file with the Planning and Building Department.

3. Precise Plan Approval Required Within One Year: Unless a complete application for a Precise Plan is submitted to the City and approved within one year of City Council approval, this concept plan shall automatically become null and void; provided, however, that upon the written request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Public Services Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan, Subdivision Map Act and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
4. Changes: Any minor change may be approved by the Public Services Director. Any substantial change will require the filing of an application for an amendment to be reviewed by the Planning Commission.
5. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
6. Compliance with Conditions: By issuance of building permits for the proposed use or development, the owner or designee accepts and agrees to comply with all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Public Services Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
7. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the Zoning Ordinance, Subdivision Map Act, certified Coastal Land Use plan and General Plan for the City of Morro Bay.
8. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
9. Water Saving Devices: Prior to final occupancy clearance, water saving devices shall be installed in the project in accordance with the policies of the Morro Bay Coastal Land Use Plan and as approved by the Building Official.
10. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view in a manner approved by the Director of Public Services. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

11. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. daily, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.
12. Exterior Lighting: Pursuant to MBMC Section 17.52.080, prior to building permit issuance, complete details of all exterior lighting shall be shown on the project plans for review and approval by the Director of Public Services. All exterior lighting shall be low level with a height of fixture not to exceed a maximum of 20 feet and shall achieve the following objectives; avoid interference with reasonable use of adjoining properties; shielded to minimize on-site and off-site glare; provide adequate on-site lighting; limit fixture height to avoid excessive illumination; provide structures which are compatible with the total design of the proposed facility.
13. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and wind blown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.
14. UBC Compliance. All setbacks and openings in exterior walls shall comply with all provisions of the 1994 UBC. Occupancy separation as per Section 310.2.2, 1994 UBC.
15. Applicable Codes. Codes currently in use are:
 - UBC - 1994
 - UMC - 1994
 - UPC - 1994
 - NEC - 1993

PLANNING CONDITIONS

16. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Public Services Director.
17. Conceptual Bluff Planting Plan Prior to the approval of the Precise Plan, the owner or designee shall submit to the Director of Public Services or designee, a revised Conceptual Bluff Planting Plan reflecting the replacement of the tree plantings as required by the Subdivision Review Board. All tree replacements on both parcels shall be a minimum 24 inch box or greater.
18. a) There shall be no development west of the toe of the bluff below the bluff parcel adjacent to the boat was-down area. b) Prior to final map recordation, the applicant shall submit a letter of agreement to improve existing public access stairway(s) to the satisfaction of the Director of Recreation and Parks.

19. Air Pollution Control District (APCD) Standards: Based on input from the APCD through the environmental review process, the following are to be adhered to by the owner or designee:
- a. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible.
 - b. All dirt stock-pile areas should be sprayed daily as needed.
 - c. Permanent dust control measures should be implemented as soon as possible following completion of any soil disturbing activities.
 - d. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
 - e. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
20. Affordable Housing: Prior to issuance of occupancy clearance for the last 3 lots of the development, the owner or designee shall provide proof of final building inspections for all 3 off-site affordable housing units. In the case that the owner or designee cannot find off-site affordable housing, then the owner or designee shall choose 3 lots within the proposed development that shall be dedicated for low-moderate income housing. The 3 housing units shall have an affordable housing deed restriction to the satisfaction of the City Attorney, which will require that these units be rented or sold to low and/or moderate income households for a period of not less than 30 years. All units must contain 3 bedrooms, 2 bathrooms, with a 2-car garage
21. CC&R's: Prior to recordation of final map, the owner or designee shall submit to the City Attorney, draft Conditions, Covenants, and Restrictions (CC&R's) for the proposed subdivision.
- a. The CC&R's shall contain restrictions prohibiting wood-burning fireplaces. Non-wood burning fireplaces shall be permitted.
 - b. The CC&R's shall contain provisions providing exclusive use easements for zero lot line side yards areas between the property lines and the walls of adjacent homes for Lots 1-10. The existence of zero lot lines shall be disclosed to prospective home buyers of Lots 1-10, and be in all purchase documents.
 - c. The CC&R's shall contain a restriction against converting or enclosing porch, entryways, and deck areas into living areas that are within required front yard setbacks.
 - d. The CC&R's shall include provisions for ongoing maintenance of any and all common areas and private streets.

22. Morro Avenue: a) The Precise Plan and related public improvement plans shall specify that public street improvements to the Morro Avenue section shall one 7-foot parking lane (west side), two 5-foot class II bike lanes, two 11-foot motor vehicle lanes, and two 6-foot wide sidewalks b) Upon review & acceptance of the bluff parcel dedication by the City Council in conjunction with final subdivision map approval, the partial abandonment of the Morro Avenue right-of-way shall be executed per City ordinance requirements.

PUBLIC WORKS CONDITIONS

23. Engineering Checking and Inspection Agreement: Prior to first plan check submittal to the Engineering Division the Applicant shall enter into this agreement for reimbursement to the City Engineering Division for the direct cost of checking, inspection, and other services which may be required by the contract City Engineer.
24. Fees: Fees shall be paid at the Public Services Department, Engineering Division. (Make checks payable to the City of Morro Bay)
25. Encroachment Permits: Are issued at the Public Services Department by the Engineering Division, prior to construction in or use of land in the City right-of-way and may be required prior to map recordation, building permit issuance, or as required by the City.

Standard Encroachment Permit, Required for standard construction per City standard specifications. Current fee \$71.82.

Special Encroachment Permit,

Required for non-standard work or encroachments in the City right-of-way. The owner submits a completed Special Encroachment Permit, including drawings, notarization and insurance indemnifying the City. After review, approval, and recordation, the Permit and insurance requirements continue with the current and future owners. Current fee \$35.91 plus applicable direct costs checking, administration, and recording.

Sewer Encroachment Permit,

Required for sewer work in the City right-of-way. Current fee \$71.82.

26. Repair & Replacement of Public Improvements: Prior to project completion the Applicant shall repair curb, gutter, street, or other public improvements which were damaged as a result of construction operations for this project.
27. Drainage: Route roof and site runoff in conduit under sidewalk through curb to the street in a non-erosive manner and do not concentrate runoff onto adjacent properties.
28. Water Backflow Prevention Device: If required, the Applicant is responsible for the installation of an approved domestic water backflow prevention device per MBMC chapter 13.08. Devices are generally not required for single family homes. Devices are usually required for irrigation systems on a dedicated water meter; systems which use may change in character of use (commercial rentals, etc.); gray water systems; or any plumbing system which has cross-connections or the ability to allow water of deteriorated sanitary quality to enter the public water supply. The installation shall occur prior to building permit completion approval by the City.

Should the Applicant need further information, the City's contracted inspection provider can be reached at: (805) 781-5544, Office of Cross-Connection Inspector, S.L.O. County Health Agency, 2156 Sierra Way, San Luis Obispo, Ca. 93406.

29. Off-Site Public Improvements: Are required as set forth in MBMC Section 14.44. Prior to final map recordation, the Applicant shall (1) submit public improvement plans prepared by a civil engineer registered in California, (2) include the general notes provided by the City upon the improvement plans, (3) submit cost estimates calculated on the City provided Engineering Estimate Worksheet of the off-site improvements for review by the City Engineer, (4) construct the following improvements as required by Morro Bay Municipal Code Title 16 Subdivisions:
- a. street, curb, gutter, sidewalk;
 - b. fire hydrants;
 - c. a standard drive approach to serve each lot;
 - d. water, sewer and other utility lines to serve each lot;
 - e. sewer laterals to each lot stubbed to property line;
 - f. silt basins or erosion control;
 - g. paved streets;
 - h. ornamental street lights;
 - i. street trees;
 - j. street signs;
 - k. street end barricades, walls or fencing;
 - l. stop or yield signs;
 - m. traffic striping and pavement marking;
 - n. underground utility lines;
 - o. grading and drainage improvements;
 - p. repair or replacement of existing public improvements which are in need of repair, or do not meet City specifications;
 - q. dedications.

If, at the time of approval of the final map, any required public improvements have not been completed and accepted by the City, the Owner shall be required to enter into a Subdivision Agreement with the City in accordance with the Subdivision Map Act, prior to recordation. The Owner shall also be required to post securities for public improvements in accordance with the Subdivision Map Act and for grading in accordance with the Section 3311 of Appendix Chapter 33 of the California Building Code, 1998 Edition. This bond shall be of sufficient amount to ensure completion of the public improvements and on-site grading and drainage facilities.

Bonds required and the amount shall be as follows:

Performance Bond.....100% of improvement costs
Labor and Materials Bond.....50% of performance bond

30. Improvement Plans: All improvement plans shall be prepared by a registered civil engineer in a format acceptable to the City Engineer and shall be submitted to the City Engineer for approval. The improvements shall be designed and constructed to City Standards and Specifications.
31. Composite Utility Plan: The applicant shall submit a composite utility plan signed as approved by a representative of each public utility, together with the improvement plans. The composite utility plan shall also be signed by the Fire Department and by the Water, Wastewater Collection, and Streets Divisions.

32. Off-site Drainage Improvements & Storm Drain Master Plan Fee: The City's Storm Drain Master Plan states the City's intent to construct storm drain Projects Number 16. The northern portion of the site is directly tributary to Projects 16. Prior to building permit issuance, the applicant shall submit calculations based on a 25 year storm (rational formula $Q=CIA$ is acceptable) and pay a fee to the City proportionate to the incremental increase in drainage flow to Projects 16 resulting from construction of the proposed project. Said fee shall be paid prior to the issuance of a building permit.
33. City Water, Sewer and Storm Drain Systems
The Applicant shall construct all on-site and off-site improvements adequately sized as necessary at no cost to the City. Any relocation of existing systems shall be subject to the approval of the Engineering Division and be within easements dedicated by the applicant and accepted by the City.
34. Oil-Water Separator and Sediment Containment
To reduce pollution to bay and ocean waters, the applicant shall install oil-water separators and sediment containment devices on site, or in an area that will capture total site runoff. Inlet and/or outlet structure design shall address silt and hydrocarbon containment and be approved by the City.
35. Water Pressure Reducer: Water pressure reducers shall be installed on private property for the proposed homes.
36. Sewer Backwater Valve: The sewer laterals shall be provided with a backwater valve on private property to prevent a blockage of the municipal sewer main from causing damage to the proposed project.
37. Sewer Master Plan Impact Fee: Prior to the issuance of a building permit, the applicant shall pay to the City an impact fee toward the construction of municipal sewer improvements as determined by the Public Works Department in accordance with the Sewer System Master Plan. The on-site sewage lift station and piping system shall be capable of handling the increases from the proposed project.
38. Traffic Engineering Study Report & Impact Fee: A traffic study shall be submitted analyzing the increased peak hour and daily traffic volumes resulting from this project at: the Morro Bay Blvd. and Quintana Road intersection, the Radcliff area including off-ramps to Main Street from Highway One; and the South Bay Blvd. and State Park road intersection. A fee shall be paid, prior to building permit issuance, proportionate to the percentage increase in peak traffic flows at these locations generated by the proposed project as determined by the Engineering Division based on information contained in the traffic study report.
39. Final Tract Map fee: \$102.60 fee. Pursuant to the City's Master Fee Schedule, the Applicant shall pay a Final Map Fee of \$102.60 + direct costs for services by the contract City Engineer.
40. Grading & Drainage Plan: A complete grading and drainage plan prepared by a registered civil engineer shall be included with the improvement plans. Drainage calculations shall be submitted with the drainage plan which demonstrate that the proposed on-site drainage facilities will handle the peak runoff from a 25-year storm.

Surface disposal of drainage over sidewalks or driveways is prohibited. Said drainage plan shall ensure that all street, parking area and lot drainage is directed to an approved location. The Applicant shall construct on-site inlets and through-curb drainage facilities in accordance with City standards. Proposed drainage easements to be utilized across adjoining parcels for the purpose of draining storm water from the site to an approved location shall be recorded and included with the first Drainage Plan submittal.

41. Encroachment Permits: Are issued at the Department of Public Works, 695 Harbor Street, prior to construction in or use of land in the City right-of-way.
--Standard Encroachment Permit,
Required for standard construction per City standard specifications. Current fee \$71.82
--Special Encroachment Permit,
Required for non-standard work or encroachments in the City right-of-way. Current fee \$35.91 plus applicable direct costs checking, administration, and recording.
--Sewer Encroachment Permit,
Required for sewer work in the City right-of-way. Current fee \$71.82
42. Street Trees: Installation or removal of trees in the city right of way shall be pursuant to MBMC Chapter 12.08 and the Standard Drawings and Specifications of the City of Morro Bay Department of Public Works.
43. Grading/Erosion Provisions: If grading operations extend into the rainy season, November 1 through March 31, erosion and sedimentation control measures shall provide protection against erosion of adjacent property and prevent sediment or debris from entering the City right-of-way or roadway, adjacent properties, any harbor, waterway, or ecologically sensitive area.
44. Sewer Protection: During the existing structure demolition, the sanitary sewer lateral shall be sealed.

FIRE DEPARTMENT CONDITIONS

45. Building and Address Identification: Approved address numbers shall be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall clearly contrast with their background. The characters shall be a minimum of 5" high with a ½ " stroke.
46. Roads shall have all-weather driving surfaces rated by a soil engineer to be capable of supporting fire apparatus weighing 60,000 lbs. [UFC 902.2.2.2]
47. Roads, which have less than 28' in clear width, shall have all curbs painted red or provide appropriate red-stripping at least 6" wide with "Fire Lane - No Parking" stenciled every 20' to maintain 20' minimum unobstructed width. [UFC 901.4.2]
48. Access roads shall be unobstructed and not less than 20 feet in width, shall have a minimum 30 feet turning radius and shall have a minimum of 13.5 feet of vertical clearance, including trees and wires.
49. Approved address numbers shall be placed on all new & existing buildings in such a position as to be plainly visible and legible from the middle of the street fronting the

property. Numbers shall be a minimum of 5" high x 1/2" stroke and be on a contrasting background. [UFC, Sec. 901.4.4]

50. The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire-flow shall be provided on the public street or on the site of the premises to be protected as required and approved by the chief. All hydrants shall be accessible to the fire department apparatus by roadways meeting the requirements of Section 902. [UFC 903.4.2]
 - a. Fire-hydrant spacing is a function of accessibility and required hydrant density as related to the fire-flow. Where practical, all fire hydrants shall be placed within 10' of street intersections. If the distance to the intersection exceeds the allowed distance to a hydrant, a hydrant will be placed at the closest intersection and mid-block. Fire hydrants shall be located and distributed per FC, Appendix III-A & III-B.
51. When fire protection facilities are to be installed by the developer, such facilities including all surface access roads shall be installed and made serviceable prior to and during the time of construction [UFC 10.502]
52. An approved automatic sprinkler system designed to NFPA 13-D shall be provided in each unit.

ENVIRONMENTAL

53. Aesthetics: Setbacks, height, and elevations for all 30 homes shall be approved by the Planning Commission and City Council.

When: During plan check
Monitored by: Public Services Department

54. Biological Resources: The Phase I Biological Survey identified the bluff parcel as an autumn habitat, not an over-wintering site. The applicant shall enhance the Monarch habitat on the bluff parcel in accordance with the recommendations of the project biologist. The tree density of the proposed habitat enhancement on the bluff parcel will be 50% greater than the current habitat in the interior parcel. The majority of the trees to be planted include two species that are often the "signature species" dominant vegetation found throughout California Monarch habitats.

When: During plan check
Monitored by: Dennis Frey, Ecologist, recommends in his report, a two-phase monitoring program for the bluff parcel. The first phase is a short-term (up to 3 months) monitoring program during the surveying, grading, and planting processes. Phase two is a long-term (up to 2 years) monitoring program to ensure the successful establishment and growth of the plants. The applicant shall be responsible for the establishment, monitoring and maintenance of the plantings. Prior to final map recordation, the applicant shall post a financial assurance with the City to the satisfaction of the Director of Public Services to secure performance of this condition.

The applicant shall be responsible for the planting and establishment for the plantings within the interior parcel's developed lots. Upon the sale of individual lots, the new homeowner then becomes responsible for the maintenance of the plantings.

All pruning of existing trees will be monitored by a certified arborist in the field. All work to be verified by a certified arborist, and Public Services Department personnel in the field.

55. Cultural Resources: Any archaeological resources discovered during construction shall be protected in accordance with Morro Bay Zoning Ordinance 17.48.310 C2. An archaeological monitor shall be present during initial stripping, grubbing, or other ground disturbance in the area of the coastal bluff to make sure that no buried cultural materials are impacted.

When: At time of construction.

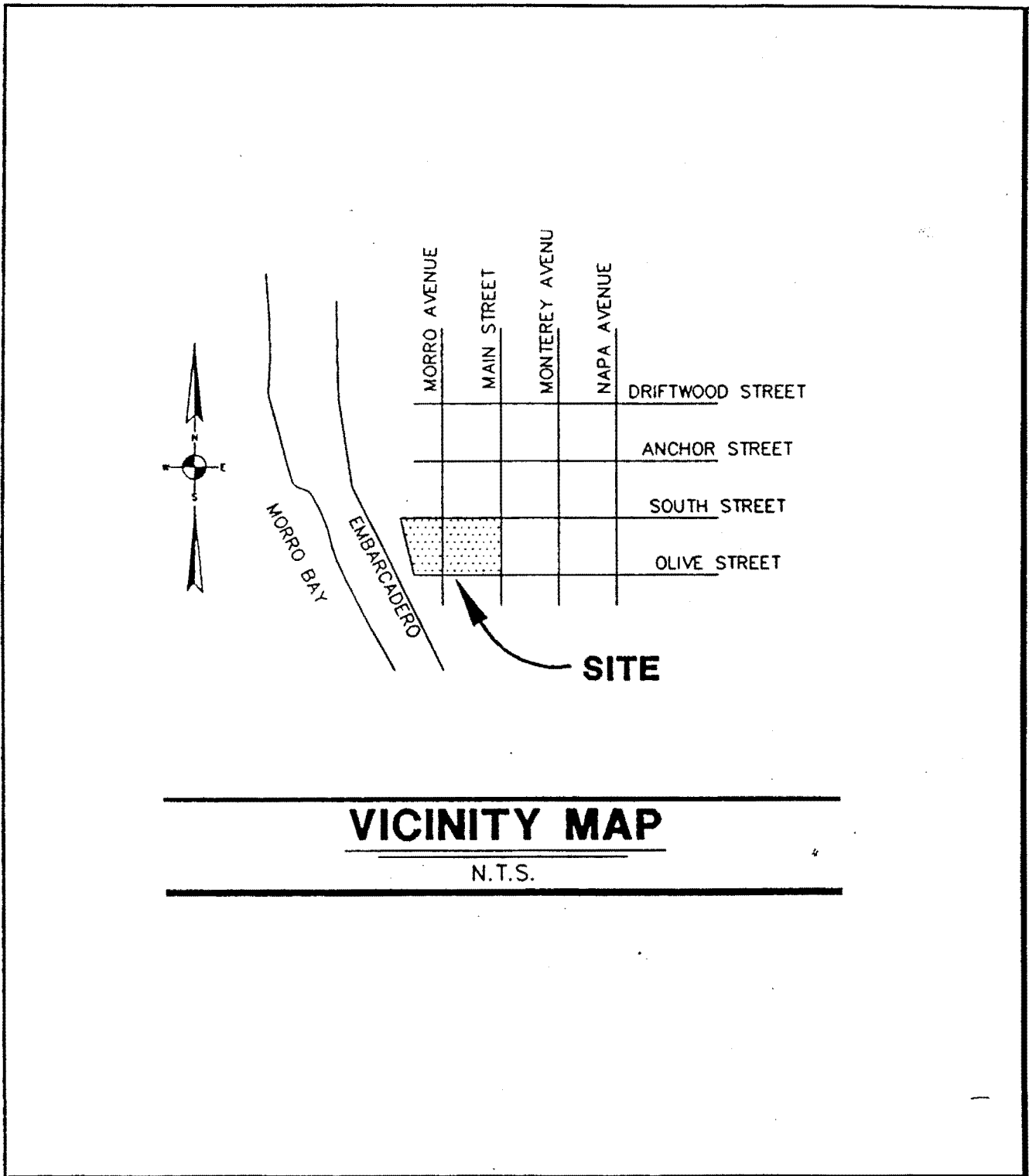
Monitored by: Through a cultural resource monitor.

56. Hydrology/Water Quality: Based on drainage calculations conducted by EMK & Associates, the applicant shall install a storm drain system to the satisfaction of the City Engineer that will comply with the City's Storm Drain Master Plan. Prior to entering the new system, the storm water from the improved areas of the two lots will pass through oil, water, and sedimentation containment structures in drainage inlets along the west end of Olive Street & Morro Avenue, along with additional containment structures along the south side of South Street and the intersection of South Street and Morro Avenue. These containment structures will also be placed at the south side of South Street at the west corner of Morro Cove Road. The new storm drain system will handle storm water from the subject site along with other portions of the City.

When: Prior to final map recordation the applicant shall prepare and submit on and off-site drainage improvement plans to the Public Services Department for review and approval. Plan check & field inspection of engineering plans will ensure that this condition is implemented.

Monitoring: Public Services Dept.

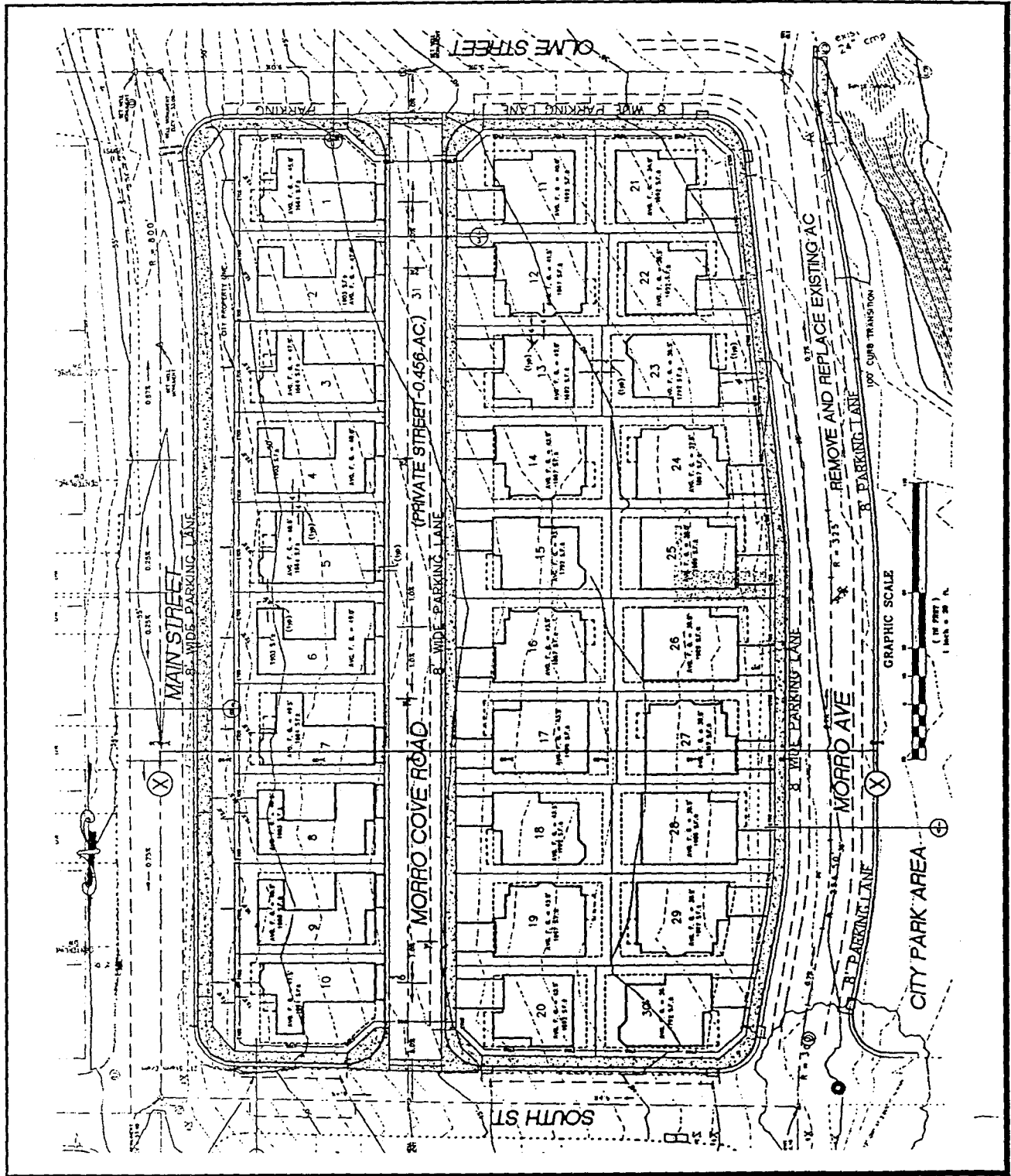
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VICINITY MAP

N.T.S.

SITE PLAN

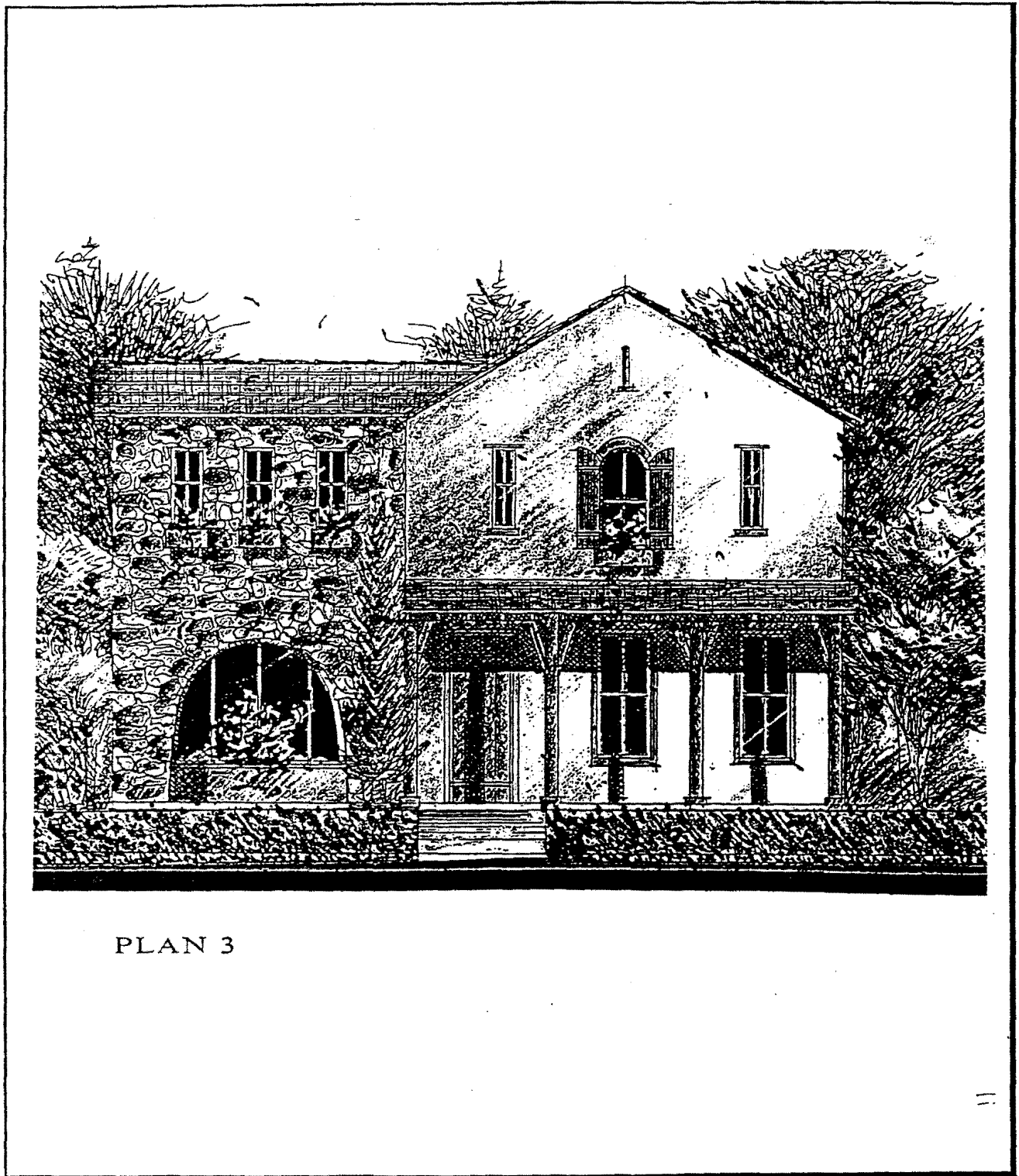


ELEVATIONS



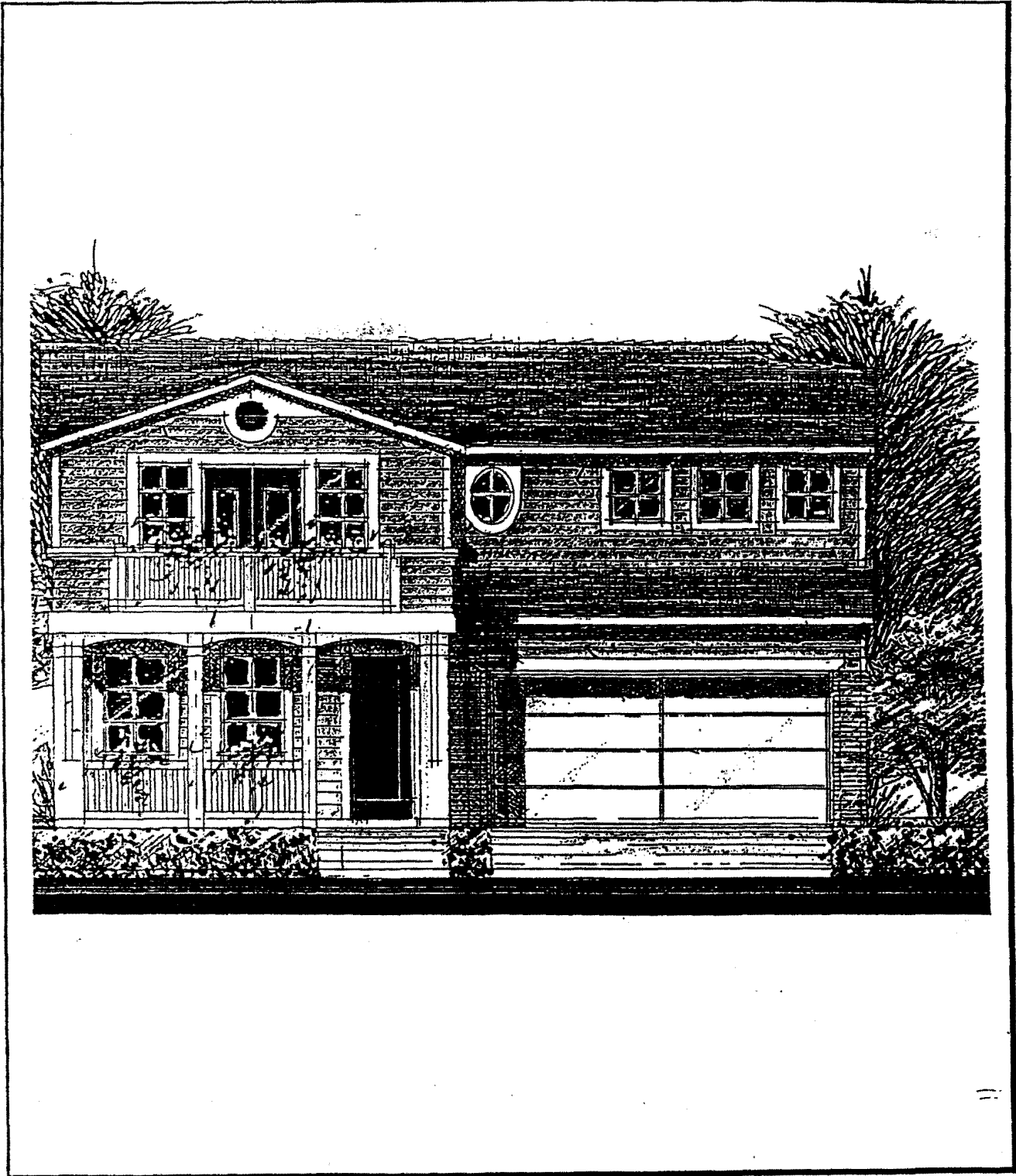
PLAN 2

ELEVATIONS

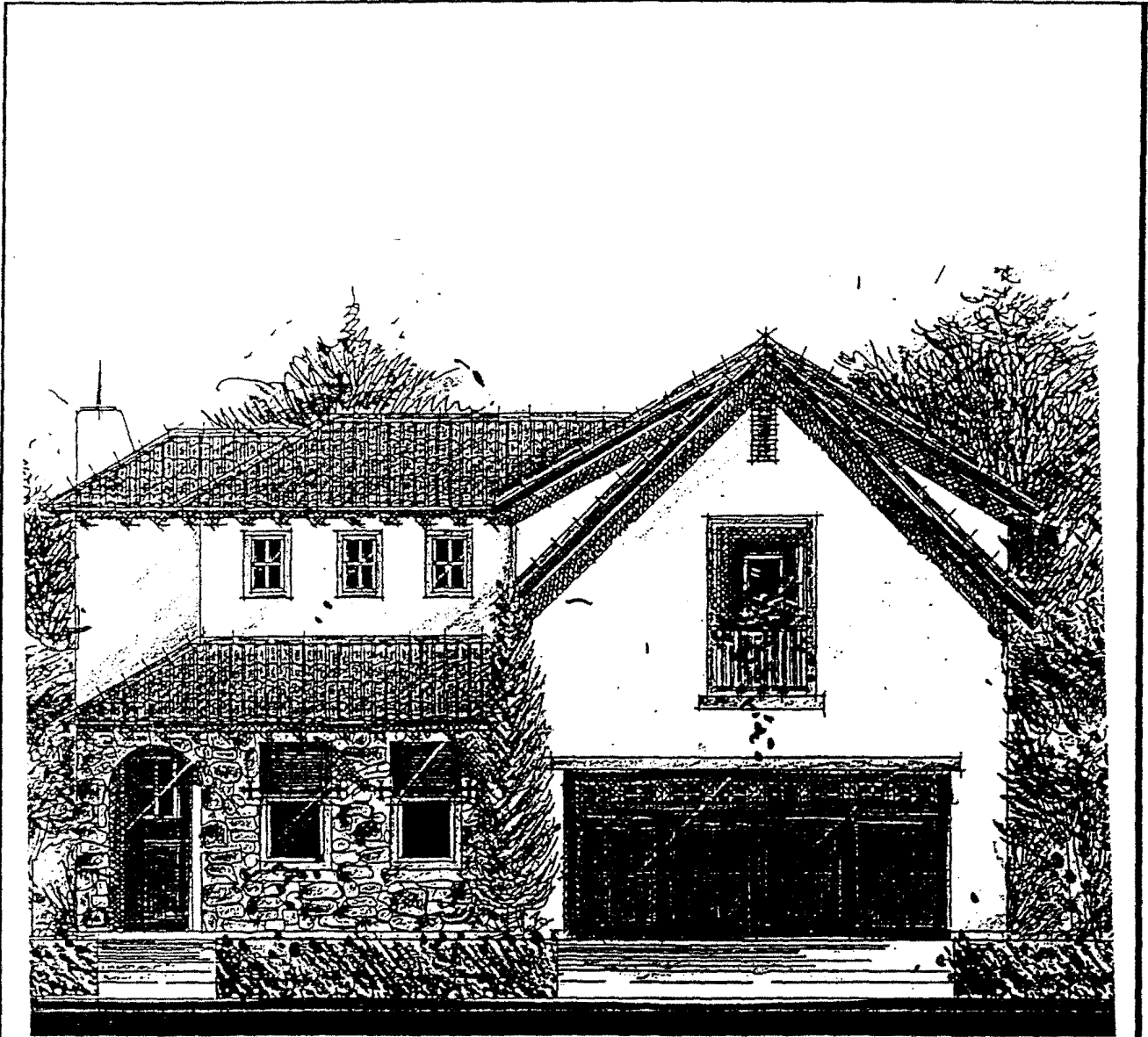


PLAN 3

ELEVATIONS



ELEVATIONS



PLAN 5

ELEVATIONS



PLAN 6

ELEVATIONS



PLAN 1

CITY OF MORRO BAY
NOTICE OF DETERMINATION

TO: San Luis Obispo Co. Clerk
County Government Center
San Luis Obispo CA 93401

FROM: City of Morro Bay
Public Services Department
590 Morro Bay Blvd
Morro Bay, CA 03442

Office of Planning & Research
1400 Tenth Street
Sacramento, CA 95814

Project Title: Colmer Subdivision

Project Location - Specific: Parcels surrounded by Morro Ave., Main St., Olive St., and South St.

Project Location - City: Morro Bay County: San Luis Obispo

Description of Project: A request for approval of a Concept Plan for a Tentative Tract Map, Conditional Use Permit, and Coastal Development Permit for the establishment of a 30-lot subdivision for 30 single family detached homes with attached garages, one new private street, along with the dedication of a bluff-top lot to the City of Morro Bay for the purposes of permanent open space.

Name of Public Agency Approving the Project: City of Morro Bay

Name of Person or Agency Carrying Out Project: Wayne Colmer

2001061107

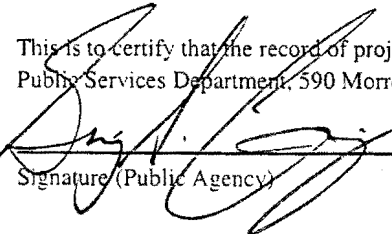
State Clearinghouse Number (If Submitted)

Lead Agency Contact Person Greig S. Cummings
Telephone No. (805) 772-6261

This is to advise that the City of Morro Bay has approved the above described project on September 10, 2001, and has made the following determinations regarding the above described project:

1. The project will will not have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. A Negative Declaration was filed for this project pursuant to the provisions of CEQA.
4. Mitigation measures were were not made a condition of the approval of the project.
5. A statement of Overriding Considerations was was not adopted for this project.
6. Findings were were not made pursuant to the provisions of CEQA.

This is to certify that the record of project approval and final EIR (if applicable) with comments and responses is available to the General Public at: Public Services Department, 590 Morro Bay Blvd., Morro Bay CA 93442


Signature (Public Agency)

9/11/01
Date

Title: Planning Manager

A-3-MRB-01-096
Colmer Development

Exhibit G
23 of 24

CALIFORNIA DEPARTMENT OF FISH AND GAME

CERTIFICATE OF FEE EXEMPTION

De Minimis Impact Finding

PROJECT TITLE & NUMBER: CDP 117-00R

Project Applicant: Wayne Colmer

PROJECT DESCRIPTION/LOCATION:

(See attached Notice of Determination)

FINDINGS OF EXEMPTION:

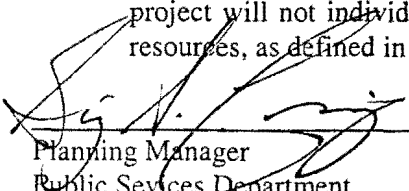
There is no evidence before this agency that the proposed project has the potential for adverse effect on wildlife resources for one or more of the following reason(s):

- The project is located in an urbanized area that does not contain substantial fish or wildlife resources or their habitat.
- The project is located in a highly disturbed area that does not contain substantial fish or wildlife resources or their habitat.
- The project is of a limited size and scope and is not located in close proximity to significant wildlife habitat.
- The applicable filing fees have/will be collected at the time of issuance of other City approvals for this project. Reference Document Name and No.

- Other: Mitigation Measures have been required as Conditions of Approval
(see attached Findings and Conditions)

CERTIFICATION:

I hereby certify that the public agency has made the above finding and that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.



Planning Manager
Public Services Department

9/11/01

Date

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.)

I am making this appeal because an inordinate number of exceptions to standards and policies are made for this project. The "Greater than Normal Public Benefits" proposed are not equal to but less than the losses.

Specifically,

- ① the project is inconsistent with the established physical scale of the area (Coastal Act 30603.b.3 and LUP Policy 12.01)
- ② It does not meet zoning standards for lot size, house size, road size (Adm. Report 9/6/01 page 1)
- ③ It fails to protect public views (Coastal Act 30603.b.2, and LUP Policy 12.01)
- ④ It may be creating geological instability (LUP Policy 9.02)
- ⑤ It violates City Ordinance Measure F, permit allocation.
- ⑥ It is inconsistent with General Plan Land Use and Housing Elements (Policies LU-26 and H-16) with regard to variety and affordability of a development of houses.
- ⑦ CEQA Findings have major omissions.

Please see attached pages for greater detail.

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.

Betty A. Winboldt
Signature of Appellant(s) or Authorized Agent

Date 9-30-01

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date 9-30-01
Colmer Development

Exhibit H
of 5

This project is "not in conformity with implementing actions of the certified local coastal program." (Section 30603 of the Coastal Act) Primarily, "The development is not compatible with the established physical scale of the area." (Section 30603.b.3) Potentially, "The development fails to protect public views from any public road...to...the coast." (Section 30603.b.2) Potentially, "The development does not comply with...geologic setback requirements." (Section 30603.b5) The City did not follow Policy 0.4 because the development does not comply "with all applicable Land Use Plan policies. (LUP, p.28)

This property is in Area 7 - Central Morro Bay. "The major coastal issues are limited to...visual and community character concerns. (LUP, p.15) "One of the priorities of the Coastal Act is the protection of the character of the community and its neighborhoods...new residential additions are often out of scale and character with other residences in the vicinity...the enjoyable qualities of the area should be preserved as much as possible." (LUP, pp.208-209)

What is the City's character? One description states "Morro Bay's image and character as a rural, small scale waterfront community." (LUP p.203)

The surrounding land use is zoned R-2 through R-4, and yet to the south and east are established single family homes except for one recently completed triplex (the last empty lot). To the north are single family homes, condominiums, and low income housing. (Initial Study and Checklist, June 11, 2001, p. 5)

Exhibit B (Adm. Report, Sept. 6, 2001, p.1) lists the exceptions to City standards which will intensify and add bulk to the development. These include three substandard lot adjustments, two substandard streets, three public streets with abandonments along them, loss of parking, and a construction phase which violates a City ordinance, Measure F.

The "Greater than Normal Public Benefits" are not greater than normal. (Exhibit B, p.1, Adm. Report, Sept. 6, 2001):

1. The "excellent architectural design" is no different from tract housing in San Luis Obispo. They are neither exceptional nor excellent.
2. The "upgrade area drainage facilities" are required regardless. (Policies 9.08, 9.10, and 9.12, LUP, pp.170-171)
3. The "\$250,000 payment toward acquisition of water" was challenged by the Planning Commission and not recommended to the City Council. City Council was also split, but passed it. If there was sentiment that sewer and water services are available (Policy 3.01, LUP, p.87), payment is unnecessary.

4. "Reconstruction and Expansion of the Boat wash-down" is a true benefit and addresses Policy 7.07b and e. (LUP, p.152) However, with a loss of parking on top of the bluff, it is unclear whether the added parking below the bluff is a benefit or a break even situation.

5. "Dedication of 1.48 acre bluff parcel" is misleading. City ordinance requires .26 acre regardless. In addition, the City is abandoning roughly .4 acre of public right-of-way for the developer's use. That's a net gain of .8 acre for the City.

In addition, Coastal Development Permit Finding L.a. states, "the bluff top parcel...preserves vistas of the coast..." (Exhibit A, Adm. Report, Sept. 6, 2001, p.2) However, this contradicts Condition 55 which states, "The tree density of the proposed habitat enhancement of the bluff parcel will be 50% greater than the current habitat..." (Exhibit B, p.10)

Also as a part of Condition 55, there will be grading, planting, and five years of watering on the bluff. (Biological Survey, Exhibit F, Planning Commission packet, July 16, 2001 p.5) This may bring Policy 9.02 into play. (LUP, p.168)

Another whole issue is housing. The LUP does not address it, but the General Plan Land Use and Housing Elements do. The second Objective of Residential Uses in the Land Use Element is "Maintain a character consistent with a village-like community usage." (General Plan, p.II-65) "Policy LU-26: New residential development should respond to the various housing needs by consisting of a variety of types." (GP, p.II-65) This development does not have a variety of types. The first Objective in the Housing Element is to "Provide a continuing supply of affordable housing...in all income categories." (GP, p.VII-53) Policy H-16 states, "The City will encourage the mixing of affordable housing through the community..." (GP, p.VII-62) This development does not want mixed housing. (Affordable Housing Feasibility letter from Colmer, July 23, 2001, last sentence of first page)

Lastly, I have a number of disagreements with how the CEQA Checklist was marked:

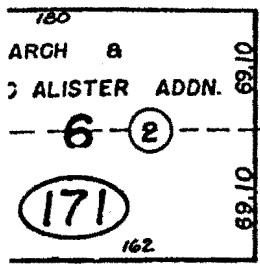
PAGE 1. Project Location omits the bluff parcel. Was CEQA not extended to this parcel? Development, as defined by Section 30106 of the Coastal Act, is taking place on this parcel.

PAGE 5. #10, #11, #13, and #15 need to be checked.

PAGE 6. #1c should be checked Significant because all 56 trees on the interior parcel and up to 4 on the bluff parcel are to be cut.

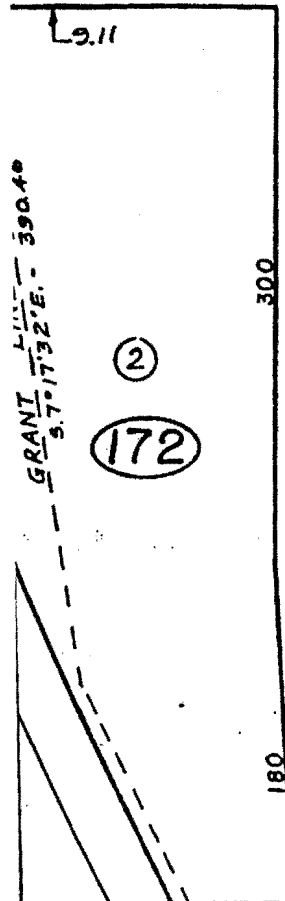
- PAGE 6. #1d should be checked Unknown Potential Significant because of new lighting on thirty lots plus street lights.
- PAGE 7. #4a should be checked Unknown Potential Significant because a report from 1998 mentions raptors which is not repeated in the current Administrative Report. The previous report states, "Take of any active raptor nest due to project implementation is considered a significant impact, and is prohibited under Fish and Game Code Section 3501.5. However, this impact can be avoided by implementation of appropriate measures..." These measures are not mentioned in any Condition.
- PAGE 9. #6c should be checked Unknown Potential Significant because the bluff could become unstable as a result of grading, planting, and watering.
- PAGE 10. #8c and #8d should be checked Potential Significant and Mitigated because more than 50% of the interior parcel, approximately 1.5 acres, will be paved over.
(Condition 57)
- #9a should be checked Unknown Potential Significant because of the two-story wall effect on all four sides of the interior parcel.
- PAGE 12. #10c should be checked Unknown Potential Significant because a permanent increase in ambient noise level is created when adding 30 homes to a vacant area.
- #10d should be checked Significant because it is not single family projects, but 30 houses in a single phase.
- #11c should be checked Unknown Potential Significant because adding 30 homes where there is currently one is substantial growth.
- PAGE 14. #14f should be checked Significant because of the loss of 11-19 street parking places unmitigated.
- #15c should be checked Potential Significant and Mitigated because of Conditions 33 and 34.
- PAGE 15. #15d should be checked Potential Significant and Mitigated because of \$250,000 payment for water.
- PAGE 17. Potential to Degrade should be checked Potential Significant and Mitigated because a number of items are being mitigated.

Cumulative should be checked Unknown Potential Significant because no discussion is included on impacts in conjunction with other projects: past, present, or future. The most current and large scale would be the Cloisters, and in the future the Texaco property. Accumulation in the areas of Public Service, Transportation/Circulation, and Utilities and Service Systems need to be examined.

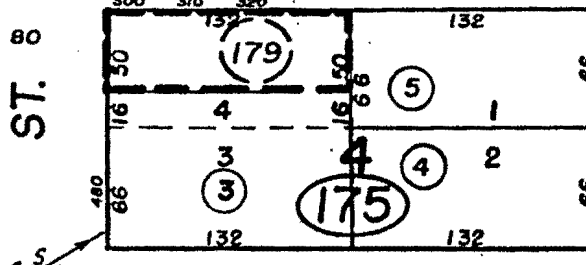
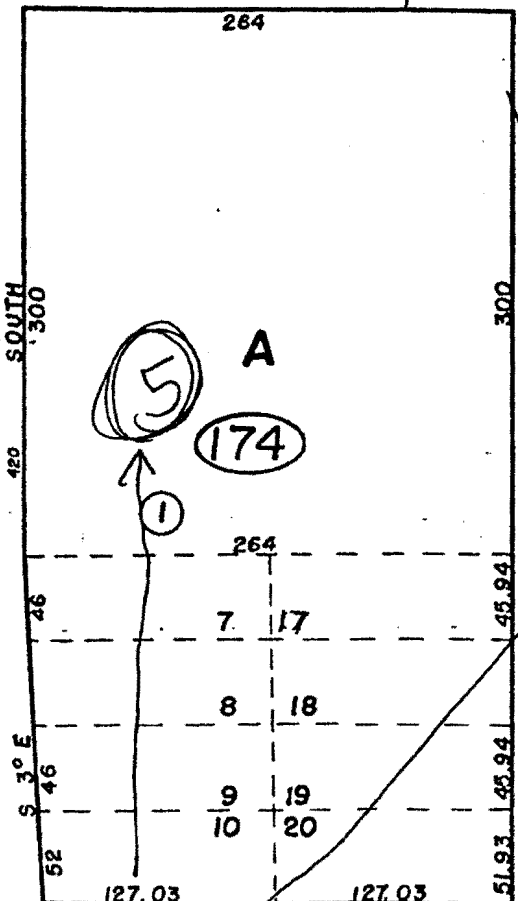


AVE.

SOUTH

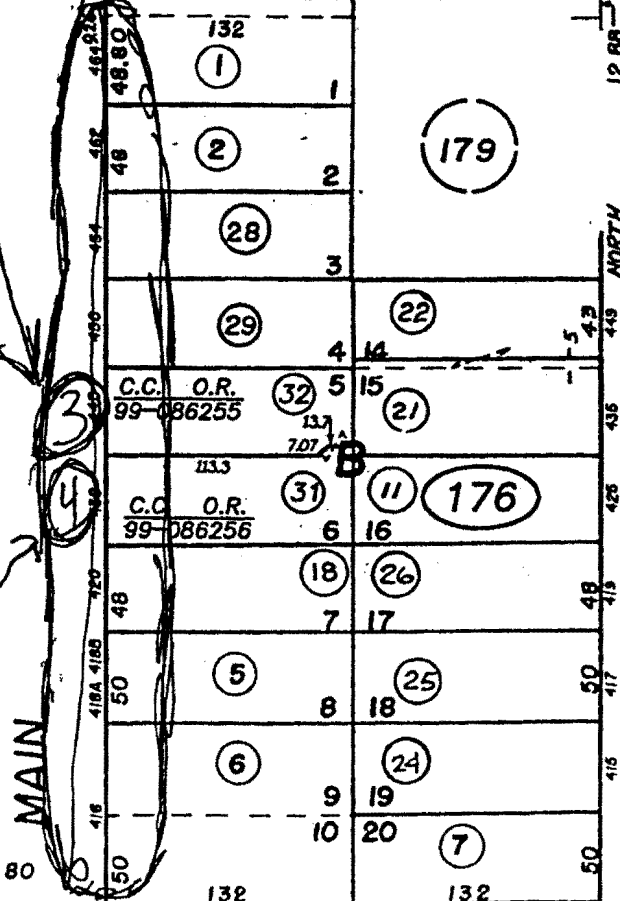


MORRO



AVE.

ST.



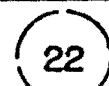
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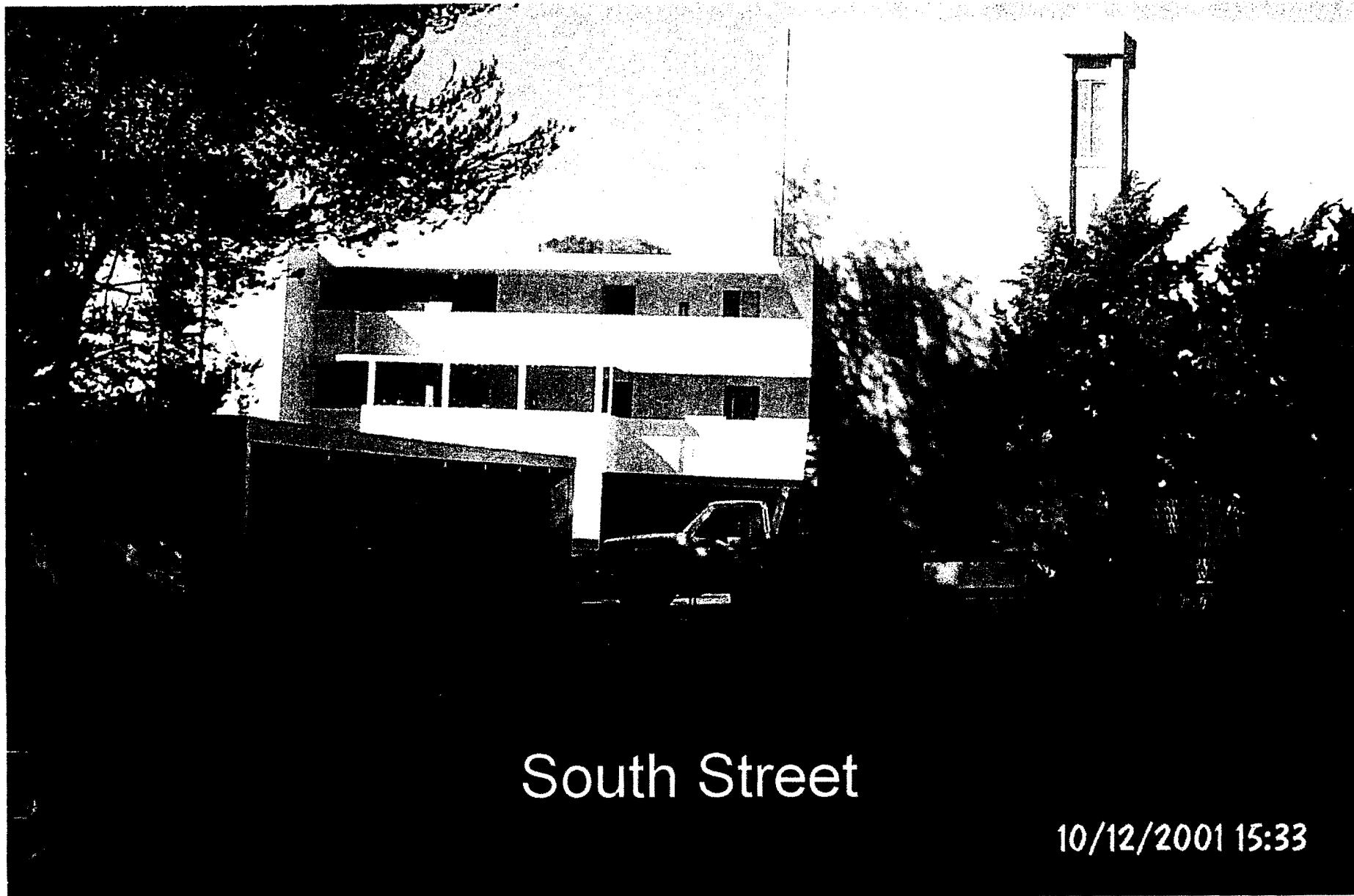
MONTEREY

CERRITO ADDN.

ST.

OLIVE





South Street

10/12/2001 15:33

Exhibit J
Photo 1- Looking North from Northeast Corner of Interior Lot.
Colmer Appeal
-MCO-01-087

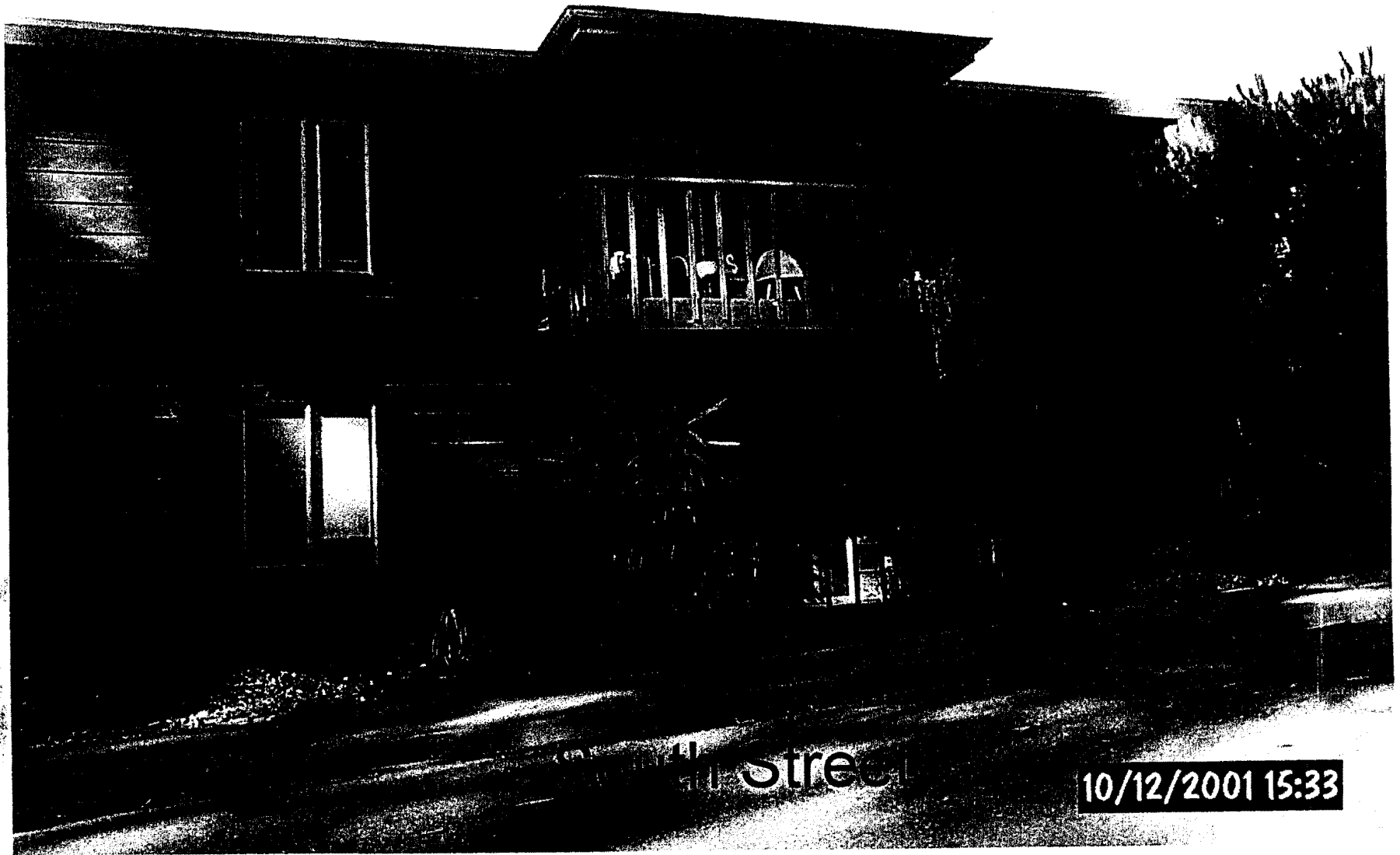
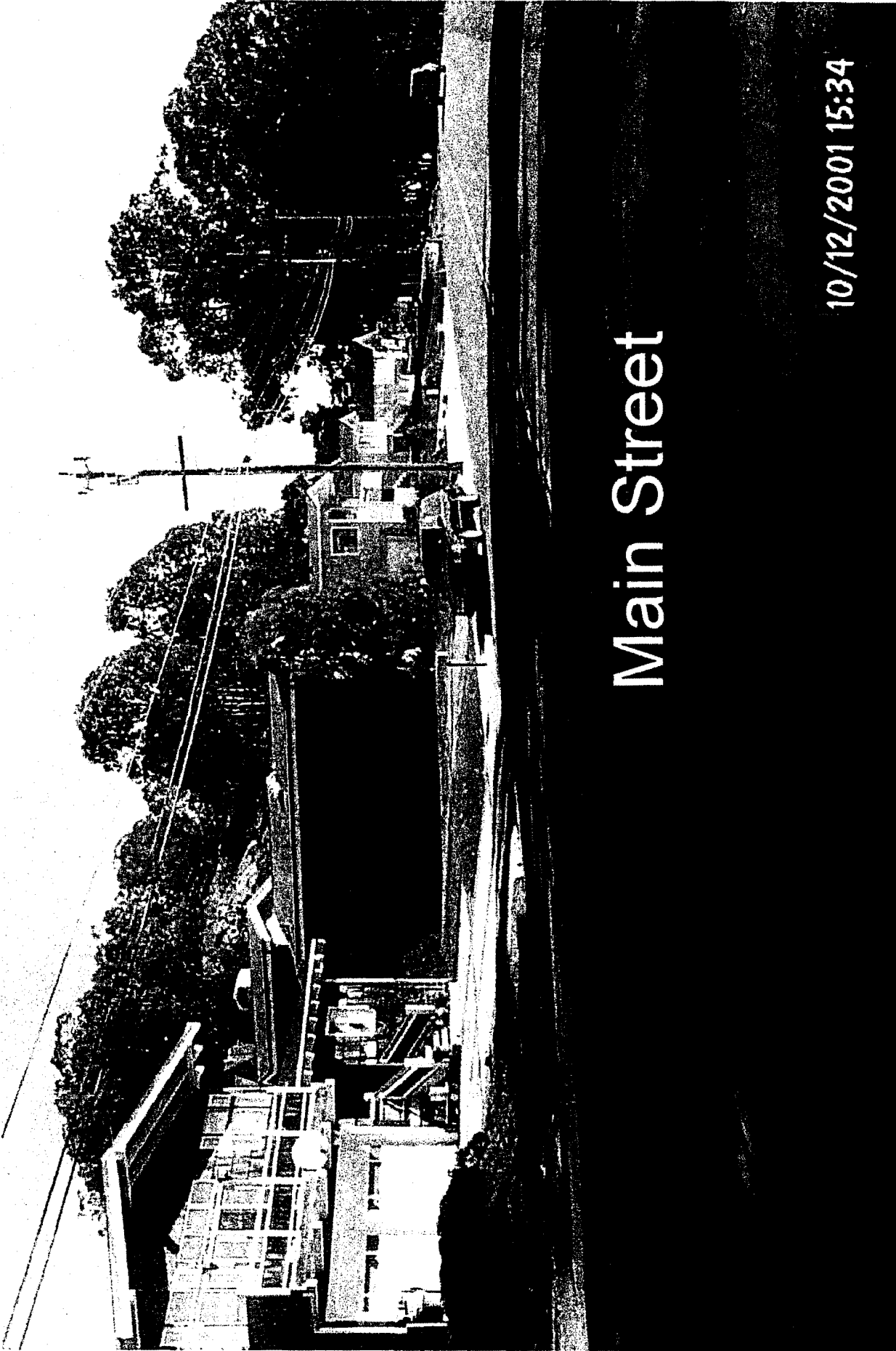


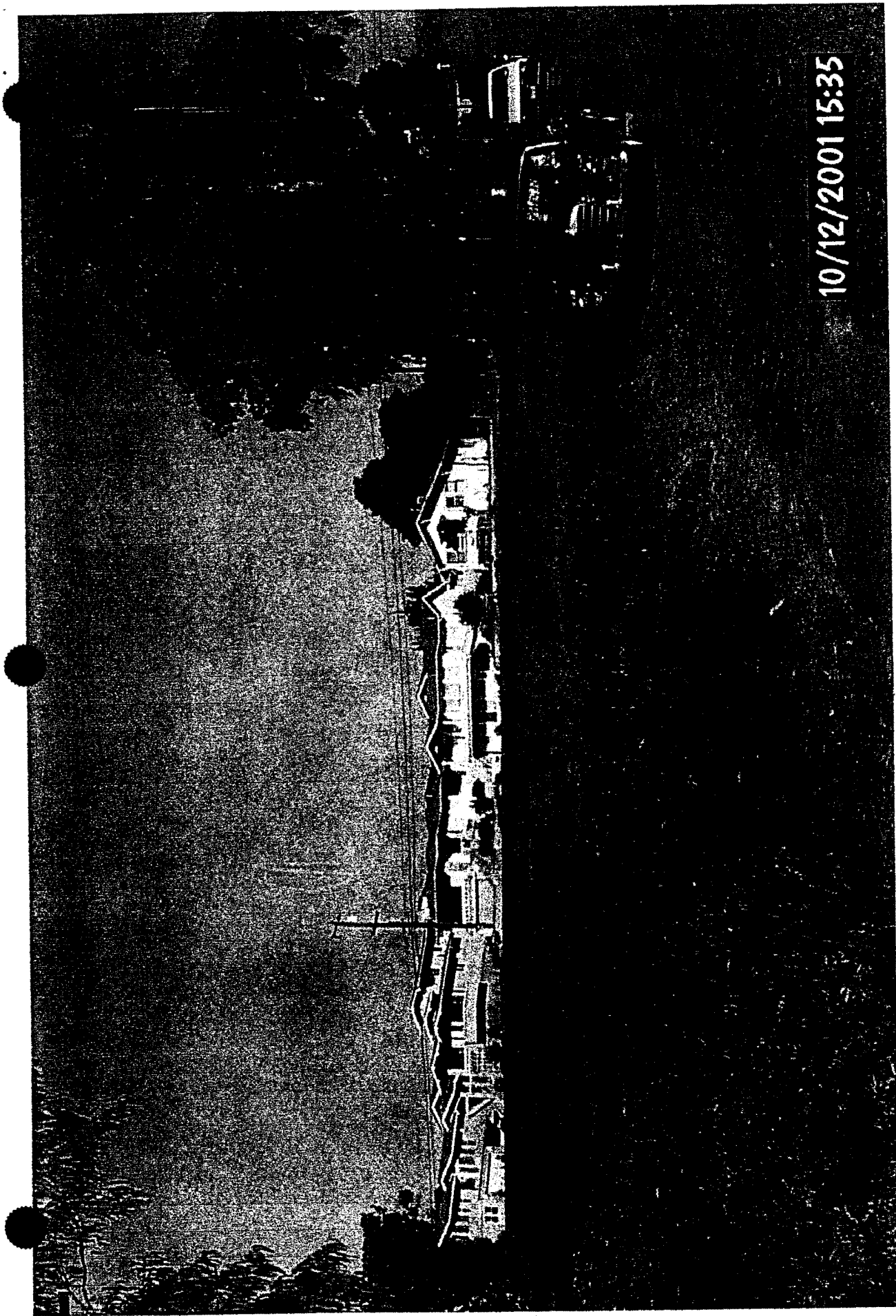
Exhibit J
Photo 2- Looking North from Northwest Corner of Interior Lot.
Colmer Appeal
A-3-MCO-01-087



Main Street

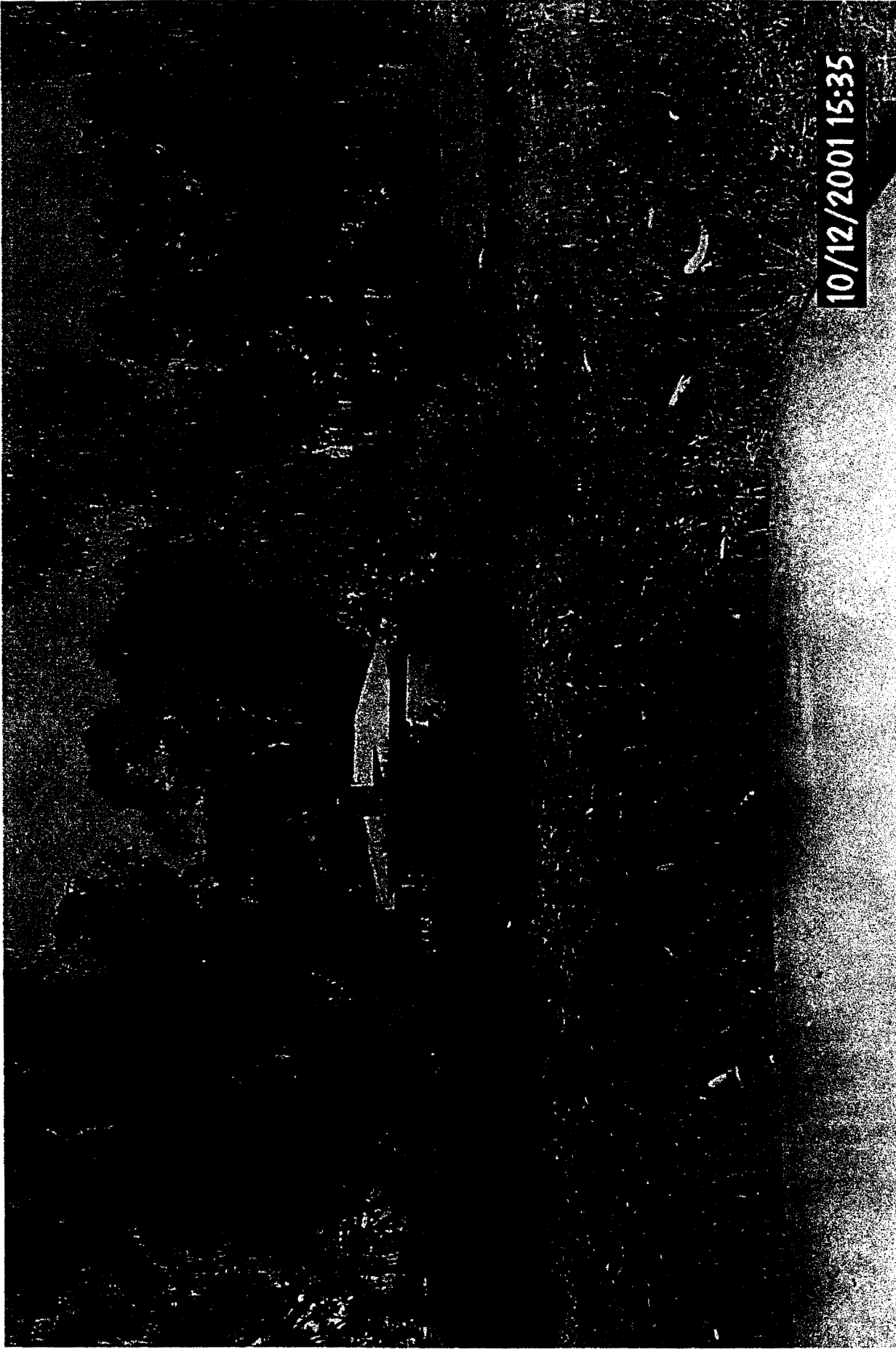
10/12/2001 15:34

Exhibit J
Photo 3- Looking Southeast from Northeast Corner of Interior Lot.
Colmer Appeal
MCO-01-087



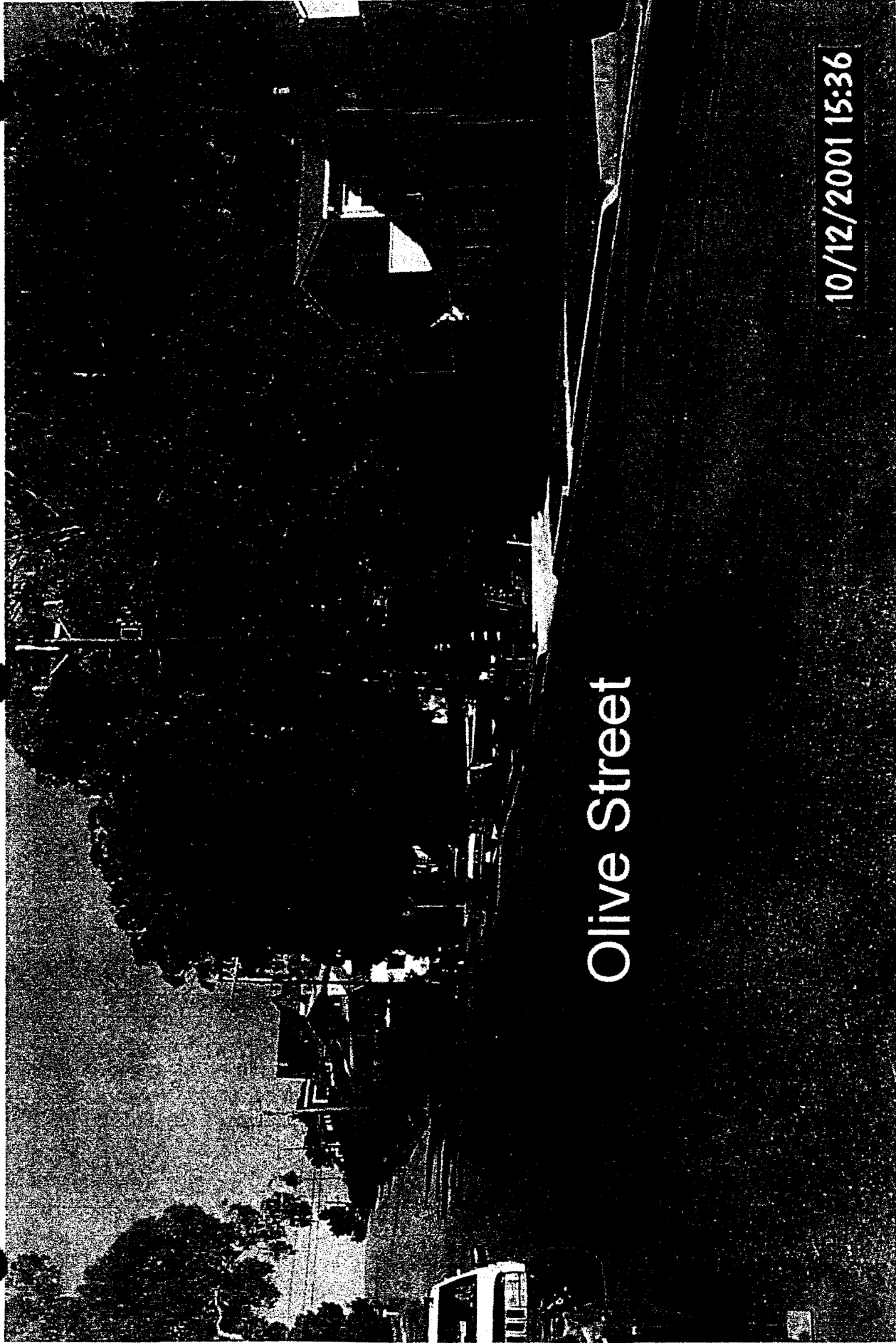
10/12/2001 15:35

Exhibit J
Photo 4- Looking Northeast from Southeast Corner of Interior Lot.
Colmer Appeal
A-3-MCO-01-087



10/12/2001 15:35

Exhibit J
Photo 5- Looking North from Southwest Corner of Interior Lot
Colmer Appeal
MCO-01-087



Olive Street

10/12/2001 15:36

Exhibit J
Photo 6- Looking Southeast from Southwest Corner of Interior Lot.
Colmer Appeal
A-3-MCO-01-087

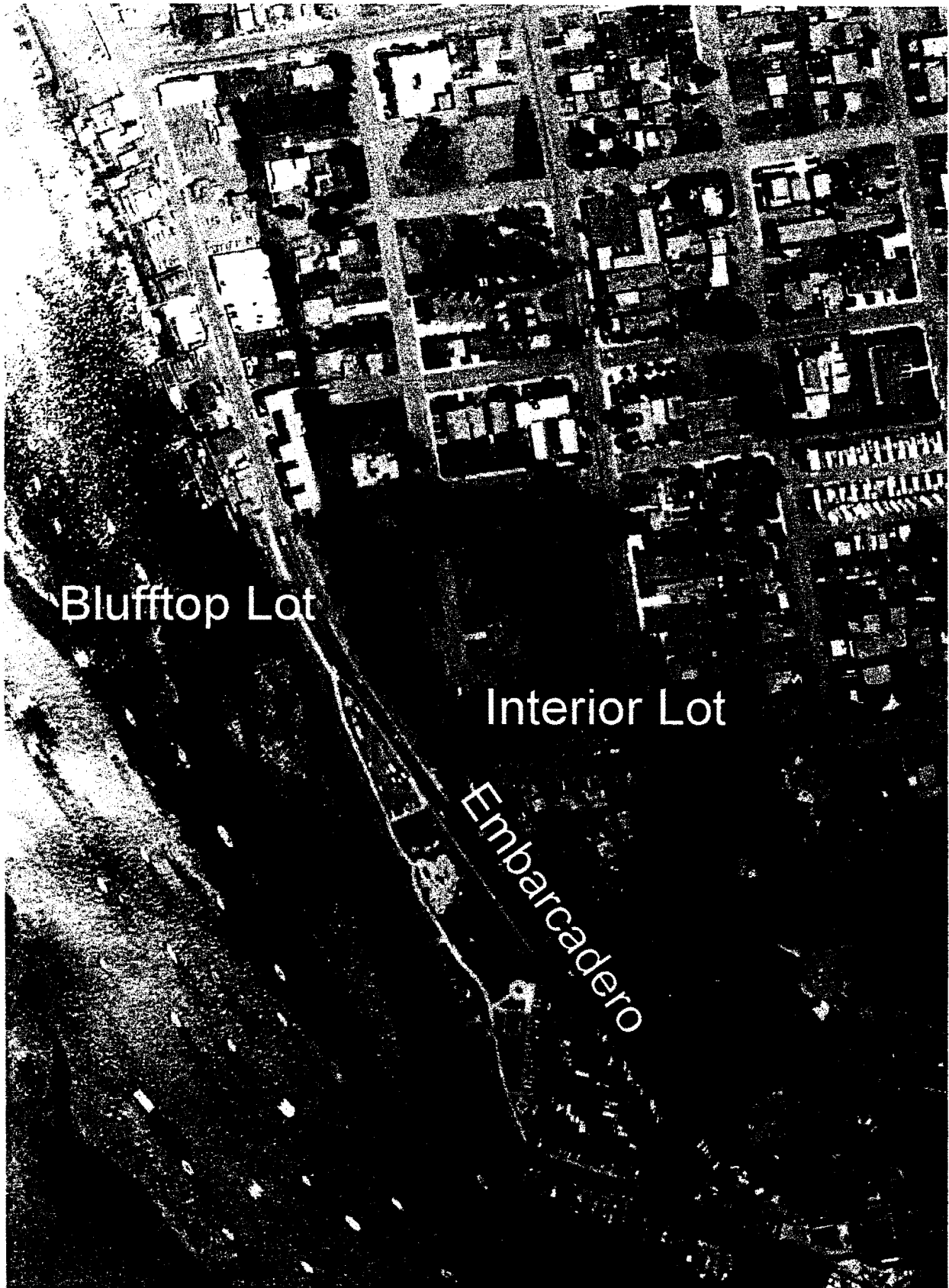


Exhibit K
1993 Aerial Photo Showing Vegetative Cover on Blufftop Lot
Colmer Development
A-3-MRB-01-096

NOTE:

IN-BETWEEN SHRUBS ALLOW NATURALIZED GRASSES TO GROW.

PROPOSED BLUFF SHRUBS (TOP OF SLOPE)

- BACCHARIS DOUGLASII
MARCH BACCHARIS
- ⊗ CERCIS OCCIDENTALIS
WESTERN REDBUD
- * ESCALLONIA EXONIENSIS
PINK ESCALLONIA
- EUTHAMIA OCCIDENTALIS
WESTERN GOLDEN ROD
- ⊕ GARRYA ELLIPTICA
COAST SILKTASSEL
- RIBES SANGUINEUM
FLOWERING CURRANT

PROPOSED BLUFF SHRUBS (ON SLOPE)

- ⊕ ABELIA SCHUMANNII
ABELIA
- ARCTOSTAPHYLOS MORROENSIS
MORRO MANZANITA
- CARPENTERIA CALIFORNICA
BUSH ANEMONE
- △ CEANOTHUS THYRSIFLORUS
BLUE BUSH
- ERIOGONUM FASCICULATUM
CALIFORNIA BUCKWHEAT
- ESCALLONIA SP.
ESCALLONIA
- LUPINUS ARBOREUS
COASTAL BUSH LUPINE
- ⊙ RHUS OVATA
SUGAR BUSH

PROPOSED BLUFF GROUNDCOVER

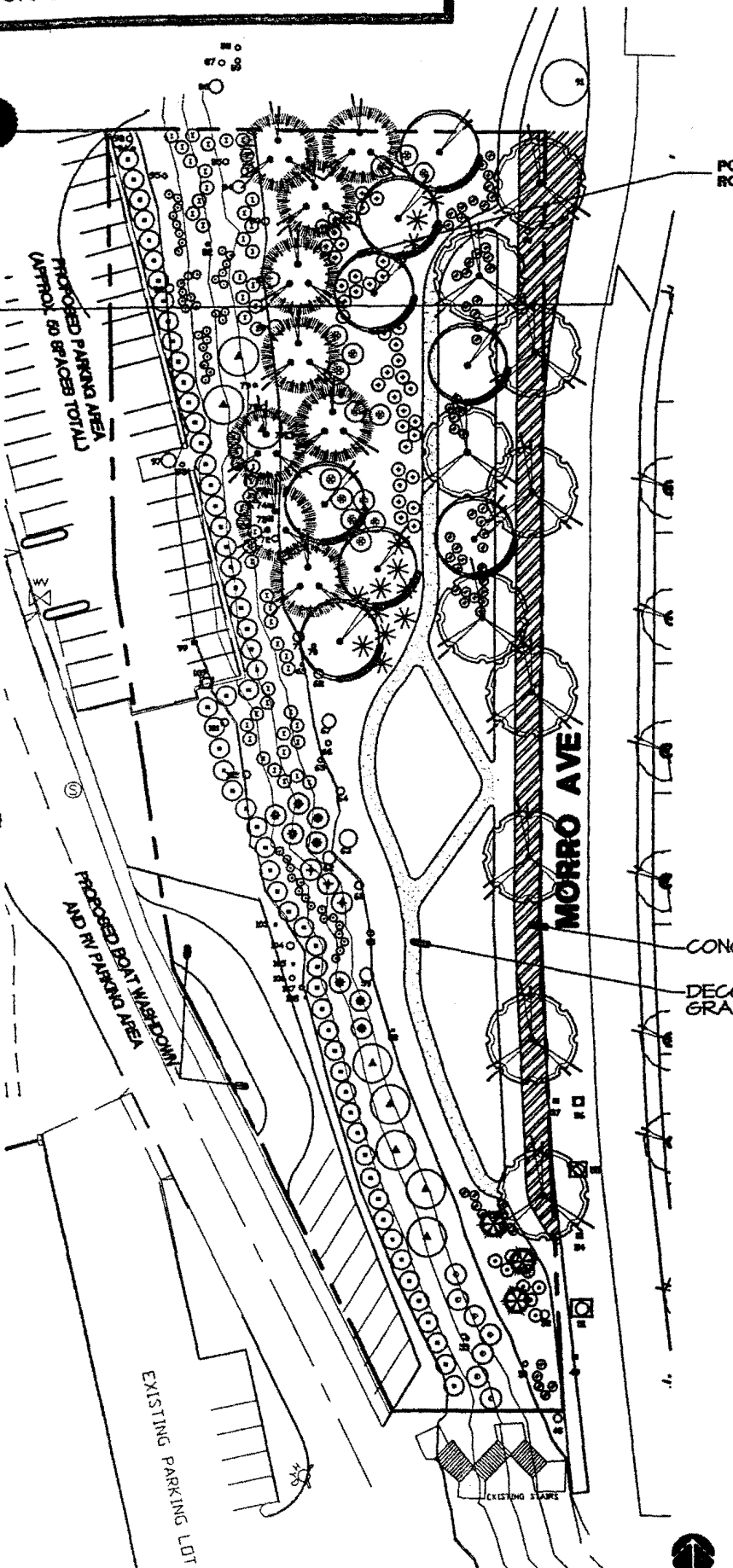
- /// CEANOTHUS GLORIOSUS 'ANCH
- CEANOTHUS

TREE PRESERVATION LEGEND

	TO BE REMOVED	TO REMAIN	TO BE ADDED
DEVELOPED LOTS:	56	0	31
BLUFF AREA:	10	42	21
TOTAL:	66	42	64

NOTE:

FOR LOCATION AND STATUS OF TREES LISTED IN THE TREE PRESERVATION LEGEND SEE SHEET CL-2 AND L-1.



PLAN VIEW



Colmer Development
A-3-MRZB-01-0916

Exhibit L
1 of 1

Kevin J. Small & Associates

