

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

427-4863

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## RECORD PACKET COPY

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Staff:	K. Cuffe
Staff Report:	3/02/01
Hearing Date:	3/15/01

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE DETERMINATION & COASTAL PERMIT**

LOCAL GOVERNMENT: MONTEREY COUNTY

LOCAL DECISION: Approved with conditions (see Exhibit F)

APPEAL NUMBER: **A-3-MCO-99-093**

APPLICANT: **Monterey Bay Aquarium Research Institute (MBARI)**

APPELLANTS: **Commissioners Sara Wan and Pedro Nava**

PROJECT LOCATION: 7700 Sandholdt Road, APN# 133-242-008, 133-232-011  
Moss Landing, Monterey (see Exhibits A, B, C)

PROJECT DESCRIPTION: 1,900 sq. ft. interior remodel for office space; construction of new 176-space parking lot on Moss Landing Island including boardwalk, and transfer of 80 parking spaces to new parking lot (see Exhibit F).

FILE DOCUMENTS: County coastal permit file PLN990085; *North [Monterey] County Land Use Plan; Monterey County Coastal Implementation Plan (Title 20 of County Code)*; Monterey Coastal permits SH93003 and PLN970336.

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**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, and that the subsequent permit be **approved with conditions** for the project as modified herein. As conditioned to protect adjacent environmentally sensitive habitat areas, restore dune habitat, provide public access and a vehicle reduction plan, the project as modified is consistent with policies of the Monterey County Local Coastal Program, and North county Land Use Plan.

The County's approval of the project as described in Resolution 99065 is inconsistent with the LCP policies for protecting environmentally sensitive dune areas. A revised plan proposed by MBARI in response to this appeal, and analyzed herein, also provides for non-resource dependent development in ESHA, and so is also inconsistent with these same LCP policies. Therefore, staff recommends conditional approval of a modified project, which includes the following: (1) an allowable building envelope of 150-feet deep by 180-feet wide adjacent to Sandholdt Road for the construction of a parking lot; (2) conservation easement for sensitive dune habitat west of building envelope; (3) retaining wall and permanent fencing along west side of parking lot to demarcate sensitive dune habitat; (4) vertical and lateral access easements to allow pedestrian access across sensitive dune habitat; (5) dune restoration and maintenance program.

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## EXHIBITS

- A. Regional Location Map
- B. Project Vicinity Map
- C. 1999 Aerial Photo of Vicinity
- D. Assessors Parcel Map
- E. North County Land Use Plan for Moss Landing Community
- F. County Permit Findings And Conditions from Resolution 99065
- G. Appellant's Contentions
- H. Biologic Reports
- I. Rana Creek Black Legless Survey (Photo Overlay Map)
- J. September 3, 1999 Photographs of Proposed Parking Lot Site
- K. Proposed Revised 119-Space Parking Lot Site Plan

- L. Original 181-Space Parking Lot Site Plan Showing Site Topography
- M. Historic Map (1880) and Aerial Photos (1942, 1947, ca. 1966, 1985, Jan 2000, Sept 2000)
- N. Allowable Building Envelope and Required Easements
- O. Parking Plans Approved by Previous County Actions (Main MBARI complex (SH93003) and Building B Expansion (Minor and Trivial Amendment 970336))
- P. Parking Take-off Schedules

## 1. LOCAL GOVERNMENT ACTION

The action taken by Monterey County (Resolution 99065) allowed for: (1) an amendment to a previously approved coastal development permit (SH93003) to allow a 1,900 square foot interior remodel (loft offices to be added to existing Building B on APN 133-232-011); (2) a coastal development permit for a new 176-space off-site parking lot including boardwalk to be constructed on APN 133-242-008, and (3) an amendment to (SH93003) for the transfer of 72 approved parking spaces associated with expansion of Building B, and the 8 required parking spaces associated with the interior remodel to the new proposed 176-space parking lot<sup>1</sup> (see Exhibit E for detail).

## 2. SUMMARY OF APPELLANTS' CONTENTIONS

The appellants, Commissioner's Wan and Nava, have appealed the final action taken by Monterey County Planning Commission (Resolution 99065), on the basis that approval of the project is inconsistent with policies of the Monterey County Local Coastal Plan with regards to environmentally sensitive habitat, land use, and public access. The complete text of the appellant's contentions can be found in Exhibit F.

## 3. 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 is within 300 feet of the inland extent of the beach.

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

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<sup>1</sup> The 72 spaces were required as part of the expansion of Building B, approved by a separate "Minor and Trivial" Amendment to SH93003 (herein after referred to as 970336). Together with the 8 spaces required for the interior remodel, MBARI needs to provide 80 spaces for the developments approved by these two County approvals.

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.

#### 4. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

**MOTION** : Staff recommends a "NO" vote on the following motion:

"I move that the Commission determine that Appeal No. A-3-MCO-99-093 raises **no** substantial issue with respect to the grounds on which the appeal has been filed."

A majority of the Commissioners present is required to pass the motion, failure of the motion, as recommended by staff will result in Commission jurisdiction over the project and adoption of the following findings.

#### 5. STAFF RECOMMENDATIONS ON COASTAL PERMIT

The staff recommends that the Commission, after public hearing **approve** the MBARI permit with conditions.

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

"I move that the Commission **APPROVE** coastal development permit A-3-MCO-99-093, subject to the conditions below."

A majority of the Commissioners present is required to pass the motion and adopt the following resolution and findings.

**RESOLUTION** :

The Commission hereby **grants** a permit for the proposed development as conditioned below, on the grounds that, as conditioned, it will be in conformity with the certified Monterey County Local Coastal Program, that it is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, and that there are no additional feasible mitigation measures that would lessen any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).

**6. RECOMMENDED CONDITIONS FOR MBARI PERMIT A-3-MCO-99-093****A. Standard Conditions**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**B. Special Conditions**

1. **Scope of Permit.** This permit allows for the development of a parking lot within a 150-foot deep by 180-foot wide building envelope located adjacent to Sandholdt Road on parcel APN 133-242-008, for the purpose of providing employee parking and equipment storage related to coastal-dependent research and coastal-related support facilities owned and operated by the Monterey Bay Aquarium Research Institute (MBARI). It is expected that this 27,000 square foot building envelope will be adequate to provide a minimum of 80 parking spaces.

This permit also allows an amendment to a previously approved Coastal Development Permit (SH93003) for a 1,900 square-foot interior remodel (loft area to be added to existing Building B located on APN 133-232-011), and allows transferring up to 72 previously approved parking spaces to the new parking lot to be located on Assessor's Parcel Number 133-242-008. The site is fronting on and westerly of Sandholdt Road, Moss Landing, Monterey County.

The project as approved also requires the restoration of dune habitat on the parking lot parcel (APN 133-242-008) west of the 10-foot contour (i.e., west of the building envelope), and development of a boardwalk system to allow the public to traverse environmentally sensitive dune habitat on site. Permittee shall ensure that construction and demolition operations are conducted so as to minimize, to the greatest extent possible, any interference with the natural dune topography present.

The amendment to transfer the parking spaces onto APN 133-242-008 only becomes effective upon completion of the subject parking lot. Once effective, no further parking is allowed on APN 133-232-011 (the site where the parking was going to go), without a subsequent coastal permit

or permit amendment; i.e., once the parking lot is constructed, the 80 space requirement is transferred to the subject site.

**2. Final Site Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, Permittee shall submit final plans to the Executive Director for review and approval. Any modifications following Executive Director review and approval must also be submitted to the Executive Director for review and determination of materiality prior to implementation. The final plans will show a maximum 150x180' allowable building envelope to be located adjacent to Sandholdt Road. No development will be allowed west of the 10-foot contour as shown on the original parking plan provided in the County's Initial Study; Exhibit J), therefore the final plans will also show that the area west of the 10-foot contour is to be placed in a conservation easement to protect sensitive coastal dune habitat located on site. Final Plans shall show the following:

- a. The area west of the 10-foot contour to be placed in a conservation easement (as indicated in Special Condition 6, below);
- b. Any grading required for construction of the parking lot;
- c. The location of any retaining walls used to demarcate the west end of the parking lot; and permanent fencing (wood is preferable) at the proposed retaining wall to discourage undirected pedestrian access across the dune restoration area;
- d. The location of the vertical and lateral access easements to be located on the parcel (as required by Special Condition 7, below) and any signage necessary to direct pedestrian traffic through the parking lot and to these easements; and
- e. Exterior lighting to be used. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare does not occur. The lighting plan shall show the location, type, and wattage of all light fixtures to be used and shall include catalog sheets for each fixture. All utility lines shall be placed underground.

Final site plans shall meet County requirements for encroachment, sidewalk and curb and gutter construction, public right-of-way landscaping, driveway approaches, bollards, lighting, signage, and Water Conservation Measures, as provided in Chapter 18.50 of the Monterey County Code. Final plans shall require approval by the Monterey County Planning and Building Inspection Department and Department of Public works prior to submittal.

**3. Erosion Control Plans.** PRIOR TO GRADING OF THE PARKING LOT, the permittee shall submit an Erosion Control Plan to the Executive Director for review and approval identifying all relevant best management practices (BMPs) to be implemented during construction. Erosion control plans shall contain provisions for specifically identifying and protecting all environmentally sensitive dune areas (with sandbag barriers, filter fabric fences, straw bale filters, etc.). Erosion control plans shall also include provisions for stockpiling and covering of stored materials, temporary stormwater detention facilities, and restrictions on any grading and earthmoving during the rainy season. The purpose of such plans is to prevent project-related runoff and sediment from entering the waters of Moss Landing Harbor and to protect dune habitat.

The Erosion Control Plan should make it clear that: (a) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff will be collected to settle out sediments prior to discharge from the site; (b) off-site equipment wash areas are preferred whenever possible; if equipment must be washed on-site, the use of soaps, solvents, degreasers, or steam cleaning equipment should not be allowed; in any event, this wash water should not be allowed to enter storm drains or any natural drainage; (c) concrete rinsates, if any, should be collected and they should not be allowed into storm drains or natural drainage areas; (d) good construction housekeeping should be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment off-site and/or in one designated location; keep materials covered and out of the rain (including covering exposed piles of materials used in the treatment process and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather); and finally (e) all erosion and sediment controls should be in place prior to the commencement of grading and/or construction as well as at the end of each day.

4. **Drainage Plan.** PRIOR TO COMMENCEMENT OF GRADING FOR PARKING LOT, the Permittee shall submit a Drainage Plan to the Executive Director for review and approval. The Plan shall provide for the installation of an engineered filtration mechanism specifically designed to remove vehicular contaminants and other typical urban runoff pollutants<sup>2</sup> more efficiently than a standard silt and grease trap at a point nearest as possible to the nearest storm drain located on Sandholdt Road. The Drainage Plan shall account for the following:

- (a) The drainage system shall be designed to filter and treat (i.e., physical and/or chemical reduction of pollutants achieved through active filtration) the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event prior to its discharge to the Monterey Bay via the Sandholdt Road storm drain. The drainage system and its individual components (such as drop inlet and filtration mechanism) shall be sized according to the specifications identified in the California Storm Water Best Management Practice Municipal Handbook (California Storm Water Management Task Force, March 1993);
- (b) All vehicular traffic and parking areas shall be swept and/or vacuumed at regular intervals and at least once prior to October 15th of each year. Any oily spills shall be cleaned with appropriate absorbent materials. All debris, trash and soiled absorbent materials shall be disposed of in a proper manner. If wet cleanup of any of these areas is absolutely necessary, all debris shall first be removed by sweeping and/or vacuuming, all storm drains inlets shall be sealed, and wash water pumped to a holding tank to be disposed of properly and/or into a sanitary sewer system.
- (c) All drainage system elements shall be permanently operated and maintained. At a minimum:
  - (1) the storm drain inlet, trap/separator, and/or filter shall be inspected to determine if they

<sup>2</sup> Typical urban runoff pollutants describes constituents commonly present in runoff associated with precipitation and irrigation. Typical runoff pollutants include, but are not limited to: paints, varnishes, and solvents; hydrocarbons and metals; non-hazardous solid wastes and yard wastes; sediment from construction activities (including silts, clays, slurries, concrete rinsates, etc.); ongoing sedimentation due to changes in land cover/land use; nutrients, pesticides, herbicides, and fertilizers (e.g., from landscape maintenance); hazardous substances and wastes; sewage, fecal coliforms, animal wastes, and pathogens; dissolved and particulate metals; and other sediments and floatables.

need to be cleaned out or repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) prior to April 15th each year; and (3) during each month that it rains between November 1st and April 1st. Clean-out and repairs (if necessary) shall be done as part of these inspections. At a minimum, the trap/separator and/or filter must be cleaned prior to the onset of the storm season, no later than October 15th of each year; and,

- (2) Debris and other water pollutants removed from filter device during clean-out shall be contained and disposed of in a proper manner; and
- (3) All inspection, maintenance and clean-out activities shall be documented in an annual report submitted to the Executive Director and the Monterey County Water Resources Agency no later than June 30th of each year.
- (d) The Permittee is encouraged to develop connections from the storm drain system to the sanitary sewer system to allow polluted runoff to be directed from the storm drain system to the sanitary sewer, particularly during times of low-volume flows, wet street cleaning episodes, or hazardous spills.
- (e) It is the Permittee's responsibility to maintain the drainage system in a structurally sound manner and its approved state.

5. **Restoration Plan.** PRIOR TO COMMENCEMENT OF GRADING FOR THE PARKING LOT, the Permittee shall submit a dune restoration plan to the Executive Director for review and approval for that portion of the parcel outside of the maximum allowable building envelope. The plans shall be prepared by a qualified botanist and include provisions for restoring native dune habitat and shall include drought tolerant plants appropriate to the natural conditions of the site. The plans for dune restoration and revegetation shall provide for the eradication of invasive, non-native plants and shall clearly identify the type, size, extent and location of all plant materials, any irrigation system and other landscape features proposed for the entire site. Dune restoration shall not incorporate any non-suitable or imported topsoil, including the topsoil currently stockpiled on site. The plan should include any temporary fencing to be used to protect the area outside of the building envelope, including the colony of beach pea located on site. Restoration plans shall also show any temporary drip irrigation system, if necessary, to establish the plantings (e.g., low precipitation sprinkler heads, bubblers, drip irrigation and timing devices), and a schedule for plant installation. The restoration plan shall incorporate transplanting of any native dune plants that may be present in the footprint of the allowable building envelope (including American beach grass, beach bur, beach primrose, and beach morning glory) to the dune restoration area. All existing plants and additional plantings shall be maintained in good growing conditions throughout the life of the project, and shall be replaced as necessary. The plans submitted shall include evidence of review and approval by the Monterey County Planning and Building Inspection Department. The final restoration plan shall be accompanied by a list of landscape contractors qualified for dune restoration and a contractor's estimate of the cost of installation of the plan.

Physical restoration plan shall be started and initial plantings installed prior to occupancy of the parking lot. Maintenance activities should be conducted periodically to ensure removal of non-native invasive plants over the life of the project.

A five-year annual monitoring program shall be developed and implemented to determine the success of dune restoration efforts at this location. The results of annual monitoring shall be



submitted to the Executive Director for review and approval and adaptive management measures may be developed as necessary. Any changes in the management of the dune restoration element will require Executive Director review and approval.

**6. Conservation Easement.**

- A. No development, as defined in section 30106 of the Coastal Act shall occur in that portion of the parcel APN 133-242-008 west of the 10-foot contour as shown on the original parking plan provided in the County's Initial Study, and as shown in Exhibit L, except for dune restoration activities to be conducted by permittee, including planting of native drought and salt tolerant plant species appropriate to the site, removal of invasive, non-native plants and construction of a lateral access pathway or boardwalk as provided for in Condition 5
- B. Therefore, PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space and conservation easement for the purpose of protecting sensitive dune habitat, allowing for dune restoration, and preservation of scenic coastal views as provided from Sandholdt Road. Such easement shall be located across the western portion of the parcel, west of the 10-foot contour as shown in Exhibit N. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.
- C. The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

**7. Public Access.** Permittee shall ensure that vertical public access is provided from Sandholdt Road to the beach west of the subject site, and shall provide lateral access across the parcel west of the development approved by this permit, therefore:

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit an irrevocable offer to dedicate a ten-foot (10) foot wide vertical public access easement that traverses across the property from the eastern property boundary adjacent to Sandholdt Road to the western property boundary thereof, as depicted in Exhibit N. The Executive Director shall determine the exact location in consultation with the applicant and the County of Monterey County Department of Planning and Building Inspection Department. In the event that the applicant disagrees with the Executive Director's determination, the Commission shall determine the easement location. If a vertical easement has been recorded on the adjacent parcel immediately south of the subject parcel, the permittee may be allowed to provide an easement from Sandholdt Road to an appropriate junction with the adjacent existing easement (as shown in Exhibit N).
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit an irrevocable offer to dedicate a lateral public access easement that traverses across the property between the northern and southern boundaries thereof, as depicted in Exhibit N. The Executive Director shall determine the exact location in consultation with the

applicant and the County of Monterey County Department of Planning and Building Inspection Department. In the event that the applicant disagrees with the Executive Director's determination, the Commission shall determine the easement location. The lateral access easement shall provide for pedestrian access across both the beach and dune habitat areas on site, and may provide for construction of a boardwalk or other pathway, constructed with permeable materials, to protect vegetation stabilizing the dunes.

- C. The irrevocable offer to dedicate vertical and lateral access shall be of a form and content approved by the Executive Director, free of prior encumbrances, except for tax liens, that the Executive Director determines may affect the interest being conveyed, and shall provide the public the right to use the dedicated route for hiking and horseback-riding only. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.
8. **Archaeological Resource Protection.** Should archaeological resources be discovered at the project site during any phase of construction, the permittee shall stop work within 150 feet of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, an appropriate mitigation plan shall be prepared and implemented by a qualified professional archaeologist, following the recommendations included in the Preliminary Archaeological Reconnaissance of the site prepared by Archaeological Consulting, dated March 23, 1999. The mitigation plan shall be submitted for review and approval by the Executive Director prior to implementation. A report verifying compliance with this condition shall be submitted to the Executive Director for review and approval, upon completion of the approved mitigation activities.
9. **Revisions and Amendments.** The Permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans (including any changes to project impact areas or procedures for handling and disposal of removed materials) shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that the change is immaterial or that no amendment is necessary.
10. **Grading for Parking Lot.** PRIOR TO COMMENCEMENT OF GRADING FOR PARKING LOT, permittee shall provide evidence that permittee has obtained a grading permit from the County Planning and Building Inspection Department consistent with the terms of these special conditions. No land clearing or grading shall not occur on the subject parcel between October 15 and April 15, unless approved by the Director of the Monterey County Planning and Building Inspection Department. Fencing shall be used to protect sensitive dune habitat west of the building site, and no construction activities or stockpiling of materials shall be allowed in this area. During grading, stockpiled topsoil shall be removed from the site and shall not be used in dune restoration activities.
11. **Alternative Parking Strategies.** As part of any subsequent coastal permit or coastal permit

amendment request, MBARI is required to submit an amended General Development Plan. The amended General Development Plan shall show parking locations and number of spaces consistent with LCP provisions and commensurate with the amount of its facilities. Any subsequent coastal permit and General Development Plan amendment application to Monterey County for additional parking (not tied to a commensurate expansion in facilities that generates the need for such parking) shall be accompanied by an analysis of parking demand and supply in light of implementation of the required trip reduction measures specified in the following condition. The analysis shall include parking lot occupancy counts. However, this requirement can be waived for a permit application to allow temporary parking on APN 133-252-001 (Garner Site) for a one year period.

- 12. Transportation Demand Management Plan.** Within six months of permit issuance, permittee shall develop and commence implementation of a Transportation Demand Management Plan to reduce the number of vehicle trips consistent with section 20.64.250 in the Monterey County Code. All listed measures shall be implemented to the extent that they are appropriate to the nature and design of MBARI's facilities. The Transportation Demand and Management Plan shall be submitted for Executive Director review and approval prior to implementation.
- 13. Conditions Imposed by Local Government.** This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act. Pertinent conditions related to the interior remodel of building B, remaining under the County's authority, include the following:

**Prior to the issuing Permits to Demolish, Grade and/or Build:**

- A. The roll-up door opening on the Building B shall be flood-proofed in accordance with the Monterey County Floodplain Ordinance Section 16.16.050.C.3, which shall include construction features that allow the use of a watertight, removable flood panel. Plans shall be subject to the approval of the Monterey County Water Resources Agency. (Water Resources Agency)
- B. Certification that flood-proofing requirements have been constructed in accordance with approved plans shall be provided to the Monterey County Water Resources Agency by a registered civil engineer. (Water Resources Agency)
- C. Contribute a traffic impact fee of \$5,978 for road improvements within the area. (Public Works)
- D. The applicant shall incorporate the recommendations from the Coastal Wave Runup study for MBARI Moss Landing Phase 2 prepared for the parcel by Haro, Kasunich and Associates, Inc., dated April 1993. (Planning and Building Inspection)
- E. The applicant shall incorporate the recommendations from the Geologic Hazards Evaluation/Geotechnical Investigation report prepared by Rutherford & Chekene, dated May 1999. (Planning and Building Inspection)
- F. The applicant's geotechnical engineer shall certify by signature on the final project plans that all remodel work is completed in accordance with the original and any subsequent geotechnical reports associated with SH93003, PLN970336 and PLN990085, as well as the conditions of project approval pertinent to geologic/geotechnical issues associated with the MBARI development project files SH93003 and PLN970336. (Planning and Building

Inspection)

- G. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection Department)

**Prior to occupancy of remodel:**

- H. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- All toilets *installed as part of the remodel* shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water re-circulating system.
  - Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources Agency)
- I. Applicant shall comply with the Uniform Building Code as approved by the North County Fire Protection District. (North County Fire Protection District)

## 7. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

### A. PROJECT DESCRIPTION AND LOCATION

The proposed project is for a 176-space parking lot to support development associated with the Monterey Bay Aquarium Research Institute. As approved by the County the project includes the restoration of a 48' x 180' strip of dunes on the ocean side of the parking lot, as mitigation for the impacts of the development on coastal dunes. The project site is zoned for Light Industrial use.

The Monterey Bay Aquarium Research Institute (MBARI), located at 7700 Sandholdt Road in Moss Landing, is an internationally known center for oceanographic research focused on the study of Monterey Bay, and development of applied oceanographic technology (see maps in Exhibits A, B, C, and D). MBARI first obtained permits to build at their present location in 1988. These permits authorized a new Tech Building (then referred to as Building 1, now referred to as Building B) and a New Pier Storage building (then referred to as Building 2). These two buildings provided for an original staff of 18 employees. In 1993 MBARI was granted a permit for a new Expedition Staging Building (Building 3), a new Science Engineering Building (Building 4) and a new Warehouse Storage Building (Building 5)<sup>3</sup>. Together, these buildings, which comprise the MBARI "main complex," were designed to house a build-out of 162 employees, provide 183 parking spaces for these employees, and occupy approximately 6 acres.

MBARI has since grown to a current staff of 195 full time employees occupying these buildings, and has plans to grow in size to 250 employees. MBARI personnel indicate that in addition to the number of employees working on site, external projects conducted in coordination with other oceanographic research institutes and universities can at times cause the total number of on-site personnel to grow by 25 or more. Additionally, MBARI conducts summer intern programs, a weekly seminar series, and annual open house events, which periodically increase the need for parking.

Although previous County permits for MBARI developments attempted to provide for onsite parking to support these new uses, according to MBARI there is now a parking deficit. Part of this deficit is accounted for by 48 spaces that were to be co-located with the main complex and 24 spaces for which a location was not identified in previous permits. The deficit may also be aggravated by the fact that actual parking demand for current MBARI activities may be greater than that allowed for by previous County permits. To address this apparent parking need, and to avoid removing landscaping at the main complex that currently occupies previously identified parking spaces, MBARI applied to the County for a new parking lot that would allow them to meet their current parking demand as well as certain storage uses associated with its research activities. The parking lot was also designed to address future expansions and associated parking demand unspecified in the County approval.

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<sup>3</sup> These buildings were all later relabeled using alphabetic characters. While the earliest plans show numeric labels on the buildings, some later maps use an alpha-numeric designation (such as B/1) in an attempt to minimize confusion (see for example Exhibit C).

The action taken by Monterey County that is the subject of this appeal allowed for: (1) an amendment to a previously approved coastal development permit (SH93003) to allow a 1,900 square foot interior remodel (loft offices to be added to existing Building B); (2) a coastal development permit for a new 176-space off-site parking lot including boardwalk, and (3) an amendment to SH93003 for the transfer of the 72 approved parking spaces associated with expansion of Building B, and 8 new parking spaces associated with the interior remodel to the new proposed 176-space parking lot.

The subject sites for the building remodel and the parking lot both front and are westerly of Sandholdt Road, Moss Landing, in north Monterey County on a peninsula is commonly referred to as Moss Landing Island, or the Island (see Exhibit C). Both parcels are located in an area designated for Light Industrial land use, as shown on Exhibit E. The areas immediately surrounding the parking lot parcel are developed with buildings supporting the fishing industry, commercial and recreational boating, and marine education.

The existing Building B is located on parcel 133-232-011, at 7700 Sandholdt Road, and is part of the main MBARI complex, which was permitted under CDP SH93003. A minor amendment to SH93003 (970036) was previously approved by the County allowing MBARI to expand Building B, and construction is now ongoing. Expansion of Building B required the demolition of Building 5, as shown in Exhibit C. Building B, the Marine Operations Building, is located to the north of Building A/4 (Science Engineering building) and Building D/3 (Expedition Staging Building). The existing portion of building B is being remodeled in order to provide an additional 1,900 square feet of office space within the loft area of the building. As construction activities for the remodel will be contained within the existing building, none of that work is at issue in this appeal. However, as the interior remodel is still a part of the proposed project, conditions related to the interior remodel have been included in this permit to ensure consistency with North County Land Use Plan policies for hazard mitigation (e.g., flooding, wave run-up, and structural stability), water conservation and other building code requirements.

The proposed parking lot is to be located offsite on parcel APN 133-242-008, approximately 650 feet north of Building B (Exhibit D). The parking lot site is currently vacant (see Exhibit M January 2000 aerial photo), but has previously been occupied with structures located along the eastern portion of the parcel (see Exhibit M 1947, circa 1966, and 1985 aerial photos). These earlier photos show that at least two buildings and two storage tanks occupied the site from 1947 to some time after 1985. Commission staff conducted a field visit to the site September 3, 1999, and observed that while the eastern portion of the site was fairly well disturbed, the western portion of the site, beginning approximately 150 feet west of Sandholdt Road, contained low-lying dunes (See Exhibit J, photos of existing site). As proposed, the 176-space parking lot approved by the County's action (Resolution 99065; hereafter referred to as the "176-space parking lot") extends seaward across these coastal dunes.

In response to the current appeal of the County's approval, the applicants have prepared a revised plan for a smaller, 119-space parking lot on the same site (See Exhibit K). (Please note that while the title of this plan indicates that 124-spaces are proposed, only 119 spaces are shown on the plan.) As designed, this revised plan, hereafter referred to as the "revised 119-space parking plan" provides for 28 public parking spaces and 91 employee parking spaces. MBARI estimates that up to 22 employee-parking spaces may also be used for temporary storage of equipment used in oceanographic research activities conducted by MBARI staff and associates.

## B. ANALYSIS OF APPEAL ISSUES

### 1. Environmentally Sensitive Habitat Areas

#### (a) Appellant's Contentions:

Appellants Wan and Nava contend in part that:

*The proposed new parking lot site is fronting on and westerly of Sandholdt Road (APN # 133-242-008) and extends seaward across coastal dunes, which are considered by the LCP as environmentally sensitive habitat. Development of a parking lot atop dune habitat is not consistent with LCP policies that deal with environmentally sensitive habitats, land use or parking facilities.*

#### (b) Local Coastal Program Provisions

The LCP defines environmentally sensitive habitats as

*... areas in which plant or animal life or their habitats are rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Environmentally sensitive habitat areas (ESHA) are therefore not based solely on the presence of threatened or endangered species but also on the rarity and sensitivity of the habitat to destruction or alteration from human activities.

The following policies of the North [Monterey] County Land Use Plan address environmentally sensitive habitat areas:

#### **Environmentally Sensitive Habitats:**

**LUP Policy 2.3.2.1.** *With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare and endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values. [emphasis added]*

**LUP Policy 2.3.2.2.** *Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.*

**LUP Policy 2.3.2.3.** *New development adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource...*

**LUP Policy 2.3.2.5.** Where private or public development is proposed in documented or potential locations of environmentally sensitive habitats...field surveys by qualified individuals or agencies shall be required in order to determine precise location and to recommend mitigating measures to ensure protection of any sensitive habitat present. The required survey shall document that the proposed development complies with all applicable environmentally sensitive habitat policies.

**LUP Policy 2.3.2.7.** Where public access exists or is permitted in areas of environmentally sensitive habitats, it shall be limited to low intensity recreation, scientific or education uses such as nature study and observation, education programs in which collecting is restricted, photography, and hiking. Access in such locations shall be confined to appropriate areas on designated trails and paths. No access shall be approved which results in significant disruption of habitat.

**LUP Policy 2.3.2.8.** Where development is permitted in or adjacent to environmentally sensitive habitat areas (consistent with all other resource protection policies), the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to the minimum amount necessary for structural improvements.

**LUP Policy 2.3.3.9.** Where major access routes are available or desirable through the dunes to the coast, boardwalks or other appropriate pathways constructed of permeable materials should be provided to protect the vegetation stabilizing the dunes. Other access routes through the dunes should be controlled and only allowed in limited circumstances.

In addition, the following policies specifically address the requirements for new or expanded uses in the industrial zones of North Monterey County:

**LUP Policy 4.3.6.F4 Specific Land Use Policies.** A basic standard for all new or expanded industrial uses is the protection of North County's natural resources. ... New or expanded industrial facilities shall be sited to avoid impacts to agriculture or environmentally sensitive habitats.

**LUP Policy 5.2.1A Moss Landing Community Plan – Coastal Dependent Industry.** ... The intent of this plan is that ... coastal dependent industrial facilities shall be encouraged to expand within existing sites, and shall be allowed reasonable growth consistent with the protection of the area's natural resources. If impacts to sensitive natural habitats cannot be avoided by future expansion of these facilities, then impacts must be mitigated to the maximum extent feasible. ...

**LUP Policy 5.5.2.1.** Coastal dependent industrial facilities should be encouraged to expand within existing sites before off-site expansion is considered.

### **(c) Local Government Action**

The County's action (Resolution 99065) allows development of a 176-space parking lot in the vacant parcel located on APN 133-242-008. Conditions of approval required, among other things, that the applicant survey the site for potential rare and endangered animal species (i.e., globose dune beetle and black legless lizard, both of which are federal candidates for listing) and provide for the relocation of these potential species, prepare a dune restoration and landscaping plan (as a



component of a Shoreline Management and Maintenance Plan) using native plants appropriate to the site, relocate existing American dune grass from the parking area to the restoration site, and provide a retaining wall to delineate the dunes area from the parking lot.

#### **(d) Substantial Issue Analysis and Conclusion**

In order for the County to approve the project, it must be found consistent with the above cited land use policies. These policies clearly require that non-resource dependent development, such as the proposed parking lot, must avoid environmentally sensitive habitat areas. Any development adjacent to environmentally sensitive habitat areas must also be compatible with the protection and long-term maintenance of these areas. Biological reports prepared for the site by Bruce Cowan and Paul Kephart (Exhibit H) describe the site as containing dunes, but do not provide enough information to define the precise location and extent of the dunes on the site as required by LUP policy 2.3.2.5, above.

The biological survey conducted by Bruce Cowan, July 27, 1998, indicates that although the eastern end of the site has been graded previously and is occupied with several mounds of topsoil, coastal dunes occupy a significant portion of the parcel. As described in the Cowan report, "most of the parcel is a gently sloping to nearly level foredune with a remnant population of native foredune plants, mainly beach bur, salt grass, American dune grass, beach primrose, beach morning glory, and a healthy colony of beach pea near the northwest corner." Though not state or Federally listed, the beach pea is uncommon and occurs only in undisturbed dunes immediately above the high tide zone. The biological survey conducted in July of 1998 found no endangered plant species but noted that additional surveys should be conducted to determine the possible presence of the globose dune beetle (a Federal special concern species) and the black legless lizard (a State species of special concern). According to the Biological report, globose dune beetles remain mostly buried in sand in foredunes immediately above high tide in association with beach bur and yellow sand verbenas. Black legless lizards spend most of their time burrowing beneath the sand, and can also be found sometimes at the surface mixed in with the litter that collects under lupine and mock heather plants.

The report further describes the east edge of the property as "...weedy, and [consisting of] mainly compacted gravel and dirt." The biological report notes that several mounds of topsoil have been stockpiled on site, and states that "most of the parcel consists of open sand, with only scattered individuals or small colonies of native dune plants." While the biological report also includes mitigation measures, that were incorporated into the County's approval of the project (see above), it does not indicate whether the proposed development complies with all applicable environmentally sensitive habitat policies as required by LUP policy 2.3.2.5.

With regards to the potential for finding species of special concern on site, comments from the California Department of Fish and Game note that the biological survey was conducted during the wrong time of the year to find the sensitive plant species which could occur on the site (Exhibit H). CDFG recommended the project not be approved until appropriately timed surveys for sensitive plants, black legless lizards and globose dune beetles could be conducted and included in the public review process prior to any development. The County's action requires that a survey be conducted for these species prior to construction but requires only delay of construction and/or relocation of species and plant habitat enhancement to accommodate the species, rather than avoidance of habitat disturbance.

Mr. Paul Kephart of Rana Creek Habitat Restoration reviewed the biological report in response to issues raised by the California Department of Fish and Game concerning the timing of the earlier surveys (being conducted outside of the plants flowering season), the possibility of impacts to potential black legless lizards and globose dune beetles, and removal of landscaped islands in the original proposed site plan. The October 6, 1999 letter provided to the County planner from Paul Kephart (Exhibit H) indicates that additional plant surveys of the site were conducted during the spring flowering season between February and June of 1999. No sensitive plant species were identified during these surveys. Mr. Kephart also indicated that no globose beetles or black legless lizard species were found on the site during surveys conducted in the spring and fall of 1999. Again, Mr. Kephart's letter includes mitigation measures for relocating these species should they be found during construction, but does not indicate that the proposed development complies with all applicable ESHA policies are required by the LUP.

As indicated by Mr. Kephart's letter (see Exhibit H), the site plan included in the County's action was modified from the originally proposed plan (see Exhibit L) to remove landscaped islands within the parking lot and to provide a larger restoration area (approximately 48x180') than that originally proposed (approximately 35'x180'; compare Exhibits F and L). Mr. Kephart later submitted an aerial photo overlay showing mapped vegetation atop a 1999 aerial photo base of the site (Exhibit I) to show the location of legless lizard surveys and vegetation. Although this overlay does not specifically mark out the extents of dune habitat on site, it does show that the western portion of the site contains "suitable dune sand for revegetation."

Mr. Kephart confirmed via a phone call, that while the scale shown on the figure is incorrect, the rectangular area shown is representative of the parking lot as shown on the Rana Creek plan approved in the County's final action (Exhibit F). The parking lot shown on the Rana Creek plan is 302 feet long (350 feet - 48-foot wide proposed dune restoration area). While the aerial photo overlay (Exhibit I) does not map the precise location or extent of dunes on the site, it does show a dividing line between the western half of the parcel having "dune sand" and the eastern portion which contains hard-packed contaminated sands" considered unsuitable for revegetation. Using this information to scale the habitat map on the aerial photo overlay, the diagonal line dividing these two areas is located approximately 130 feet to 175 feet west of Sandholdt Road, as measured along the southern and northern boundaries respectively.

Additional information regarding the location of dunes on the site can be determined by analyzing the site morphology, or topography of the site. Although no topographic or habitat mapping is provided in either of the biologic reports, topography of the site is provided in the original parking lot site plan (Exhibit L). As shown in this figure, the existing grade rises from an elevation of approximately 5 feet along Sandholdt Road to a crest elevation of approximately 14 to 15 feet about 265 feet west of Sandholdt Road, before sloping to the sea at the western end of the parcel. Additionally, the mounded topography shown on the western half of the parcel are indicative of dune features located on site; mounds shown near Sandholdt Road have been confirmed to indicate the location of topsoil piles that have been left on site.

As described above, Commission staff also conducted a field visit to the site on September 3, 1999, and observed that while the eastern portion of the site was fairly well disturbed, the western portion of the site, beginning approximately 150 feet west of Sandholdt Road, contained low-lying coastal dunes (See Exhibit J, photos from September 3, 1999 site visit showing landward extent of dunes). This location is roughly equivalent to the ten-foot contour as shown in Exhibit L. It also matches the general delineation of dune sand/form provided by the applicant's consultant. Overall, the available biological and physical information for the subject parcel indicates that the coastal

dune landform and associated habitat begins approximately 150 feet west of the Sandholdt Road, or more precisely, west of the ten-foot contour as shown in Exhibit L.

Additional analysis of historical aerial photographs indicates that while the site has previously been disturbed, the dune system that does exist west of Sandholdt Road has developed over time. Historical aerial photos provided by the applicant, show that the site had previously been developed, with several structures located along the eastern portion of the parcel (see Exhibit M 1947, circa 1966, and 1985 aerial photos). These earlier photos show that at least two buildings and two storage tanks occupied the site from at least 1947 to some time after 1985. Additionally, construction activities associated with installation of the thermal outfall pipeline and surge chambers on the adjacent parcel impacted much of the western portion of the MBARI parcel and much of the northern end of the Island, as shown in the circa 1966 photo of the site. The 1985 and 2000 photographs in Exhibit M show that while dune vegetation is sparse, it has been recovering on the site. Additionally, although somewhat degraded by trampling from unmanaged use (e.g., use as an ad hoc boat and equipment storage area over the years), dunes have developed and persisted at the north end of the "island" west of Sandholdt Road, as shown through the series of aerial photos in Exhibit M. The dunes on the subject parcel are part of this larger system that basically extends from the Main MBARI complex, north to the end of Sandholdt Road. However, due to the amount of previous development on the spit, and the limited amount of undeveloped land left in this area, contiguous, well-developed dunes similar to those located in the Salinas River State Park, have not been able to develop. Nevertheless, the dune system that has developed on the spit is considered as an environmentally sensitive habitat area.

Coastal dunes provide unique, sensitive habitat values. This is why the Monterey County LCP specifically identifies dunes as an environmentally sensitive habitat. Throughout its history, the Commission has placed high priority on the protection and preservation of coastal dune systems. On the Central coast, the most well developed coastal dune systems include the Nipomo dunes, Asilomar Dunes, and the Monterey Dunes complex. One of the most critical functions of these dune systems is their role as habitat for very unique flora and fauna that are specially adapted to the conditions and opportunities found in the dunes. Dune plants in particular play a special role by both stabilizing the dunes from the effects of wind erosion, and hosting rare fauna. However, as these natural dune systems have been reduced and fragmented over time, the risk of extinction has increased for several species. Thus, each new impact within these dunes system has and will continue to contribute to the cumulative decline of these species. This is particularly true in contexts such as Moss Landing where incremental development proposals may, in the absence of comprehensive planning, gradually undermine the remaining values of dune habitats.<sup>4</sup>

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<sup>4</sup> It should also be noted that coastal dunes serve as the first line of defense on the coast, since they are flexible barriers to changing wave energies, and serve to protect lower backdune areas. Coastal dunes are ephemeral landforms which change over time in response to high wave energy events storms that cut away at the front of the dunes during the winter months and build up during summer months when prevailing wind and swell conditions bring sand back onto the beach. Dunes also serve to store large amounts of sand which can be eroded and moved offshore during these storm events and moved back onshore during low energy summer conditions without long-term retreat of the shoreline. As vegetation stabilizes the coastal dunes, they are more capable of resisting storm wave attack. However, if permanent development is located on dunes, it reduces the area for dune development, it so reduces the amount of sand able to be stockpiled, and therefore the amount of sand needed to rebuild dunes following the high wave energy events. According to Gary Griggs, geologist and author of *Living with the California Coast*, "the frontal or foredune is particularly prone to change...and contain the most fragile vegetation. ... development, if it is to occur at all should take place on the backdunes which have the advantage of protection from winter storms."

The parking lot site plan approved by Resolution 99065 (shown in Exhibit F) indicates that the parking lot would extend approximately 302 feet west of Sandholdt Road, and therefore approximately 152 feet across identified dune habitat on site. As the County's action approved non-resource dependent development (a parking lot) in sensitive dune habitat, approval of the project is not consistent with LCP policies for protecting environmentally sensitive habitat, and so raises a substantial issue with regards to protecting coastal resources.

#### **(e) De Novo Coastal Permit Findings for Conditional Approval**

As established in the above findings, the environmentally sensitive dune habitat area extends seaward from the ten-foot contour as shown on Exhibit L, which is approximately 150 feet west of Sandholdt Road.

As described above, the applicants have submitted a revised plan that does not intrude as far into the dunes as does the 176-space parking lot. The revised plan (Exhibit K) shows that the new 119-space parking lot would still extend 265 feet west of Sandholdt Road, and so encroaches approximately 115 feet into the dunes on site. Paving over this area would entail disturbing a large portion of land for grading and construction, consequently burying the dunes and severely impacting the environmentally sensitive habitat present. In order to avoid non-resource dependent development in ESHA, the Commission requires that the parking lot be modified and reduced in size to fit within the non-ESHA area east of the dune topography which begins approximately at the 10-foot contour line (as shown in Exhibit N), which is approximately 150 feet west of Sandholdt Road.

Any development on site should remain within the relatively flat compacted area east of dune topography, which appears to be approximately 150 feet west of Sandholdt Road (i.e., approximately equivalent to the 10 foot contour shown on the original parking plan provided in the County's Initial Study; Exhibit L). The parking lot would thus be confined to a maximum building envelope approximately 150 feet deep by 180 feet wide adjacent to Sandholdt Road as shown on Exhibit N and incorporated in Special Condition Number 1a. Development proposed within the allowable building envelope must ensure that it does not impact adjacent sensitive habitat, therefore the parking lot redesign should ensure that construction activities for any retaining walls do not disturb the natural dune topography west of the 10-foot contour.

Additionally, a conservation easement shall be required, as shown in Exhibit N, to protect the environmentally sensitive dune environment west of the 10-foot contour as required by LUP policy 2.3.2.6. As development on the parcel will reduce the amount of potential dune habitat that could develop over time, a dune restoration and implementation plan will be required for the remaining area of the parcel between the proposed parking lot and the high tide zone. The restoration plan shall incorporate the appropriate recommended mitigation measures described in the biological reports prepared for the site. Dune restoration shall use only native, salt and drought tolerant plants appropriate to the natural conditions of the site, and must provide for the removal of non-native ice plant and other invasive plant species. Implementation of an approved plan shall provide for the long-term protection and maintenance of sensitive habitat on site.

To protect water quality for runoff that may enter Moss Landing Harbor, and Monterey Bay, the project will require a drainage plan. The drainage plan will need to ensure that stormwater runoff is

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directed away from any dune areas and filtered prior to entering the stormwater drainage system on Sandholdt Road.

Since this project may include public access through the dunes as described in the public access section of his report (Section B3), pathways constructed using a boardwalk or other permeable material shall be used to prevent impacting sensitive habitat adjacent to the access, as required by LUP policy 2.3.3.9. Other routes through the dunes on parcel APN 133-242-008 would be protected by fencing marking off the dune restoration area.

Therefore, as conditioned, among other things, to protect the environmentally sensitive dune habitat on site, to mitigate for the loss of potential dune habitat by requiring dune restoration across the western portion of the parcel and to use permeable surfacing for any pathways through the dunes on the site, the project, as modified by Coastal Commission staff, is consistent with Coastal Act Section 30240 and the ESHA policies of the Monterey County LCP.

## C. OTHER DE NOVO COASTAL PERMIT FINDINGS

### 1. Land Use and Parking

#### (a) Local Coastal Program Provisions

As mentioned, the site is designated for Light Industrial Uses in the North County Land Use Plan and is zoned "LI: Light Industrial." Marine related research facilities are conditionally allowed uses in the LI zoning district. For any development over one acre in the LI zoning district, a "General Development Plan" is required. As previously discussed, light industrial uses are required to avoid impacts to sensitive resources. Coastal dependent facilities are encouraged to expand within existing sites and are allowed reasonable growth consistent with sensitive resource protection.

***LUP Policy 4.3.6.F4 Specific Land Use Policies.*** A basic standard for all new or expanded industrial uses is the protection of North County's natural resources. ... New or expanded industrial facilities shall be sited to avoid impacts to agriculture or environmentally sensitive habitats.

***LUP Policy 5.2.1A Moss Landing Community Plan – Coastal Dependent Industry.*** ... The intent of this plan is that ... coastal dependent industrial facilities shall be encouraged to expand within existing sites, and shall be allowed reasonable growth consistent with the protection of the area's natural resources. If impacts to sensitive natural habitats cannot be avoided by future expansion of these facilities, then impacts must be mitigated to the maximum extent feasible. ...

***LUP Policy 5.5.2.1.*** Coastal dependent industrial facilities should be encouraged to expand within existing sites before off-site expansion is considered.

The central problem of this appeal is the need for additional parking to account for an apparent parking deficit to support MBARI's various development activities. Some of this deficit has been created by inadequate planning for and identification of the amount of parking spaces needed in previous permit approvals. Additional deficit may be created by the fact that actual parking demand for MBARI's land uses does not match the County LCP requirements for parking demand. Thus, previous permits may not have adequately accounted for actual parking demand. However,

the need for additional parking to support MBARI must be balanced with the requirement to protect sensitive habitat and public access to the shoreline. Current development patterns and parking trends suggest that public parking may be being displaced by parking demand associated with MBARI.

Parking regulations are found in Chapter 20.58 of the Coastal Implementation Plan and require that off-street parking facilities for each use shall be provided in each zoning district in accordance with Section 20.58.040. The County's parking regulations also allow that the parking requirement for "any use not specifically listed shall be determined by the Director of Planning and Building Inspection based on standards established for any similar uses." Relevant uses and the parking spaces required, as taken from Section 20.58.040, are shown in Table 1 below.

**Table 1. Monterey County Parking Requirements.**

Use	Parking Spaces Required
Industrial Office Space	1 space per 300 sf
Laboratory Space	1 space per 250 sf
Printer, Copy, Reproduction	1 space per 300 sf
Library	1 space per 200 sf
Building Materials (storage)	1 space per 2000 sf
Warehouse	1space per 500 sf

However, Section 20.58.050.C also provides for some flexibility:

**20.58.050. C.** *The standards indicated herein may be modified by a Coastal Development Permit from the Zoning Administrator, Planning Commission, or Board of Supervisors, where appropriate, in cases which, due to the unusual characteristics of a use or its immediate vicinity, do not necessitate the number of parking spaces, type of design, or improvements required by this Chapter. In such cases, it shall be determined that reduced parking will be adequate to accommodate all parking needs generated by the use, or that additional parking is not necessary because of specific features of the use, site, or site vicinity.*

Additionally, the Chapter 20.26.030 of the County Code requires that a General Development Plan be developed, and amended as follows:

**20.26.030 GENERAL DEVELOPMENT PLAN.**

**A.** *A General Development Plan shall be required prior to the establishment of any development in the Light Industrial district if there is no prior approved General Development Plan and if:*

- 1) *The lot is in excess of 1 acre; or,*

- 2) *The development proposed includes more than one use; or,*
- 3) *The development includes any form of subdivision (Title 19, Subdivision Ordinance).*

*B. No new development, change or expansion of use, or physical improvements may be approved unless such development, use or expansion is found to be in conformance with an approved General Development Plan and amendments thereto where such plan is required.*

*C. General development plans and amendments thereto shall be approved by the Planning Commission.*

*D. The plans shall be prepared by the developer and submitted for review and approval prior to or concurrent with approval of any required permits for these developments. The plans shall address the long range development and operation of the facilities including physical expansion and new development, operational changes, circulation or transportation improvements, alternative development opportunities, environmental considerations, potential mitigation of adverse environmental impacts and conformance to the policies of the local area plan.*

*E. The requirement of a General Development Plan or an amendment to a General Development Plan may be waived by the Director of Planning and Building Inspection when, due to the circumstances of the particular situation, there is no potential significant adverse impact from the development and requiring the General Development Plan will not further the purpose of this Chapter.*

Additionally Section 20.64.250 provides for Reduction of Vehicle Trips for Certain developments. Section 20.64.250 D contains the following menu of measures to employ:

- D. Regulations: The following regulations apply to all Applicable Developments:*
1. *Developers of all proposed Applicable Developments shall submit a Trip Reduction Checklist as part of the ministerial or discretionary permit application materials for the proposed Applicable Development. The Checklist and site development shall identify the proposed design elements and facilities that encourage alternative transportation usage by residents, employees and customers of the development.*
  2. *The County shall consider the nature and size of the development when reviewing the Trip Reduction Checklist. After review of the Trip Reduction Checklist and site development plans submitted with the application, the County may require, but not be limited to, one or all of the following programs from the developer as a condition of approval of the development:*
    - a. *Provide ridesharing, public transportation, and nearby licensed child care facility information to tenants/buyers as part of move-in materials.*
    - b. *Print transit-scheduling information on all promotional materials.*
    - c. *Install bicycle amenities, such as bicycle racks and bicycle lanes (where appropriate), paths and routes, at intermodal connection points.*

- d. *Provide bus pullouts, pedestrian access, transit stops, shelters, and amenities as part of the site plan, as described in the Monterey Salinas Trans-it Development Review Guidebook or subsequent publications.*
- e. *Provide locked and secure transportation information centers or kiosks with bus route and schedule information, as part of common areas in applicable developments.*
- f. *Provide pedestrian facilities linking transit stops and common areas.*
- g. *Provide financial resources for site amenities that reduce vehicle trips.*
- h. *Provide park-and-ride facilities.*
- i. *Provide on-site childcare facilities.*
- j. *Provide local TDM Improvements defined as shuttle bus services, bus pools or improved transit service as part of the development.*
- k. *Provide facilities such as computers and modems to encourage Telecommuting.*
- l. *Pay Trip Generation Fees with proceeds to go toward provision or transit service, transportation management associations, rideSHaring services and other alternative transportation services.*
- m. *Provide mixed land uses designed to reduce the length and number of vehicle trips where permitted by the zoning ordinance.*
- n. *Provide pedestrian and bicycle system improvements.*
- o. *Provide transit-oriented design or pedestrian-oriented design, or both.*
- p. *Provide park-and-ride, public transportation shuttles, and associated marketing to special event ticket purchasers as part of the special event promotion or site or business promotion.*
- q. *Prepare programs and projects to provide alternatives to automobile transportation into Monterey County.*
- r. *Provide alternative transportation from the airport, provide airport information displays, contribute to the marketing of fare promotions of transit service and transit passes, provide concierges as sources of tourist transit promotion, rent bicycles to visitors, provide contribution of funds for implementing rail service to the area, provide transit information displays.*
- s. *Provide educational and marketing strategies designed to induce tourists to reduce their vehicle trips.*
- t. *Provide on-site banking automatic teller machines (ATM's), restaurants, dry cleaners, grocery, and other typically needed services to reduce the need for vehicle trips. Link these uses with convenient and pedestrian oriented paths.*



*Pro-vide transit access that allows bus passengers convenient access to uses with a minimum of walking distance.*

- u. *Locate building entrances close to bus stops with access uninterrupted by parking lots, parking aisles, and interior roadways. Place parking at the rear of the development and the transit stop at the front of the development near the main entrance.*

### **Land Use**

The LUP maps all of the land north of Sandholdt Road Bridge as Light Industrial (zoned LI(CZ)). Marine related research facilities, including but not limited to laboratories, offices and other reasonable related uses and boat storage and repair facilities are considered conditional uses in Light Industrial (LI(CZ)) land use zones.

As discussed in the previous finding, the proposed parking lot must be reduced in size to meet the LCP requirements for ESHA protection. As the proposed 119-space parking lot would extend across dune topography, it will have to be reduced in size so that it does not extend beyond the 10-foot contour approximately 150 feet east of Sandholdt Road. The remaining 150-foot by 180-foot wide building envelope, though, would still provide 27,000 square foot of developable space on the parcel. Using a rough calculation of 6-lanes each with 10-foot wide spaces (i.e., 15 spaces in each row), it is feasible that as many as 90 parking spaces could be provided in the 27,000 square foot building envelope. It is still feasible, therefore to provide a reasonable amount of space for development on the parcel without significant alteration of the natural landforms that exist on site.

Development of a parking lot on the subject lot, provided any retaining walls would be limited in height to 4-feet or less, would protect views to and along the coast in the Moss Landing area. Additionally, dune restoration in the remaining area of the parcel would serve to restore and enhance the visual quality on a site that has been physically and visually degraded over the past forty or fifty years or more.

Therefore, as conditioned to restrict potential development on parcel APN 133-242-008 to a 150x180-foot building envelope outside of environmentally sensitive dune habitat, and to limit retaining wall height to four feet or less, the project is consistent with the general land use policies of the LCP.

### **Parking**

Because this approval only allows for approximately 90 spaces and the application is for 176 spaces, an analysis of MBARI's parking needs is necessary. The following information is provided as background information for such analysis.

The County previously approved a minor amendment to SH93003 (File Number 970336), which required among other things, construction of 72 parking spaces for the Building B expansion. While 48 of these 72 spaces were approved to be located on the main MBARI parcel (133-232-011; see Exhibit O), they have not yet been installed; and it is unclear from the record on which the parcel the remaining spaces were intended to be located. In an effort to maintain existing landscaping fronting Sandholdt Road, the County action subject to the current appeal also requires 8 additional parking spaces be provided for the interior remodel of office spaces proposed. MBARI has subsequently requested that these 80 spaces be transferred to a 176-space parking lot located off-site in order to retain existing landscaping located along the Sandholdt Road frontage.

Conditions of the County's recent action (Resolution 99065) also indicate that MBARI may increase the number of guest parking spaces located on the main MBARI facility (APN 133-232-011) by some undefined number to be determined by MBARI and based on anticipated need. However, there is no indication as to where these parking spaces would be located on the main facility, and what other features would be displaced.

Following discussions regarding this appeal, MBARI staff was asked, among other things, to account for the number of parking spaces requested. MBARI submitted a letter dated January 17, 2001, and a package of attachments for follow up documentation in response to this request. Included in these materials, MBARI provided a description of parking needs based on the various activities undertaken by the research institute and a breakdown of parking required based on their understanding of the County's parking requirements. The parking breakdown has been tabulated for each building approved under the original Master Plan (SH93003), Minor and Trivial Amendment (970336), and interior remodel (Resolution 99065).

Based on MBARI's application of the County parking regulations for the various uses within each building, (as shown in Exhibit P), the total number of parking spaces required for all buildings is 324 spaces. However, the total number of parking spaces previously required by Monterey County in their permit approvals, including this amendment, is 263. This is based on 183 parking spaces associated with the main MBARI complex, 72 spaces associated with the Building B expansion, and eight spaces associated with the interior remodel of the existing portion of Building B.

MBARI indicates in their letter dated January 17, 2001, that they currently have 185 parking spaces on site. While the map (Exhibit Q) provided with their letter indicates that 189 parking spaces currently exist, MBARI has stated that cranes used for oceanographic research activities do or will occupy most of the parking spaces on the pier. Without including 13 parking spaces on the pier, the total available parking on the main MBARI parcel can reasonably be considered as 176 spaces (Exhibit Q). Thus, in considering the County's approval of 263 spaces, there is a current deficit of 87 parking spaces. Since a rough estimate of up to 90 parking spaces could be provided in the allowable 150'x180' building envelope, as shown in the Land Use finding above, a reduced parking lot design that provides for at least 87 spaces could be provided on site, and would be consistent with the parking approved by this and the previous County's actions (which require 263 spaces total).

However, when considering the calculations that MBARI provided, there would be a remaining deficit of 68 parking spaces. Other anticipated needs for equipment storage (such as additional cranes, mobile laboratories, and additional boating equipment) may require additional paving not accounted for in the County's parking regulations. Given that parking requirement formulas can only approximate what actual demand may be, given this approximation likely is less certain for larger projects with several components, and given that MBARI has a large research complex, focusing on what are the exact parking space requirements under the County Code is unnecessary. Indeed there is flexibility built into the Code provisions cited above for precisely such cases.

It is imperative that MBARI accommodate all its required parking on its own property in order to prevent adverse impacts on public access and coastal resources. If MBARI does not provide sufficient parking, then its employees and visitors may pre-empt on-street spaces currently available to the general public or attempt to park off-street in sensitive dune areas. On the other hand, there are several factors that suggest that it is also imperative that MBARI take measures to reduce the amount of motor vehicles coming to its facilities that will require parking. These include:

- limited developable area on Moss Landing Island;
- given the limited area, using it for primary priority activities such as public access rather than ancillary parking;
- adverse visual impacts from large parking lots;
- constrained road capacity on and leading to the Island; and
- Highway One congestion.

Therefore, transportation alternatives will need to be investigated by MBARI in order to meet the remaining employee parking and equipment storage needs.

The certified Coastal Implementation Plan has two mechanisms to help accomplish this. Section 20.64.250 provisions are "Regulations for the Reduction of Vehicle Trips for Certain Developments." These provisions apply to new or expanded commercial, industrial or tourist oriented developments that employ 50 or more persons or that are greater than 25,000 gross square feet. Although the subject amendment pertains to an increase in 1,900 square feet for Building B, the total MBARI main complex is more than 141,000 square feet, according to MBARI's calculations shown in Exhibit P. Section 20.64.250.D.2 provides a menu of trip reduction measures that the County may require depending on the size and nature of the development. Given the large size of MBARI and its sensitive siting location, almost all of these measures should be considered by MBARI and implemented if found applicable to the nature of their facilities (m and u do not appear applicable). To date MBARI has indicated that it has a carpool and van pool program with 55 employee participants (+/- 5 to 10% depending on ship operation schedules). Alternatives may include expanding the existing employee carpool and vanpool programs or providing substitute means of serving the development with public transportation.

Section **20.26.030** provides for a General Development Plan for sites in the Light Industrial zoning district. This provides an opportunity for large facilities, such as MBARI, to comprehensively plan for their needs and growth. Such a plan does not substitute for individual permits for specific projects, but it does allow for an institution to plan for its future facilities and demonstrate that they all fit within appropriate building envelopes. In MBARI's case, where there are multiple parcels under its ownership and multiple facilities, preparation of an updated general development plan can help ensure that ancillary support facilities, such as parking, are provided for (or land is available (for them) commensurate with their need and consistent with coastal resource protection.

MBARI will need to update its General Development Plan if it wishes to undertake any additional development, including any additional parking beyond what has been approved by this permit. An updated General Development Plan could incorporate Trip Reduction measures as specified by 20.64.250, along with monitoring of parking lot use. If MBARI applies for additional parking to serve its existing facilities (i.e., not tied to what is required for additional facilities), then it will need to present an analysis of parking lot use and success of its Trip Reduction program.

If additional parking is needed, MBARI could examine providing the parking on other undeveloped parcels owned by MBARI. For example, the MBARI parcel at the northwest end of Sandholdt Road was granted a temporary permit by the County for use as a construction staging and parking area during construction of the Building B expansion. While this site also contains sensitive dune habitat, the staging and parking areas have been located outside of the dune area and have been fenced in so that no apparent impacts to ESHA would occur from such use. Construction related

materials must be removed from this site by September 1, 2001. It is feasible that temporary, short-term use of the site for parking could in its current state (i.e., fenced with an aggregate base) be permitted. The parking demand analysis referred to above could be waived for this temporary one-year period, as it will take time for MBARI to implement and measure the effects of Trip Reduction measures.

In conclusion the Commission recognizes that MBARI is a priority land use under the Coastal Act and the LCP that has an associated parking need that may grow over time. Provision of parking can best be considered in a comprehensive planning context. It is expected that as MBARI develops their new General Development Plan, as required by the County LCP, parking needs and alternatives will be developed, consistent with policies of the Coastal Act and LCP. This planning can address the need to balance support for coastal dependent and related activities with the protection of sensitive habitat, public access, shoreline management, and other coastal resource protection concerns. The Commission further recognizes that the revised parking plan submitted by MBARI indicated 28 parking spaces available to the general public. The Commission recognizes the value of this offer; however, public parking can not be approved at the expense of degrading coastal resources. Again, the need for public parking is best factored in a more comprehensive planning process for all of MBARI's holdings and the surrounding area.

Therefore, as conditioned to limit parking to what the County currently requires, to require implementation of alternative strategies for trip reduction, and to allow for additional parking to be considered through the General Development Plan process and subsequent permits, the provision of a parking lot in association with coastal-dependent research and coastal-related support facilities is consistent with parking requirements of the LCP.

## **2. Public Access**

### **(a) Coastal Act and Local Coastal Program Provisions**

Coastal Act policies regarding public access are defined in Section 30212, and 30221 as follows:

***Section 30212(a).** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, [or] (2) Adequate access exists nearby...*

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

The following LCP policies are among those that address parking facilities and public access

***LUP Policy 5.4.3.11.** Adequate on-site parking and public access to the beach should be a condition of development permit approvals on the Island.*

***LUP Policy 2.3.2.7.** Where public access exists or is permitted in areas of environmentally sensitive habitats, it shall be limited to low intensity recreation, scientific or education uses such as nature study and observation, education programs in which collecting is restricted, photography, and hiking. Access in such locations shall be confined to appropriate areas*

*on designated trails and paths. No access shall be approved which results in significant disruption of habitat.*

**LUP Policy 2.3.3.9.** *Where major access routes are available or desirable through the dunes to the coast, boardwalks or other appropriate pathways constructed of permeable materials should be provided to protect the vegetation stabilizing the dunes. Other access routes through the dunes should be controlled and only allowed in limited circumstances.*

**(b) Denovo Findings for Approval of Conditional Permit**

The subject parcel extends west from Sandholdt Road to the mean high water line of the Pacific Ocean. The site is also located between the first public Road (Highway One) and the sea, and so must provide public access to the beach, consistent with Coastal Act policy 30212(a). Additionally, as described above, the North County LUP Section 5.4.3.11 requires that "adequate on-site parking and public access to the beach" be required for developments on "the Island."

Many of the activities conducted by MBARI include the participation of the general public (for seminars, workshops, and open house events). Some of the visiting public may also take advantage of the proximity of MBARI facilities to the beach, and traverse the parking lot site to get to the beach. Additionally, as the MBARI complex has expanded its activities in the area, a greater number of its employees are similarly likely to traverse the beach and dune area, and so further burden the amount of access currently provided in the area. It is also possible that, since the lot has been vacant for some time, pedestrians have traversed across some portion of the site in the past. Finally, the parking lot development itself will remove some on-street parking currently available to the public. These impacts to public access must be mitigated. In addition, there is also a need to ensure that low-intensity uses of the beach west of the proposed development will not impact sensitive dune habitat.

The parcel immediately south of the proposed parking lot site is currently owned by Duke Power, and contains the buried pipeline and exposed surge chambers for the Moss Landing Power Plant thermal outfall. As part of the California Energy Commission's certification process for expansion of the Moss Landing Power Plant, Duke is required to provide a public coastal access easement along this parcel from Sandholdt Road to the beach. Duke staff is currently working on finalizing the location of this access easement with Commission and County staff.

The vertical public access easement required by this permit may provide that as long as an adequate easement exists adjacent to the site on the Duke parcel, public access to the beach may rely on use of the adjacent public access easement, or enhance the access provided by the adjacent access easement by joining the adjacent easement from a point somewhere along the southern boundary of the subject property. However, if for some unforeseen reason the public access easement is not provided or is removed from the adjacent parcel to the south, MBARI will be required to provide a vertical public access easement from Sandholdt Road to the beach across the subject parcel.

As the number of people on the Island increases, the amount of recreational use of the beach is expected to increase proportionately. Additionally, as educational and research opportunities are provided by the natural habitats that exist in the area, additional educational opportunities may be provided on site. The project should ensure that such recreational, educational and research use in the area does not adversely impact the sensitive dunes on site (due to trampling, digging, or other activities), by confining public access to appropriate areas and on designated trails and paths as required by LUP policy 2.3.3.7. Therefore, a lateral access easement shall be provided across

the site to allow beach-goers the ability to traverse the parcel outside any protected areas that are part of dune restoration efforts. Where pathways traverse dune areas, permeable materials, such as wooden boardwalks, shall be used to direct foot traffic and to protect fragile dune vegetation that exists on site consistent with LCP policy 2.3.3.9. Therefore, public access to the beach in this location will be assured, consistent with protecting the environmentally sensitive habitat on site. With such provisions for lateral access, it may be possible that at some future point, public access between the Salinas River and the harbor entrance (i.e., along the extent of "the Island") will be established in a manner that ensures adequate protection of environmentally sensitive habitat.

Since adequate public and commercial recreational opportunities exist within the area, development on this parcel need not be restricted to accommodate recreational uses. The Salinas River State Beach and Moss Landing State Beach are located within approximately one-mile north and south of the site, respectively. Additionally, various facilities within the Moss Landing Harbor area provide for public and commercial fishing, sightseeing and nature education, and recreational boating. The Harbor District is also developing plans to provide visitor serving recreational overnight and day use camping sites within the north harbor area. Therefore, the present and foreseeable future demand for public or commercial recreational activities is already adequately provided for in the area, and use of a portion of the subject site for MBARI parking is consistent with Coastal Act Section 30221.

Therefore, as conditioned to require both vertical and lateral public access to the beach west of the proposed parking lot, and to require that any pathways that traverse the site be constructed using permeable boardwalks, the proposed parking lot, as modified by conditions of this permit, is consistent with public access and recreation policies of the Coastal Act and LCP.

### **3. Archaeological Resources**

An archaeological survey of the site was conducted by Archaeological Consultants, on March 23, 1999, which indicated that the subject parcel is in an area of known archaeological sensitivity, with five archaeological sites located within a kilometer of the project parcel. Results of the survey indicated that while no archaeological resources were observed on site, grading activities might disturb undiscovered archaeological resources on site. The permit has thus been conditioned to halt work within 150 feet of such discovery. If an archaeological find is determined to be significant, an appropriate mitigation plan shall be prepared and implemented by a qualified professional archaeologist, following the recommendations included in the Preliminary Archaeological Reconnaissance of the site prepared by Archaeological Consulting, dated March 23, 1999. In order to be consistent with LUP policy 2.9.2.2.

### **D. California Environmental Quality Act (CEQA)**

The County determined that this permit was exempt from CEQA review. However, this report has identified and discussed certain additional potential adverse impacts (ESHA, land use and public access issues) not fully addressed by the local government. Conditions have been attached to this permit to address these. Without these conditions, the project would not be the least environmentally damaging feasible project that could occur on the site. As conditioned, there are no additional feasible mitigation measures that would lessen any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).

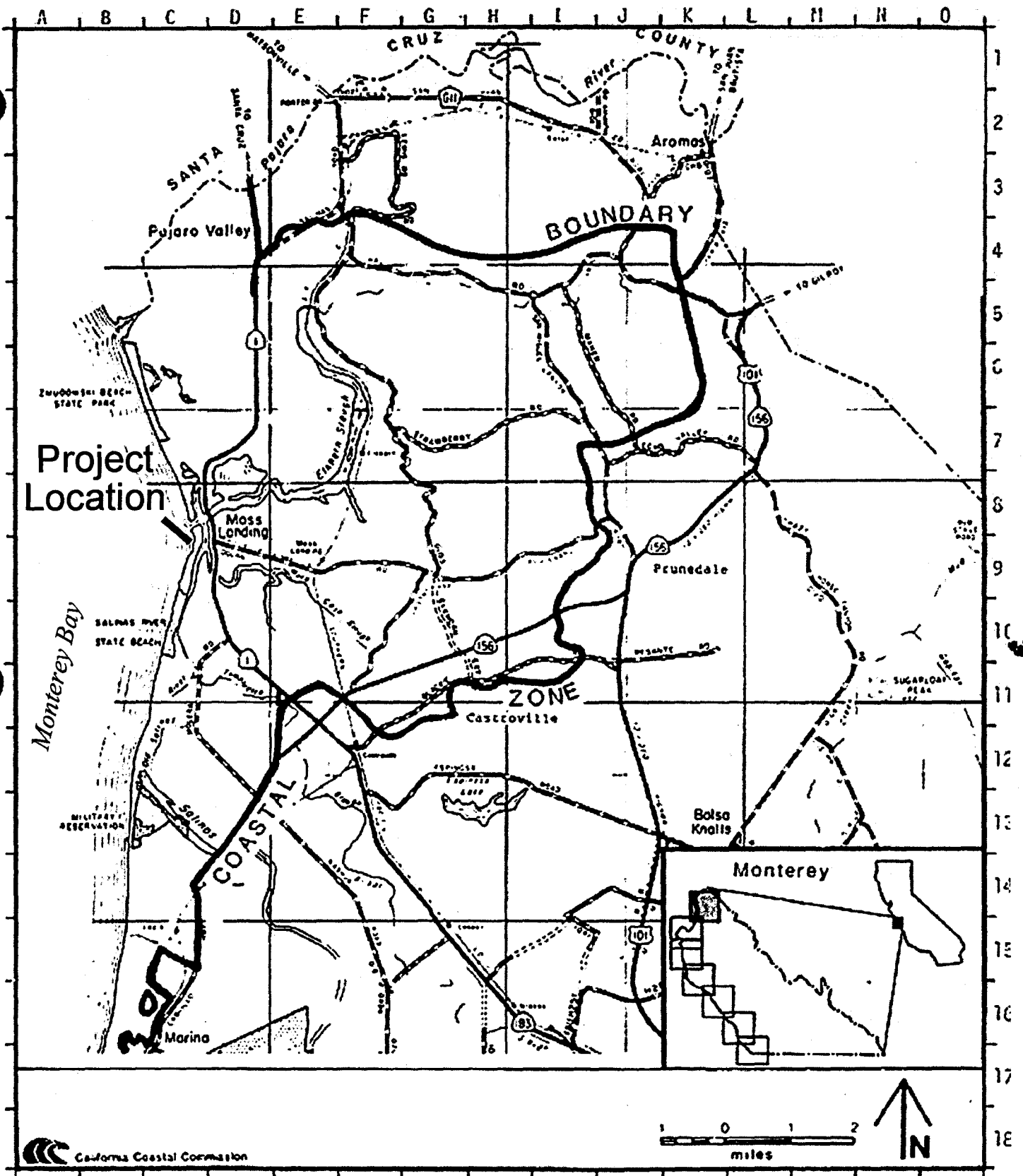


Exhibit A  
Regional Location Map  
A-3-MCO-99-093  
(MBARI Appeal)

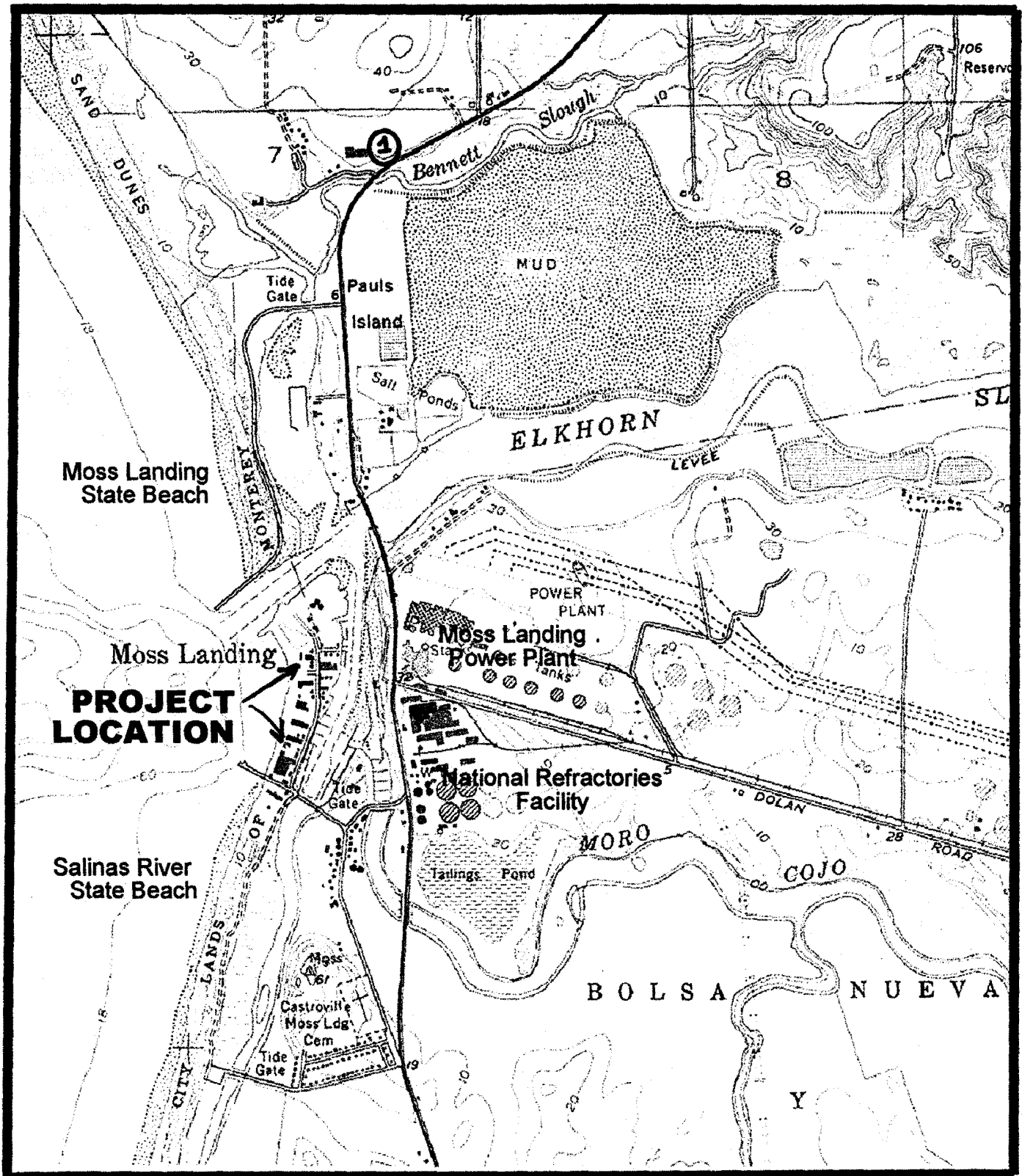


Exhibit B  
 Project Vicinity Map  
 A-3-MCO-99-093  
 (MBARI Appeal)



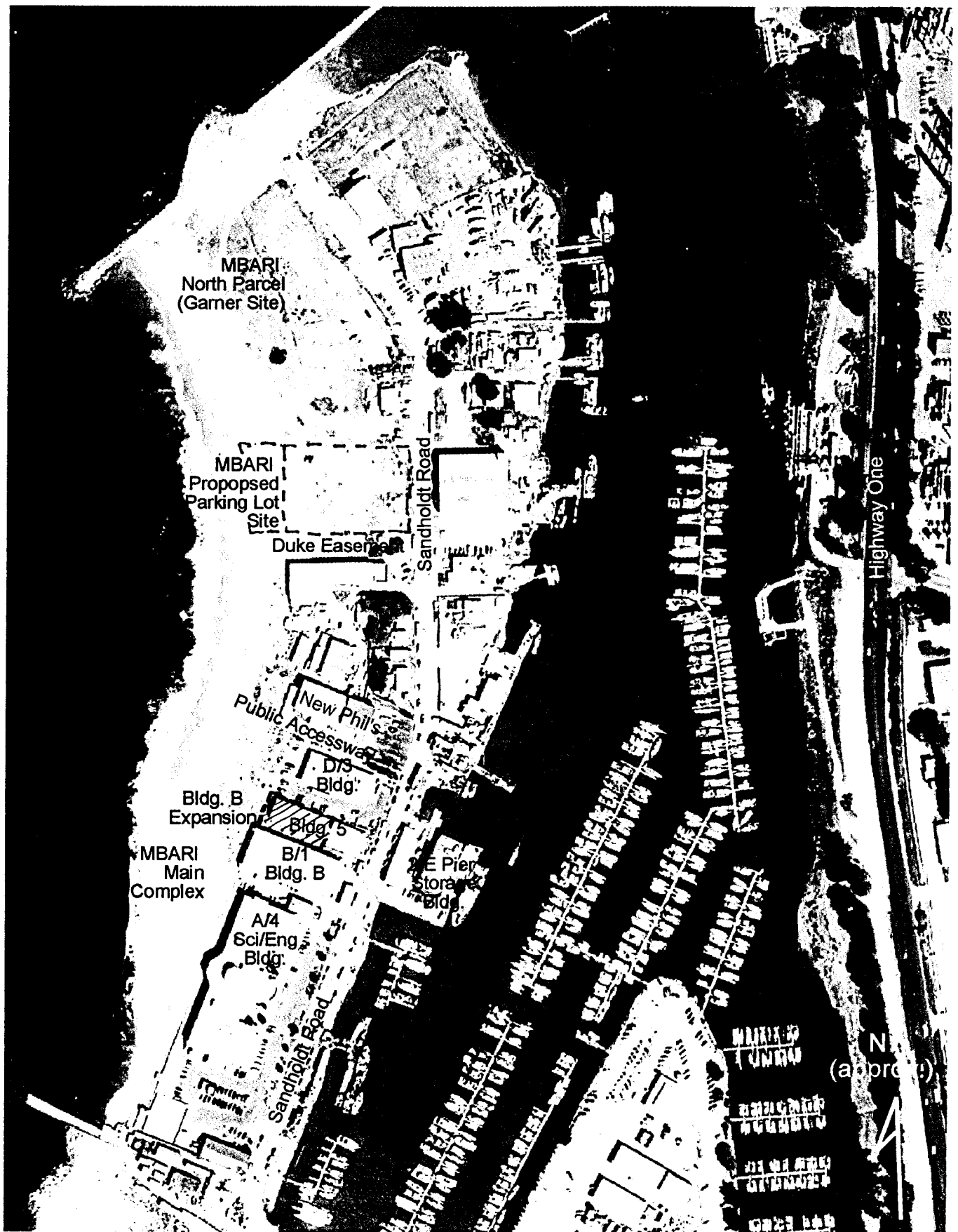


Exhibit C  
 1999 Aerial Photo of Moss Landing - "the Island" (prior to Building B expansion)  
 A-3-MCO-99-093  
 (MBARI Appeal)

PROPOSED  
PARKING LOT  
SITE  
(APN 133-242-008)

MBARI  
Main Complex  
(APN 133-232-011)

CCCT Follow Up  
Current Special Use  
Map 5 of 5  
01/08/00

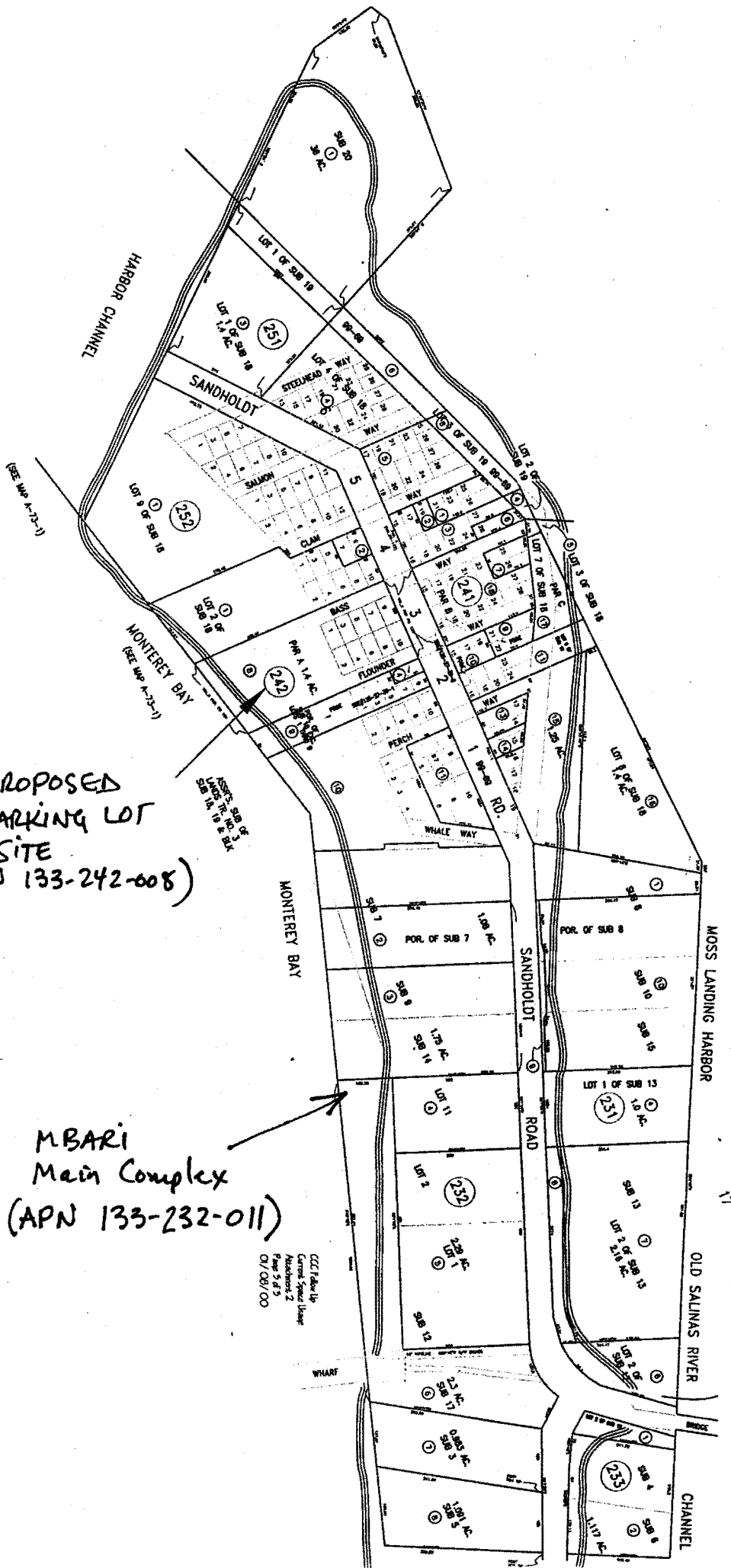


EXHIBIT NO. D
APPLICATION NO. A-3-MCO-99-093
APN MAP
California Coastal Commission

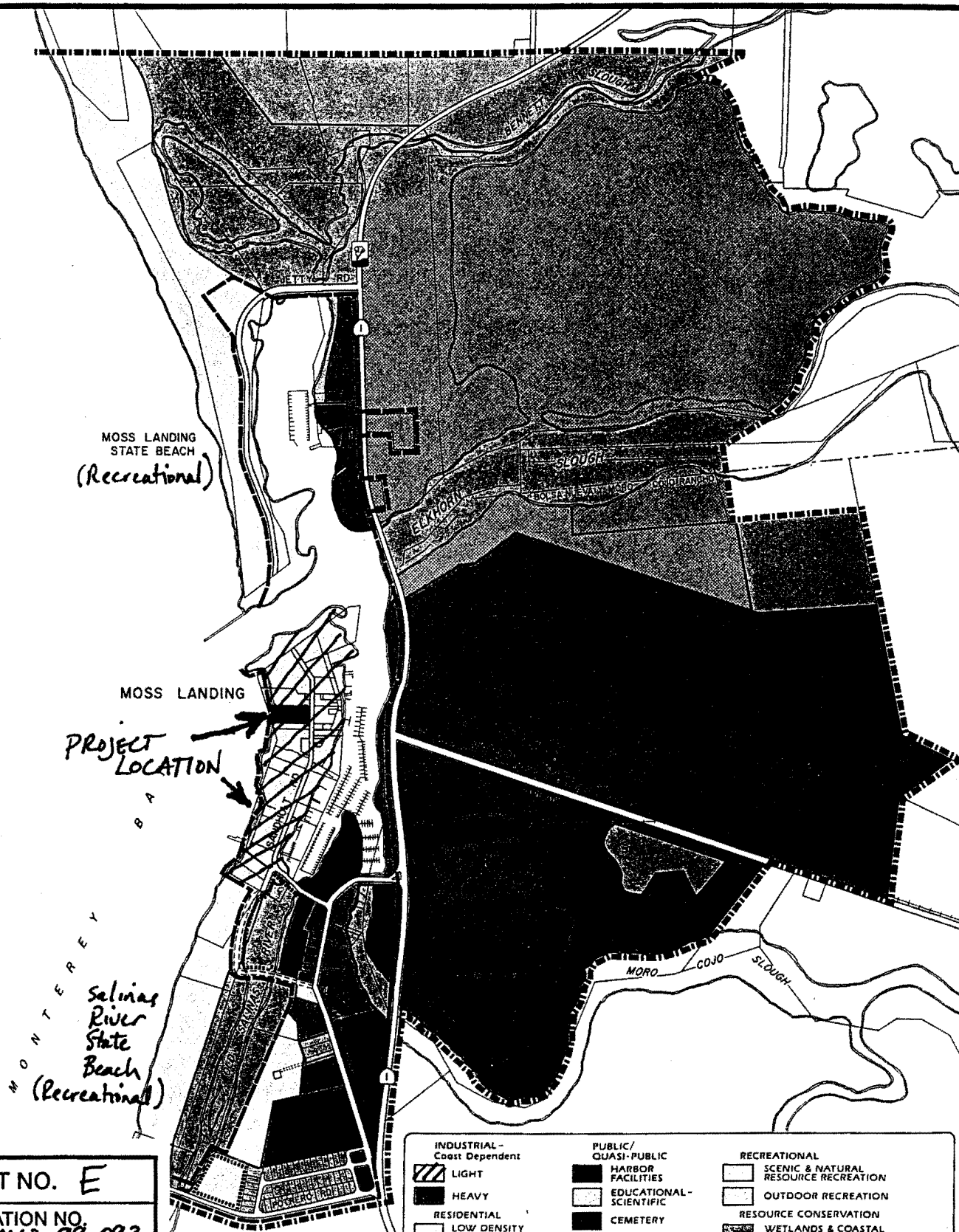


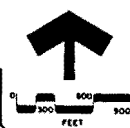
EXHIBIT NO. E

APPLICATION NO.  
A-3-MC-99-093  
LAND USE PLAN -  
MOSS LANDING  
COMMUNITY PLAN

California Coastal Commission

FIGURE 2

LAND USE PLAN



INDUSTRIAL -  
Coast Dependent

- LIGHT
- HEAVY
- RESIDENTIAL
- LOW DENSITY  
2.5 - 10 ACRES/UNIT
- MEDIUM  
1 - 4 UNITS/ACRE
- COMMERCIAL
- RECREATION & VISITOR SERVING
- GENERAL

PUBLIC/  
QUASI-PUBLIC

- HARBOR FACILITIES
- EDUCATIONAL-SCIENTIFIC
- CEMETERY
- AGRICULTURAL/AQUACULTURAL
- AGRICULTURAL CONSERVATION
- AQUACULTURE

RECREATIONAL

- SCENIC & NATURAL RESOURCE RECREATION
- OUTDOOR RECREATION
- RESOURCE CONSERVATION
- WETLANDS & COASTAL STRAND
- SPECIAL TREATMENT

PROPOSED ROAD

PROPOSED 4 LANE SCENIC HIGHWAY

URBAN SERVICE LINE

COMMUNITY PLAN BOUNDARY

Adapted by the Monterey County Board of Supervisors April 28, 1982.  
Amended May 19, 1987.

*no official appeal  
appealed to BOS.*

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

**RECEIVED**

NOV 10 1999

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**FINAL LOCAL  
ACTION NOTICE**

REFERENCE #  
APPEAL PERIOD

*3-MCD-99-162*  
*4/12-11/29/99*

RESOLUTION NO. 99065

A. P. # 133-242-008-000 &  
133-232-011-000

FINDINGS AND DECISION

In the matter of the application of  
**MONTEREY BAY AQUARIUM RESEARCH (PLN990085)**

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located fronting on and westerly of Sandholdt Road at 7700 Sandholdt Road, Moss Landing Area, Coastal Zone, came on regularly for hearing before the Planning Commission on October 27, 1999.

WHEREAS: Said proposal includes:

- 1) Amendment of a Coastal Development Permit (SH93003) to allow 1,900 square-foot interior remodel for office space, and
- 2) Coastal Development Permit for a new 181-space parking lot on Moss Landing Island to replace the previously approved additional 72 parking spaces, and
- 3) Design Approval.

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING:** A Combined Development Permit and Design Approval for an Amendment of a previously approved Coastal Development Permit (SH93003) to allow a 1,900 square-foot interior remodel (loft area to be added to existing Building B); a Coastal Development Permit for a new 176-space parking lot on Moss Landing Island; and an amendment to SH93003 to allow transferring 72 previously approved parking spaces to the new proposed 176-space parking (Assessor's Parcel Number 133-242-008 & 133-232-011). The site is fronting on and westerly of Sandholdt Road and located at 7700 Sandholdt Road, Moss Landing Island in the Coastal Zone.

The proposed development together with the provisions of its design, is consistent with the Moss Landing Community Plan element of the North County Land Use Plan and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.144 - "Regulations

*A-3-MCD-99-093*

*Exhibit F - 1 of 15*

for Development in the North County Land Use Plan Area," and the development standards contained within Chapter 20. 26 "Regulations for Light Industrial Zoning Districts or "LI (CZ)" Districts."

EVIDENCE: This area is designated as "LI (CZ)" (Light Industrial), which allows for the development proposed in this application.

EVIDENCE: The subject property is designated by the North County Land Use Plan as "Light Industrial" which encourages coastal dependent uses.

EVIDENCE: Staff research and field review of this project have determined that this project satisfies requirements of the development standards and zoning district regulations of the plan which address such topics as setback requirements, height limitations, lot coverage, parking and all other development standards and zoning regulations of the Coastal Implementation Plan. Plans and materials in file 990085.

EVIDENCE: North County Land Use Advisory Committee recommendation found in File Number PLN990085.

EVIDENCE: Conditions 1 through 35.

EVIDENCE: The Planning and Building Inspection staff reviewed the application and accompanying materials for conformity with the certified North County Land Use Plan, the regulations for development in the Light Industrial or the "LI" (CZ) Zoning District found in Chapter 20.26 of the Monterey County Coastal Implementation Plan, Moss Landing Community Plan, and Chapter 20.144 of the North County Coastal Implementation Plan.

EVIDENCE: The on-site inspection of the subject parcel by the project planner pursuant to Section 20.144.030 of the North County Coastal Implementation Plan.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Files No. PLN990085.

EVIDENCE: Condition 1.

EVIDENCE: The on-site investigation by the project planner pursuant to Section 20.144.030 of the Monterey County Coastal Implementation Plan. The parking lot's low profile does not constitute a significant visual impact and, based on a site visit, will not be seen from Highway 1. The proposed 1,900 square foot remodel is an interior addition and cannot be seen from off-site.

2. FINDING: The project is located in a high archaeological sensitive area. The project, as proposed, is consistent with the policies of the North County segment of the Local Coastal Program addressing development in archaeological sensitive areas. An archaeological report was prepared for the project site by Archaeological Consulting, dated March 1999. The report concludes that no evidence existed during the survey that would indicate cultural resources exist on the parking lot site. Regardless, a standard condition of approval requires the applicant to stop work in the event that resources are discovered during construction.

EVIDENCE: 1) Archaeological Report prepared by Archaeological Consulting dated March 23, 1999 as found in the Monterey County Planning and Building Inspection File Number PLN980085.  
2) Condition of Approval 17.

3. FINDING: The project site is identified as an Area of Special Biological Importance in the county's resource map. Conditions in the permit ensure that no significant impacts will occur to biological resources.
- EVIDENCE: 1) The County's resource map for the North County Area indicates the parking lot property contains Coastal Strand.
- 2) A botanical/biological report was prepared by Bruce Cowan dated July 30, 1999, as found in the Monterey County Planning and Building Inspection Department File Number PLN980085.
- 3) Landscape Restoration Plan was prepared by Rana Creek Habitat Restoration as found in project File Number PLN990085.
- 4) Conditions of Approval 18, 19, 20, 21, 23, and 33.
4. FINDING: The proposed project element consisting of the remodel is consistent with policies of the Local Coastal Program addressing development in hazardous areas. The project site is located in a Very High Seismic Area (Zone VI) because of the threat of tsunami. Seismic activity may also induce ground shaking and ground failure at the site. A condition of project approval requires that the geotechnical engineer certify that all remodel work is completed in accordance with the original and any subsequent geotechnical reports associated with SH93003 and PLN970336, incorporated herein by reference, as well as the conditions of project approval associated with project files SH93003 and PLN970336. Said files are on file in the Monterey County Planning and Building Inspection Department, as found in File Number PLN990085.
- EVIDENCE: 1) Coastal Wave Runup study for MBARI Moss Landing Phase 2 prepared for the parcel by Haro, Kasunich and Associates, Inc., dated April 1993.
- 2) Geologic Hazards Evaluation/Geotechnical Investigation report prepared by Rutherford & Chekene, dated February 16, 1993 and May 1999.
- 3) Conditions of Approval 14 and 15.
5. FINDING: The proposed project is consistent with policies of the Local Coastal Program addressing Transportation Development Standards. A Traffic Report was prepared for the project by Higgins Associates, Civil & Traffic Engineers. This Report was reviewed by the Monterey County Public Works Department and CalTrans and deemed acceptable. According to the Traffic Report, buildout of MBARI will generate 38 P.M. peak hour trips. Approximately 20% of the trips would access the site from the north on Highway 1, 75% to and from the south on Highway 1, and 5% to and from the east on Dolan Road. The project is expected to add traffic at the following locations: 1) Highway 1; 2) Sandholdt Road; 3) Highway 1/Dolan Road intersection; 4) Highway 1/Moss Landing Road (north) intersection; and 5) Highway 1/Moss Landing Road (south) intersection. Monterey County collects fees to fund improvements to area roadways and therefore mitigate impacts.
- EVIDENCE: 1) Traffic Report prepared for the project by Higgins Associates, Civil & Traffic Engineers, dated June 3, 1999, contained in the Monterey County Planning and Building Inspection Department File Number PLN990085.
- 2) Condition of Approval 6.

6. FINDING: Based on the record, the proposed project has been determined to not have a significant environmental impact. An Initial Study was prepared for the project and it was determined that the proposed project, with prescribed mitigations, would not have a significant impact on the environment. The decision makers shall adopt a Mitigated Negative Declaration, which reflects the decision makers' independent judgment and analysis. The decision makers also herein adopt the attached conditions of approval as the program for reporting on or monitoring the changes which it has either required or made a condition of project approval to mitigate and/or avoid significant environmental impacts. Said Mitigated Negative Declaration was filed with the County Recorder on August 2, 1999, noticed for public review, and circulated to the State Clearinghouse (State Clearing House Number 99081010). The Monterey County Planning Commission considered public testimony and the Initial Study prior to adopting the Mitigated Negative Declaration.
- EVIDENCE: Initial Study and Negative Declaration contained in File No. 990085.
- EVIDENCE: Conditions of Approval relating to Resolution Number 990085.
7. FINDING: For purposes of the Fish and Game Code, the project will have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends. Mitigations have been incorporated.
- EVIDENCE: Staff analysis contained in Section VI of the Initial Study indicates the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. Though mitigations are prescribed in the Initial Study and transferred to this Staff Report as Conditions of Approval 18, 19, 20, 21, 23, and 32, there remains the potential impact to the beach pea (*Lathyrus littoralis*), as well as the black legless lizard and globuse beetle (a state and federal Species of Special Concern, respectively). Though not state or federally listed, or even included in the California Native Plant Society Inventory of Rare and Endangered Vascular Plants of California, it is nevertheless uncommon and occurs only in undisturbed dunes immediately above the high tide zone.
8. FINDING: The proposed project is in conformance with the Moss Landing Community Development Standards; specifically Section 20.144.160.D.3.d.2.d and e - *Visual Resources and Community Character*, pertaining to (d) amenities for visitors such as pathways or boardwalks to the shoreline and (e) off-street parking.
- EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, as found in File Number PLN990085.
9. FINDING: The project is in conformance with public access requirements of the Coastal Act, the North County Land Use Plan Section 5.4, and the North County Land Use Plan Area Coastal Implementation Plan Section 20.144.150.
- EVIDENCE: The project is in conformance with the public access and public recreation policies of the North County Land Use Plan Section 5.4.11, whereby vertical public access exists between Assessor's Parcel Numbers 133-232-011 and 133-232-001, and does not interfere with any form of historic public use or trust rights.

EVIDENCE: North County Land Use Plan Shoreline Public Access and Recreation (Figure 4 in the LUP) indicates controlled pedestrian access on Assessor's Parcel Number 133-232-011.

EVIDENCE: The applicant proposes to construct a lateral access at the westerly end of the proposed parking lot on Assessor's Parcel Number 133-242-008, to allow pedestrian access to the beach.

EVIDENCE: The applicant providing a parking lot will implement North County Land Use Plan Section 5.4.11, which pertains to "adequate on-site parking and public access to the beach should be a condition of development permit approvals on the Island (i.e., Moss Landing Island).

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in Files No. PLN990085.

10. FINDING: In approving this Coastal Development Permit, the establishment, maintenance, or operation of the uses will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, Water Resources Agency, and the North County Fire Protection District. These departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood or the County in general.

11. FINDING: The project as approved by the Planning Commission is appealable to the Board of Supervisors and to the California Coastal Commission

EVIDENCE: Chapter 20.86.030 and 20.86.080 of the Monterey County Coastal Implementation Plan.

### DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. This permit is for a Combined Development Permit and Design Approval for an Amendment of a previously approved Coastal Development Permit (SH93003) to allow a 1,900 square-foot interior remodel (loft area to be added to existing Building B); a Coastal Development Permit for a new 176-space parking lot on Moss Landing Island; and an amendment to SH93003 to allow transferring 72 previously approved parking spaces to the new proposed 176-space parking (Assessor's Parcel Number 133-242-008 & 133-232-011). The site is fronting on and westerly of Sandholdt Road and located at 7700 Sandholdt Road, Moss Landing Island in the Coastal Zone.

A-3-MLO-99-093

Exhibit F-5 of 15



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

**Prior to the issuing Permits to Demolish, Grade and/or Build:**

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. **(Planning and Building Inspection)**
3. All new, paved parking areas shall route stormwater runoff to oil/water separator(s) before discharge to the proposed soil percolation chambers. The separator devices should incorporate an oil skim pillow type design to lessen the possibility of contaminated water overflowing onto Sandholdt Road and the harbor in the event that the collection box or percolators become plugged. **(Water Resources Agency)**
4. The roll-up door opening on the Building B shall be floodproofed in accordance with the Monterey County Floodplain Ordinance Section 16.16.050.C.3, which shall include construction features that allow the use of a watertight, removable flood panel. Plans shall be subject to the approval of the Monterey County Water Resources Agency. **(Water Resources Agency)**
5. Certification that floodproofing requirements have been constructed in accordance with approved plans shall be provided to the Monterey County Water Resources Agency by a registered civil engineer. **(Water Resources Agency)**
6. Contribute a traffic impact fee of \$5,978 for road improvements within the area. **(Public Works)**

A-3-MCO-99-093

Exhibit F-6 of 15

7. The parking layout and internal circulation shall be approved by the Department of Public Works. **(Public Works)**
8. Obtain an encroachment permit and construct A.C. curb, gutter, sidewalk and pavement along entire frontage of Sandholdt Road. **(Public Works)**
9. The landscaping in the public right-of-way shall be low growing (6-inch maximum), drought resistant plants. **(Public Works)**
10. Both driveway approaches shall include five foot wings. **(Public Works)**
11. The "No Parking" sign shall be relocated on Sandholdt Road subject to the approval of the Department of Public Works. **(Public Works)**
12. No bollards will be allowed in the public right-of-way. **(Public Works)**
13. The applicant shall obtain a Grading Permit pursuant to the Monterey County Code relative to Grading, Chapter 16.08. **(Planning and Building Inspection)**
14. The applicant shall incorporate the recommendations from the Coastal Wave Runup study for MBARI Moss Landing Phase 2 prepared for the parcel by Haro, Kasunich and Associates, Inc., dated April 1993. **(Planning and Building Inspection)**
15. The applicant shall incorporate the recommendations from the Geologic Hazards Evaluation/Geotechnical Investigation report prepared by Rutherford & Chekene, dated May 1999. **(Planning and Building Inspection)**
16. The applicant's geotechnical engineer shall certify by signature on the final project plans that all remodel work is completed in accordance with the original and any subsequent geotechnical reports associated with SH93003, PLN970336 and PLN990085, as well as the conditions of project approval pertinent to geologic/geotechnical issues associated with the MBARI development project files SH93003 and PLN970336. **(Planning and Building Inspection)**
17. If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection Department)**
18. The applicant shall consult with and obtain a report from a coleopterist and an herpetologist to determine if there is a possible presence of globose dune beetle and black legless lizard, both have the potential to exist on the site and both are federal candidates for listing. If such species are found, the applicable federal and state protocols will be required to be implemented (to include

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Exhibit F-7 of 15

delay of construction and/or relocation of species and plant habitat enhancement to accommodate these species). **(Planning and Building Inspection)**

19. During grading operations the applicant shall remove stockpiles of topsoil from the property and not use this material in dune restoration. **(Planning and Building Inspection)**
20. During grading operations the applicant shall remove non-native plants. **(Planning and Building Inspection)**
21. Prior to obtaining a grading permit, the applicant shall construct a temporary protective fence around the existing colony of beach pea in the northwest corner of the property. **(Planning and Building Inspection)**
22. Prior to obtaining grading and building permits, the applicant shall show on the landscaping plans a retaining wall of appropriate height to delineate the dunes area from the parking lot with at least one pedestrian access point (e.g., short flight of steps to a boardwalk connecting the parking lot to the beach area). Signs shall be appropriately placed in the parking lot directing pedestrians to this access point. The applicant shall also install a permanent fence (wood is preferable) at the proposed retaining wall to discourage undirected pedestrian access across the restored dune. **(Planning and Building Inspection)**
23. The applicant shall include in the landscape plans a statement indicating that transplant <sup>of</sup> existing American dune grass from the parking area into the restored dune shall occur. **(Planning and Building Inspection)**
24. Pertaining to the parking lot only, all exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare does not occur. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
25. The applicant shall record a notice which states: "A permit (Resolution # 99065) was approved by the Monterey County Planning Commission for Assessor's Parcel Numbers 133-242-008 & 133-232-011 on October 27, 1999. The permit was granted subject to implementation of the conditions of approval associated with SH93003, PLN970336 and the 35 conditions of approval herein, which run with the land (APN 133-242-008 & 133-232-011. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department. Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building or grading permits." **(Planning and Building Inspection)**

26. Prior to grading for the parking lot, the applicant shall submit three copies of the Moss Landing Island Shoreline Management and Maintenance Plan (dune restoration component) to the Director of Planning and Building Inspection for review and approval after said Management Plan has been reviewed and approved by the District Director of the Coastal Commission (Central Coast District). This plan shall be in sufficient detail to identify the methods of installation, location, species, and size of the proposed dune landscaping materials and shall be accompanied (as an appendix/exhibit to the Management Plan) by a landscape contractor qualified for dune restoration or contractor's estimate of the cost of installation of the plan. Before use of the parking lot, dune landscaping shall be either installed or a certificate of deposit or other form of surety for the parking lot made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**
27. The landscaping plan shall include plants native to the Monterey Bay dunes and, if necessary, low precipitation sprinkler heads, bubblers, drip irrigation and timing devices. The landscaping plans shall conform with Chapter 18.50, Residential, Commercial and Industrial Water Conservation Measures, found in Title 18 of the Monterey County Code. **(Planning and Building Inspection)**
28. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection Department)**

**Prior to occupancy of remodel:**

29. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water re-circulating system.
  - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency)**
30. The applicant shall obtain an Encroachment Permit from the Public Works Department for all work within the public right of way. **(Public Works)**
31. Applicant shall comply with the Uniform Building Code as approved by the North County Fire Protection District. **(North County Fire Protection District)**
32. New utility and distribution lines shall be placed underground. **(Planning and Building Inspection)**

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Exhibit F - 9 of 15

33. The applicant shall increase the number of guest parking spaces located at the main MBARI facility (APN 133-232-011) by a number to be determined by MBARI, but will be based on the anticipated need for said parking spaces. **(Planning and Building Inspection)**

**Continuous permit conditions:**

34. The applicant shall maintain the parking lot facility whereby non-native plant species are regularly removed. **(Planning and Building Inspection)**
35. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 27th day of October, 1999 by the following vote:

AYES: Errea, Hawkins, Hennessy, Hernandez, Lacy, Pitt-Derdivanis, Sanchez, Wilmot  
NOES: Parsons  
ABSENT: Crane-Franks

  
\_\_\_\_\_  
William L. Phillips, SECRETARY

Copy of this decision mailed to applicant on **NOV - 8 1999**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **NOV 18 1999**

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (408) 479-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

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Exhibit F- 10 of 15

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.

NC/

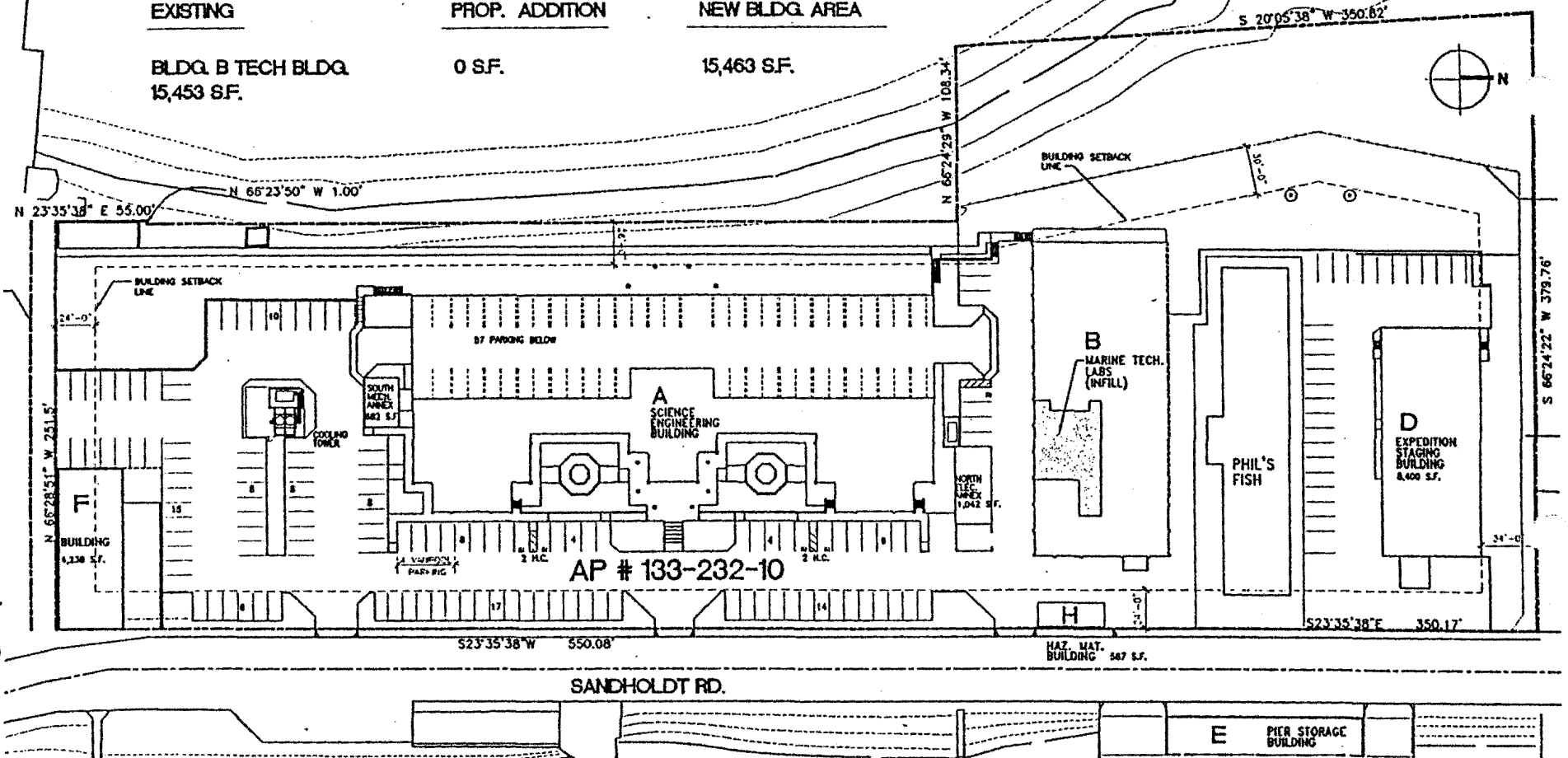
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Rev. 1/15/99

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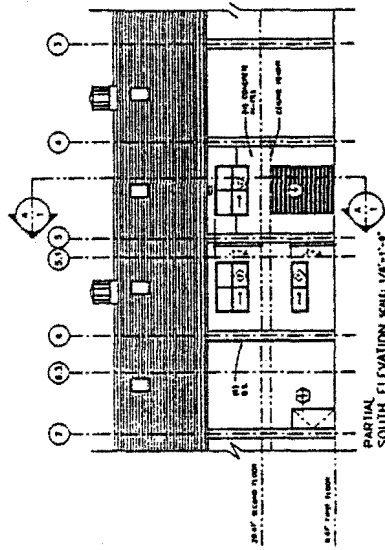
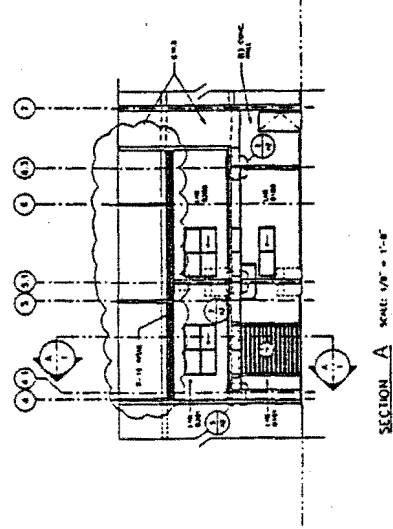
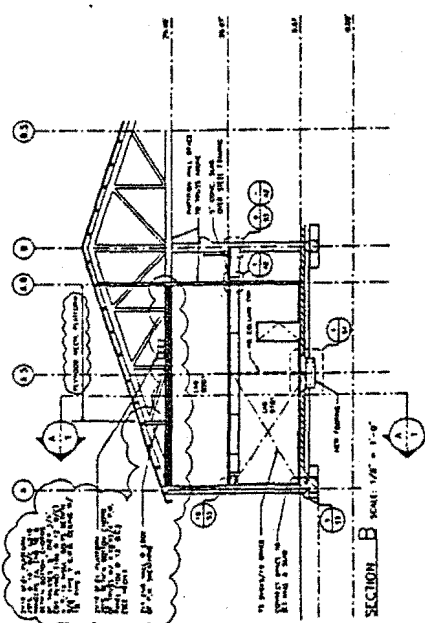
Exhibit F- 11 of 15

<u>EXISTING</u>	<u>PROP. ADDITION</u>	<u>NEW BLDG. AREA</u>
BLDG. B TECH BLDG. 15,453 S.F.	0 S.F.	15,463 S.F.



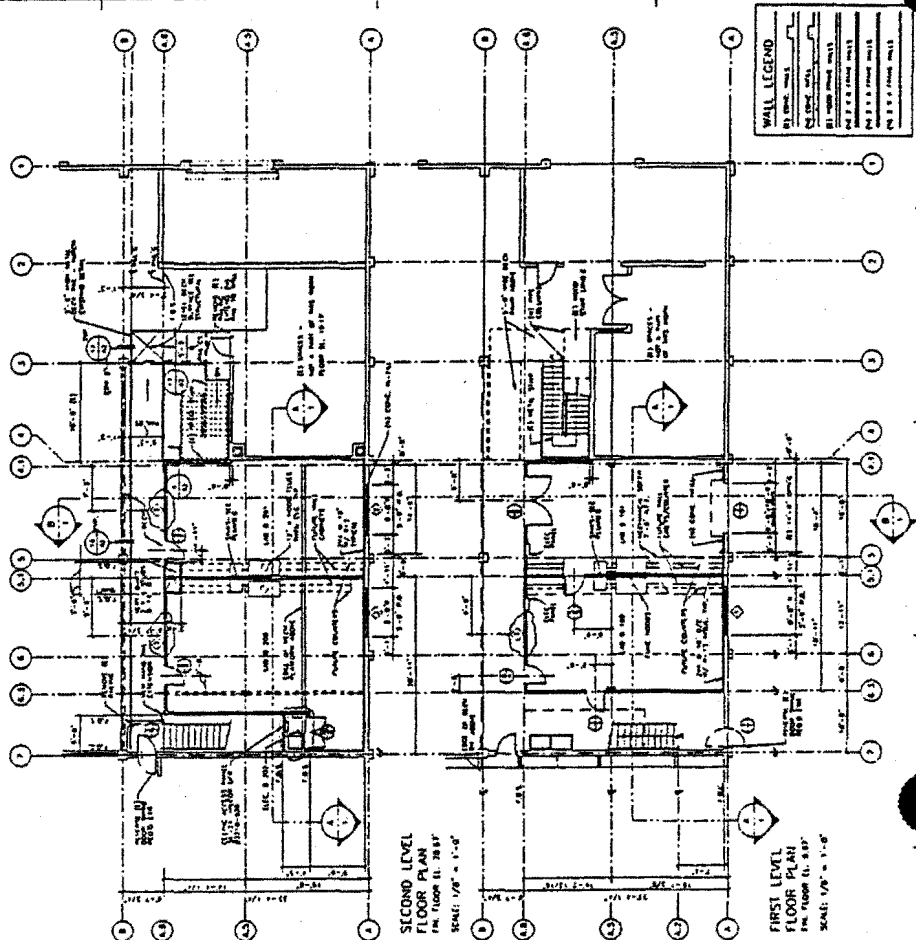
A-3-MD-99-093

Exhibit F-12 of 15

[illegible][illegible][illegible]

DOOR SCHEDULE									
NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL	REMARKS	DATE	BY	CHECKED
1	1.000	1.000	1.000	1.000	1.000				
2	2.000	2.000	2.000	2.000	2.000				
3	3.000	3.000	3.000	3.000	3.000				
4	4.000	4.000	4.000	4.000	4.000				
5	5.000	5.000	5.000	5.000	5.000				
6	6.000	6.000	6.000	6.000	6.000				
7	7.000	7.000	7.000	7.000	7.000				
8	8.000	8.000	8.000	8.000	8.000				
9	9.000	9.000	9.000	9.000	9.000				
10	10.000	10.000	10.000	10.000	10.000				
11	11.000	11.000	11.000	11.000	11.000				
12	12.000	12.000	12.000	12.000	12.000				
13	13.000	13.000	13.000	13.000	13.000				
14	14.000	14.000	14.000	14.000	14.000				
15	15.000	15.000	15.000	15.000	15.000				
16	16.000	16.000	16.000	16.000	16.000				
17	17.000	17.000	17.000	17.000	17.000				
18	18.000	18.000	18.000	18.000	18.000				
19	19.000	19.000	19.000	19.000	19.000				
20	20.000	20.000	20.000	20.000	20.000				
21	21.000	21.000	21.000	21.000	21.000				
22	22.000	22.000	22.000	22.000	22.000				
23	23.000	23.000	23.000	23.000	23.000				
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28	28.000	28.000	28.000	28.000	28.000				
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30	30.000	30.000	30.000	30.000	30.000				
31	31.000	31.000	31.000	31.000	31.000				
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33	33.000	33.000	33.0						

MOLE: GROUP 1 &amp; 2 AND TRANSITION METALS





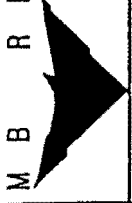
**HBFL**  
HARBOR BUILDING  
FLOORING & LUMBER, ARCHITECTS

300 South Street  
New York, N.Y. 10001  
Tel: 212-771-7001

**RUTHERFORD AND CHEBSE**  
CONCRETE CONTRACTORS  
200 West Street, New York, N.Y. 10001  
Tel: 212-771-7001



Approved: \_\_\_\_\_  
Date: \_\_\_\_\_

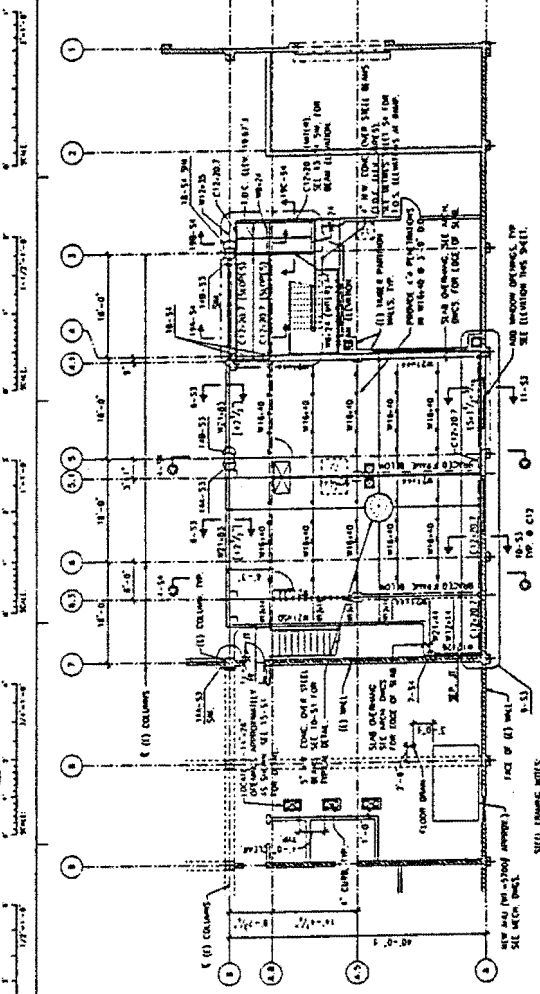


**MEAR MARINE TECH LAB**  
BLOOMING  
10015 LINDEN, CT 06430

**PLANS AND ELEVATIONS**

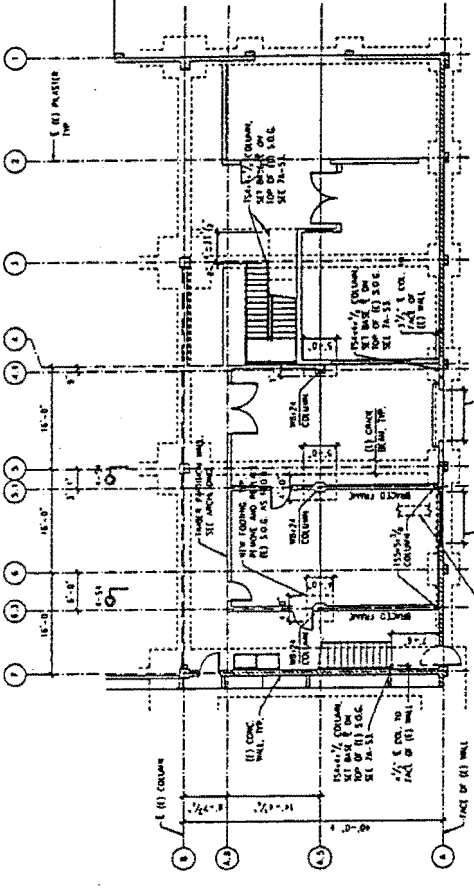
Drawn by: \_\_\_\_\_  
Checked by: \_\_\_\_\_  
Approved by: \_\_\_\_\_  
Project No.: \_\_\_\_\_  
Date: 5-11-79

**S2**



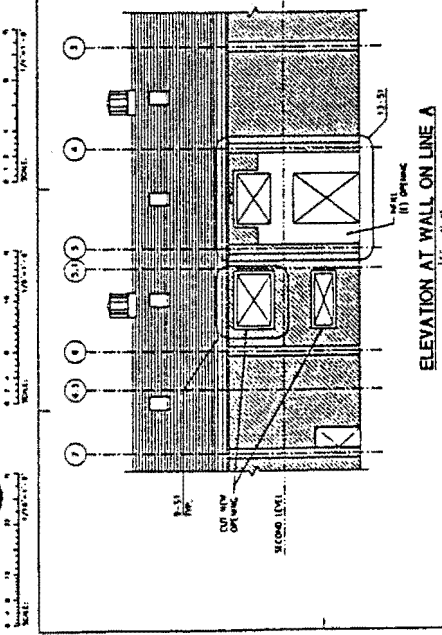
**SECOND LEVEL FRAMING PLAN**  
1/8" = 1'-0"

1. COLUMN
2. BEAM
3. WALL
4. FLOOR SLAB
5. ROOF SLAB
6. STAIR
7. ELEVATOR
8. MECHANICAL
9. ELECTRICAL
10. PLUMBING
11. HVAC
12. OTHER

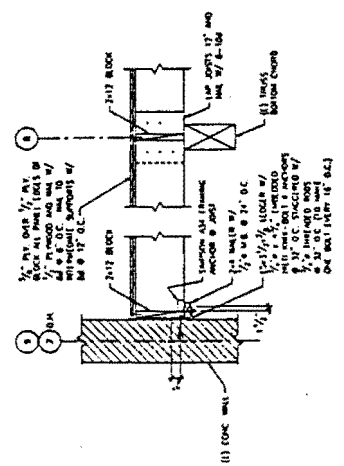


**FOUNDATION / FIRST LEVEL PLAN**  
1/8" = 1'-0"

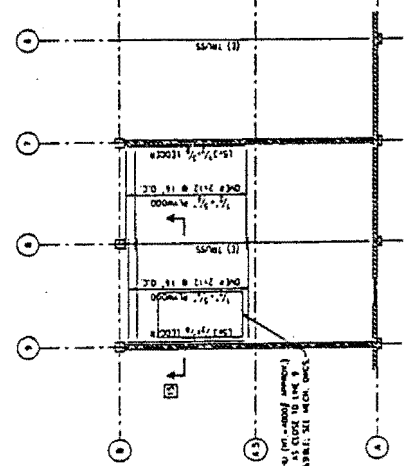
1. COLUMN
2. BEAM
3. WALL
4. FLOOR SLAB
5. ROOF SLAB
6. STAIR
7. ELEVATOR
8. MECHANICAL
9. ELECTRICAL
10. PLUMBING
11. HVAC
12. OTHER



**ELEVATION AT WALL ON LINE A**  
1/8" = 1'-0"



**MEZZANINE DETAILS**  
1/8" = 1'-0"



**MEZZANINE LEVEL FRAMING PLAN (AT TRUSS BOTTOM CHORD)**  
1/8" = 1'-0"

1. COLUMN
2. BEAM
3. WALL
4. FLOOR SLAB
5. ROOF SLAB
6. STAIR
7. ELEVATOR
8. MECHANICAL
9. ELECTRICAL
10. PLUMBING
11. HVAC
12. OTHER

Exhibit F - 14 of 15

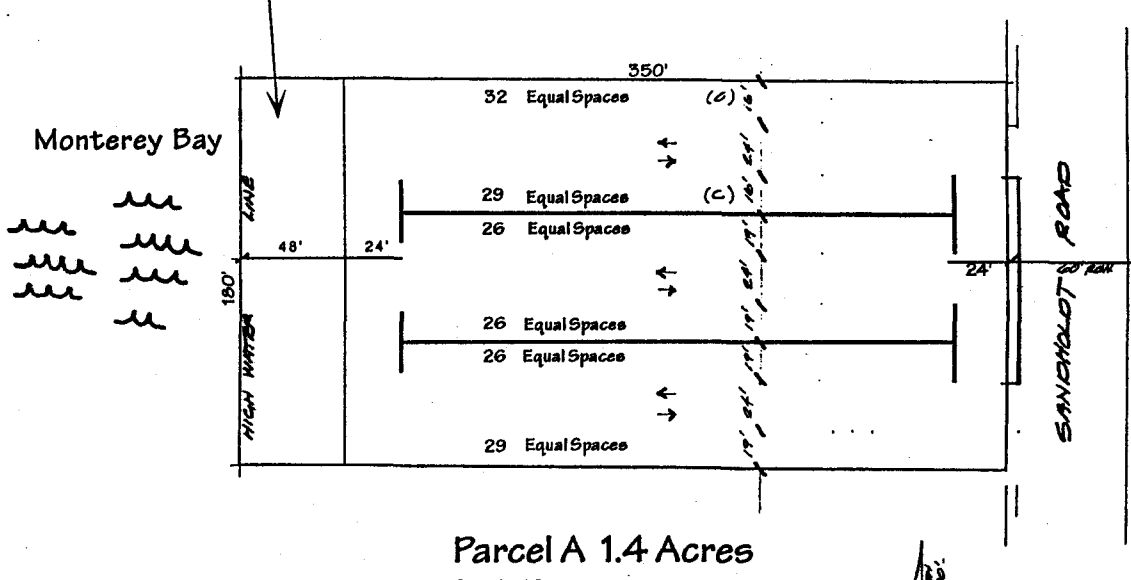
A-3-MCO-99-093

# Landscape Restoration Plants:

Botanical Name	Common Name	Quantity
<i>Abronia latifolia</i>	yellow sand verberna	180
<i>Abronia umellata</i>	pink sand verberna	180
<i>Accllea millefolium</i>	yarrow	20
<i>Armeria maritima</i> var. <i>californica</i>	sea pink	80
<i>Artemisia californica</i>	California sagebrush	50
<i>Artemisia pycnocephala</i>	beach sagewort	20
<i>Aster chilensis</i>	aster	50
<i>Baccharis pilularis</i>	coyote brush	10
<i>Camissonia (oenothera) cheiranthifolia</i>	beach primrose	70
<i>Carex pansa</i>	sand sedge	185
<i>Diatichlis spicata</i>	salt grass	160
<i>Dudleya caespitosa</i>	sea lettuce	120
<i>Ergonum latifolium</i>	coast buckwheat	150
<i>Ergonum parvifolium</i>	dune buckwheat	150
<i>Erigeron glaucus</i>	seaside daisy	50
<i>Eriophyllum staechadifolium</i>	lizard tail	120
<i>Eschscholzia californica</i> var. <i>maritima</i>	beach poppy	70
<i>Grindelia stricta</i> var. <i>platyphylla</i>	coast gum plant	20
<i>Lessingia filaginifolia</i>	beach aster	50
<i>Leymus mollis</i>	American dune grass	200
<i>Lupinus arboreus</i>	yellow bush lupine	15
<i>Poa douglasii</i>	dune bluegrass	50

Total Area	63,000 ft <sup>2</sup>	Percentage of Total Area
Area to be disturbed (Parking Lot)	55,020 ft <sup>2</sup>	87.33%
Mitigation Area (Dunes)	7,980 ft <sup>2</sup>	12.66%

## Dune Mitigation Restoration Area



## Parcel A 1.4 Acres

Standard Spaces	107
Accessible Spaces	8
Compact Spaces	61
Total Spaces	176

#98031

## Revised Project Overview

## M.B.A.R.I Parking Lot

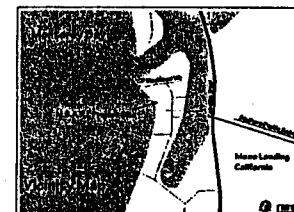
October 7, 1999

## RANA CREEK HABITAT RESTORATION



25 0 25 50 75 100 feet

Sheet 1 of 3



A-3-MCD-99-093

Exhibit F - 15 of 15

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

27-4863

HEARING IMPAIRED: (415) 904-5200



RECEIVED

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

NOV 29 1999

Please review attached appeal information sheet prior to completing this form. CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

## SECTION I. Appellant(s):

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

Sara Wan, Chairperson	Pedro Nava, Commissioner
California Coastal Commission	California Coastal Commission
45 Fremont Street, Suite 2000	45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219	San Francisco, CA 94105-2219
(415) 904-5200	(415) 904-5200

## SECTION II. Decision Being Appealed

1. Name of local/port government:

Monterey County

2. Brief description of development being appealed:

Coastal Development Permit for a new 176-space parking lot on Moss Landing Island  
(Includes an amendment to SH93003 to allow transferring 72 previously approved  
parking spaces to the new 176-space parking lot.)

3. Development's location (street address, assessor's parcel number, cross street, etc.):

Fronting on and westerly of Sandholdt Road (Assessor's Parcel Number 133-242-008 &  
133-232-011)

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: XXX
- c. Denial: \_\_\_\_\_

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

## TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-99-093DATE FILED: 11/29/99DISTRICT: Central Coast

A-3-MCO-99-093

Exhibit G-1 of 7

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

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

a. ☐ Planning Director/Zoning  
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of  
Supervisors

d. ☐ Other: \_\_\_\_\_

6. Date of local government's decision: 11/10/99

7. Local government's file number: Resolution No. 99065 (PLN 990085)

**SECTION III Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Monterey Bay Aquarium Research Institute

7700 Sandholdt Road

P.O. Box 628

Moss Landing, CA 95039-0628

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

(1) Janie Figen (representing the Ventana Chapter of the Sierra Club)

1443 Deer Flat Road

Monterey, CA 93940

(2) Jack Compton (Commissioner of the Moss Landing Harbor District)

7881 Sandholdt Road

Moss Landing, CA 95039-0010

(3) Jim Stilwell (General Manager, Moss Landing Harbor District)

7881 Sandholdt Road, P.O. Box 10

Moss Landing, CA 95039-0010

(4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION IV. Reasons Supporting This Appeal**

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

*A-3-MCO-99-093*

*Exhibit G-2 of 7*

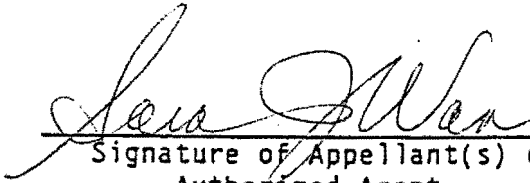
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Please see "Attachment: Reasons For This Appeal"

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

SECTION V. Certification

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

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date November 29, 1999

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

Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

A-3-MCO - <sup>Date</sup> 99-093

Exhibit 6 - 3 of 7

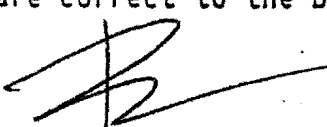
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Please see "Attachment: Reasons For This Appeal"

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

#### SECTION V. Certification

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

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date November 29, 1999

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

#### Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date  
A-3-MCO-99-093

Exhibit G-4 of 7

## **Attachment: Reasons For This Appeal**

The Monterey County Planning Commission issued a Combined Coastal Development Permit and Design Approval to the Monterey Bay Aquarium Research Institute (MBARI) to allow a 1,900 square foot interior remodel (loft area to be added to existing Building B); a CDP for a new 176-space parking lot on Moss Landing Island; and an amendment to SH93003 to allow transfer of 72 previously approved parking spaces to the new proposed 176-space parking lot. The proposed new parking lot site is fronting on and westerly of Sandholdt Road (APN # 133-242-008) and extends seaward across coastal dunes, which are considered by the LCP as environmentally sensitive habitat. Development of a parking lot atop dune habitat is not consistent with LCP policies that deal with environmentally sensitive habitats, land use or parking facilities.

The LCP defines environmentally sensitive habitats as

*... areas in which plant or animal life or their habitats are rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Environmentally sensitive habitat areas (ESHA) are therefore not based solely on the presence of threatened or endangered species but also on the rarity and sensitivity of the habitat to destruction or alteration from human activities.

The following LCP policies are among those that address environmentally sensitive habitat areas:

### ***Environmentally Sensitive Habitats:***

***LUP Policy 2.3.2.1.*** *With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare and endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values.*

***LUP Policy 2.3.2.2.*** *Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.*

***LUP Policy 2.3.2.8.*** *Where development is permitted in or adjacent to environmentally sensitive habitat areas (consistent with all other resource protection policies), the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to the minimum amount necessary for structural improvements.*

Although the eastern end of the site has been graded previously and is occupied with several mounds of topsoil, a significant portion of the parcel is occupied by coastal dunes. As described in the Biological report, "most of the parcel is a gently sloping to nearly level foredune with a remnant population of

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native foredune plants, mainly beach bur, salt grass, American dune grass, beach primrose, beach morning glory, and a healthy colony of beach pea near the northwest corner." Though not state or Federally listed, the beach pea is uncommon and occurs only in undisturbed dunes immediately above the high tide zone. The biological survey, conducted in July of 1998, found no endangered plant species but noted that additional surveys should be conducted to determine the possible presence of the globose dune beetle (a Federal special concern species) and the black legless lizard (a State species of special concern). According to the Biological report, globose dune beetles remain mostly buried in sand in foredunes immediately above high tide in association with beach bur and yellow sand verberna. Black legless lizards spend most of their time burrowing beneath the sand, and can also be found sometimes at the surface mixed in with the litter that collects under lupine and mock heather plants.

Comments from the California Department of Fish and Game note that the biological survey was conducted during the wrong time of the year to find the sensitive plant species which could occur on the site. CDFG recommended the project not be approved until appropriately timed surveys for sensitive plants, black legless lizards and globose dune beetles could be conducted and included in the public review process prior to any development. The CDP (Resolution No. 99065) requires that a survey be conducted for these species prior to construction but requires only delay of construction and/or relocation of species and plant habitat enhancement to accommodate the species, rather than avoidance of habitat disturbance. Therefore the proposed project is not consistent with LCP policies for protecting environmentally sensitive habitat.

The following LCP policies are among those that address land use and development in light industrial land use areas:

*LUP Policy 4.3.6.F4 Specific Land Use Policies. A basic standard for all new or expanded industrial uses is the protection of North County's natural resources. ... New or expanded industrial facilities shall be sited to avoid impacts to agriculture or environmentally sensitive habitats.*

*LUP Policy 5.2.1A Moss Landing Community Plan - Coastal Dependant Industry. ... The intent of this plan is that ... coastal dependent industrial facilities shall be encouraged to expand within existing sites, and shall be allowed reasonable growth consistent with the protection of the area's natural resources. If impacts to sensitive natural habitats cannot be avoided by future expansion of these facilities, then impacts must be mitigated to the maximum extent feasible. ...*

Marine related research facilities, including but not limited to laboratories, offices and other reasonable related uses and boat storage and repair facilities are considered conditional uses in Light Industrial (LI(CZ)) land use zones. Although not an industrial use per se, the LCP requires that expanded development in LI zones avoid impacts to ESHA. As approved by the County, the parking lot is not consistent with this policy.

It might also be noted that the LUP includes education/scientific land use as one of three public/quasi-public land uses in the North County area. The North County LUP was written and certified prior to MBARI's occupancy on the Island so no policies were written specifically with regard to MBARI operations or facilities. However, Land Use policy 5.2.1H1 (pg 94) states that future redesign and expansion of Moss Landing Marine Labs shall not be permitted to encroach upon sensitive dune habitats south of the existing site. This policy, written specifically for an education/scientific land use, was clearly designed to follow the intent of the plan (as described above) to protect the area's natural resources.

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Finally, the need for MBARI to place an expanded parking lot into sensitive dune habitat has not been determined. The size of the parking lot and alternative parking lot locations have not been evaluated to determine whether impacts to sensitive natural habitats can be avoided and whether the proposed location is the least environmentally damaging site. While the Planning Commission staff report (PLN 990085) includes a discussion stating that the size of a parking lot may be the same or smaller than that proposed based on the findings of a Shoreline Management Plan, the Final Local Action Notification (Resolution 99065) does not include such language and so in no way conditions the size or location of the parking lot to avoid sensitive dune habitat. Therefore the proposed project is not consistent with LCP land use policies.

The following LCP policies are among those that address parking facilities and public access

*LUP Policy 5.5.2.1. Coastal dependent industrial facilities should be encouraged to expand within existing sites before off-site expansion is considered...*

*LUP Policy 6.4.1.2. The following criteria should be used in planning for parking improvements. ...Improvement for parking should entail minimum land disturbance and should have minimal impact upon environmentally sensitive habitats and other sensitive resources*

As described above, a significant portion of the proposed parking lot site is occupied with sensitive dune habitat. Paving over this area would entail disturbing a large portion of land for grading and construction, consequently burying the dunes and severely impacting the environmentally sensitive habitat present. Alternatives for expanding parking facilities within existing sites have not been presented. Therefore, as proposed, the project is not consistent with the LCP parking and public access policies described above.

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Exhibit G-7 of 7

BRUCE COWAN  
ENVIRONMENTAL LANDSCAPE CONSULTANT

P.O. BOX 671      PACIFIC GROVE, CA 93950      (831) 372-7650

DATE: July 30, 1998

APPLICATION NO. \_\_\_\_\_

BOTANICAL/BIOLOGICAL REPORT

APN: 133-242-008

PARCEL NO. \_\_\_\_\_

PARCEL SIZE: 1.4 acres

APPLICANT: Monterey Bay Aquarium Research Institute, 7700 Sandholdt Road,  
Moss Landing, CA 95039      (831)775-1954

OWNER: M.B.A.R.I.

REPORT FOR: M.B.A.R.I.

AUTHORIZED BY: Jim McFarlane

DATE AUTHORIZED: 7/27/98

DATE(S) OF FIELD WORK: 7/27/98

TYPE OF DEVELOPMENT: Construct a parking lot

ADDRESS OR LOCATION OF PROPERTY: Davi property, Sandholdt Rd.,  
Moss Landing

RARE OR ENDANGERED SPECIES? None observed      SENSITIVE HABITAT? shore dune

SUMMARY

Applicant wishes to construct a parking lot on a level sandy area fronting on Monterey Bay. The area contains remnant vegetation of the foredunes near the high tide zone. Ten percent of the area is required to be restored to native dune vegetation.

No endangered plant species were found. However, it is suggested that a coleopterist and an herpetologist be consulted to determine possible presence of globose dune beetle and black legless lizard, both federal candidates for listing.

A small corner of the property (northwest) is recommended for protection by temporary fencing and finally a retaining wall. The wall is also to extend between the parking lot and the high tide zone, which will be the primary restoration site. Islands and planters within the parking lot are also recommended for restoration, and a plant list of recommended species is included.

SIGNED: Bruce Cowan      DATE: 7/30/98  
Qualified Botanist for Monterey County

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# BOTANICAL/BIOLOGICAL REPORT

M.B.A.R.I. Property

APN:133-242-008

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BOTANICAL/BIOLOGICAL REPORT  
AND PRELIMINARY RESTORATION PLAN

APN: 133-242-008

**I—INTRODUCTION:**

This report was authorized by Jim McFarlane of MBARI on 7/27/98.

The report has been prepared to determine if the site lies within or near a location containing sensitive habitats and/or rare or endangered species, requiring special precautions or mitigations.

The report describes existing vegetation on the property and makes recommendations on protecting or restoring habitat, if necessary, in conjunction with this development, which is to construct a parking lot. A minimum of ten percent is to be restored to native vegetation—in this case, native dune plants. This report may be reviewed by the Monterey County Department of Planning & Building Inspection, the Coastal Commission or other interested parties.

**II—REGIONAL SETTING:**

The Monterey Bay dune system, which extends from the city of Monterey near the Naval Postgraduate School north to the mouth of the Salinas River, is a remnant of the ice ages roughly 18,000 years ago. At that time the ocean shoreline was several miles to the west and 300 to 400 feet lower. Sand carried downstream by the Salinas River was piled up along the shore forming into dunes a hundred feet high.

Sand is no longer being deposited in any significant amount, and the dunes are not being replenished. Due to sand mining, storms and other factors, the dunes are actually receding several feet a year as the ocean advances inland.

The dunes are held in place by a variety of native plants which stabilize the drifting sand. Plants found in the primary dunes nearest the shore are low growing and very tolerant of wind. These include mainly beach pea (Lathyrus littoralis), yellow sand verbenia (Abronia latifolia), beach primrose (Camissonia cheiranthifolia), seaside painted cup or Monterey paintbrush (Castilleja latifolia), beach morning glory (Convolvulus soldanella), beach bur (Franseria chamissonis), beach sagewort (Artemisia pycnocephala), and American dune grass (Leymus mollis). Near the beach disturbed dunes are often partially covered with the introduced sea rocket (Cakile maritima).

Behind the primary dunes, where salt winds are slightly less intense, other native species predominate. These may include primarily mock heather (Ericameria ericoides), silver beach lupine (Lupinus chamissonis), lizard tail (Eriophyllum staechadifolium), beach knotweed

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(Polygonum paronychia), beach poppy (Eschscholzia californica var. maritima), pink sand verbena (Abronia umbellata), beach aster (Lessingia filaginifolia), dune or seacliff buckwheat (Eriogonum parvifolium) and coast buckwheat (Eriogonum latifolium).

Several rare and endangered species occur in the area. Most noted is the federally listed endangered Smith's blue butterfly (Euphilotes enoptes smithi), which feeds only on the blossoms of two species of buckwheat (Eriogonum latifolium and E. parvifolium) in both the larval and adult stages.

Threatened animal species include the black legless lizard (Aniella pulchra nigra), which usually remains buried in the sand under mock heather shrubs and other native vegetation, and the snowy plover (Charadrius alexandrinus), a migrating shore bird that lays its eggs in the foredunes and on the beach. The globose dune beetle (Coelus globosus), a federal Candidate species, can be found buried in sand immediately above the high tide line, and has been documented near the mouth of the Salinas River (Doyen, 1976; Jensen, 1994).

Endangered plant species include the state and federally listed endangered Menzies wallflower (Erysimum menziesii ssp. yadonii), which grows near the shore, and the state and federally listed Threatened (State) and Endangered (Fed.) sand gilia (Gilia tenuiflora ssp. arenaria). Both made the federal listing on June 22, 1992. Monterey spineflower (Chorizanthe pungens var. pungens), which became listed as federally Threatened in March, 1994, is abundant in some portions of the dunes.

Rare species which are not listed include Monterey paint brush (Castilleja latifolia), coast wallflower (Erysimum ammodophilum), and occasionally in the inland portions of the dunes the sandmat manzanita (Arctostaphylos pumila) and Monterey ceanothus (Ceanothus cuneatus var. rigidus). The last four are, however, included in the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California, 1994 Edition.

All of the above native species are threatened directly by developments and off-road vehicle traffic, and indirectly by invading non-native plants. The most serious of these exotics include African ice plants (Carpobrotus species and hybrids), which have formed monocultures over vast stretches of the dunes, and European beach grass (Ammophila arenaria), which also aggressively invades and replaces native plant communities. Weedy annual ripgut grass (Bromus diandrus), while not able to colonize shifting sand, can invade stabilized dunes and replace small annuals such as the sand gilia. Jubata grass (Cortaderia jubata)—an alien from Ecuador, Peru and Chile that is often mistaken for the true Argentine pampas grass (C. selloana)—is a notorious invader of many habitats near the coast, and is becoming established in stabilized dunes and especially in swales.

At Marina State Beach and at the Naval Postgraduate School in Monterey progress has been made toward eliminating exotic species and stabilizing drifting sand, including blowouts, with native dune plants. Once reestablished and protected, a native dune plant community is self

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sustaining, provided that exotics are not allowed to reinvade. Procedures used at the State Beach and NPGS to restore dunes may also be applicable to private properties.

The areas immediately surrounding the property are developed with buildings supporting a fishing industry. Only minor remnants of fore dune occur in some places along the immediate shoreline.

### III—LOCAL VEGETATION:

#### A. METHOD OF SURVEY:

Native and non-native vegetation observed on the parcel was identified.

#### B. HABITAT TYPE:

Most of the parcel is a gently sloping to nearly level foredune with a remnant population of native foredune plants, mainly beach bur, salt grass, American dune grass, beach primrose, beach morning glory, and a healthy colony of beach pea near the northwest corner. Several very small patches of yellow sand verbena occur near the north edge. A few small patches of ice plant are invading--the largest encroaching into the dune with the beach pea. Ice plant also occurs at the east end of the property near Sandholdt Rd. The east edge of the property is weedy, and mainly compacted gravel and dirt. Several mounds of topsoil have been stockpiled here.

Most of the parcel consists of open sand, with only scattered individuals or small colonies of native dune plants.

### IV—RARE AND ENDANGERED SPECIES:

None observed.

### V—THREATENED SPECIES AND VEGETATION:

A small colony of beach pea near the northwest corner. While this species is not State or Federally listed, or even included in the California Native Plant Society Inventory of Rare and Endangered Vascular Plants of California, it is nevertheless uncommon and occurs only in undisturbed dunes immediately above the high tide zone. Many of the foredunes of Monterey Bay were reduced or eliminated during the severe winter storms of 1998, and undoubtedly the beach pea is less abundant than ever.

### VI—CRITICAL WILDLIFE HABITAT:

No buckwheat host plants for Smith's blue butterfly occur on the property. Due to the scarcity of vegetation most of the site is unlikely habitat for significant populations of black legless lizard or globose dune

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beetle. If the globose dune beetle does occur, its preferred habitat would be in the colony of beach pea/American dune grass in the northwest corner, or in some of the scattered patches of beach bur. The property could be a potential nesting site for snowy plover, although it is doubtful that the plovers would select a site in such close proximity to human habitations and activities.

The black legless lizard (Anniella pulchra nigra) is a subspecies of the California legless lizard, and its distribution is limited essentially to stabilized sand dunes of the Monterey Peninsula. This lizard spends most of its life burrowing beneath the sand, and exhibits a series of characteristics specially adapted for its subterranean life style. These include the lack of external limbs and ear openings, and the presence of a shovel-shaped snout and deep set, reduced eyes. Adults grow to be four to six inches in length.

Legless lizards are usually inactive during the hottest part of the day, when they may be found in burrows beneath the sand, or at the surface mixed in with the litter which collects under lupine (Lupinus) or mock heather (Ericameria) plants. As the temperature cools, the legless lizards become active and begin feeding, primarily on insect larvae, beetles and spiders. They can feed either at the surface or while in their burrows. They apparently possess very well-developed senses of smell and touch.

Mock heather does not occur on the property, and only two lupine seedlings were found.

Legless lizards apparently spend most of their time at depths of usually one to four inches, but can burrow as deep as eight inches in loose soil.

The black legless lizards show very little horizontal mobility within their range. Adults may move less than 30 feet during a two month period.

At one time, black legless lizards were reported as being fairly common within their preferred range, but recently populations have been declining. They have low reproductivity, exist in highly disjunct local populations, and are highly susceptible to habitat disturbance. The black legless lizard is currently described as a "species of concern" by the California Department of Fish and Game, and was listed as protected in 1972. It is presently a candidate for future listing by the U.S. Department of the Interior (Cowan & Shonman, 1982).

The globose dune beetle (Coleus globosus) remains mostly buried in sand in foredunes immediately above the high tide line, mainly in association with beach bur and yellow sand verbena. Where bluffs occur along the coast it inhabits sandy areas below the bluffs. It is a federal candidate species found in limited areas along the length of the California coastline. The globose dune beetle has been documented in the Monterey Bay dunes near the Salinas River.

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**VII—IMPACT ASSESSMENT AND SUGGESTED MITIGATION:**

Without some form of mitigation or protection, all existing dune vegetation on the property would likely be eliminated.

The following mitigations are recommended:

1. Consult a coleopterist from the University of California or CSUMB for possible presence of globose dune beetle.
2. Consult an herpetologist for the possible presence of black legless lizard. If black legless lizards are found, the herpetologist should supervise their collection and relocation before construction begins.
3. Remove stockpiles of topsoil from the property and do not use this soil in the restoration site or planted areas.
4. Remove ice plant and weeds.
5. Construct a temporary protective fence around the existing colony of beach pea (recognized during the non-blooming season as a dense population of short, gray plants with soft pubescent foliage and pinnately compound leaves).
6. Ultimately build a retaining wall at least four feet high to protect this colony of beach pea, and extend the wall along the western edge of the parking lot.
7. Designate the area west of the parking lot between the retaining wall and the high tide zone as the Restoration Area (See map).
8. Transplant existing American dune grass from parking area into Restoration Area.
9. Propagate and plant other species as shown in Appendix A into the Restoration Area.
10. Create parking islands within and along the edges of the parking lot which can be planted to native dune vegetation selected from Appendix A.



APN: 133-242-008

## VIII--LIST OF SPECIES ENCOUNTERED ON-SITE:

Frequency code

Very few	1
Few	2
Scattered	3
Common	4
Abundant	5

A. TREES

\*Non-native species

NONE 0

B. SHRUBS

\*LAVATERA CRETICA--Cretian mallow 1  
 LUPINUS ARBOREUS--Yellow bush lupine (seedlings) 1

C. HERBACEOUS SPECIES

ABRONIA LATIFOLIA--Yellow sand verbena 1  
 ARUNDO DONAX--Giant reed (seedling) 1  
 \*BROMUS DIANDRUS--Ripgut grass 2  
 \*CAKILE MARITIMA--Sea rocket 3  
 CAMISSONIA (OENOTHERA) CHEIRANTHIFOLIA--Beach primrose 4  
 \*CARPOBROTUS CHILENSIS--Sea fig ice plant 1  
 \*CARPOBROTUS EDULIS--Hottentot fig ice plant 1  
 \*CARPOBROTUS HYBRIDS--Hybrid ice plant 1  
 CONVULVULUS SOLDANELLA--Beach morning glory 3  
 CROTON CALIFORNICUS--Croton 1  
 DISTICHLIS SPICATA--Salt grass 4  
 \*FOENICULUM VULGARE--Fennel 1  
 FRANSERIA CHAMISSONIS--Beach bur 3  
 \*HORDEUM MURINUM SSP. LEPORINUM--Barnyard foxtail 2  
 LATHYRUS LITTORALIS--Beach pea (Northwest corner only) 2  
 LEYMUS MOLLIS--Dune rye grass, American dune grass 3  
 LEYMUS TRITICOIDES--Creeping wild rye 2  
 \*PLANTAGO CORONOPUS--Cut-leaved plantain 3  
 \*RAPHANUS SATIVUS--Wild radish 1  
 \*RUMEX ACETOSELLA--Sheep sorrel (Southeast corner only) 4  
 \*SONCHUS OLERACEUS--Common sow thistle 2  
 \*TETRAGONIA TETRAGONIOIDES--New Zealand spinach 2  
 \*YUCCA SP.--Yucca (non-native) 1  
 UNIDENTIFIED DRIED WEEDS--

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## GENERAL RESTORATION PRINCIPLES

In restoration, plants should be grown from seed and/or cuttings obtained from indigenous plants growing on the site, or as near to the site as possible. This could include similar habitat within a mile.

Planting should be done during winter months, coinciding with the rainy season. Rain will be especially important if no irrigation is available. The restoration may be more successful if plants are irrigated immediately after planting.

## SITE PREPARATION

Only existing sand should be used for planting. Soils from other areas should not be introduced because they could contain seeds, bulbs or rhizomes of invasive, non-native species, and may have a structure, pH or other factors that would not favor indigenous species. Where soil is compacted, sand should be spread over the top to a depth of at least one foot. No additional amendments should be necessary.

## LANDSCAPING PLAN

No landscape drawings are necessary. Recommended species will be planted together in a random fashion, according to suggested spacings. Ultimately these plants will find their own densities as they reseed and fill in to repopulate preferred niches. Unlike a traditional landscape, which is to remain largely static according to a preconceived plan, a restored natural habit is dynamic, and may change from year to year following climatic variation and natural plant succession.

## PLANT SIZES

In general, small plants and seedlings survive better and adapt to site conditions more quickly than plants grown in 1-gallon containers or larger. A very satisfactory size for most restoration is the 5½ inch by 1½ inch "stubby cells" with young plants two to four inches tall. These come in trays of 98, and are much easier to transport and plant than those in larger containers. The roots are directed to grow downward in the stubby cells instead of winding around the perimeter. These plants often adapt so quickly that they need little or no irrigation if the sand is moist enough when they are planted, or if there is adequate rain following the planting.

## FERTILIZERS

Young plants usually benefit from a small amount of a slow release fertilizer included in the bottom of the hole with each plant. A fertilizer that has been used successfully in restoration at the Naval Postgraduate School in Monterey is a teabag sized dose of 16-16-8

A-3-meo-994-093

Exhibit H-9 of 20

plant food with humic acid, vitamin B1 and NAA. (This is available as BIO-PAK, manufactured by Reforestation Technologies International, 875 Airport Rd., Monterey, CA 93940.)

#### TIMING OF PLANTING

Plants succeed best if planted during the rainy season, from November through March. Due to early, late or extended rainy periods, the actual optimum planting seasons may vary. The wetness of the soil is more important than timing, as plants will not survive if they are planted into a dry substrate.

#### PLANTING INSTRUCTIONS

Plants grown in 5½ by 1¼ inch "stubby cells" should be planted as follows:

- 1) Plants shall be thoroughly watered in containers prior to planting.
- 2) A hole shall be dug at least eight inches deep in the sand or substrate.
- 3) A packet of BIO-PAK fertilizer or GROMAX (fertilizer plus polymer) is inserted in the bottom of the hole.
- 4) The plant is carefully removed from the container. If the roots are knotted together at the apex of the rootball, the knot is opened at the end or pinched off.
- 5) The plant is carefully planted, with two inches of fill between the bottom of the rootball and the fertilizer packet.
- 6) A shallow well is formed around each plant to collect water.
- 7) After planting, each plant is watered by hand or from an overhead irrigation system sufficiently that water penetrates to a depth of at least eight inches, if soil feels dry.

#### Grasses:

American dune grass (Leymus mollis) is planted bare root. Otherwise planting instructions are the same as those planted from stubby cells.

#### IRRIGATION

For most dune plantings, no irrigation is necessary. However, if water is available, a thorough soaking immediately after planting will be beneficial. Irrigation will be needed if plants are installed during the dry season, or if the substrate feels powdery dry. If plants are

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Exhibit H - 10 of 20

installed during the dry season, or when soil has dried out, at least temporary irrigation should be applied.

#### MAINTENANCE

In general, dune plants will maintain themselves once established. However, a restoration will not succeed if competitive non-native plants are allowed to reinvade. Periodic weeding will be necessary on an ongoing basis to remove unwanted weeds--especially ripgut grass and ice plant seedlings.

## APPENDIX A

## LIST OF APPROPRIATE PLANTS FOR REVEGETATION

Suggested SpacingBETWEEN RETAINING WALL AND HIGH TIDE ZONE

ABRONIA LATIFOLIA--Yellow sand verbena	4'
FRANSERIA CHAMISSONIS--Beach bur	4'
LEYMUS MOLLIS--American dune grass	3'

PARKING ISLANDS AND PLANTERS WITHIN AND ADJACENT TO PARKING LOT

ABRONIA LATIFOLIA--Yellow sand verbena	4'
ABRONIA UMBELLATA--Pink sand verbena	3'
ACHILLEA MILLFOLIUM--Yarrow	3'
ARMERIA MARITIMA VAR. CALIFORNICA--Sea pink	2'
ARTEMISIA PYCNOCEPHALA--Beach sagewort	2'
BACCHARIS PILULARIS--Coyote bush	6'
CAMISSONIA (OENOTHERA) CHEIRANTHIFOLIA--Beach primrose	1'
CAREX PANSA--Sand dune sedge (Turf substitute)	1'
DUDLEYA CAESPITOSA--Sea lettuce, live-forever	3'
ERIGERON GLAUCUS--Seaside daisy	4'
ERIOGONUM LATIFOLIUM--Coast buckwheat	4'
ERIOGONUM PARVIFOLIUM--Dune buckwheat	4'
ERIOPHYLLUM STAECHADIFOLIUM--Lizard tail	4'
ESCHSCHOLZIA CALIFORNICA VAR. MARITIMA--Beach poppy	2'
GRINDELIA STRICTA VAR. PLATYPHYLLA--Coast gum plant	3'
FRANSERIA CHAMISSONIS--Beach bur	4'
LESSINGIA FILAGINIFOLIA--Beach aster	2'
LEYMUS MOLLIS--Native dune rye grass	3'
LUPINUS ARBOREUS--Yellow bush lupine	12'
POA DOUGLASII--Dune bluegrass	8"

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Exhibit H - 12 of 20

## APPENDIX B

POSSIBLE SOURCES OF PLANT MATERIALS  
(GROWN BY CONTRACT)

ELKHORN RANCH, BOX 70, MOSS LANDING, CA 95039.  
(831)763-1207. (Native Grasses and dune plants).

RANA CREEK RANCH, 35351 EAST CARMEL VALLEY ROAD, CARMEL  
VALLEY, CA 93924. (831)659-3820

BIO-PAK 16-16-8 fertilizer, manufactured by

Reforestation Technologies International  
875 Airport Rd.  
Monterey, CA 93950

tel. (831)372-2091

GROMAX (Combination fertilizer plus water absorbing polymer)  
is available from Target Specialty Products  
1155 Mabury Road.  
San Jose, CA 95133-1029

tel. (831)293-6032

HERPETOLOGIST--STEVE RUTH, (831)384-2267 (Recommended by Dept. of Fish &  
Game).

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68

## REFERENCES

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Exhibit # - 14 of 20

## DEPARTMENT OF FISH &amp; GAME

http://www.dfg.ca.gov

POST OFFICE BOX 47

YOUNTVILLE, CALIFORNIA 94599

(707) 944-5500

September 1, 1999

Mr. Matthew Sundt  
 Monterey County  
 Planning and Building Inspection Department  
 Post Office Box 1208  
 Salinas, California 93902

Dear Mr. Sundt:

Monterey Bay Aquarium Research Institute (MBARI)  
 Negative Declaration, SCH# 99081010  
 Monterey County

Department of Fish and Game personnel have reviewed the Negative Declaration for the MBARI project. The proposed project would construct a new 181-space parking lot on 1.4 acres in Moss Landing.

The Negative Declaration is inadequate in its description of potential impacts because the botanical survey was conducted at the wrong time of year to find the sensitive plant species which could occur on the site. Because several of the species are State and/or Federally listed, we recommend this document not be certified and the project not be approved until appropriately timed surveys can be conducted. In addition, surveys for black legless lizards and globose dune beetles should be conducted and the information included in the document.

The Botanical Survey by Bruce Cowan considered the following sensitive plant species to have potential to occur on this site.

Menzie's wallflower	<i>Erysimum menziesii menziesii</i>
State and Federally endangered	blooms March-June
Coast wallflower	<i>Erysimum amphilum</i>
CNPS List 1b	blooms February-June
Sandmat manzanita	<i>Arctostaphylos pumila</i>
CNPS List 1b	blooms February-May
Monterey spineflower	<i>Chorizanthe pungens pungens</i>
Federally threatened	blooms April-June
Sand gilia	<i>Gilia tenuiflora arenaria</i>
Federally endangered, State threatened	blooms April-May

\*CNPS = California Native Plant Society

*Conserving California's Wildlife Since 1870*

A-3-MD-99-093

Exhibit # - 15 of 20



Mr. Matthew Sundt  
September 1, 1999  
Page Two

Surveys for most sensitive plants need to be conducted during the blooming season to ensure finding the plants and for positive identification. The botanical survey was conducted at the end of August when most of these plants would not have been found or readily identifiable even if the plants existed on the site in some numbers. Therefore, it is not possible to state these plants do not exist on the site and that there would be no significant impacts. A Negative Declaration is not appropriate with insufficient information and the document should not be certified as adequate.

An additional species, *Trifolium depoperatum hydrophyllum*, (no common name available) should be added to future surveys either on this site or in the general vicinity. This species was thought to be extinct but was recently rediscovered in the Moro Cojo area.

The Botanical Report recommends creating parking islands within and along the edges of the parking lot, and planting them to dune vegetation. We disagree with this recommendation. It would be more appropriate to create a larger restoration area than to attempt to piecemeal dune vegetation into planters.

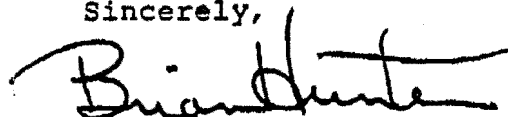
In addition, while the information regarding listing status for the black legless lizard and globose dune beetle provided by Paul Kephart of Rana Creek Habitat Restoration is accurate, it is incomplete. The black legless lizard was withdrawn from consideration for Federal listing, however, it remains a State species of special concern. The globose dune beetle is not listed as threatened or endangered, but it is a Federal special concern species. Given this information, it is our opinion that both species should be considered under California Environmental Quality Act and a discussion of impacts and mitigation measures should be included in the document. Surveys should be conducted for these species so the information may be included in the Negative Declaration. It is inappropriate to require future surveys which would not be part of the public review process. )

In summary, appropriate surveys need to be conducted for sensitive plants, black legless lizards, and globose dune beetles and the information included in the document before it can be certified as adequate.

Mr. Matthew Sundt  
September 1, 1999  
Page Three

Department personnel are available to address our concerns in more detail. If you have any questions, or need additional information, please contact Ms. Terry Palmisano, Associate Wildlife Biologist, at (408) 848-2576; or Mr. Carl Wilcox, Environmental Services Supervisor, at (707) 944-5525.

Sincerely,



Brian Hunter  
Regional Manager  
Central Coast Region

cc: Mr. John Beccaria  
MBARI  
Box 628  
Moss Landing, California 95039

Mr. Todd Bessire  
Lombardo & Gilles  
Post Office Box 2119  
Salinas, California 93902-2119

Mr. Paul Kephart  
Rana Creek Habitat Restoration  
35351 East Carmel Valley Road  
Carmel Valley, California 93924

RANA  
CREEK  
HABITAT RESTORATION



October 6, 1999

To: Mr. Matthew Sundt  
Monterey County  
Planning and Building Inspection Department  
Post Office Box 1208  
Salinas, California 93902

RE: Monterey Bay Aquarium Research Institute (MBARI)  
Negative Declaration, SCH # 99081010  
Response Letter to California Department of Fish and Game Letter dated 9/1/99.

Dear Mr. Sundt,

I have reviewed the letter dated September 1<sup>st</sup> 1999 from Brian Hunter of the California Department of Fish and Game. Brian's letter raised several issues regarding the Negative Declaration for the MBARI project. The purpose of this letter is to clarify the adequacy of the environmental assessments and protocols for the project.

1. The Department finds the Cowan survey inadequate because it was conducted at the wrong time of year to ascertain the presence or absence of sensitive plants potentially occurring on site.

During the spring flowering period between February and June of 1999, Rana Creek Habitat Restoration was present on site on a weekly basis for the purpose of plant collection and salvage. During that same time period I made several visits to supervise the collection activities. While on site, I made a detailed survey of the site especially to look for sand gilia (*Gilia tenuiflora arenaria*) as this species was most likely to occur. No sensitive species were identified during my surveys. I recently spoke with the Department biologist, Terry Palmisano regarding this survey and she verbally accepted the survey as adequate. No State and/or Federally Listed plant species is present on site.

2. The Department recommends future surveys for *Trifolium depauperatum hydrophilum* but does not specifically require a survey done for this project. The Department recommends future surveys be conducted in the general vicinity. This species is generally confined to Alkaline soils and salt marshes.

3. The Botanical Report recommends creating parking islands within and along the edges of the parking lot and planting them with native dune vegetation. The Department recommends restoring one area to dune vegetation rather than one-area plus landscaped smaller areas.

Cont.

The Revegetation Plans (RCHR 1999) have been revised to depict the removal of parking islands, reduction in overall parking lot size, and increase in mitigation and restoration lands respectively.

4. Black legless lizard and globose dune beetle. It is the opinion of the Department that both species should be considered under California Environmental Quality Act and a discussion of impacts and mitigation measures should be included in the Negative Declaration.

During my spring surveys of 1999, and on September 22<sup>nd</sup> 1999 and again on October 5<sup>th</sup> 1999, biologist Dale Hamiester and myself surveyed for black legless lizards and dune beetles. None were present. The project site habitat is marginally suitable and could potentially harbor black legless lizards (*Anniella pulchra* spp. *nigra*). The majority of suitable habitat is located in the fore dune area where habitat restoration and preservation of the site will occur. The restoration plan has been amended to address survey requirements, methods, and relocation procedures if lizards are encountered on the project site prior to construction. Discussion regarding Black Legless Lizard is as follows:

The California legless lizard (*Anniella pulchra* spp. *nigra*) is found in loose sandy soil in areas of scattered vegetation throughout the coastal Monterey Bay area. The legless lizard burrows for moisture and warmth in duff and forages on leaf litter, insects, and spiders above ground. The majority of the project site is considered to be degraded habitat.

Protocol for relocating legless lizards: Prior to grading and during grading operations, a survey for legless lizards shall be conducted. The survey method will entail a team of qualified individuals lightly dragging a plastic rake through the duff under shrubs. If lizards are found during grading, relocation shall take place. Method of transport includes the following protocol.

1. Place each captured lizard in a small (e.g., 12" x 6" x 5" plastic container (with a lid; e.g., Tupperware) that has been filled with sand collected from the site. Place one lizard per container. The lid of the container shall be punctured with small air holes.
2. Do not place the container in direct sunlight.
3. Release all lizards in the adjacent open lot at the base of mature shrubs such as lupine and/or mock heather.
4. Release lizards onto receiver sites no more than one hour after capture.
5. Lizards shall be released into the neighboring dune community on adjacent open lot.
6. Receiver site shall be fenced with silt fence to prevent lizards from returning to construction site.

Globose dune beetle (*Coelus globosus*) is a Federal special species of concern. Habitat analyses for the beetle began on September 22<sup>nd</sup>, 1999 and was conducted again on October 5<sup>th</sup>, 1999. Sand areas were combed by raking to a depth of 8 inches in suitable habitat locations. The globose dune beetle is a flightless highly variable beetle restricted to fore dune environments occupied by low growing sparse dune vegetation such as Albronia species. Because the beetle

Native Grasses & Plants

35351 East Carmel Valley Road, Carmel Valley, California 93924 Tele.(831) 659 - 3811 Fax.(831) 659 - 4851  
paul@ranacreek.com

A-3-MCO-99<sup>102</sup>-093

Exhibit H - 19 of 20

lacks mobility, it rarely is found more than 30 meters from the fore dune. The nearest location the beetles have been identified is in proximity to the Salinas State Beach.

The majority of the parking lot site is unsuitable for beetles because of the compacted contaminated sand and gravel conditions that are found there. Appropriate potential habitat is located in the dune area of the project site, which shall remain undisturbed and restored. Prior to and during construction activities, additional surveys and monitoring shall be conducted for the globose dune beetle. If beetles are found, they shall be captured in a net and immediately relocated to the adjoining lot.

The surveys, capture, and release protocols provided herein for the black legless lizard and globose dune beetle are adequate and should comply with the Department of Fish and Game requirements to have surveys conducted prior to the issuance of a Negative Declaration for the project. In addition to the preliminary survey work conducted, additional survey work shall be required just prior to and during grading operations.

The attached Revised Restoration Plan provides adequate documentation pertaining to the botanical survey, revision to the parking lot size and mitigation sq. footage, and addresses current survey work completed for Globose dune beetle and Black legless lizard. If you have further questions regarding this project, I can be reached at 659-3820 or 594-5244.

Paul Kephart  
Consulting Biologist

Cc

John Beccaria-MBARI  
Box 628  
Moss Landing, CA 95039

Mr. Todd Bessire  
Lombardo and Gilles  
Post Office Box 2119  
Salinas, California 93902-2119

## Legend

Proposed Parking Lot Boundary

Areas Surveyed for Black Legless Lizards  
and Globose Dune Beetles

Total Extents of Survey

Salt Grass, *Distichlis spicata*

Hottentot Fig, *Carpobrotus edulis*

Beach-bur, *Ambrosia chamissonis*

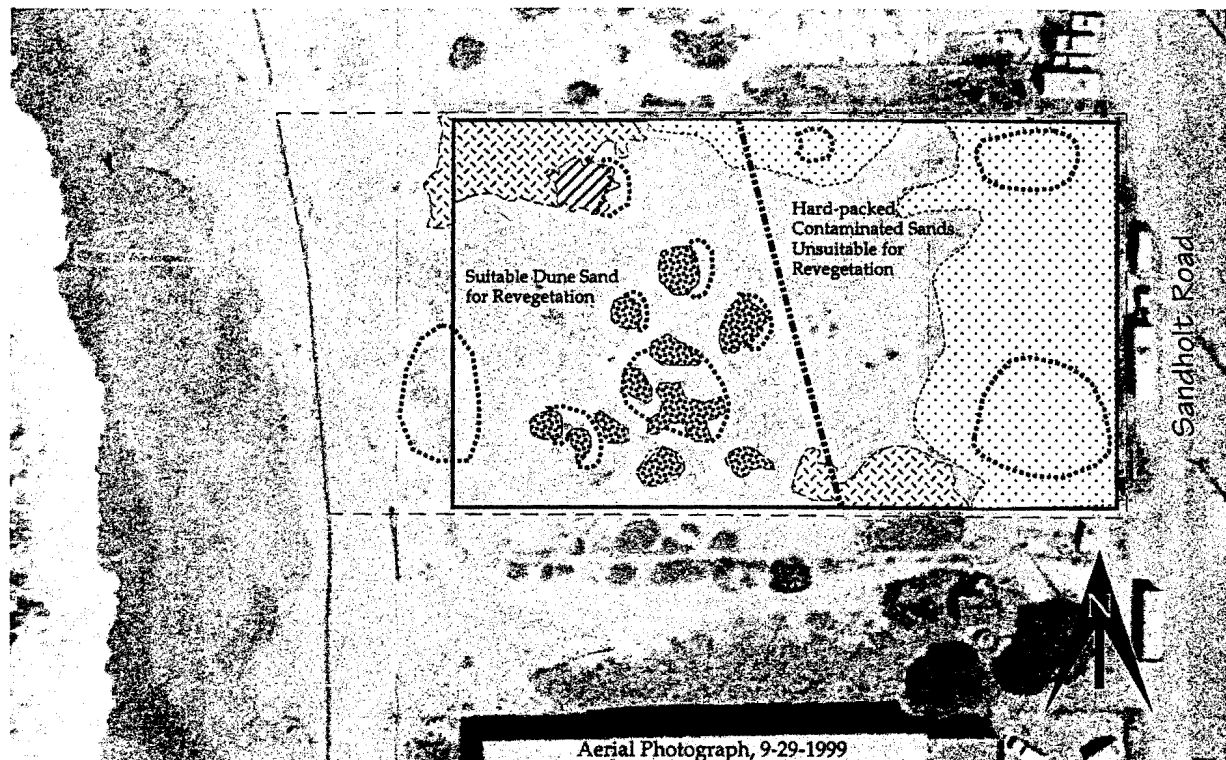
Mixed Vegetation Consisting of:

Salt Grass, *Distichlis spicata*  
Hottentot Fig, *Carpobrotus edulis*  
Poison Hemlock, *Conium maculatum*  
Kikuyu Grass, *Pennisetum clandestinum*  
Giant Reed, *Arundo donax*

A survey was conducted for black legless lizards (*Anniella pulchra* spp. *nigra*) and globose dune beetle (*Coelus globosus*) October 5, 1999. The leeward side of shrubs was the concentration of the survey because that is the most probable habitat.

## Survey Results

No California black legless lizards (*Anniella pulchra* spp. *nigra*), or globose dune beetles (*Coelus globosus*) were found.



Aerial Photograph, 9-29-1999

Black Legless Lizard Survey

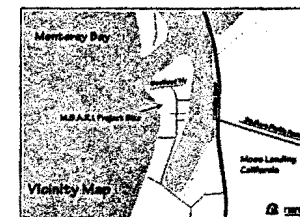
M.B.A.R.I.  
Parking Lot

December 6, 1999

RANA CREEK  
HABITAT RESTORATION



25 0 25 50 75 100 feet



A-3-MC-99-093

Exhibit I - 1 of 1



Exhibit J (1 of 2)

Photo of MBARI parking lot site looking north (photo dated 9/3/99; person is standing about 150 feet west of Sandholdt Road at beginning of dunes)

A-3-MCO-99-093

Monterey Bay Aquarium Research Institute





Exhibit J (2 of 2)

Photo of MBARI parking lot site looking west from Sandholdt Road (photo dated 9/3/99). Note dunes in the background rise to an elevation of approximately 15 feet. Topsoil and debris mounds on right.

A-3-MCO-99-093

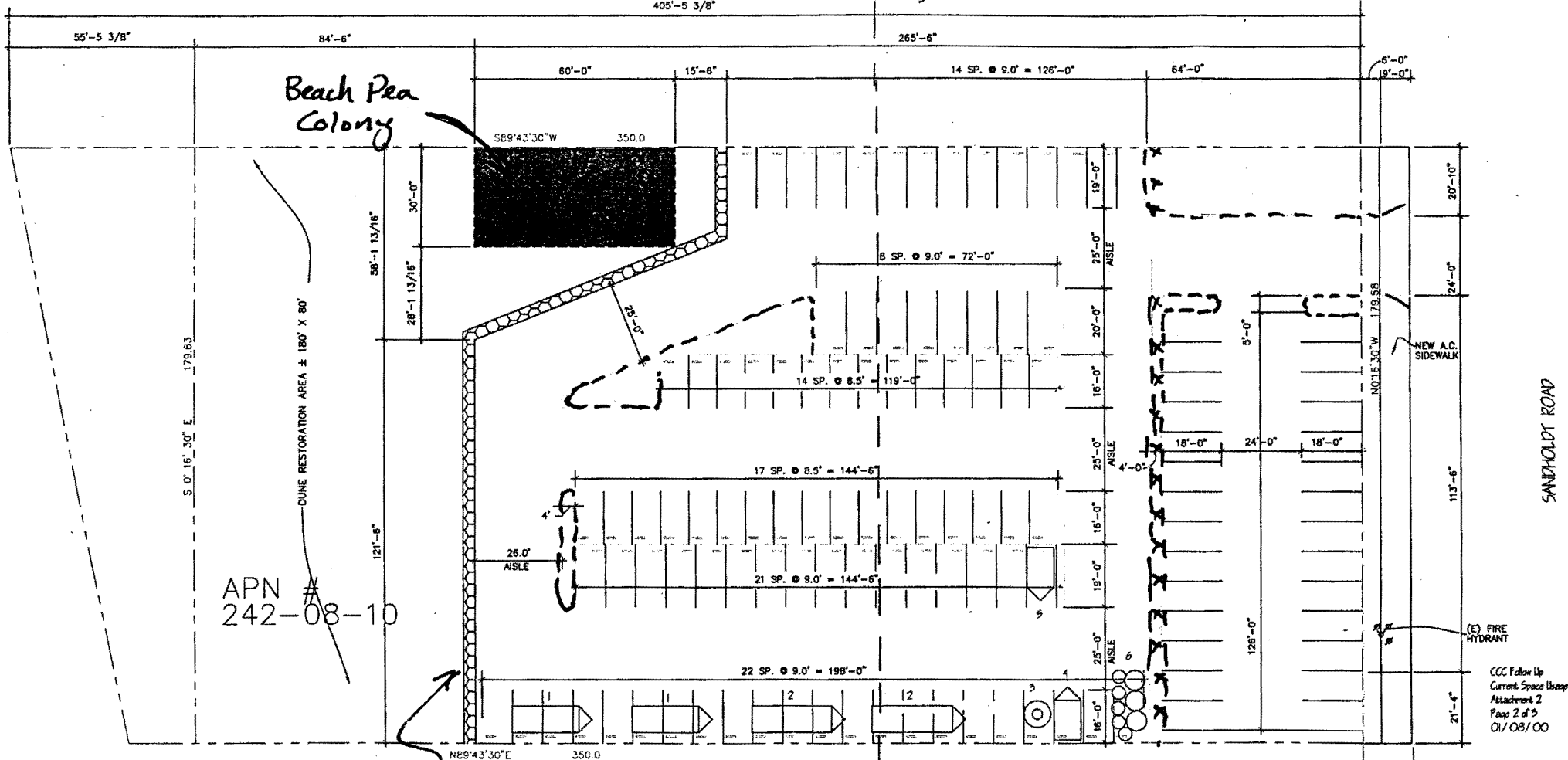
Monterey Bay Aquarium Research Institute



# Proposed Revised 119 space Parking Lot

Monterey Bay Aquarium Research Institute  
PROPOSED NEW 124 SPACE PARKING LOT

Approximately  
150' west of  
Sandholdt Road



EQUIPMENT ILLUSTRATED  
1/ 2 - 8'x16' Containers, 8'x24' on Trailer  
2/ 2 - 8'x20' Containers, 8'x28' on Trailer  
3/ 1 - 8' Diameter Mooring Float  
4/ 1 - 14' Boston Whaler  
5/ 1 - Panga Winch on Trailer  
6/ Assorted Cable Spools

B - BOLLARD  
F.H. - FIRE HYDRANT  
(N) - NEW  
(E) - EXISTING  
L/S - LANDSCAPE

CCC Follow Up  
Current Space Usage  
Attachment 2  
Page 2 of 3  
01/08/00

EXHIBIT NO. <b>K</b>
APPLICATION NO. <b>A-3-MD-99-093</b>
Revised 119-space Parking Lot
California Coastal Commission

N  
(approx.)



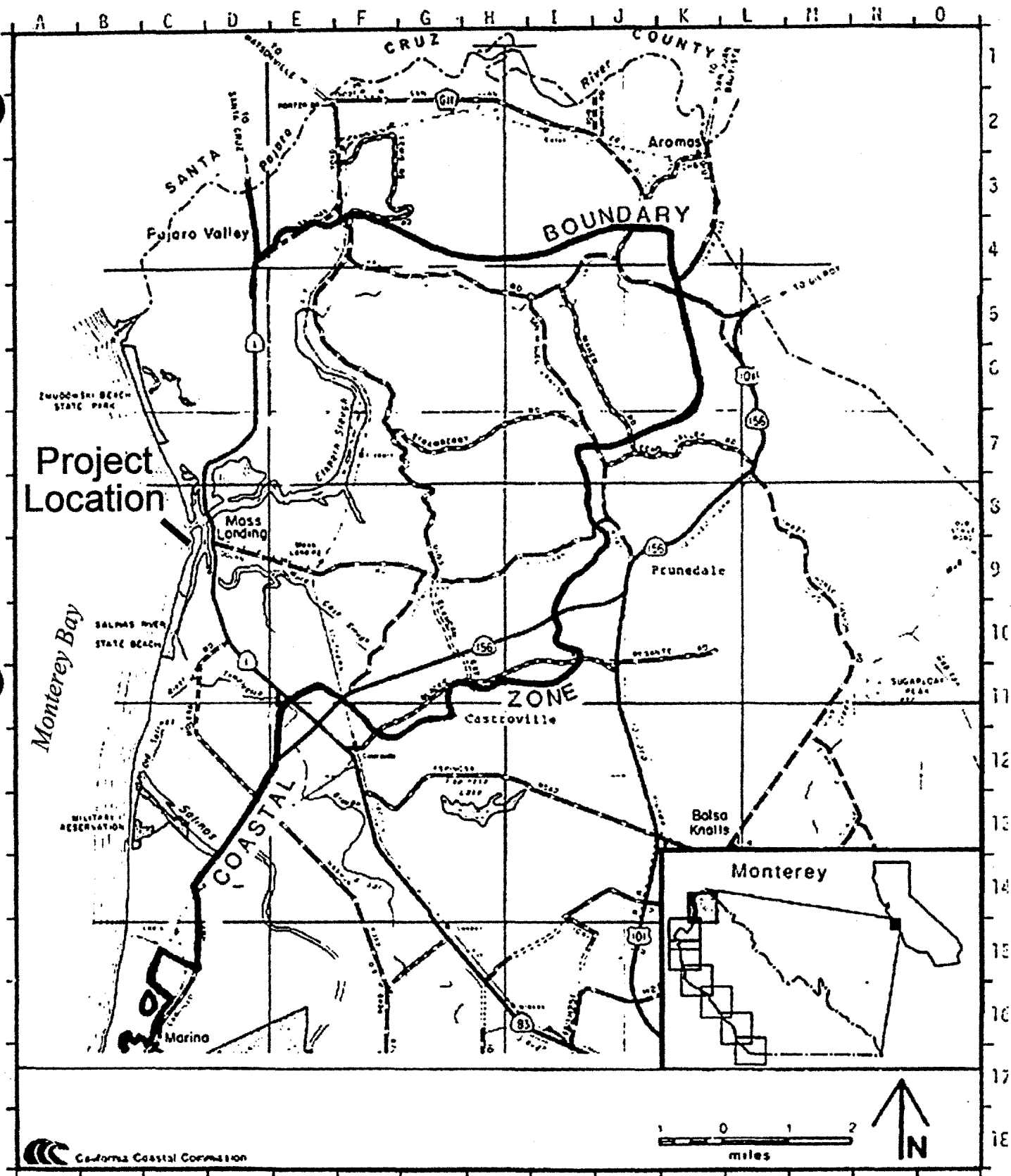


Exhibit A  
Regional Location Map  
A-3-MCO-99-093  
(MBARI Appeal)

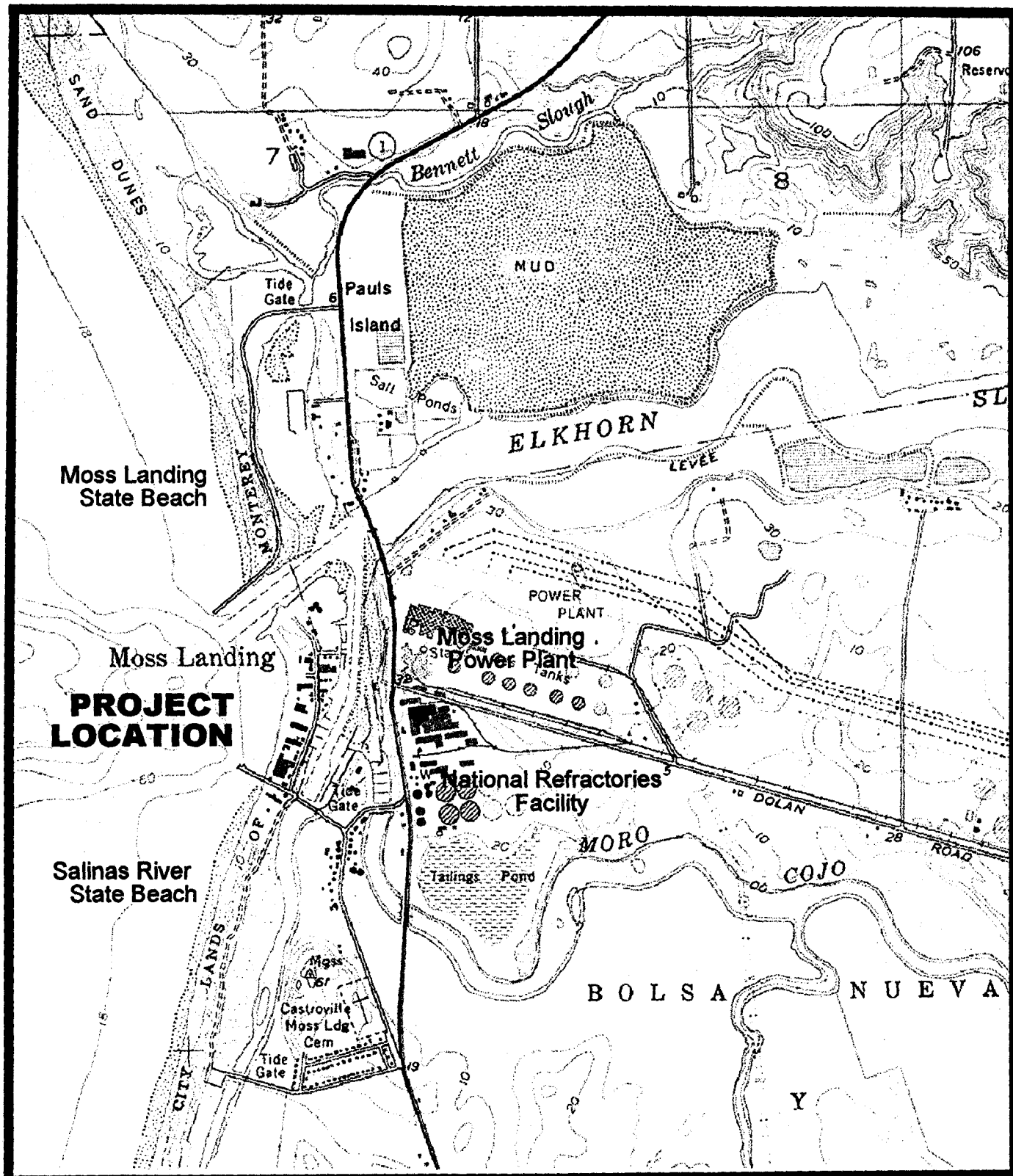


Exhibit B  
 Project Vicinity Map  
 A-3-MCO-99-093  
 (MBARI Appeal)

Proposed Parking lot Site  
(boundaries approximate)

Moss Landing Harbor Entrance

N (approx)

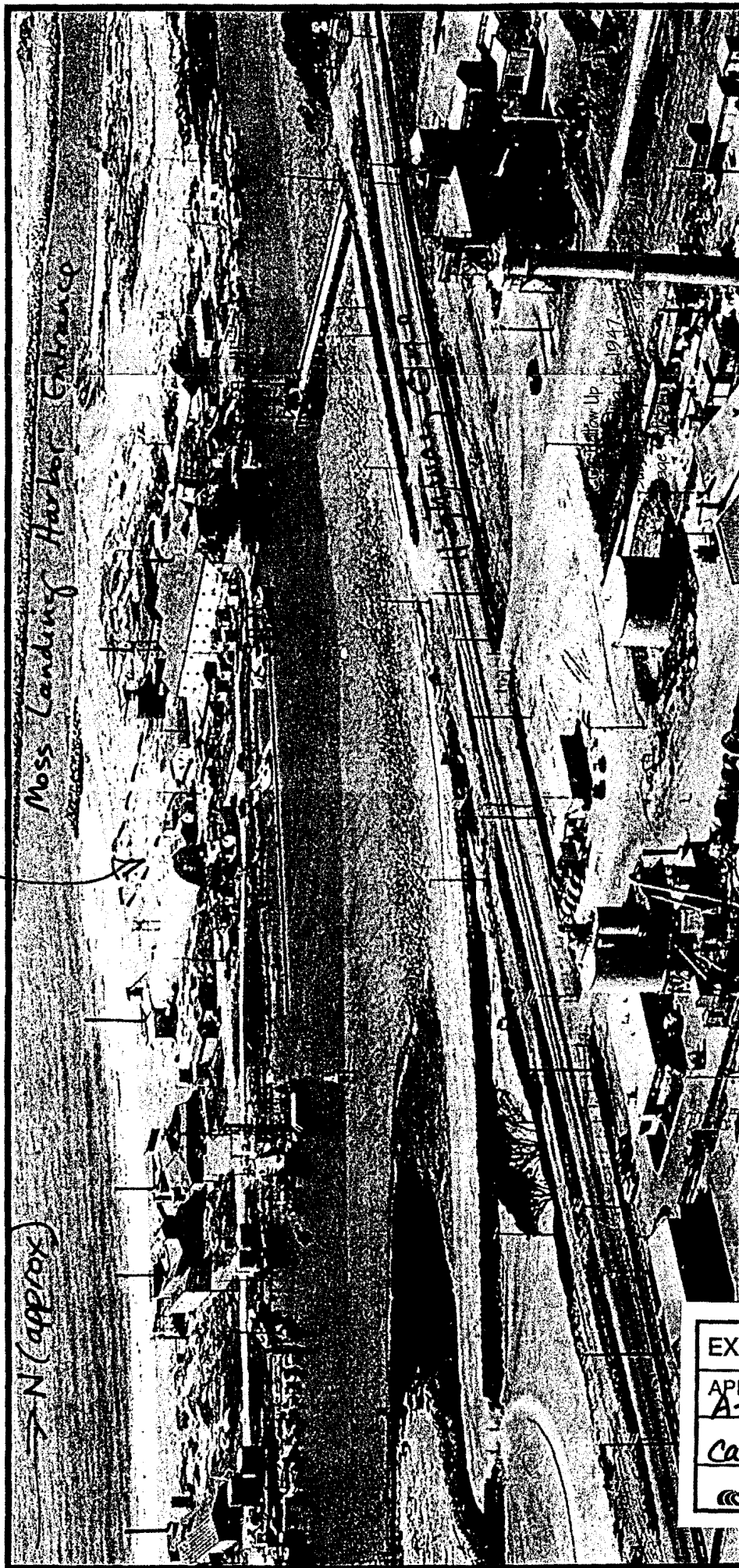


EXHIBIT NO. M

APPLICATION NO.  
A-3-MCO-99-093

Ca. 1947 Aerial

California Coastal Commission

Moss Landing Power Plant  
Thermal Outfall



EXHIBIT NO. M

APPLICATION NO.  
A-3-MCD-99-093

ca. 1966 Aerial

California Coastal Commission



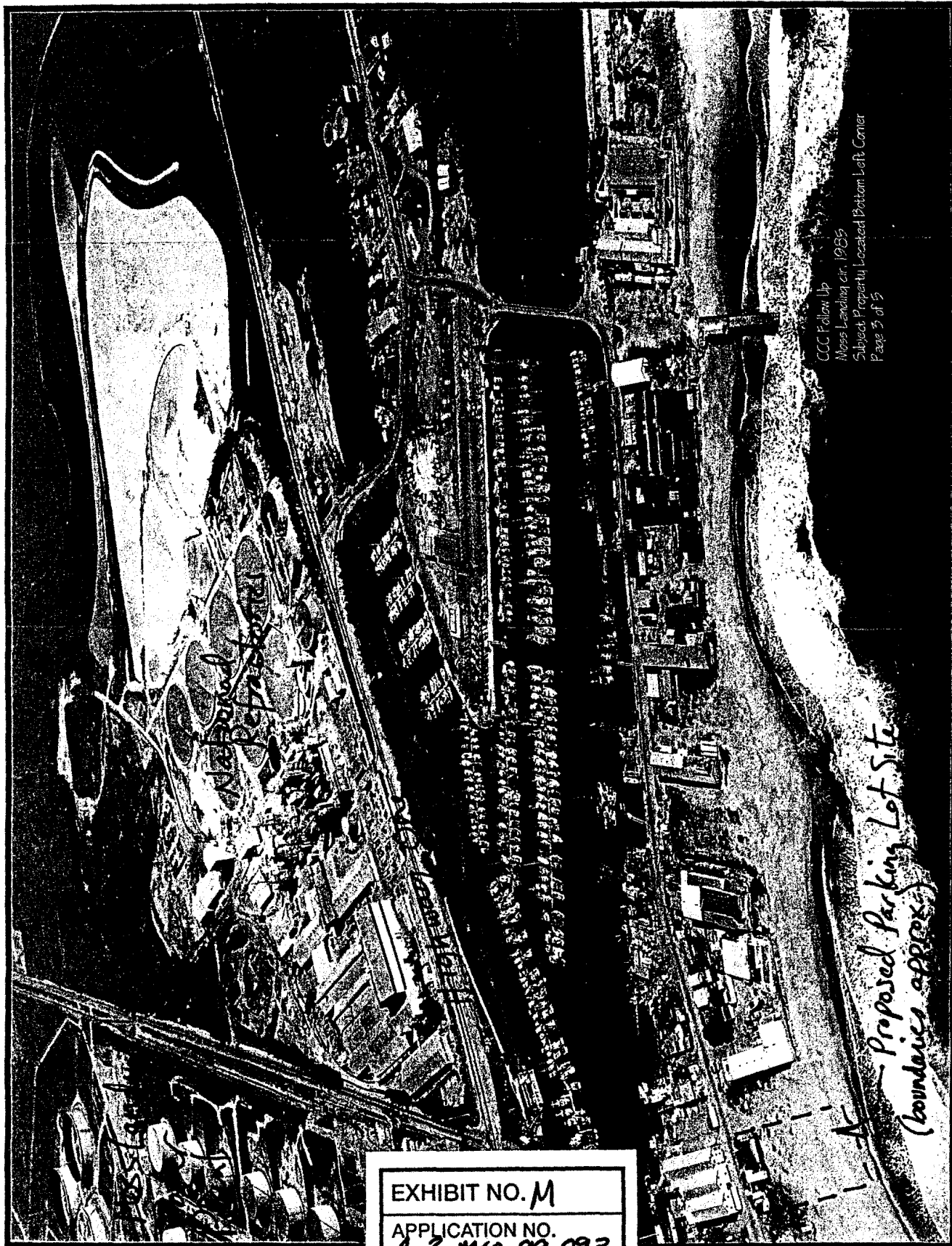


EXHIBIT NO. M

APPLICATION NO.

A-3-MCO-99-093

ca 1985 Aerial



California Coastal Commission



← N (approx)

EXHIBIT NO. M

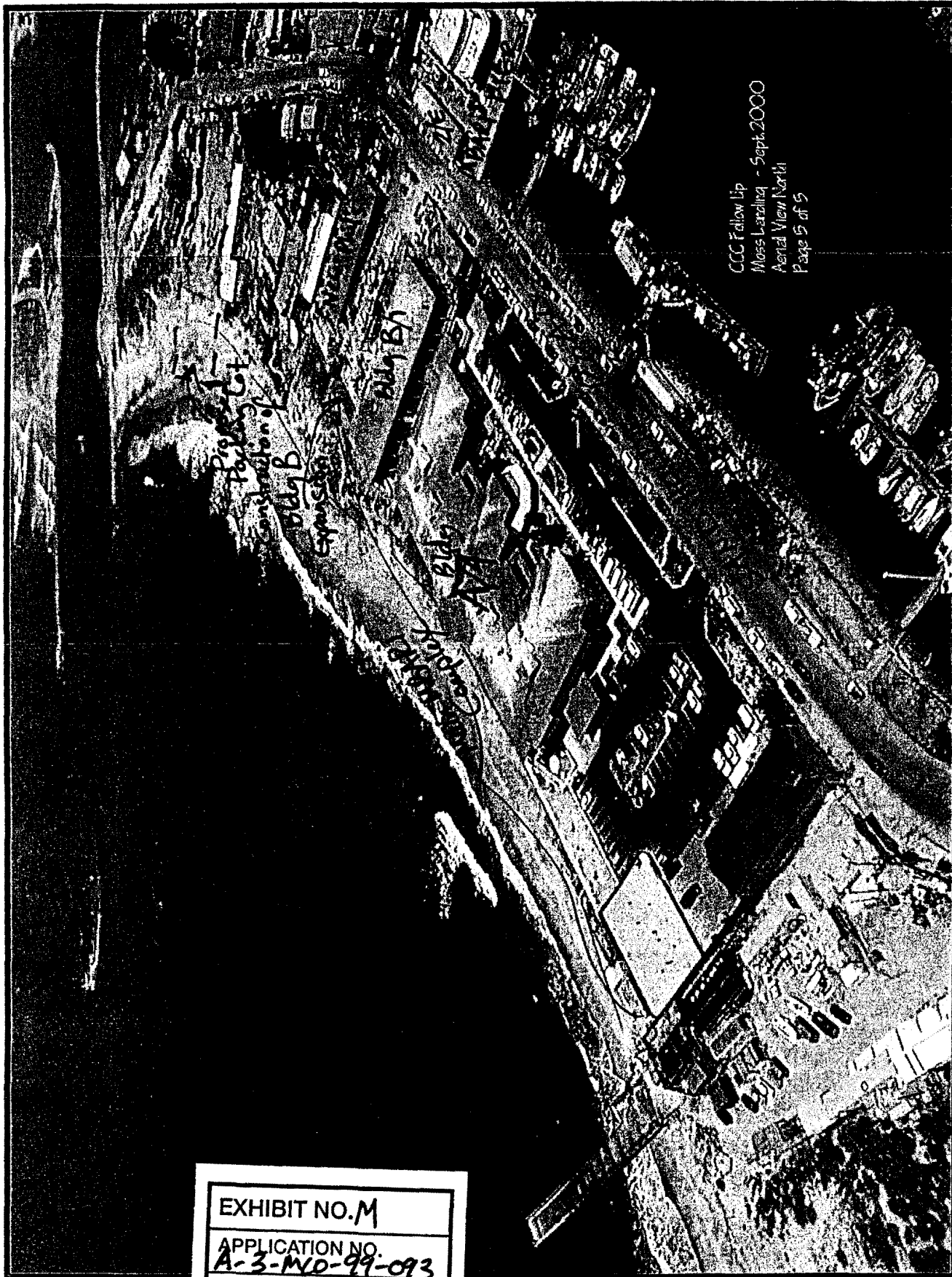
APPLICATION NO.  
A-3-MCO-99-093

Jan, 2000 Aerial

California Coastal Commission

4 of 8





CCC Follow Up  
Mass Landing - Sept. 2000  
Aerial View North  
Page 5 of 5

EXHIBIT NO. M
APPLICATION NO. A-3-MCO-99-093
Sept, 2000 Aerial
California Coastal Commission



1553

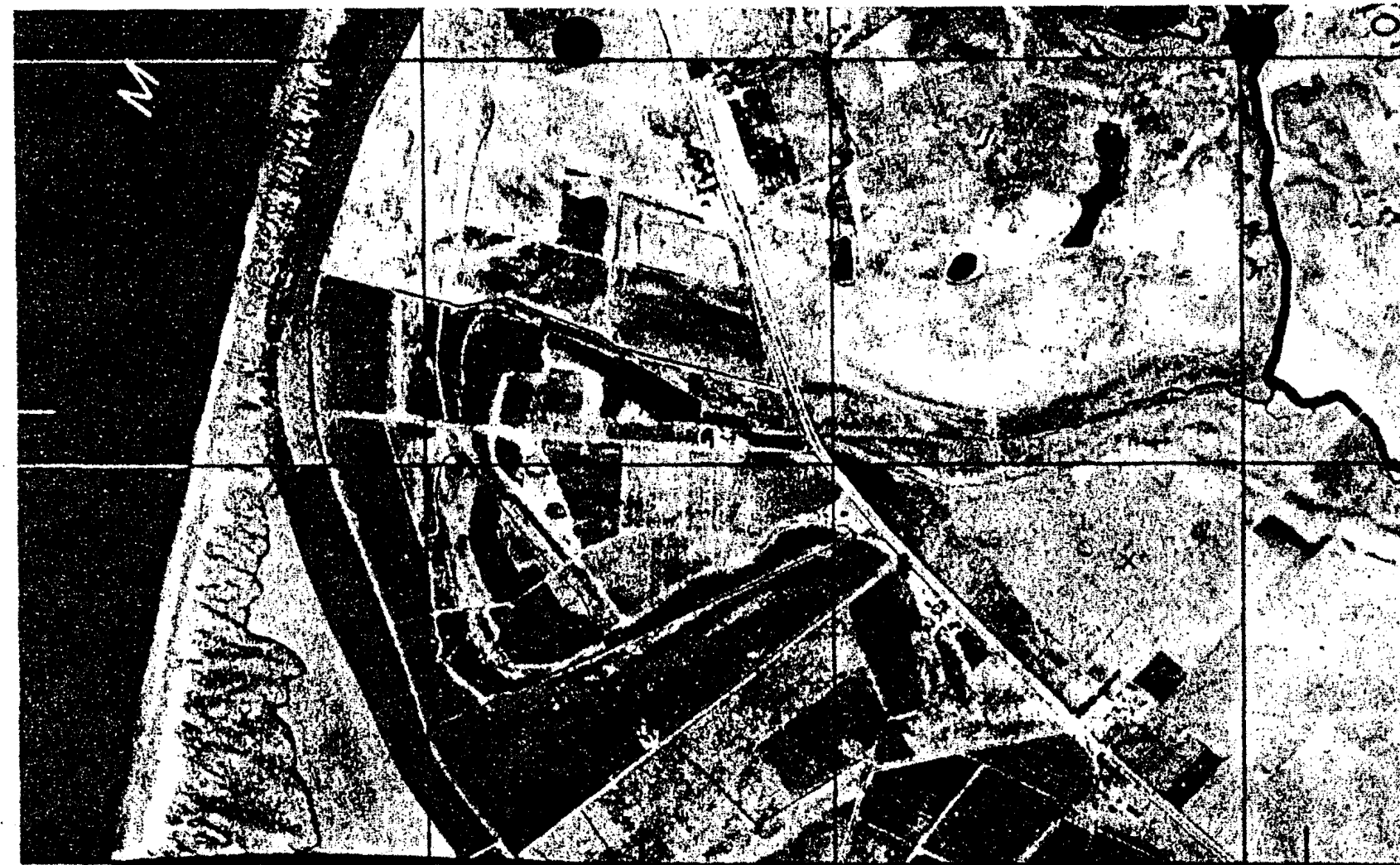
1552



1942 Photo Map  
1 of 2

EXHIBIT NO. M
APPLICATION NO. A-3-MLO-99-093
1942 Photo Map (pre-harbor)
California Coastal Commission

6 of 8



CASTROVILLE 0.8 MI.

Prepared under the direction of The Engineer, Ninth Service Command  
 Controlled mosaic by U.S. Department of Agriculture,  
 Western Division Laboratory — AAA 1942.  
 Control by U.S.C. & G.S. and U.S.G.S.  
 Aerial photography by U.S. Army 1941 & 1942 and  
 Fairchild Aerial Surveys, Inc. 1937 & 1939.  
 Polyconic Projection, North American Datum of 1927.

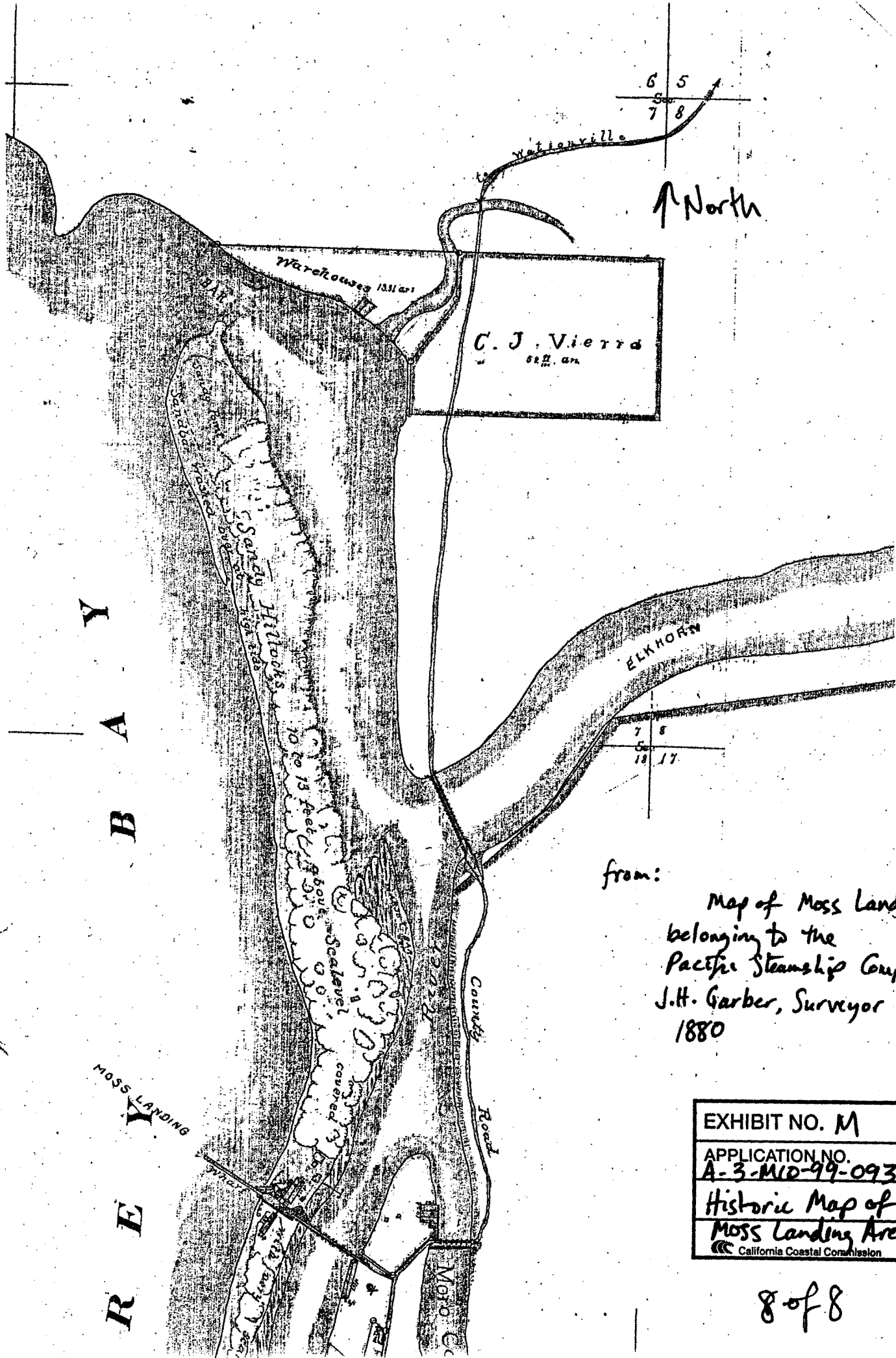
War Department,  
 US Army Corps of Engineers  
 Photo Map, Monterey County  
 1942. No. 71-28

ONE THOUSAND YARD GRID  
 MAPS IN THE U.S. ZONE  
 THE LAST THREE DIC

1942 Photo Map  
 2 of 2

A-3-MO-99-093  
 Exhibit M 4 of 8.

S.C.3 M57  
 1942



Y  
A  
B  
Y  
R  
E

from:  
Map of Moss Landing  
belonging to the  
Pacific Steamship Company  
J.H. Garber, Surveyor  
1880

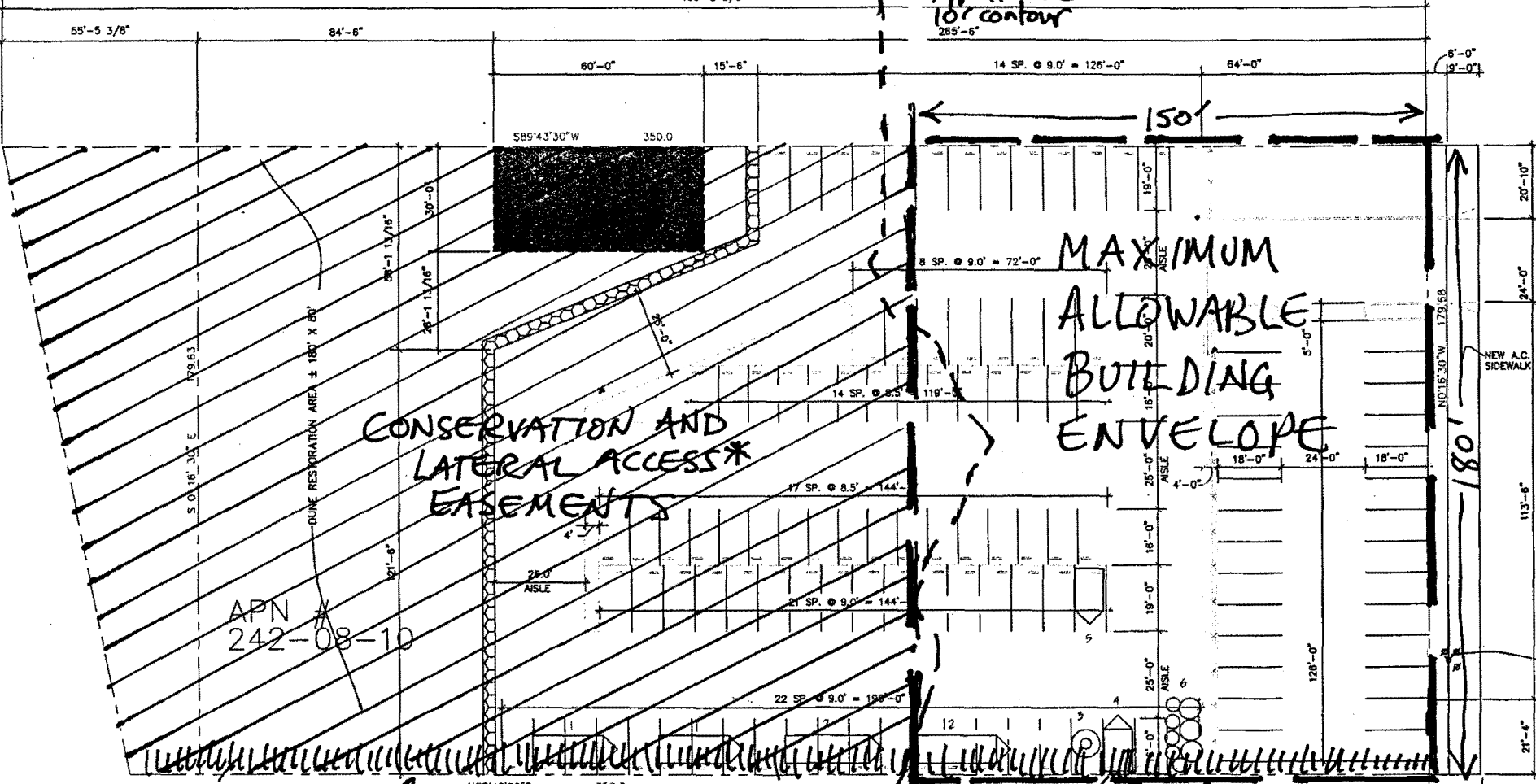
EXHIBIT NO. M
APPLICATION NO. A-3-MID-99-093
Historic Map of Moss Landing Area
California Coastal Commission

# Proposed Revised 119-space Parking Lot

Monterey Bay Aquarium Research Institute  
PROPOSED NEW 124 SPACE PARKING LOT

Approximate  
10' contour

MAXIMUM  
ALLOWABLE BUILDING ENVELOPE  
& REQUIRED EASEMENTS  
SANDLOT ROAD



CONSERVATION AND  
LATERAL ACCESS\*  
EASEMENTS

MAXIMUM  
ALLOWABLE  
BUILDING  
ENVELOPE

VERTICAL ACCESS  
EASEMENT\*

EQUIPMENT ILLUSTRATED  
1/ 2 - 8' x 16' Containers, 8' x 24' on Trailer  
2/ 2 - 8' x 20' Containers, 8' x 28' on Trailer  
3/ 1 - 8' Diameter Mooring Float  
4/ 1 - 14' Boston Whaler  
5/ 1 - Penop Winch on Trailer  
6/ Assorted Cable Spools

B - BOLLARD  
F.H. - FIRE HYDRANT  
(N) - NEW  
(E) - EXISTING  
L/S - LANDSCAPE

\* - Precise location of lateral & Vertical Access Easements  
to be determined, pursuant to Special Condition #7.

EXHIBIT NO. N
APPLICATION NO. A-3-MCO-94-093
Allowable Building Envelope & Required Easements
California Coastal Commission

CCC Follow Up  
Current Space Usage  
Attachment 2  
Page 2 of 3  
01/08/00

**RECEIVED**

DEC 03 1999

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

EXISTING WOOD PIER

EXHIBIT NO. 0142

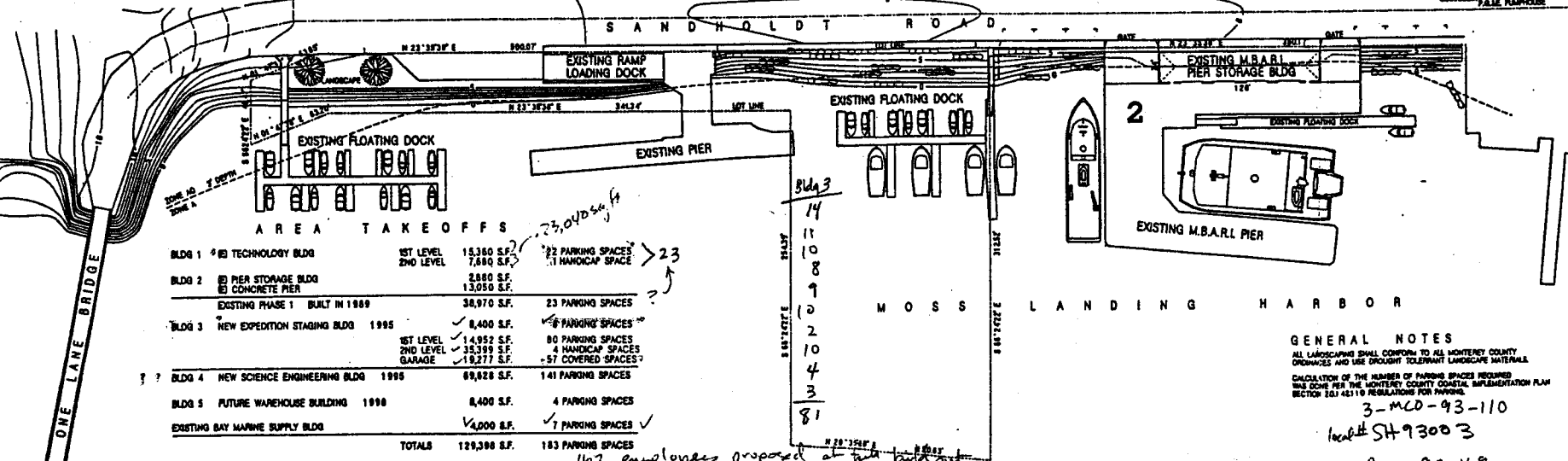
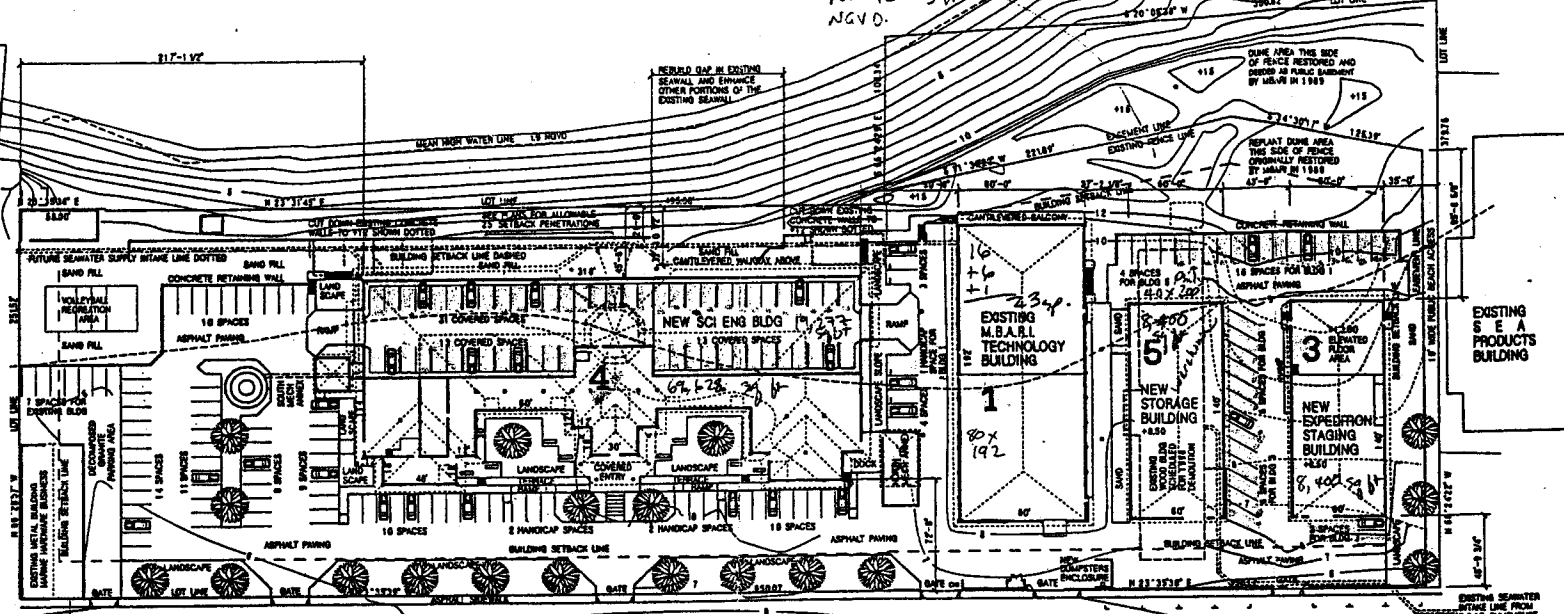
APPLICATION NO. A-93-MCD-93-093

Original Parking Plan  
approved for  
(SH 93003)

(CALIFORNIA COASTAL COMMISSION)

MONTEREY BAY

natural dune field within the  
crest of the dune  
ranging in elevation  
from 12-15 ft  
NGVD.



**GENERAL NOTES**

ALL LANDSCAPING SHALL CONFORM TO ALL MONTEREY COUNTY ORDINANCES AND USE DROUGHT TOLERANT LANDSCAPE MATERIALS. CALCULATION OF THE NUMBER OF PARKING SPACES REQUIRED WAS DONE PER THE MONTEREY COUNTY COASTAL IMPLEMENTATION PLAN SECTION 201.42110 REGULATIONS FOR PARKING.

3-MCD-93-110  
local# SH 93003  
Reso. 93-109

JIM LATTI ARCHITECT  
ROBERT PARKMAN ARCHITECT  
PORT OFFICE BOX 814  
PESCE BEACH, CA 93963  
TEL 408 649 4117  
FAX 408 649 8700  
DO NOT MEASURE THESE DIMENSIONS TO DETERMINE ANY DIMENSIONS. THESE DIMENSIONS MAY NOT BE USED AGAIN ON ANOTHER PROJECT WITHOUT WRITTEN CONSENT AND ADDITIONAL COMPENSATION TO ARCHITECTS.  
THESE DIMENSIONS AND MAGNETIC COMPUTER DATA FILES USED TO GENERATE THEM ARE COPYRIGHTED BY ARCHITECTS ON DATE PLOTTED.



MONTEREY BAY AQUARIUM  
RESEARCH INSTITUTE  
160 CENTRAL AVENUE  
PACIFIC GROVE, CA 93950  
408 847 3700

WATER ELEVATIONS

ALL ELEVATIONS M.S.L.

SURVEY DATE: 26 MAR 1992

NO.	EXTREME HIGH WATER	EXTREME LOW WATER
1	11.1	10.1
2	11.1	10.1
3	11.1	10.1
4	11.1	10.1
5	11.1	10.1

**MBARI**  
MOSS LANDING FACILITIES  
SANDHOLDT ROAD  
MOSS LANDING, CA 95039

ACCESSOR PAVILION NUMBER  
133-231-10

**2000 MASTER PLAN**

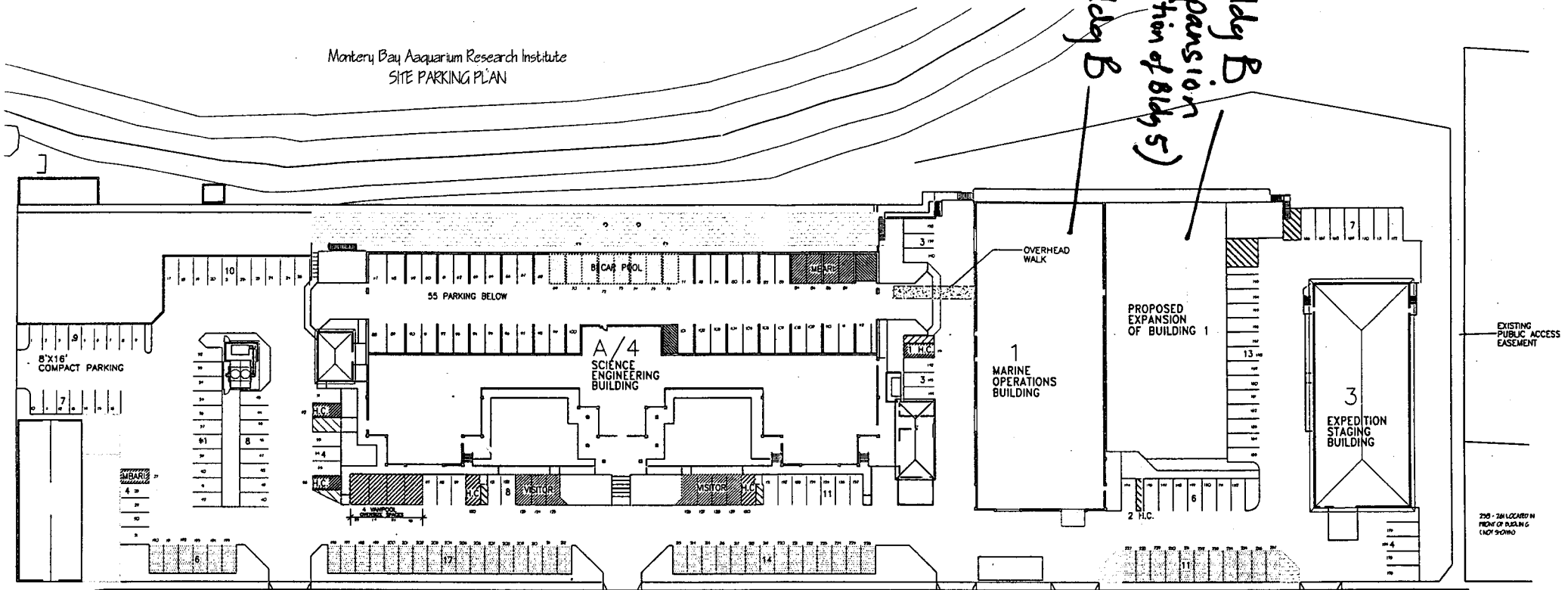
40 20 40 60 FT  
DATE: 2/2/00  
DRAWN BY: JIM LATTI  
CHECKED BY: JIM LATTI  
26 MAY 1992

**1**



Monterey Bay Aquarium Research Institute  
SITE PARKING PLAN

Bldg B  
Expansion  
(Demolition of Bldg 5)



CCC Follow Up  
Current Parking  
Attachment 2  
Page 1 of 3  
01/08/00

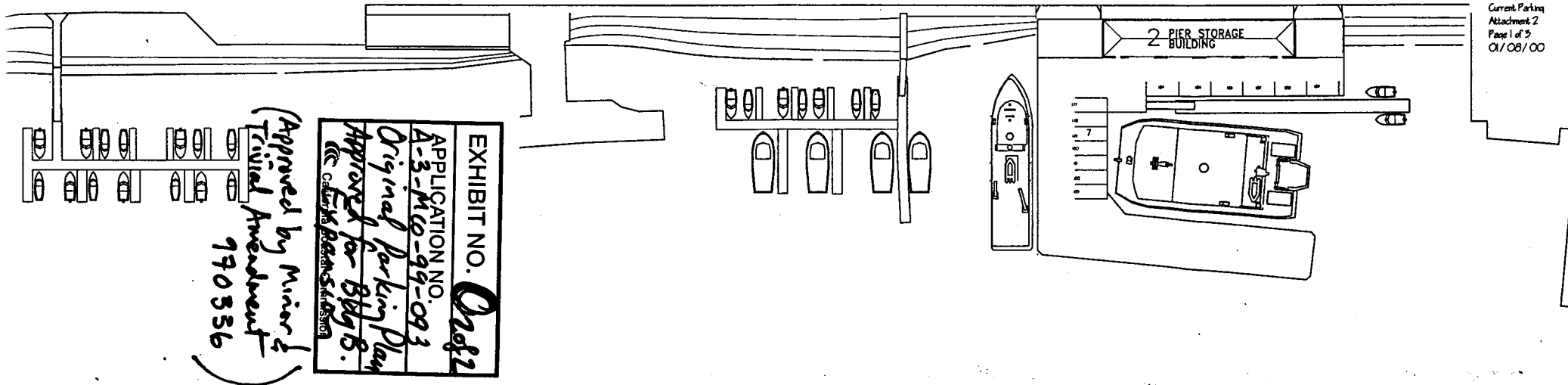


EXHIBIT NO. *01082*  
APPLICATION NO. *A-3-MC-99-093*  
*Original Parking Plan*  
*Approved for Bldg B.*  
*CCC Expansion*

(Approved by Minor &  
Trivial Amendment  
970336)

Prepared by MBARI

# SUMMARY PARKING TAKE-OFF SCHEDULE

BLDG. NO.	TITLE	PROPOSED TYPES OF USE	AREA (SF)	MONTEREY COUNTY PARKING REQUIREMENTS SF/SPACE	USED IN MASTER PLAN SF/SPACE	NUMBER OF PARKING SPACES REQUIRED			
						MONTEREY COUNTY	MASTER PLAN (SH93003)	MINOR & TRIVIAL AMENDMENT (970336)	INTERIOR REMODEL (990085)
		BUILDING A/4 1ST FLOOR TOTAL	32639.98			40.19	32.88		
		BUILDING A/4 2ND FLOOR TOTAL	32366.18			101.42	108.16		
		BUILDING B/1 1ST FLOOR TOTAL	14375.57			27.93	8.00		4.00
		BUILDING B/2 2ND FLOOR	9666.55			27.61	15.00		4.00
		BUILDING B/5 EXP. 1ST FL. TOTAL	11709.21			33.94	4.00	36.00	
		BUILDING B/5 EXP. 2ND FL. TOTAL	9594.27			29.22	0.00	36.00	
		BUILDING C - TIN SHED TOTAL	4000.00			1.96	7.21		
		BUILDING D-3 TOTAL	7837.88			13.15	8.00		
		BUILDING E/2 (DOCK HOUSE) TOTAL	2624.59			3.95	0.00		
		BUILDING F TOTAL	502.31			0.25	0.00	0.00	
		BUILDING G 1ST FLOOR TOTAL	12935.21			34.24	0.00		
		BUILDING G 2ND FLOOR TOTAL	3188.65			10.12	0.00		
<b>MBARI SITE TOTAL SQUARE FEET</b>			<b>141440.40</b>			<b>323.99</b>	<b>183.25</b>	<b>72.00</b>	<b>8.00</b>

\* Parking Take-off Schedule  
for each building available  
in project file.

EXHIBIT NO. P
APPLICATION NO. A-3-MCO-99-093
Parking Take-off Schedule
California Coastal Commission