

## CALIFORNIA COASTAL COMMISSION

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



# Th4a

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## COASTAL DEVELOPMENT PERMIT APPLICATION REGULAR CALENDAR

**Application number** ..... 3-00-082  
**Applicant** ..... Pressley  
**Project location** ..... Adjacent to Pescadero Creek in the riparian corridor below unimproved Second Avenue between North Camino Real and Lopez, City of Carmel-by-the-Sea, Monterey County (APN 010-233-006) See Exhibit 1.  
**Project description** ..... Demolition of the remnants of a 392 sq.ft. single family dwelling destroyed by fallen tree in 1995 winter storm and construction of a 1,204 sq.ft., two story single family dwelling on a steep sloping 3,629 sq.ft. lot. See Exhibit 2.  
**Approvals Received** ..... City of Carmel-by-the-Sea, February 23, 2000  
**File documents** ..... Categorical Exclusion E-77-13 for City of Carmel-by-the-Sea; Use Permit 00-04 / DS 99-01, VA 00-04/EA 00-02

### Staff recommendation... Denial

#### Summary

The proposed project is located on the north (down canyon) side of unimproved Second Avenue directly above Pescadero Creek at the northwestern city limits of Carmel. Single family dwellings exist to the south on the slope above Second Avenue. The lot slopes steeply down the south side of Pescadero Canyon. Pescadero Creek flows directly below, roughly 34 feet from the proposed house site. On the opposite side of Pescadero Canyon is the unincorporated Del Monte Forest area of Monterey County. The Applicant proposes to demolish what is left (basically a small section of flooring supported by wooden piles) of a small house (392 square feet) built in 1933 that was partially destroyed by a falling tree in 1995 winter storms. He would then construct an approximately 1,204 square foot, two-story house in its place. The new house is proposed to extend



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about 16 feet farther toward Pescadero Creek than the pre-existing house. The creek flows directly into a coastal wetland at Carmel Beach and into Carmel Bay.

The City of Carmel recently (Feb. 1995) designated all of Pescadero Canyon an Environmentally Sensitive Habitat Area worthy of protection in a manner that is consistent with PRC Sections 30231 and 30240. The Coastal Act states that the biological productivity of coastal waters shall be protected. It also states that ESHA shall be protected against any significant disruption of habitat values and only uses dependent upon the sensitive habitat itself are allowed. The proposed project requires 240 cubic yards of grading on a very steep slope. The excavation will result in the loss of approximately 410 square feet of previously undisturbed riparian habitat. Additional noise, lights, activity, and runoff would degrade resource values surrounding the home site. The footprint will intrude further than the previous structure into this riparian corridor, one that the City has been working to protect through land purchases and other efforts. Similarly, the Monterey County LCP designates Pescadero Canyon as a permanent open space resource along the riparian corridor on the opposite side of the creek.

The proposed new development on this highly constrained site also raises concerns regarding geologic hazards, landform alteration, scenic resources, and coastal stream disturbance. Aside from the geologic hazards associated with building on this site, which has a slope in excess of 60%, the increased size and bulk of the proposed project will require significant engineering and landform alteration to develop the site as proposed. As a result, the long-term stability of site will likely be compromised. Public views from the Redondo Trail in Pescadero Canyon will also be affected by the proposed new structure.

Thus, for these reasons, the proposed development would degrade sensitive resources, result in significant landform alteration, and impact public views. Applicant has other home design options available which are more consistent with Coastal Act policies. Because such substantial redesign of the current proposal is needed, denial of this particular project is recommended. Other options for a redesign are discussed in the staff report.



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## **I. Staff Recommendation on Coastal Development Permit**

**MOTION:** *I move that the Commission approve Coastal Development Permit application No. 3-00-082 for the development as proposed by the applicant.*

### **STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies the coastal development permit on the grounds that the development as proposed will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the application would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **II. Recommended Findings and Declarations**

The Commission finds and declares as follows:

### **A. Project Location and Description**

The proposed project is located on the north, down-slope side of Second Avenue at the northwestern city limits of Carmel. Second Avenue is an unimproved street cut into the steep riparian corridor above Pescadero Creek, providing driveway-like access to several homes. Through access is not available. The project site itself is located between the Second Avenue road cut and Pescadero Creek within the dense riparian corridor found there. The lot, on the south side of Pescadero Canyon, slopes steeply (approximately 63%) down to Pescadero Creek. On the opposite side of the creek is an undeveloped growth of Monterey pines within the Pescadero Canyon area of the Del Monte Forest within unincorporated Monterey County. This stand of Monterey pine is the largest contiguous pine forested area remaining within Del Monte Forest. Because of the sensitivity of resources here, and based on the results of a 1995 Jones & Stokes Associate's report outlining the habitat values of Pescadero Canyon, the City of Carmel designated the entire area as Environmentally Sensitive Habitat (ESHA) in 1995. Pescadero Canyon also functions as an important semi-urban wildlife corridor for deer and other mammals.



The triangular lot is 3,629 square feet and is substandard in size according to the City's current standards for building sites (Exhibit 3). The Applicant proposes to completely demolish a small cottage (built in 1933) that was destroyed by a fallen tree in winter 1995 storms (Exhibit 4). Currently all that remains on the site are some deteriorating foundation planking sitting atop timber piers. The Applicant now proposes to demolish what is left and construct an approximately 1,204 square foot house with 350 square feet of walkway and decking in its place (Exhibit 5). The new house consists of two stories and would extend about 16 feet farther toward Pescadero Creek than did the previous small house. The proposed footing for the new structure requires 245 cubic yards of grading. Because of its larger size, height, and bulk, it would be more visible than the pre-existing house. In order to accommodate the additional size and bulk of the structure, City staff granted a variance to the standard front yard setback for new development. As mitigation for the direct removal and substantial disruption of habitat values presented by the project, the City required the Applicant to convey a Scenic and Habitat Conservation Easement over the northern quarter of the parcel (880 square feet), measured from the centerline of the creek.

The northern portion of the lot nearest the creek is heavily vegetated with shrub and a small grove of coast redwood. The southern area of the lot is characterized by invasive horticultural species, native shrub, and herbaceous species. The subject lot is part of a larger system that functions as a riparian corridor following along Pescadero Creek. Several Monterey pines are growing on the upper reaches of the canyon just beyond the south property boundary near Second Avenue. Dense thickets of native and non-native vines also occur throughout.

A proposal to demolish the remains of the previous small home and to build a new house has been reviewed by the City twice before. After the house was partially destroyed during the winter of 1995, the Applicant submitted an application to the City for a 1,415 square foot residence. The City's Planning Commission denied that proposal based on the size of the proposed house relative to the size and constraints of the site. The Planning Commission's denial was appealed to the City Council, which ultimately upheld the denial. In 1997 the Applicant again submitted an application to the City, this time for a 1,204 square foot house with a 200 square foot parking platform in the public right-of-way. The 1997 project was likewise denied on the basis of the parking platform and design review concerns. Revised plans were subsequently submitted to the City in 1998 and approved in 2000.

### **B. Standard of Review and Categorical Exclusion E-77-13**

The City of Carmel-by-the-Sea lies entirely within the coastal zone, but the City does not have either a certified Land Use Plan or Implementation Plan, although the City is currently working on developing these LCP components. Therefore, the standard of review for the project is the Coastal Act. Most new residential development in Carmel does not require a coastal development permit according to the terms of Categorical Exclusion E-77-13 (approved by the Commission in 1977). However, new construction is not excluded in certain areas (such as beach fronting lots) or when a variance is involved. Due to significant site constraints here, a number of variances are necessary and the proposed project is not excluded by E-77-13.



### **C. Environmentally Sensitive Habitat**

Coastal Act Sections 30107.5, 30231, and 30240 define ESHA and afford protection of such areas and their associated biological productivity, and state:

*Section 30107.5 "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either 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.*

*Section 30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

*Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

#### **1. Site is ESHA**

The Commission generally considers wetlands, estuaries, streams, riparian habitats, lakes and portions of open coastal waters to be environmentally sensitive habitat areas because of the especially valuable role of these habitat areas in maintaining the natural ecological functioning of the coastal environment and because these areas are easily degraded by human development.

The subject parcel is located on the southerly slope of Pescadero Canyon fronting Second Avenue between Lopez and N. Camino Real. Pescadero Canyon functions primarily as a riparian corridor, wetland, and Monterey pine forest at the northern boundary of the City. The entire project site is located on the steep slope (in excess of 60%) of the canyon below the Second Avenue road cut. It is a heavily vegetated, little-developed area that follows along a coastal stream. Deer and other mammals use the canyon for habitat and as a migratory corridor. Other wildlife such as birds, insects, and reptiles also inhabit the canyon.

Traversing the subject lot at the bottom of Pescadero Canyon is Pescadero Creek. Pescadero Creek is a perennial drainage that conveys runoff from the upper reaches of Pescadero Canyon to a pocket wetland at the mouth of the watercourse on Carmel Beach and into Carmel Bay. The drainage



channel varies in width from 3 to 6 feet and is generally unvegetated. Wetland plants occurring along the lower and upper drainage edge include bulrush (*Scirpus microcarpus*), rush (*Juncus sp.*), watercress (*Rorippa sp.*), poison hemlock (*Conium maculatum*), and horsetail (*Equisetum arvense*). French broom has invaded sandbars along the eastern portion of the drainage. Arroyo will (*Salix lasiolepis*), bigleaf maple (*Acer macrophyllum*), and dogwood (*Cornus sericeas ssp. occidentalis*) also occur in scattered locations along the drainage. The USFWS classifies the lower creek (downstream of the project site) as a palustrine forested, intermittently flooded wetland (USFWS 1972 National Wetlands Inventory, Monterey quad).

The project site is also located within a Monterey pine forest community in Pescadero Canyon. This community has an overstory of Monterey pine, an understory of coast live oak, and shrub groundcover. Monterey pines (*Pinus radiata*) with coast live oak (*Quercus agrifolia*) form a generally open forest canopy along the steep canyon slopes. The dense forest understory layer is comprised of invasive horticultural species, native shrub, and herbaceous species. Examples of some of the native shrub and herbaceous species present in Pescadero Canyon include California blackberry (*Rubus ursinus*), flowering current (*Ribes sanuineum*), coffeeberry (*Rhamnus californica*), sticky monkeyflower (*Mimulus auranticus*), snowberry (*Symphoricarpus mollis*), bracken fern (*Pteridium aquilinum var. pubescens*), melic grass (*Melica aff. Imperfecta*), gooseberries (*Ribes malvaceum*) and California hedge-nettle (*stachys bullata*). See Exhibit 6.

Within its native range, Monterey pine is found in just four places in the world, with the main endemic stand mantling the Monterey Peninsula. The Monterey Peninsula groves are threatened primarily by habitat conversion (e.g., housing and resort development, golf course development, urbanization), soil erosion (road grading, recreational overuse), and invasive exotic plants (genista or "broom", pampas grass, acacia, eucalyptus, etc.). Commercial logging was an issue in the past, but today is largely confined to small salvage operations.

Pitch canker has spread throughout the main Monterey Peninsula stand of Monterey pine. Due to the threat of this disease, it is widely predicted that much of the native pine stock will eventually be affected. Because the native range for Monterey pine is limited only to the Monterey Peninsula (main) stand and three other isolated places on the globe, the hope for the survival of the Monterey pine worldwide is that there will be enough natural diversity within the native stands so that some trees will have genetic disease resistance or tolerance, that these trees can be used to propagate new trees for urban repopulation, and that larger tracts of native pine forest can be preserved and managed so that natural regeneration can take place to repopulate pine forest habitat. Monterey pine has been listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"); List 1B species are specifically eligible for state listing. Monterey pine is currently proposed for state threatened list status.

The CEQA Initial Study reports that no evidence of endangered species or special status wildlife or biotic species were found within the project boundaries, during site visits between March and August 1999. However, the Commission notes that the definition of ESHA in the Coastal Act encompasses more than endangered species or special status wildlife (PRC 30107.5). But the report also finds that the project may require the removal of some native vegetation. On at least two site



visits, staff observed the existence of riparian vegetation on and around the subject parcel up to the Second Avenue road cut. Staff also noted the existence of at least 3 Monterey pines growing next to the parcel boundary adjacent to Second Avenue and a small grove of second-growth redwoods near the creek. The proposed project is located just 34 feet from a coastal stream that flows directly into a coastal wetland. Wildlife is known to regularly move about the area.

The line between what is ESHA and what is not is sometimes difficult to delineate, especially along urban and open space boundaries. Typically, it is the extent of the habitat that defines the boundary. The upland limit of riparian vegetation, as with the upland limit of a vegetated wetland, is determined by the extent of the vegetated cover. All along Pescadero Canyon, riparian vegetation is observed up to and in some instances, beyond the Second Avenue road cut. In this instance, the presence of riparian vegetation can be observed on the subject parcel in the area of the proposed development and up to Second Avenue. Thus, the subject parcel is considered 100% ESHA because it is located entirely within a riparian corridor with attendant stream and wetland resources. Classifying the parcel as ESHA meets the Coastal Act definition as especially valuable because of its role in the Pescadero Canyon ecosystem, which could be easily disturbed or degraded by human activities and development.

Likewise, in February of 1995, the City of Carmel completed a detailed study of environmentally sensitive habitat areas (Jones & Stokes, 1995). At the study's conclusion, the City designated the entire length of Pescadero Canyon, including this site, as an environmentally sensitive habitat area within the meaning of Coastal Act Section 30240 (Exhibit 7). The area was so designated because it supports a variety of habitat values, including wetland, riparian, wet meadow, and Monterey pine forest. The City's report concluded that this area has: naturally-occurring groves of Monterey pine forest that function as habitat for rare or endemic plant or animal species; special value for wildlife due to the presence of snags suitable for cavity-dwelling species, or occurrence with Coast live oak, or native shrub understory; and high aesthetic value due to its location within the public viewshed. The pine forest also functions as an important element in watershed protection and a buffer for Pescadero Creek. Because the surrounding area is developed, the canyon is an important part of the local wildlife habitat and migration corridor that allows deer, mammals, and other wildlife to move about a semi-urban environment. The contiguous forest habitat along the canyon also provides foraging and nesting opportunities for forest and riparian-adapted raptors.

## **2. Impact of Project on ESHA**

Coastal Act Section 30240 (a) only allows resource-dependent uses within ESHA and protects such habitat areas from significant disruption of habitat values. Section 30231 protects the biological productivity of coastal waters and streams. As mentioned above, the subject parcel is located entirely within a riparian corridor noted for its wetlands, viable population of unique Monterey pines, wildlife migratory corridor, and perennial stream. The Applicant proposes to replace the remnants of the demolished small home with a structure that is significantly larger and located to within 34 feet of Pescadero Creek within the riparian corridor. The proposed project would directly remove ESHA for home development and would introduce an intensified urban use within ESHA.





Construction impacts that can be anticipated, as outlined in the CEQA Initial Study, are those that will result primarily from landform alteration, vegetation removal, and degradation of the coastal stream. The Applicant proposes to make a significant cut to accommodate the new house. Grading of 240 cubic yards of soil on such a steep slope has significant potential to exacerbate erosion, increase site instability, and introduce sediment into Pescadero Creek. Other identified impacts during construction that can be expected are those resulting from the use of heavy equipment. For example, the use of mechanized equipment on a steep slope increases the risk of spills of fuels and other hazardous substances entering into the habitat and stream below. The Initial Study also identified potential "after construction" impacts. These include additional runoff from the larger house roof and hardscape surfaces. Erosion from these sources, if left unchecked, could result in increased siltation of Pescadero Creek.

Pescadero Creek flows directly into a wetland at Carmel Beach and then into Carmel Bay. Although the Initial Study acknowledges the interrelationship between Pescadero Creek and the wetland downstream, it does not directly assess the project impacts resulting from erosion and pollutants on the inhabitants of this important coastal wetland. Wetlands are not isolated, independently functioning systems. Rather, they depend upon, and are highly influenced by, their associated watersheds and upland transition areas.

Further impacts will directly result from the house itself. The introduction of noise, light, and wastes either disturb or threaten wildlife, which migrate through the area. Trashcans attract certain scavenger species, while others have been known to compete with domesticated pets for their pet food. These encounters with wild animals pose a risk to humans, their domesticated pets, and the wild animals themselves. Wild animals carry disease that can be transferred to humans and their pets. Domesticated animals have the ability to pass on disorders to wild animals. Wildlife has a susceptibility to disease for which they themselves have no natural protection.

As mitigation for the potential impacts to the ESHA, stream, wetland, and wildlife, the City required the Applicant to record a Scenic and Habitat Conservation Easement over the bottom quarter of the parcel (880 square feet) as measured from the centerline of the creek. The Applicant was also required to submit a Mitigation Monitoring and Reporting Plan addressing habitat protection, erosion control, and landscaping. The MMRP identifies steps to revegetate graded areas and to minimize erosion, slope instability, and impacts on native vegetation. The Plan includes removing non-native plants and revegetating with native species. The MMRP will be reviewed annually by the City for the first 3 years and then extended as needed. While comprehensive, the steep grade of slope will make it very difficult to achieve MMRP goals of not introducing hazardous substances, construction materials, and sediment into Pescadero Creek. Central to the concept of providing protection measures, the Plan should specify exactly where the construction staging area will be located and how containment of materials and wastes will be achieved, particularly in light of the fact that the project site is located on a steep slope.

Thus, the proposed project will remove ESHA for house development and will degrade the habitat values of the site, the biological productivity of Pescadero Creek and the downstream wetland. The degree and intensity of these impacts could be reduced by a different project design. Even with the City required mitigation measures, potential impacts from habitat degradation, erosion, and



pollution are not adequately addressed to fully meet Coastal Act standards.

### **3. Allowable Uses in ESHA**

Coastal Act Sections 30010 and 30240 state:

*Section 30010. The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

*Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

The entire area of the Applicant's 3,629 square foot parcel is an environmentally sensitive and Monterey pine forest habitat. The subject parcel was originally developed in 1933 with a 392 square foot residence and 350 square foot deck. The City designated the lot a legal building site in 1948. The proposed development is for a 1,204 square foot single-family dwelling and includes a 353 square foot walkway and deck. This project will require 241+ cubic yards of grading and will result in a permanent loss (i.e., site coverage) of an additional 410 square feet of environmentally sensitive habitat. This development has the potential to significantly disrupt sensitive habitat by landform alteration, vegetation removal, disturbing wildlife migratory corridors, introduction of hazardous substances, and sedimentation of a coastal stream and wetland.

Additional disruptions will result from residential development and subsequent use of the site. None of these development activities are of a type that is dependent on a location within the sensitive resource area. And, these development activities, individually and collectively, will result in a significant disruption of the environmentally sensitive and forest habitat area on site. Therefore, this project can not be found consistent with Coastal Act Section 30240.

There are alternatives to the proposed development that would better mitigate the impacts of residential development within ESHA. Both alternatives discussed below provide for a substantially smaller house than that currently proposed. A significant reduction in house size for this site is not unreasonable given the very small size of the lot and the very steep slope. This site is severely constrained and it cannot be expected that anything other than a very small cottage could be constructed. Given this situation, the following alternatives would be more appropriate, although there are likely additional scenarios beyond these alternatives. If a revised smaller project is submitted, the Commission as part of its consideration will also require information from the applicant to allow for an adequate "takings" analysis.

Rebuilding a house similar in size to that destroyed by the felled tree is one option and would not



require a coastal permit. Coastal Act Section 30610 (g)(1) allows for replacement of an existing structure demolished by natural disaster as long as it does not exceed floor area, height, or bulk by more than 10% of previous structure. Thus, the Applicant could replace the destroyed 392 square foot structure with a 431 square foot house. Replacement of the pre-existing decking would also be considered under § 30610.

Another reasonable alternative would be a house design somewhat larger than the original cottage provided if it was built on piers and sited upslope nearer to Second Avenue and adjacent to the neighboring house there. A two story design within the footprint similar to that of the pre-existing house would allow for a larger structure with less impacts. By placing the house on piers the project would require much less grading and address many of the concerns relevant to landform alteration and disturbance to the riparian and wetland habitat. The CEQA Study mentions this type of foundation as a common design for siting homes on steep slopes, as it provides for both structural safety and slope stability. This design also provides greater protection to sensitive resources while providing the Applicant a residential use of the site.

Thus, though the current project proposal is not consistent with the Chapter 3 policies of the Coastal Act, there are feasible alternatives that would better mitigate impacts on ESHA and still provide for a reasonable use of the site, if that is ultimately required pursuant to a future "takings" analysis.

#### **4. Conclusion**

The Coastal Act defines ESHA as any area in which plant or animal life or their habitats are either 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. The subject site is located in Pescadero Canyon, a riparian corridor and designated ESHA, which supports habitat that is both rare and especially valuable. That habitat is vulnerable to significant degradation from development.

The project proposal is for a 1,204 square foot single family home within a designated environmentally sensitive habitat area. The project as proposed sites the replacement structure on a very steep slope within 34 feet of a coastal stream. A substantial amount of grading and landform alteration is required to place it on its foundation. Construction activities have a strong potential to exacerbate erosion, increase site instability, and introduce sediment into Pescadero Creek. Other identified impacts during construction can be expected to result from the use of heavy equipment. The use of mechanized equipment increases the risk of spills of fuels and other hazardous substances entering into the habitat and stream below. Further impacts result from the house itself, such as, the introduction of noise, light, and wastes that either disturb or threaten wildlife, which migrate through the area.

The proposed residence is not a type of development that requires a location within an environmentally sensitive habitat. As such, the proposed project will result in significant disruption of the environmentally sensitive habitat and is not consistent with the Chapter 3 policies as set forth in Sections 30231 and 30240 (a) of the Coastal Act.



## **D. Hazards**

Coastal Act Section 30253 requires that new development minimize risk to life and property. It states in part:

*Section 30253. New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The project site is located in a seismically active region located near several faults, the most active being the San Andreas Fault Zone. Many smaller faults exist in the region, which present potential safety hazards to structures on the site including rupture, ground shaking, landslides, liquefaction, cracking and differential compaction. The Initial Study Geology Report prepared for the site suggests that ground shaking is one hazard that could reasonably be expected on the site. The study also suggests that landslides are another, albeit remote, possibility on the site. Though not mentioned in the Initial Study, damage from falling trees or limbs should also be considered.

The Applicant's proposal incorporates a steel reinforced retaining wall footing that requires a significant amount of grading and trenching. Because of the excessively steep slopes, this structure also requires additional cuts in the site to provide a sufficient platform on which to frame the house. As mentioned previously, this construction approach has the potential to significantly contribute to erosion and site instability.

The previous small cottage was built in 1933 and withstood several large earthquakes including the 1989 Loma Prieta temblor which measured 7.1 on the Richter scale. However, the cottage was much smaller and presumably weighed a great deal less than the proposed new structure. The destroyed house was also attached to a foundation by piers.

An Initial Study Geology Report states that the soil types in the area of the proposed project will sustain a near vertical slope and are stable at a 2:1 (50%) slope. This contradicts the Jones & Stokes report prepared for the City of Carmel (February 1995) which states that "the steep slopes support Monterey pine forest and are stable, but show some indications of past disturbances and erosion. Current and potential future activities affecting the ESHA include: slope destabilization from foot traffic, residential runoff, and residential development resulting in severe gullying and sedimentation in Pescadero Creek." There are at least two gullies within Pescadero Canyon noted in the Jones & Stokes study, one of which is directly east of the subject parcel.

The Applicant's geology report states that the soils types are stable at a 2:1 ratio (50% slope), however, the subject parcel has a slope gradient that is between 60 and 65 percent. When measured from the centerline of the creek bed and through the mid-point of the proposed house to the southern property boundary, the site slope approaches 63%. The report does not evaluate the stability of the soils at this additional grade.



Finally, there is no mention of the threat from falling trees. Although somewhat remote, the risk should not be completely discounted. The subject parcel is located on a steep slope and surrounded by Monterey pines and numerous other tree species. Monterey pines have shallow roots and are susceptible to pitch canker disease. During high wind events when the ground is saturated (e.g., winter) the potential for a fallen tree or limb to damage or destroy a structure is very real.

In summary, the subject site is located in an area that is both native pine habitat and ESHA and one prone to potential geologic instability. The proposed site of the structure is to be on a canyon wall of approximately 63% slope. Construction activities necessary to situate the house and anchor it also contribute significantly to additional instability of the site through landform alteration and significant removal of vegetation. Furthermore, other biological hazards (e.g., falling trees) exist with siting the structure in the canyon. Thus, taking into consideration the site constraints and the construction approach, the project as it is currently proposed poses a substantial risk to life and property. Therefore, the Commission finds that the proposed project is not consistent with Coastal Act Section 30253.

### **E. Visual Resources**

Coastal Act Section 30251 states:

*Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The subject parcel is located north of Second Avenue between Lopez and N. Camino Real at the northern extent of the City of Carmel. The site lies between the first public road and the sea. All roads north and west of the subject property in neighboring Del Monte Forest are privately owned by the Pebble Beach Corporation. The Coastal Act provides for the protection of public views in highly scenic areas.

City planners, attempting to minimize view impacts from Second Avenue, required that the structure be sited further down the slope into the sensitive habitat below. In its proposed location, the proposed addition would be approximately 28 feet above grade, exceeding the City's height limit by about four feet, but would be below the roofline of the previous house before it was destroyed.

Section 30251 states that new development shall be sited and designed to... minimize alterations of natural landforms. The proposed project calls for grading 240 cubic yards of soil, plus an additional cut to facilitate construction of the house. In and of itself, 240 cubic yards of grading is usually not



considered to be a sizable amount, but because of the site constraints and configuration, this amount of grading is significant. Alternatives to this type of foundation are available and would significantly reduce landform alterations on this site.

Section 30251 also requires that new development be visually compatible with the character of surrounding areas. With the exception of the house directly adjacent on the west property line and another at the eastern edge of Pescadero Canyon, the balance of the canyon north of Second Avenue is held in open space. To the extent that the development introduces an unnatural obtrusive object in what is a relatively undeveloped open space corridor, the proposal would not be visually compatible with the character of this site.

The Redondo Trail is a traditional part of the Del Monte Forest equestrian trail network, parallel to Pescadero Creek. It runs from Carmel beach to points further inland and faces the subject site directly across the creek. Pebble Beach Corporation collects a toll for vehicles entering 17-mile drive, but has not exacted a toll for pedestrian access. The trail network is illustrated in the Del Monte Forest Land Use Plan as part of Monterey County's Local Coastal Plan. The originally constructed trail had elaborate rock work and was very popular with equestrians, but is presently in a state of disrepair. In time, we can look forward to the trail being rehabilitated as a link in the California Coastal Trail system. The house as it previously existed was visible from the Redondo Trail. The proposed new structure can also be expected to be in view, but because of its additional size and its current proposed location (34' from Pescadero Creek), will have a significant impact on the trail user experience (Exhibit 8).

Thus, based on the scope of the project and constraints of the site, it may be impossible to site and construct a project of this size and bulk that minimizes impacts to visual resources. As mentioned above, the previous house was visible from the Redondo Trail. However, the proposed new structure will seriously impair the view from the trail. The previous small house was subordinate to its forested setting. Unlike its predecessor, the proposed structure attempts to override the natural features of the site and will become the dominant feature of the site. The new structure also requires significant landform alterations and is not visually compatible with the character of the site. Thus, the proposed project is not consistent with Section 30251 of the Coastal Act.

## **F. Public Access and Recreation**

Coastal Act Sections 30210-30224 require that public access and recreational opportunities be protected and, where appropriate, provided. Coastal Act Section 30604(c) requires a specific finding of conformance with these policy sections in the case of any coastal development permit issued for a development located between the first public road and the sea.

This project is located on the boundary of Del Monte Forest, a privately-owned enclave with no public roads. Therefore, applicant's site is located between the first public road and the sea. However, there are a substantial number of other residential properties within Carmel City limits that intervene between this site and the shoreline. And, public access already exists nearby, between San Antonio Street and Carmel's municipal beach. Accordingly, there is no need for a public access link on the subject property. Therefore, the proposed development will not block opportunities for



public access, and conformance with Coastal Act Sections 30210-30224 is not an issue in this instance.

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

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on conformity of the permit with the Coastal Act as if set forth in full. These findings address the public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. The City of Carmel certified a Negative Declaration for the proposed project on February 23, 2000. However, as detailed in the findings of this staff report, the Commission has identified environmental impacts of the project that were not effectively addressed by the Negative Declaration. In particular, there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment. As a result, approval of the project would have a significant adverse affect on the environment within the meaning of the California Environmental Quality Act.







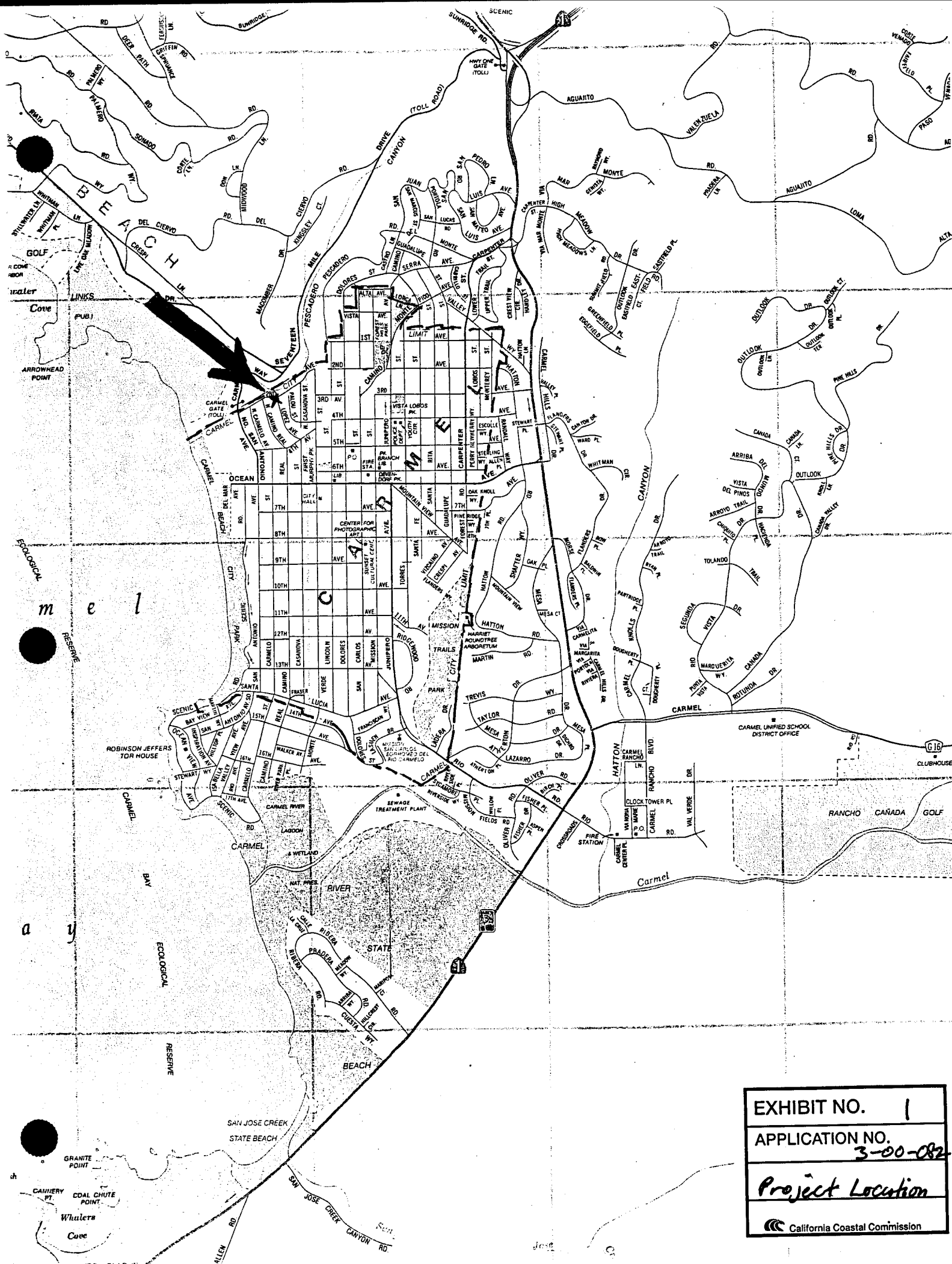

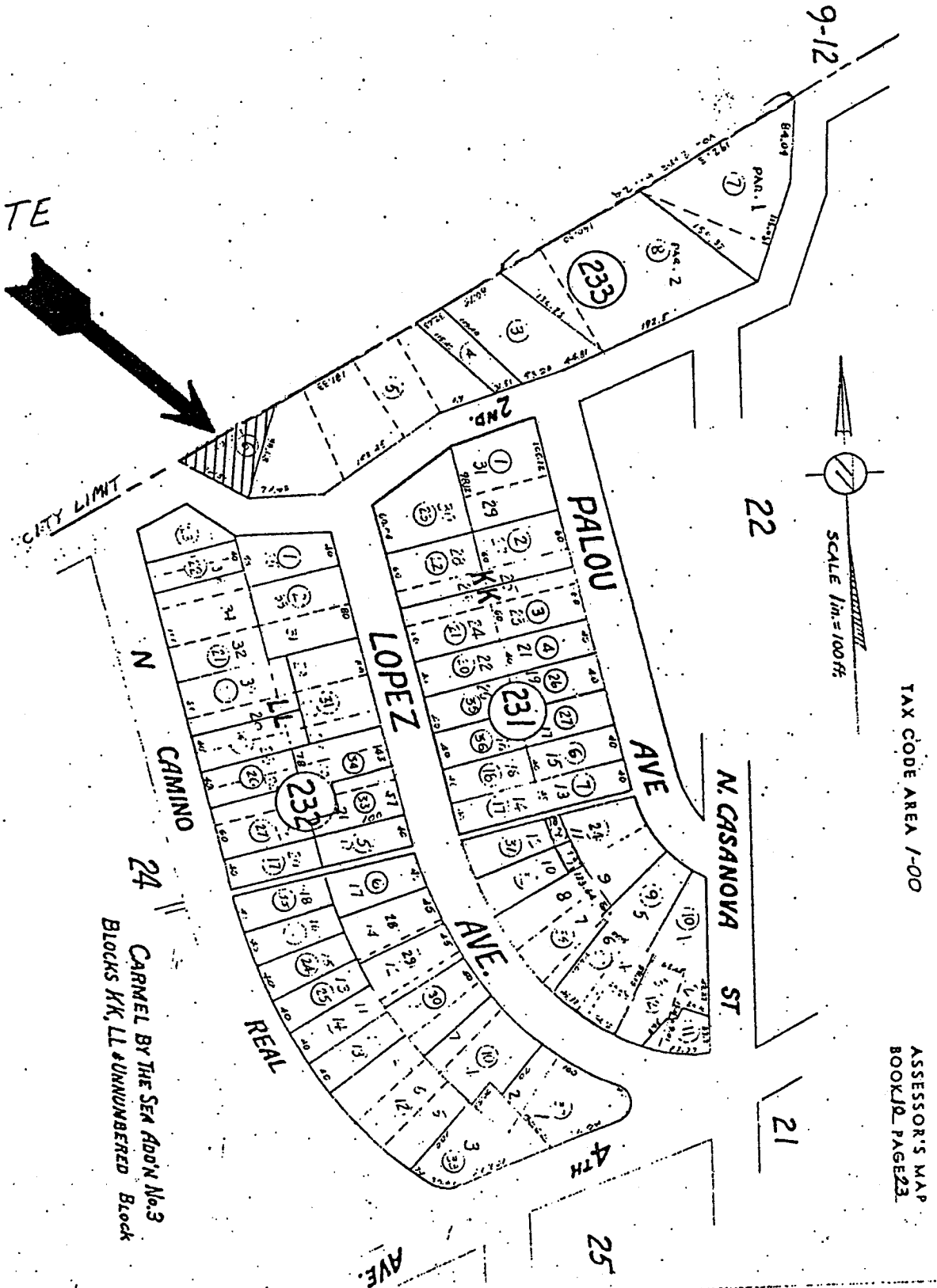


EXHIBIT NO.	1
APPLICATION NO.	3-00-082
<i>Project Location</i>	
 California Coastal Commission	

SITE



CARNEL BY THE SEA ADDN No.3  
BLOCKS KK, LL & UNNUMBERED Block

TAX CODE AREA 1-00  
ASSESSOR'S MAP  
BOOK 102 PAGE 23

Map 2. Project Location.

EXHIBIT NO. 2
APPLICATION NO. 3-00-08
<i>Parcel Map</i>
California Coastal Commission

**PROJECT INFORMATION**

A.P.N. : 010-233-006  
 SITE AREA : 3,629.27 S.F.  
 ADDRESS : BLOCK-3RD STREET ACREAGE  
 LOT- PARCEL- C  
 TRACT CARRIED BY THE SEA  
 ZONING : R-1

**SITE COVERAGE**

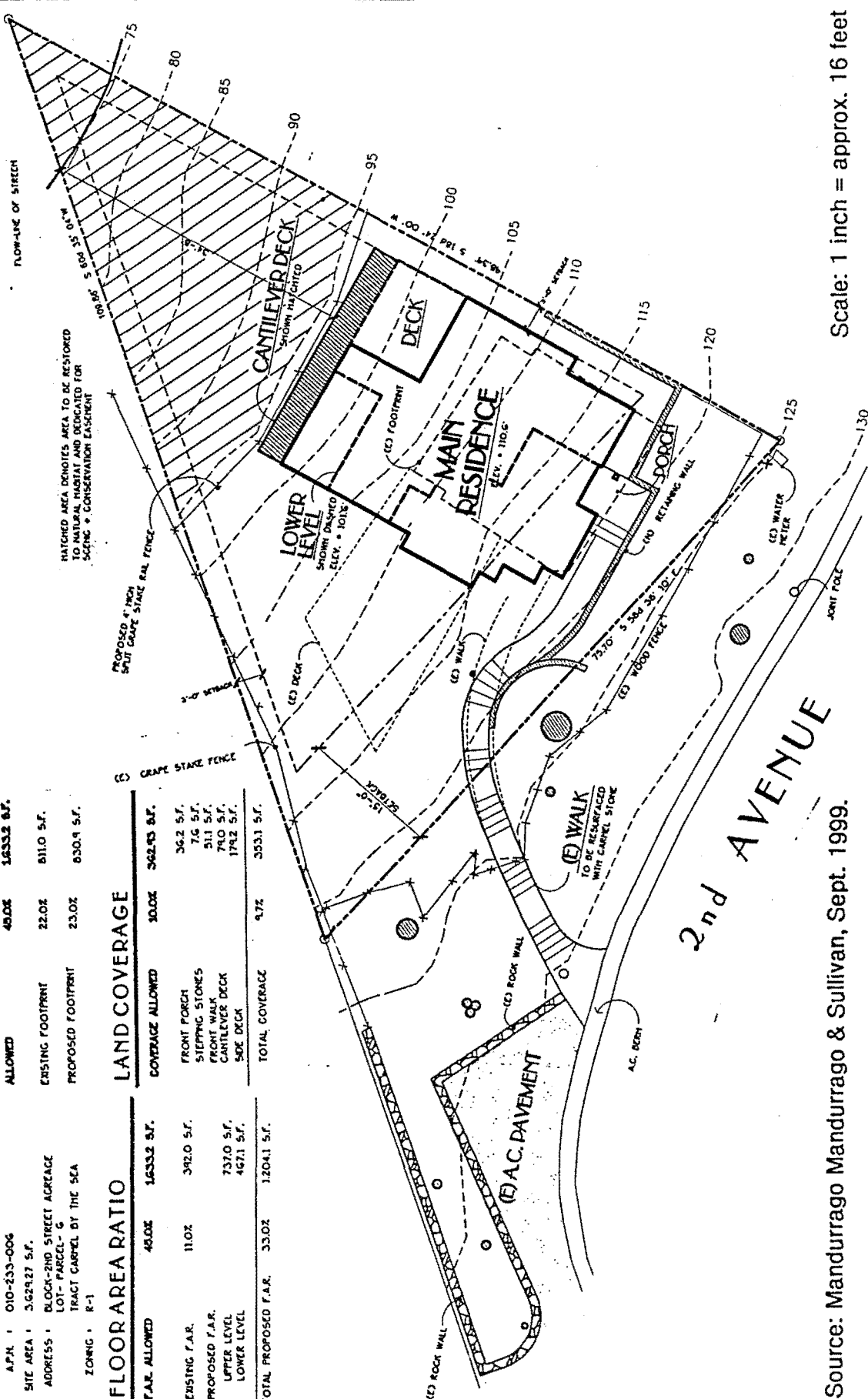
ALLOWED 40.0% 1,633.8 SF.  
 EXISTING FOOTPRINT 22.0% 810.0 SF.  
 PROPOSED FOOTPRINT 23.0% 830.9 SF.

**FLOOR AREA RATIO**

F.A.R. ALLOWED 40.0% 1,633.8 SF.  
 EXISTING F.A.R. 11.0% 392.0 SF.  
 PROPOSED F.A.R. 23.0% 830.9 SF.  
 TOTAL PROPOSED F.A.R. 33.0% 1,204.1 SF.

**LAND COVERAGE**

COVERAGE ALLOWED 30.0% 969.3 SF.  
 FRONT PORCH 36.2 SF.  
 STEPPING STONES 71.6 SF.  
 FRONT WALK 31.1 SF.  
 CANTILEVER DECK 740.0 SF.  
 SIDE DECK 174.2 SF.  
 TOTAL COVERAGE 9.7% 353.1 SF.



HATCHED AREA DENOTES AREA TO BE RESTORED TO NATURAL HABITAT AND DEDICATED FOR SCENC. & CONSERVATION EASEMENT

PROPOSED 4\"/>


Scale: 1 inch = approx. 16 feet

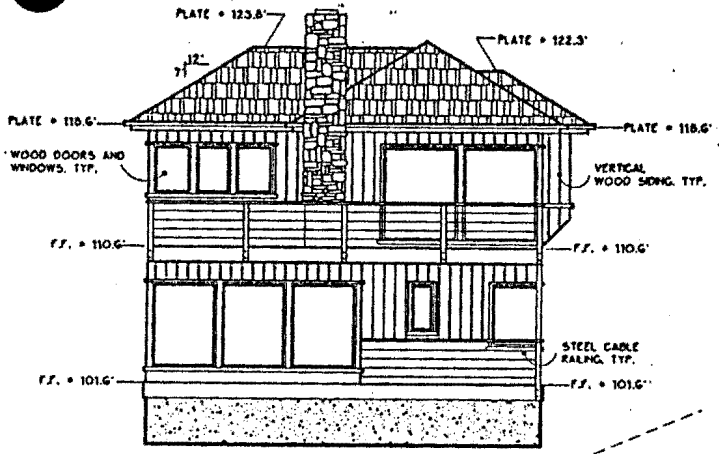
Source: Mandurrango Mandurrango & Sullivan, Sept. 1999.

EXHIBIT NO. 3  
 APPLICATION NO. 3-00-082  
 Project Site Plan  
 California Coastal Commission

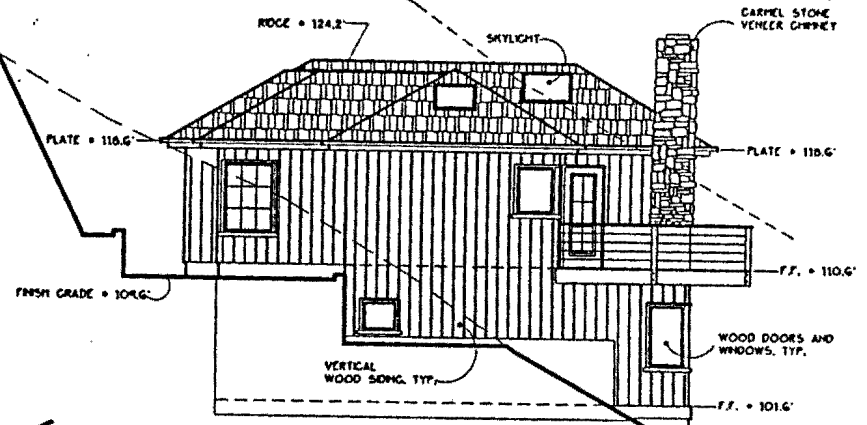
**Proposed Site Plan**



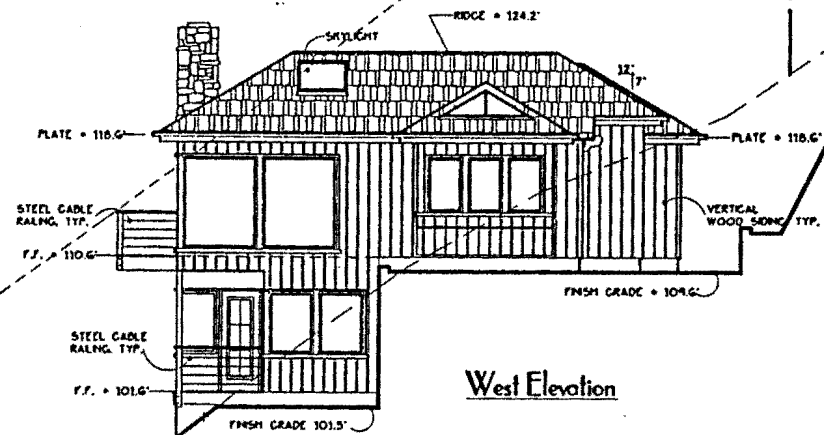
EXHIBIT NO. 4
APPLICATION NO. 3-00-082
Site Photo
 California Coastal Commission



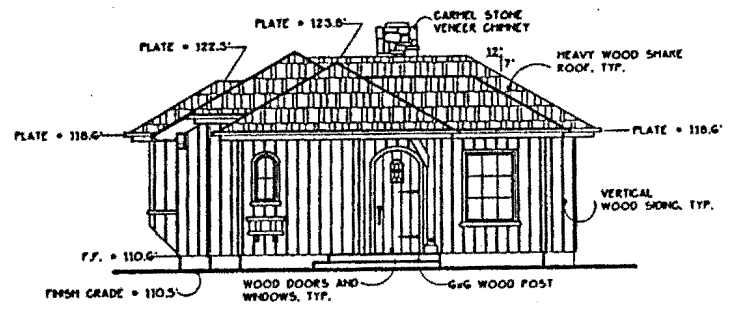
North Elevation



East Elevation



West Elevation



South Elevation  
FRONT

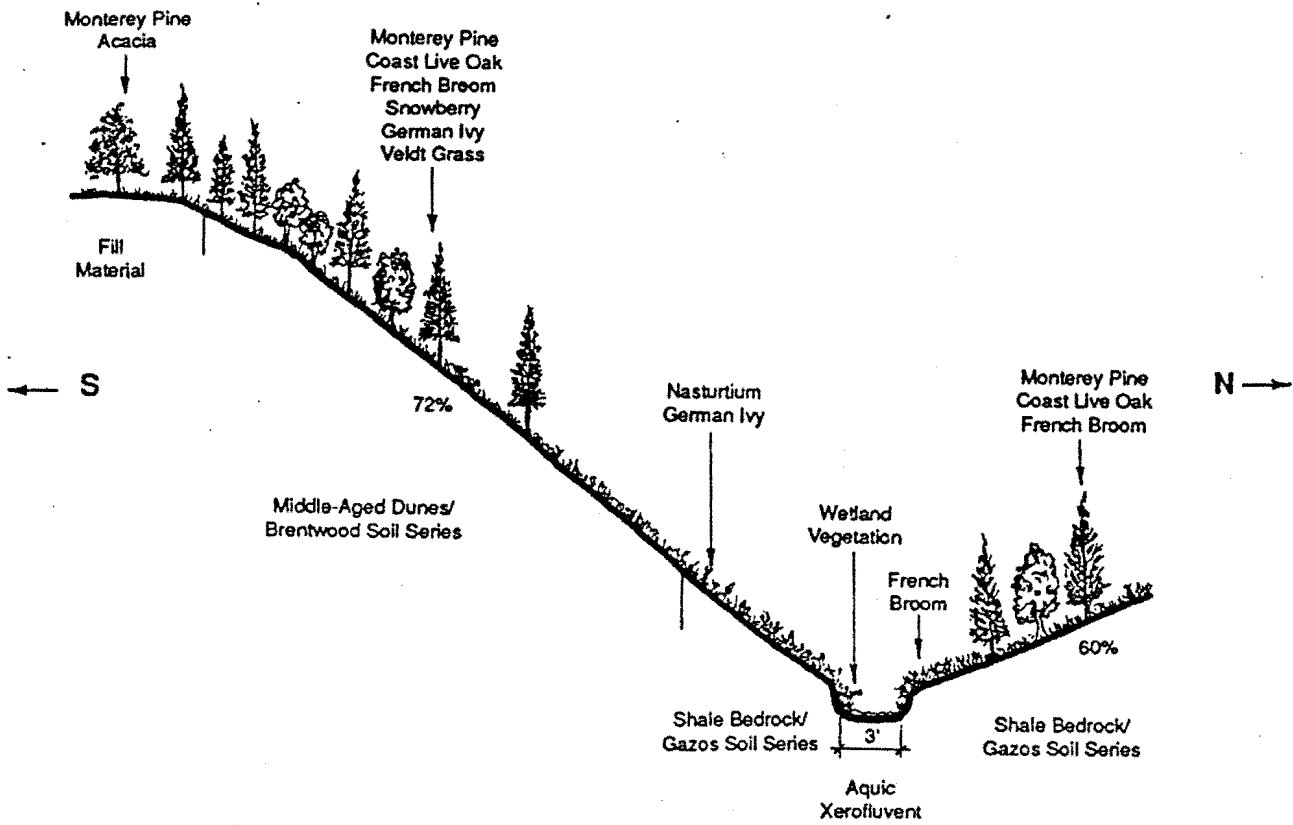
Scale: 1 inch = approx. 19 feet

Source: Mandurrigo Mandurrigo & Sullivan, March 1999.

## Proposed Building Elevations

EXHIBIT NO. 5
APPLICATION NO. 3-00-082
<i>Proposed Elevations</i>
California Coastal Commission

**Cross Section 1**



**Cross Section 2**

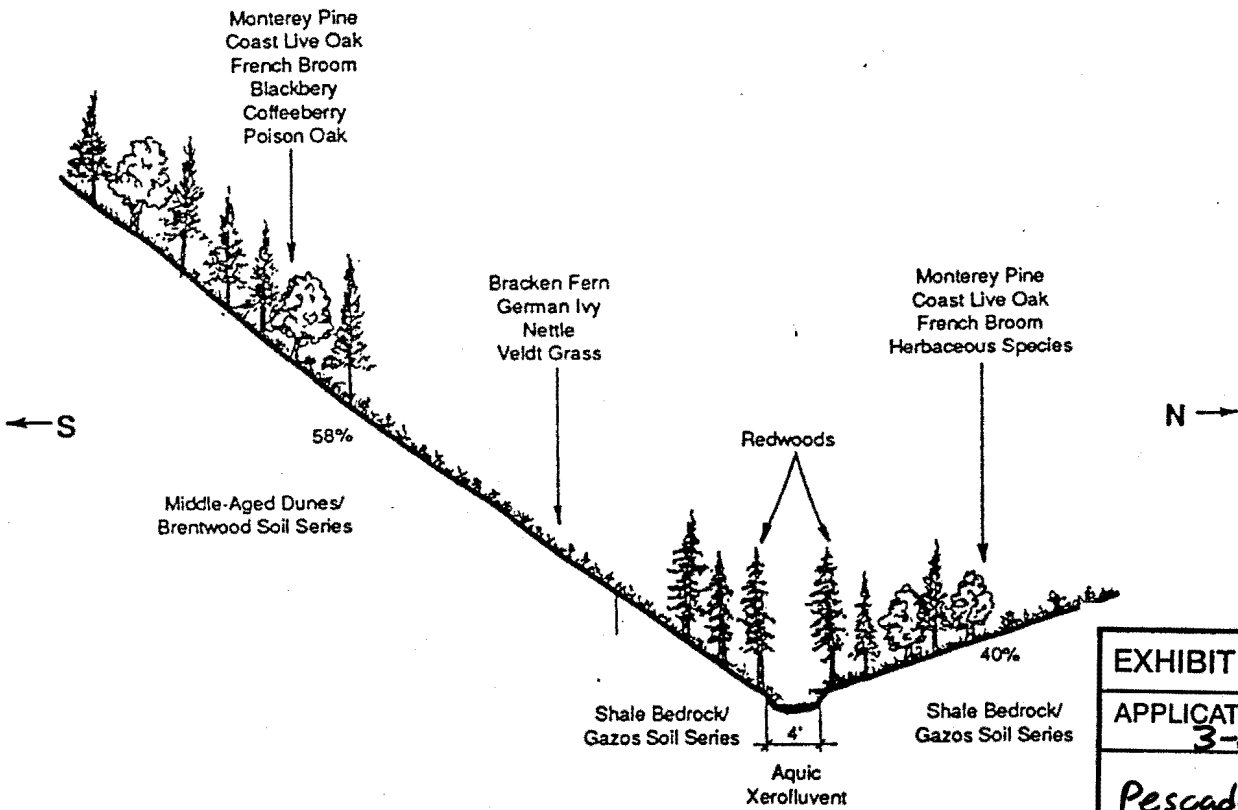
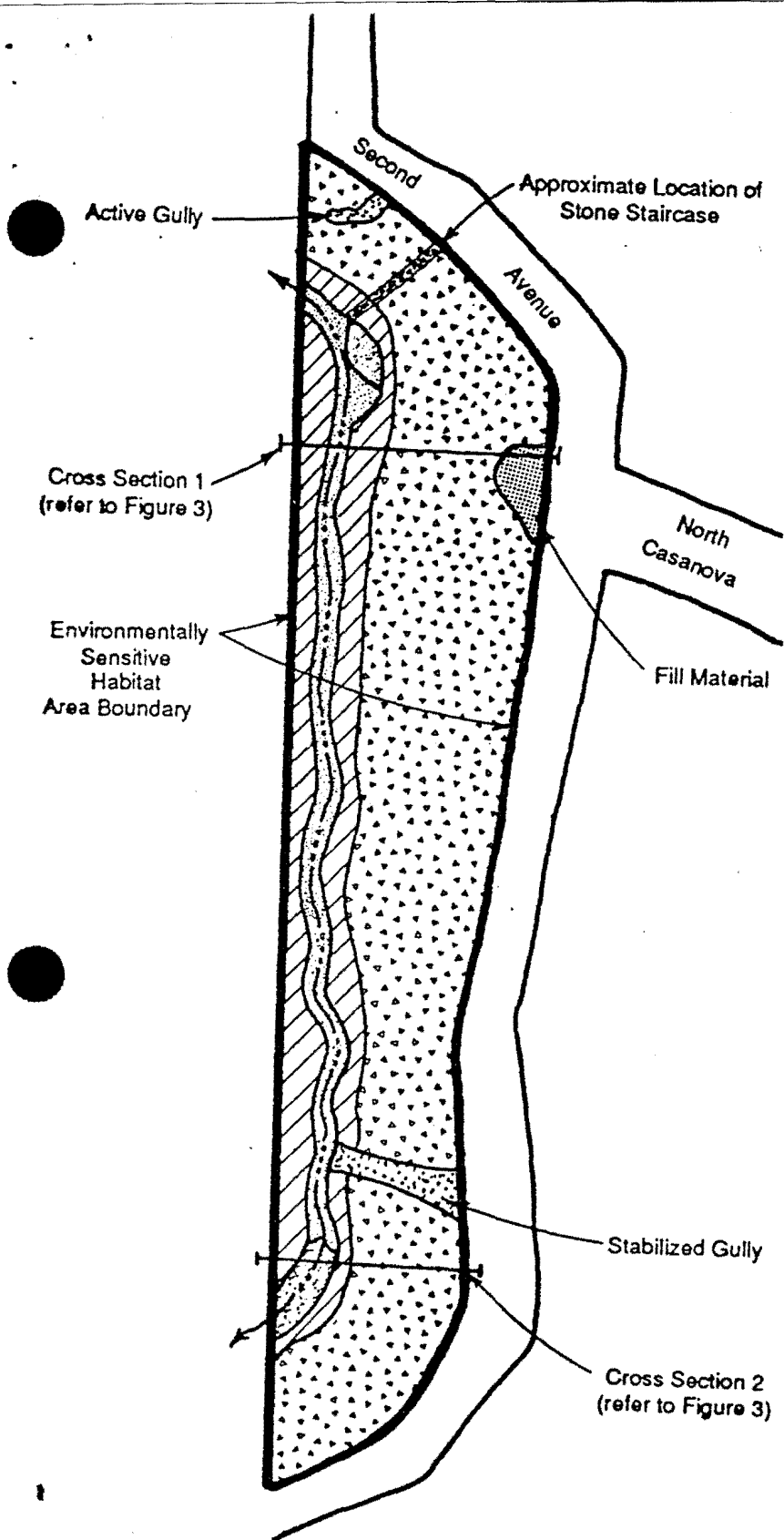







EXHIBIT NO. 6
APPLICATION NO. 3-00-082
Pescadero Canyon Cross-Section
California Coastal Commission



**Legend**

-  Monterey Pine Forest on Middle-Aged Dunes (Brentwood Soil Series)
-  Monterey Pine Forest on Shale Bedrock (Gazos Soil Series)
-  Wetland Drainage on Aquic Xerofluvent
-  Redwood Grove on Aquic Xerofluvent
-  Environmentally Sensitive Habitat Area Boundary



Not to Scale

EXHIBIT NO. 7
APPLICATION NO. 3-00-082
Pescadero Canyon ESHA Boundary
California Coastal Commission

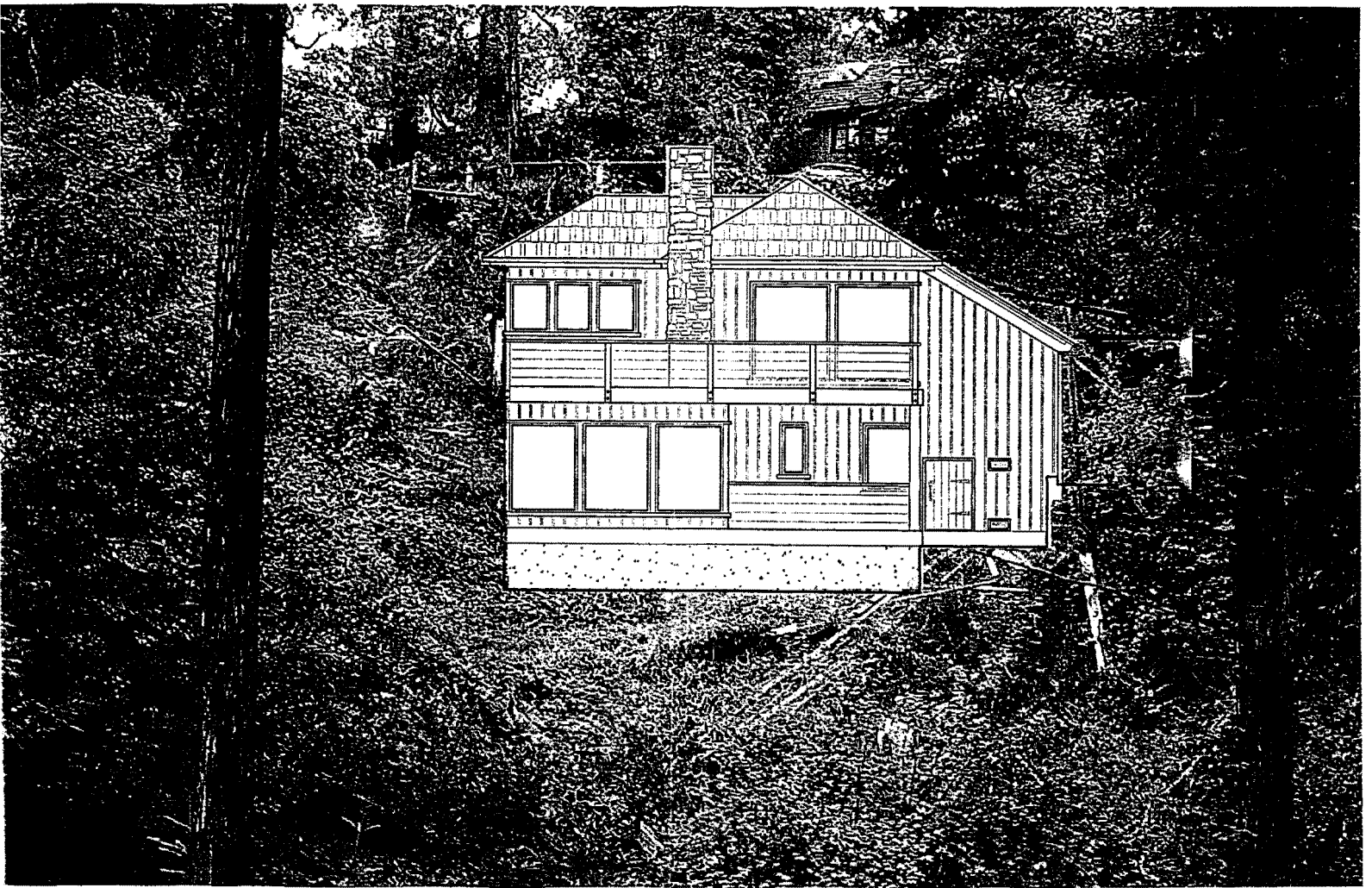


EXHIBIT NO. 8
APPLICATION NO. 3-00-082
Digital Photo Simulation
California Coastal Commission