

CALIFORNIA COASTAL COMMISSION

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

**Th10c**

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Filed: 4/27/2001
Hearing opened: 6/13/2001
49th day: 6/15/2001
Staff: S.Craig
Staff report: 6/27/2001
Hearing date: 7/12/2001

APPEAL STAFF REPORT

SUBSTANTIAL ISSUE DETERMINATION

Appeal number A-3-STC-01-045; Oblates of St. Joseph Parking Lot
 Applicant Oblates of St. Joseph Church
 Appellants Sierra Club; Robert Adelman, et al.
 Local government City of Santa Cruz
 Local decision Approved with conditions (March 27, 2001)
 Project location 544 West Cliff Drive, Santa Cruz (APN 004-571-02).
 Project description Expansion of existing parking lot from 100 spaces to 117 spaces
 File documents City of Santa Cruz Certified Local Coastal Program (LCP); City of Santa Cruz Coastal Development Permit Application File 99-109/98-152
 Staff recommendation ... No Substantial Issue

EXECUTIVE SUMMARY

The City of Santa Cruz approved installation of a new asphalt parking area and modification to the existing parking area at the Oblates of St. Joseph Church at 544 West Cliff Drive. The project will result in a net increase of 17 parking spaces.

The appellants claim that the approved parking lot project will: (1) result in a significant disruption of habitat value within an environmentally sensitive habitat area; (2) degrade scenic views, marine resources, transportation patterns, and an historic building, and; (3) have cumulative impacts on current and probable future development, which were not addressed adequately by the City.

These contentions do not raise a substantial issue of conformity of the approved project with the certified LCP. First, the approved project site does not constitute an environmentally sensitive habitat area. A local butterfly expert reviewed the project and felt that the project would cause no significant impact to Monarch butterflies. In addition, the City conditioned its approval to require submission of a landscaping plan for review and approval prior to the issuance of a building permit. The Applicant will not construct the parking lot during the Monarch over-wintering season and will not use pesticides on any of the parking lot landscaping. Also, the approved parking lot site is approximately 300 feet from the Monarch butterfly over-wintering eucalyptus grove, which is a substantial buffer. Furthermore, the City of Santa Cruz LCP does not require that a complete study of Monarch butterfly habitat in and



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 2

around Lighthouse Field be completed before approval is given for this project. The approved development will not create a significant impact on coastal visual resources because the site is located landward of West Cliff Drive and will not obstruct coastal views. In addition, the City has conditioned the project to reduce runoff and filter stormwater. The approved parking site is a considerable distance from the historic building of concern to an appellant and is not visible from that historic building. Also, the approved project will not adversely affect the level of service of the surrounding streets. Finally, an expert in the field of CEQA law has advised the City that the approved project will not result in "piecemealing" or cumulative impacts.

Staff recommends that the Commission, after conducting the public hearing, determine that **no substantial issue** exists with respect to this project's conformance with the certified City of Santa Cruz Local Coastal Program (LCP) and declines to take jurisdiction over the coastal development permit for the project.

STAFF REPORT CONTENTS

1.0	SUMMARY OF APPELLANTS' CONTENTIONS	3
1.1	Appeal of Sierra Club	3
1.2	Appeal of Robert Adelman, et al.	3
2.0	APPEAL PROCEDURES	3
2.1	Filing of Appeals	3
2.2	Appeals Under the Coastal Act.....	4
3.0	STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE.....	4
4.0	RECOMMENDED FINDINGS AND DECLARATIONS	5
4.1	Project Location	5
4.2	Project Description	6
4.3	City Action.....	6
4.4	Monarch Butterfly Background	7
4.5	Standard of Review.....	7
5.0	SUBSTANTIAL ISSUE ANALYSIS	8
5.1	Environmentally Sensitive Habitat	8
5.12	Appellants' Contention - Project Site is ESHA.....	9
5.13	Appellants' Contention - Project Site is Adjacent To ESHA	10
5.14	Appellant's Contention - Required Study Not Done	12
5.2	Visual Impacts	13
5.3	Water Quality.....	14
5.4	Community Landmarks and Historic Structures.....	16
5.5	Cumulative Impacts	16
5.6	Traffic	17
	Exhibits	



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 3

1.0 SUMMARY OF APPELLANTS' CONTENTIONS

1.1 Appeal of Sierra Club

The Sierra Club contends that the City-approved project raises substantial issues with respect to the project's conformance with LCP policies protecting sensitive species and their habitat (in this case, Monarch butterflies). In addition, the Sierra Club contends that the City has not performed a required comprehensive study to identify Monarch habitat areas more precisely and that the City's LCP has not been amended to further refine the habitat area as a result of such a comprehensive study. Furthermore, the Sierra Club states that the City did not address the project in terms of its cumulative impact on current and future development. Finally, the Sierra Club contends that the approved project would degrade scenic views, marine resources, transportation patterns, as well as an historic building.

Please see Exhibit 3 for the full text of the Sierra Club's appeal.

1.2 Appeal of Robert Adelman, et al.

Robert Adelman, et al., contend that the project will violate LCP resource protection policies regarding Monarch butterflies and their habitat, and that the City did not address the project in terms of its cumulative impact. The appellants also contend that the City of Santa Cruz Planning Department stated that the Coastal Act (specifically ESHA policies) does not apply to the City of Santa Cruz, that the Planning Department stated at public hearing that the Oblates property was not in an ESHA, and that the Negative Declaration was "incorrect both as a matter of law and as a matter of fact."

Please see Exhibit 4 for the full text of the appeal by Robert Adelman, et al.

2.0 APPEAL PROCEDURES

2.1 Filing of Appeals

On March 27, 2001, the City Council of Santa Cruz approved the proposed project subject to multiple conditions (see Exhibits 1 and 2 for the City Council's resolution, findings and conditions on the project). Adequate notice of the City Council's action on the CDP was received in the Commission's Central Coast District Office on Monday, April 16, 2001. The Commission's ten-working day appeal period for this action began on Tuesday, April 17, 2001 and concluded at 5:00 P.M. on Monday, April 30, 2001. Two valid appeals (see below) were received during the appeal period.

In accordance with the Commission's regulations, staff notified the City of Santa Cruz of the appeals and requested all relevant documents and materials regarding the subject permit, to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. Section 13112 of the Commission's regulations provides that upon receipt of a notice of appeal, a local government shall refrain from issuing a coastal development permit (CDP) and shall deliver to the Executive Director all relevant documents and materials used by the local government in consideration of the CDP application. The City permit file information was received on May 16, 2001.



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 4

Pursuant to Section 30261 of the Coastal Act, the appeal hearing must be set within 49 days from the date than an appeal is filed. The 49th day from the appeal filing date was June 15, 2001. On May 14, 2001 the applicant's representative waived the applicant's right for a hearing to be set within the 49-day period, to allow Commission staff sufficient time to review the project information and the appellants' contentions. In addition, on June 13, 2001, the Commission opened and continued the substantial issue hearing on the appeal.

2.2 Appeals Under the Coastal Act

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. The project is appealable because it is located within 300 feet of the top of the seaward face of a coastal bluff.

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 LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the approved 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 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the nearest public road and the sea and thus, this additional finding need not be made in a *de novo* review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the *de novo* stage of an appeal.

3.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-3-STC-01-045 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 5

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of **No Substantial Issue**, and the adoption of the following resolution and findings and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-3-STC-01-045** presents no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

4.0 RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

4.1 Project Location

The approved project site is located adjacent to the Oblates of St. Joseph Church at 544 West Cliff Drive in the City of Santa Cruz (see Exhibit 5 for location map). The Oblates property is a seven-acre parcel that is currently improved with the existing Oblates of St. Joseph Church, Gateway School (a private school), a private church residence, and paved parking areas. Uses in the general vicinity of the project site consist of residential development and coastal recreation. The site of the approved parking lot expansion is bordered by West Cliff Drive on the east, Pelton Avenue and Lighthouse Field State Beach on the south, the church and low-density residential development on the north, and residential development on the west (see Exhibit 6). Gateway School, a private school with grades K-6, is located on the church property west of the approved parking lot. The area to be developed into additional parking is located adjacent to Pelton Avenue (see Exhibit 7). This area is flat and currently is covered by grass and ruderal plants.

The project site is located within a general Monarch butterfly habitat area designated in the City's General Plan/Local Coastal Plan (Map EQ-9 - see Exhibit 8). Map EQ-9 contains a notation that states: "Monarch habitat locations are depicted in very general areas; further study would be needed to determine more precise habitat areas." Areas contained within this circle include Lighthouse Field, West Cliff Drive, the Oblates church property, a number of side streets (including Pelton Avenue), and many single-family residences.

Lighthouse Field State Beach (Lighthouse Field) is located directly across Pelton Avenue, just south of the approved parking lot expansion site (see Exhibit 6). Lighthouse Field State Beach is comprised of a partially wooded 36-acre field and a coastal cliff zone, which includes a 0.75-acre city park at Lighthouse Point. In addition to ocean vistas, Lighthouse Field offers a wide variety of natural features,



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 6

including groves of Monterey cypress trees and eucalyptus trees. Monarch butterflies use a eucalyptus grove on Pelton Avenue near the approved parking lot expansion as an over-wintering site.

4.2 Project Description

The approved project consists of Special Use, Design, and Coastal permits for expansion of a church and parking lot at Oblates of St. Joseph Church at 544 West Cliff Drive in the City of Santa Cruz. The project consists of a new asphalt parking area with modification of the existing parking area (see Exhibit 7 for site plan). The approved project will result in a net increase of 17 spaces, increasing from 100 to 117 spaces (the City calculates that there are 92 to 94 standard spaces in the existing lot; however, the church allows some nonstandard parallel parking which increases the number of parking spaces to 100). The new parking area will be landscaped and provide walking areas to connect the parking area to the existing church and adjacent Gateway school grounds. The parking expansion is approved to accommodate an increase in church pews and seating within the existing building (from 34 to 68 pews), which will be achieved by removing an existing wall between the main church and an adjoining chapel. To comply with the current Santa Cruz Parking ordinance, a minimum of 117 spaces must be provided on the Oblates site for the approved church remodel.

4.3 City Action

In 1999 the Applicant applied to expand the existing parking lot from 100 spaces to 147. (The originally proposed parking lot expansion would have occupied a larger amount of the grassy area adjacent to Pelton Avenue than what was ultimately approved by the City.) The City of Santa Cruz reviewed the proposed project and determined that the project, based on an Initial Study, would not have a significant affect on the environment. The City issued a Negative Declaration on 2/14/00. The Zoning Board directed the Applicant to modify the project to 132 total spaces (a reduction of 15 spaces) and approved a parking lot for that number on 10/26/00. This proposal included a 20-foot landscape berm between the new parking spaces and Pelton Avenue, consisting of Monterey Cypress trees and butterfly nectar sources. This proposal called for the removal of one pine tree on the church property. Access/egress from Pelton Avenue through an existing unused driveway was included in the design to create a drop-off/pickup area for the Gateway School students.

The above proposal generated intense community interest and comment, both in favor of and in opposition to the project. An appeal was filed of the Zoning Board's approval and the City Council held a hearing on the appeal on December 12, 2000. Due to the amount of public testimony, the item was continued. On February 27, 2001 the City Council indicated support for the Oblates of St. Joseph to expand their seating capacity by removing a wall between the main church and an adjacent chapel and to arrange for their parking in a different manner suitable for their purposes. Council directed City planning staff to work with the Applicant to develop various parking expansion alternatives to the project approved by the Zoning Board. In response to Council direction, the Applicants submitted three alternative plans for consideration. A modification of alternative #3 was adopted by the City Council. This alternative includes a parking lot expansion to 117 spaces, an increase of 17 spaces above what currently exists, but a reduction of 15 spaces from the Zoning Board's approval. The modified



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 7

alternative #3 was adopted by the City Council. This alternative includes no access/egress from Pelton Avenue (see Exhibit 2, Condition #41) and does not require the removal of any trees.

4.4 Monarch Butterfly Background

The approved additional 17-space parking area is located adjacent to Pelton Avenue and currently consists of a grassy area and ruderal plants (see Exhibits 6 & 9). The northeast portion of Lighthouse Field is located directly across Pelton Avenue from the approved parking area. A lone eucalyptus tree is located in Lighthouse Field, across Pelton Avenue, approximately 75 to 100 feet from the approved parking lot. A grove of eucalyptus trees is located in Lighthouse Field, further down Pelton Avenue, approximately 300 feet from the approved parking lot (as measured by Commission staff - see Exhibit 10). This grove of eucalyptus trees is used as an over-wintering roosting site by Monarch butterflies.

A local biologist and Monarch butterfly expert, Elizabeth Bell, Ph.D., has been systematically visiting the Lighthouse Field over-wintering site for 15 years as part of an ongoing countywide monitoring effort. Dr. Bell reviewed the project site and site plans and prepared a letter of review dated November 30, 1999 (see Exhibit 11). This review was based on the original project plans, which included an additional 47 parking spaces, access/egress onto Pelton Avenue, and the removal of one pine tree on the Oblates property. Dr. Bell stated that the project had potential impacts on the adjacent Monarch habitat due to the removal of one pine tree and loss of midwinter nectar resources (such as wild radish and mustard) due to paving of the grassy area. Dr. Bell stated that these impacts could be mitigated to less than significant levels with the planting of two cypress trees and by the provision of some "butterfly" plants onto the landscape design for the parking lot. This information was included in the Initial Study. The City received a number of comments that questioned Dr. Bell's findings regarding impacts to the butterflies. Dr. Bell addressed the concerns in a follow-up letter dated January 21, 2001 (see Exhibit 12). The conclusion remained that the project would not significantly impact Monarch butterfly habitat. Since Dr. Bell's initial review letter of November 30, 1999, the project has been reduced in size and scope to include a total of 17 additional parking spaces, with no access/egress onto Pelton Avenue and no tree removal. In addition, the Applicant is required to submit a landscaping plan to the City for review and approval prior to issuance of the building permit.

4.5 Standard of Review

In their appeals, the Sierra Club and Robert Adelman, et al., cite Coastal Act policy 30240 regarding environmentally sensitive habitat. The Sierra Club also cites Coastal Act Section 30251 regarding development in scenic coastal areas (see Exhibits 3 & 4 for full text of the appeals). The City of Santa Cruz, however, has a certified Local Coastal Program. The standard for review of coastal permits in the City of Santa Cruz is the certified LCP and not the Coastal Act. Both the Sierra Club and Robert Adelman, et al., cite applicable LCP policies in their appeals.

In its appeal, the Sierra Club cites Community Design policies 3.5.1 and 3.5.2 and Environmental Quality policy 4.1.5. These are City of Santa Cruz General Plan policies but are not part of the certified LCP. Therefore these policies are not applicable to this appeal.



5.0 SUBSTANTIAL ISSUE ANALYSIS

5.1 Environmentally Sensitive Habitat

City of Santa Cruz LCP/General Plan Glossary definition of "Sensitive Species:" *Those species which rely on specific habitat conditions that are limited in abundance, restricted in distribution or are particularly sensitive to development. Sensitive species in the City include the Monarch Butterfly, Black Swift and Pigeon Guillemot.*

Applicable City of Santa Cruz LCP Environmental Quality Policies are as follows:

LCP EQ Policy 4.5: *Continue the protection of rare, endangered, sensitive and limited species and the habitats supporting them as shown in Map EQ-9 or as identified through the planning process or as designated as part of the environmental review process. (See Map EQ-9)*

LCP EQ Policy 4.5.3: *Protect Monarch butterfly over-wintering sites and ensure adequate buffering of these sites.*

LCP EQ Policy 4.5.3.1: *Maintain a list and map of Monarch sites showing the boundaries of all Monarch sites within the city.*

LCP EQ Policy 4.5.3.2: *Require development in the vicinity of designated Monarch sites to undergo environmental impact analysis and for development affecting sites prepare a management plan addressing preservation of the habitat that includes criteria such as:*

Prohibiting the cutting, thinning, pruning or removal of any tree or shrub (especially nectar plants used by Monarchs) except as necessary for safety of homes or persons and requiring replacement of comparable vegetation; prohibiting pesticide use and keeping all water sources clean; allowing construction only during the months when Monarchs are not present; and keeping smoke from infiltrating Monarch roosting sites.

LCP EQ Policy 4.9: *LUP resource maps shall be updated as new environmental information identifies additional natural resource areas and the updated maps submitted to the Coastal Commission for their files.*

Applicable LCP Zoning Ordinances are as follows:

24.14.080(2): *Precise Boundaries of Designated Areas. The precise boundary of areas identified in subsection (1) above shall be determined on a case-by-case basis by a biologist with relevant academic training and experience in instances of uncertainty.*

24.14.080(4)(d): *Wildlife Habitats and Plant Communities. Construction, grading or removal of vegetation shall be permitted within wildlife habitats and plant communities where: (1) Existing vegetation is preserved to the maximum extent possible; (2) The integrity of the area as a habitat*



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 9

is not compromised; (3) Landscaping is designed to provide a natural buffer and provide native food-bearing plant species to the greatest extent feasible.

5.12 Appellants' Contention - Project Site is ESHA

The Sierra Club contends that the project site is located within a designated ESHA (environmentally sensitive habitat area) and that the project is not a use that is dependent upon the ESHA's resources. Robert Adelman, et al., contend that the project will violate LCP resource protection policies because the property to be developed is a Monarch butterfly over-wintering site. Robert Adelman, et al., also contend that the City Planning Department erred in stating that the Coastal Act (specifically ESHA law) does not apply to the City of Santa Cruz (see Exhibit 3 & 4 for the full text of the appeals) and that the Planning Department also erred during the December 12, 2000 public hearing in stating that the Oblates property was not in an ESHA.

The term "ESHA" has not been incorporated into the City's LCP. The City's LCP, however, includes policies which refer to habitat, sensitive species, etc., which could be construed as equivalent in meaning to "ESHA."

The project site, however, is not "ESHA." As stated above, the approved parking lot would be located on a grassy area on the Oblates property (see Exhibit 9). This grassy area is composed of typical fescue-type blends found in landscaped areas. It also contains ruderal plants and wild radish and other non-endangered potential nectar species. The conversion of the grassy area to a parking area will not result in direct or indirect removal of Monarch habitat. In addition, the project site does not contain an over-wintering Monarch roosting area. The closest over-wintering roosting area is a eucalyptus grove located approximately 300 feet from the project site, as measured by Commission staff (see Exhibit 10). In her letter of January 17, 2001, Dr. Bell recognizes that Monarch butterflies forage in the neighborhood north of Pelton Avenue and on the Oblates property. Dr. Bell, however, also states that in comparison to the availability of on-site nectar sources at Lighthouse Field, the amount of nectar generally available in the approved parking area "is small and its loss can easily be compensated for by the approved landscape planting" (see Exhibit 12). Also, the City received a comment letter from David Suddjian, a local wildlife biologist who has worked on a number of projects involving Monarch butterflies (see Exhibit 13). Mr. Suddjian has visited Lighthouse Field over many years and has also observed the Oblates property. He believes that Dr. Bell has "correctly characterized the use of the project site and vicinity by monarchs." Mr. Suddjian goes on to state that the trees at the Oblates' property are not used by roosting butterflies because they do not provide the necessary shelter and required micro-climate. He also feels that the proposed nectar-providing landscaping will be an improvement over the existing foraging resources found at the Oblates site.

In addition, although the Oblates property falls within a circle on Map EQ-9 designated as sensitive Monarch butterfly habitat, the map notation states that "Monarch habitat locations are depicted in very general areas..." (see Exhibit 8). Areas within this circle include parking lots, paved streets, and residential development. These areas, including the approved project site, do not constitute "ESHA" just



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 10

because they fall within the circle on Map EQ-9. For all of the above-stated reasons, the approved project site does not constitute an environmentally sensitive habitat area. Therefore, the appeal raises no substantial issue in regard to conformity of the approved development with the Environmental Quality policies of the certified City of Santa Cruz LCP regarding protection of Monarch butterflies.

5.13 Appellants' Contention - Project Site is Adjacent To ESHA

The Sierra Club contends that the project is located adjacent to Lighthouse Field, which is a sensitive habitat area as defined and delineated by LCP Map EQ-9 (see Exhibit 8). The Sierra Club also contends that the City issued a permit for development within a designated Monarch butterfly over-wintering site without consideration of adequate buffering to ensure survival of this sensitive species, as required by LCP EQ Policy 4.5.3. The Sierra Club also contends that the approved project is "not designed to prevent impacts which would significantly degrade... the adjacent Lighthouse Field ESHA, and... is incompatible with the continuance of habitat values offered by the ESHA" (see Exhibit 3 for full text of the appeal).

Appellants Robert Adelman, et al., contend that subsequent to the Negative Declaration, materials were submitted by Monarch butterfly experts, other than Dr. Bell, which "question the negative impact of a parking lot on this site" (see Exhibit 4 for full text of the appeal).

As stated above, the project site itself is not "ESHA." Lighthouse Field, however, is located directly across Pelton Avenue from the approved project site (see Exhibit 6). A grove of eucalyptus trees used by Monarch butterflies as an over-wintering site is located in Lighthouse Field, approximately 300 feet from the approved project site, as measured by Commission staff (see Exhibit 10). Thus Lighthouse Field can be considered a sensitive habitat area because of the presence of over-wintering Monarch butterflies, which the City's LCP defines as a sensitive species.

LCP EQ Policy 4.5.3.2 requires that development in the vicinity of designated Monarch sites undergo environmental impact analysis. In addition, this policy calls for preparation of a management plan for development affecting such sites. As stated above, local biologist and Monarch butterfly expert, Elizabeth Bell, Ph.D., reviewed the project site and site plans and prepared a letter of review dated November 30, 1999 (see Exhibit 11). Dr. Bell stated that the project had potential impacts on the adjacent Monarch habitat due to the removal of one pine tree and loss of midwinter nectar resources (such as wild radish and mustard) due to paving of the grassy area, but that these impacts could be mitigated to less than significant levels by incorporating some "butterfly" plants into the landscape design of the parking lot. This information was included in the Initial Study. Since Dr. Bell's initial review letter, the project has been reduced in size and scope to include a total of 17 additional parking spaces, with no access/egress onto Pelton Avenue and no tree removal. Dr. Bell submitted a follow-up letter to the City dated January 17, 2001 that addressed public concerns regarding the proposed project in more detail (see Exhibit 12). The conclusion remained that the project would not significantly affect the Monarch butterfly habitat.



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 11

LCP EQ Policy 4.5.3 calls for the adequate buffering of Monarch butterfly over-wintering sites. There are, however, no standard setbacks in the City's LCP for Monarch habitat areas. In the mid 1990s the Commission set a specific buffer zone regarding a large residential development adjacent to over-wintering eucalyptus trees (the Ellwood Shores project in Santa Barbara). In that case the Commission required that a road proposed to go through the over-wintering grove be removed and rerouted through an adjoining property. In addition, the Commission required an average 100-foot buffer between the proposed residential structures and the eucalyptus trees, with a lesser buffer in some areas. As stated above, an over-wintering site is located on Pelton Avenue approximately 300 feet from the approved project site, as measured by Commission staff. This buffer greatly exceeds that required in the Ellwood Shores case and is a substantially greater buffer than that which was determined to be adequate by Dr. Bell in the original proposal, which was approximately 150 feet from the over-wintering grove. The Commission also notes that existing residential development lines Pelton Avenue less than 50 feet from this over-wintering grove (see Exhibit 10). Also as stated above, the City conditioned its approval so that there will be no access/egress to the parking lot from Pelton Avenue, which would have brought church traffic closer to the over-wintering grove (see Exhibit 2, Condition #41).

A single eucalyptus tree is located between 75 and 100 feet from the approved parking lot (see Exhibit 10). Dr. Bell, however, has only rarely seen Monarchs butterflies in this tree and has never seen clusters of Monarch butterflies roosting in this tree. Dr. Bell believes this is because the tree is poorly protected from the wind and could not support Monarch clusters except when the wind is calm (see Exhibit 12, pg. 3). Even if this was an over-wintering tree, the distance between it and the parking lot is consistent with the buffer required in the Ellwood Shores project.

The City received comment letters from three other butterfly experts: Dr. Walter Sakai, Dr. Kingston Leong, and Dr. Travis Longcore (see Exhibits 14, 15, and 16). None of these experts has recently visited Lighthouse Field or the Oblates property. Also, their comments were based on the originally proposed larger parking lot project, which included the removal of one pine tree on the Oblates property and access/egress to the parking lot from Pelton Avenue. Since receipt of these letters the Pelton Avenue access/egress has been eliminated and the pine tree will not be removed. In addition, the parking lot has been reduced in size and now is located approximately 300 feet from the project site (as measured by Commission staff).

In his comment letter, Dr. Sakai suggests that appropriate mitigation would include no work being done while Monarch butterflies are over-wintering (see Exhibit 14). LCP policy 4.5.3.2 requires that a management plan be prepared for development affecting Monarch sites and that this plan allow for "construction only during the months when Monarchs are not present." As stated above, the approved project is 300 feet from the over-wintering grove. Thus, the development will not directly affect the Monarch habitat. Even so, the Applicant has also agreed to refrain from construction activities during the months when Monarch butterflies are over-wintering at Lighthouse Field and to prohibit pesticide use on this landscaping (see Exhibit 17), consistent with LCP Policy 4.5.3.2. In addition, the City conditioned its approval to require a landscaping plan on the project site and the Applicant has agreed to



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 12

plant nectar-providing plants to enhance the foraging activities of the Monarch butterflies, also consistent with LCP Policy 4.5.3.2.

In conclusion, a local butterfly expert reviewed the project and felt that the project would cause no significant impact to Monarch butterflies. The approved project has been reduced to 17 additional parking spaces with no access/egress from Pelton Avenue and no tree removal. The City conditioned its approval to require submission of a landscaping plan for review and approval prior to the issuance of a building permit. In addition, the Applicant will not construct the parking lot during the Monarch over-wintering season and will not use pesticides on any of the parking lot landscaping. Finally, the approved parking lot site is approximately 300 feet from the Monarch butterfly over-wintering eucalyptus grove, which is a substantial buffer. In light of all of the above, the appeal raises no substantial issue in regard to conformity of the approved development with the Environmental Quality policies of the certified City of Santa Cruz LCP regarding protection of Monarch butterflies.

5.14 Appellant's Contention - Required Study Not Done

The Sierra Club notes that Map EQ-9 contains a notation which states, "Monarch habitat locations are depicted in very general areas; further study would be needed to determine more precise habitat areas" (see Exhibit 8). The Sierra Club contends that the City has not performed the required study to further delineate special Monarch habitat areas and that Map EQ-9 has not been updated prior to project approval, as required by LCP EQ Policy 4.9. In addition, the Sierra Club contends even though the City Council has directed City planning staff to perform such a study, that this study would come too late to ensure protection of the Monarch habitat at the project site (see Exhibit 3 for the full text of the appeal).

Commission staff interprets the above Map EQ-9 notation differently than does the Sierra Club. Commission staff does not believe this notation requires that such a study be completed prior to approval of any project that falls within a Monarch butterfly circle on Map EQ-9. In fact, a number of residential projects within the same EQ-9 Map circle have been completed in recent years. Nothing in this notation states that a project cannot be approved until this "further study" has been done. In addition, LCP EQ Policy 4.9 does not require that Map EQ-9 be updated prior to project approval; this policy simply notes that "LUP resource maps shall be updated as new environmental information identifies additional natural resource areas and the updated maps submitted to the Coastal Commission..." Currently the City evaluates proposed projects within the habitat circles defined on Map EQ-9 on a case-by-case basis, to determine if habitat for sensitive species is present on the proposed project site and if the proposed project will impact such species. This case-by-case evaluation is in accordance with LCP EQ Policy 4.5.3.2 and LCP Zoning Ordinance 24.14.080(2). This ordinance also requires that a biologist with relevant academic training and experience be involved in the evaluation. In this case, Dr. Elizabeth Bell, a Monarch butterfly specialist with many years of experience, evaluated the proposed project for its potential effects on Monarch butterflies. As stated above, Dr. Bell felt that the creation of additional parking spaces on the Oblates property would have no significant impact on Monarch butterflies over-wintering at Lighthouse Field (see Exhibits 11 & 12).



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 13

LCP Zoning Ordinance 24.14.080(2) and LCP Map EQ-9 use the word "precise" when describing habitat areas and boundaries. It is difficult to determine the "precise" boundaries of a highly mobile animal such as the Monarch butterfly; however, the precise roosting areas have been determined to be the over-wintering grove of eucalyptus trees approximately 300 feet from the project site (as measured by Commission staff).

At its January 23, 2001 meeting, the City Council directed City planning staff to return with additional information on the preparation of a complete seasonal study of the Monarch butterfly habitat at Lighthouse Field by a qualified Monarch butterfly expert. The findings of such a study would help the City to implement long-term management policies of over-wintering sites and would be helpful in formulating a regional approach to maintaining Monarch habitat, which is greatly needed. As such, the Commission is highly supportive of such a study. The Sierra Club contends that this study should have been completed before approval was given to this project and that this study will come too late to ensure the protection of Monarch habitat at the project site. As stated above, however, the Monarch habitat is located 300 feet from the approved parking lot site, on the other side of an existing City street, and the project site itself is not "ESHA." The Commission therefore finds that the City evaluated this project in accordance with LCP Policy 4.5.3.2 and LCP Zoning Ordinance 24.14.080(2).

Lighthouse Field State Beach is a State Park; however, it is maintained jointly by the City and County of Santa Cruz. At this time, the City of Santa Cruz bears most of the responsibility for maintenance of Lighthouse Field. The results of the above-mentioned study should be incorporated into best management practices of Lighthouse Field for the benefit of the Monarch butterflies. Such best management practices might include the planting of nectar-providing trees and shrubs, informative signage on trails during the winter months regarding the sensitivity of Monarch butterflies, and, if warranted, protective fencing around roosting sites. Again, the Commission strongly supports the development and implementation of such a management plan. Any updating of LUP resource maps as a result of this study should be submitted to the Coastal Commission, per LCP EQ Policy 4.9.

In conclusion, neither the notation on Map EQ-9 nor LCP EQ Policy 4.9 require that a complete study of Monarch butterflies in Lighthouse Field be completed before approval is given for this project. Furthermore, the City evaluates projects within Monarch butterfly Map EQ-9 circles on a case-by-case basis, in accordance with LCP EQ Policy 4.5.3.2 and LCP Zoning Ordinance 24.14.080(2). As such, the appeal raises no substantial issue in regard to conformity of the approved development with the Environmental Quality policies of the certified City of Santa Cruz LCP regarding protection of Monarch butterflies.

5.2 Visual Impacts

Applicable City of Santa Cruz LCP policies regarding public views are as follows:

LCP Community Design Policy 2.1.3: *Protect the Monterey Bay National Marine Sanctuary and the shoreline and views to and along the ocean, recognizing their value as natural and recreational resources.*



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph

Page 14

LCP Community Design 2.2: *Preserve important public views and viewsheds by ensuring that the scale, bulk and setback of new development does not impede or disrupt them.*

LCP Land Use Policy 1.6: *Minimize, when practical, obstruction of important views and viewsheds by new development. In the Coastal Zone, development shall be sited and designed to and along the ocean and in scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and to restore visual quality in visually degraded areas.*

The Sierra club contends that the approved project will degrade scenic views from this coastal recreational area and from the adjacent neighborhood and that increased parking in this area will degrade views of the Monterey Bay National Marine Sanctuary (see Exhibit 3 for the full text of the appeal).

LCP Community Design Map CD-3 designates West Cliff Drive as a scenic drive (Exhibit 18). The proposed parking lot is located on the landward side of West Cliff Drive, adjacent to Pelton Avenue (see Exhibit 6). The visual impacts of the project were reviewed in the Initial Study and were deemed less-than-significant. Exhibits 19 and 20 show the approved parking area as seen from West Cliff Drive. The City has conditioned its approval to require additional landscaping along the West Cliff Drive and Pelton Avenue frontages (Exhibit 2, Condition #10). This landscaping will provide screening of the lot as viewed from Pelton Avenue and West Cliff Drive. Furthermore, while there are public views from City streets throughout the vicinity, there are a number of other parking lots in the vicinity of West Cliff Drive and the approved addition of 17 spaces would not be visually significant in relation to these other lots. Also, the approved parking lot will not block any views and is located landward of West Cliff Drive. In general, tourists and residents walking or driving along West Cliff Drive direct their attention seaward. For all these reasons, the approved development would not create a significant impact on coastal visual resources inconsistent with the visual resource protection policies of the certified LCP. Therefore, the appeal raises no substantial issue in regard to conformity of the approved development with the visual resource protection policies of the certified City of Santa Cruz LCP regarding visibility of the approved site.

5.3 Water Quality

Applicable City of Santa Cruz LCP policies regarding water quality are as follows:

LCP Environmental Quality Policy 4.1: *Protect the natural ecosystem of the Monterey Bay National Marine Sanctuary and the shoreline.*

LCP Environmental Quality Policy 4.1.5: *Protect the quality of water discharged into the Bay and allow no dumping of materials into the Monterey Bay.*



California Coastal Commission

Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 15

LCP Environmental Quality Policy 2.3.1: *Design and site development to minimize lot coverage and impervious surfaces, to limit post-development runoff to predevelopment volumes, and to incorporate storm drainage facilities that reduce urban runoff pollutants to the maximum extent possible.*

LCP Environmental Quality Policy 2.3.1.5: *Ensure that all parking lots, roads, and other surface drainages that will flow directly to coastal waters have oil, grease and silt traps.*

LCP Environmental Quality Policy 2.3.1.6: *Require a maintenance program and oil, grease and silt traps for all parking lots over 10 spaces...*

The Sierra Club contends that the approved additional 17 parking spaces will degrade marine resources and coastal water quality by increasing urban runoff due to an increased number of paved parking surfaces in the coastal zone. The Sierra Club contends that this increased runoff into the Monterey Bay National Marine Sanctuary will adversely affect nearby Steamer Lane, which is a world famous surfing and coastal recreation area (see Exhibit 3 for the full text of the appeal).

As stated above, the approved project consists of 17 new paved parking spaces. This amount of new paving is insignificant in comparison to the amount of existing paved surfaces within the developed neighborhood and along West Cliff Drive, including other parking areas (see Exhibit 6). The approved project site currently consists of a grassy area with ruderal plants (Exhibit 9). This grassy area is occasionally used for overflow parking by the church and by Gateway School. The pervious nature of the grassy area limits the amount of any polluted runoff currently. Consistent with the Environmental Quality policies listed above, the City conditioned its approval of the additional 17 parking spaces to require that the Applicant install and maintain oil/grease traps that will filter pollutants from stormwater (Exhibit 2, Condition #32). Furthermore, the City also conditioned its approval to require that the Applicant avoid paving materials that are impervious or smooth surface (Exhibit 2, Condition #15). Permeable pavements are a method of infiltrating stormwater while simultaneously providing a stable load-bearing surface. While forming a surface suitable for walking and driving, permeable pavements also contain sufficient void space to infiltrate runoff into the underlying base course and soil. In this way they can dramatically reduce impervious surface coverage without sacrificing intensity of use. The three main categories of permeable pavements include poured-in-place pervious concrete and porous asphalt, unit pavers on sand, and granular materials.

The City has required conditions on the approved project to both reduce runoff and filter stormwater. With these conditions, the approved project would not create a significant impact on water quality and marine resources inconsistent with the Environmental Quality policies of the certified LCP. Therefore, the appeal raises no substantial issue in regard to conformity of the approved development with the Environmental Quality policies of the certified City of Santa Cruz LCP regarding protection of water quality and marine resources.



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph

Page 16

5.4 Community Landmarks and Historic Structures

LCP Community Design Policy 3.5 states: *New or renovated development shall add to, not detract from City-identified landmarks, historic areas and buildings, and established architectural character worthy of preservation.*

The Sierra Club contends that the project will replace an open grassy area with paved surface and parked automobiles and that this will degrade the character of an historic building indicated on LCP Map CD-5 (see Exhibit 21). The Oblates property is shaded on this map, which signifies that an historic building is present.

According to personal communication with City staff, the historic building in question is a residence occupied by the parish's priest. This residence also houses the church's offices. The existing church building is not an historical building. A paved parking area exists directly adjacent to the historic residence (see Exhibit 6 for an aerial view of the Oblates property). The approved parking site is several hundred feet from the historical residence. As seen in Exhibit 9, the historical residence is not visible from the approved parking site (the building in this photograph is the existing church). Given that the approved parking site is several hundred feet from the historic residence, that the historic residence currently has a large parking lot adjacent to it, and that the approved parking site is not visible from the historic residence, the approved project will not have an effect on the historic residence. Therefore the approved project is consistent with LCP Community Design Policy 3.5 and this aspect of the appeal raises no substantial issue in regard to conformity of the approved development with the Community Design policies of the certified City of Santa Cruz LCP regarding historic structures.

5.5 Cumulative Impacts

The Sierra Club and Robert Adelman, et al., contend that the City did not address the project regarding its cumulative impact on current and probable future development (see Exhibits 3 & 4 for the full text of the appeals). The standard of review is the City of Santa Cruz LCP, not CEQA. However, because both Appellants raise the cumulative impact issue, this issue is addressed below.

The Appellants contend that the Applicant plans to build a "social hall" or a "convention center" and that the site plans submitted with the application show the footprint of this hall and paths leading from the parking lot to the hall (see Exhibit 22 for the originally submitted site plan). The Appellants contend that the future development of the hall will be supported by this parking lot. The Appellants contend that the Negative Declaration prepared for the project is not sufficient and that a more comprehensive study, such as an Environmental Impact Report, is necessary to evaluate the cumulative effects on sensitive habitat from a foreseeable future project.

The City contacted attorney James G. Moose, an expert in CEQA law and co-author of the Guide to the California Environmental Quality Act. In a letter to the City dated September 4, 2000 (see Exhibit 23),



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph

Page 17

Mr. Moose addressed the issues of cumulative impacts and “piecemealing” potentially associated with this project. Mr. Moose states that “Piecemealing... deals with future actions that would be *caused* in some sense by the initial project approval. Cumulative impact analysis, in contrast, attempts to identify ‘probable future projects’ that, though not outgrowths of the project at hand, will likely cause impacts that exacerbate those of the project for which a negative declaration or EIR is being prepared” (see Exhibit 23, pp. 11-12).

Mr. Moose states that “the parking lot project, if approved, would have ‘independent utility’ even if a hall is never pursued by the applicant or approved by the City. This fact provides another reason why CEQA does not require the City to treat a ‘hall’ as part of the project now pending” (see Exhibit 23, pp. 9-10). “Independent utility” in this case means that the approved parking lot would serve a viable purpose even if a “future hall” were never built.

Mr. Moose states that “The CEQA Guidelines define ‘[c]umulative impacts’ as ‘two or more individual effects which, when considered together, are considerable or ...compound or increase other environmental impacts... The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time” (see Exhibit 23, pg. 12). Mr. Moose also states that there is a “clear authority for limiting the universe of ‘reasonably foreseeable probable future projects’ to projects for which formal applications are currently pending” (Exhibit 23, pg. 14). Mr. Moose concludes that “the Church has not filed an application for a ‘hall’ and may never do so. It cannot be said, then, that the Church has made the ‘significant investment of time, money, and technical planning’ necessary for the preparation of such an application... An environmental document ‘need not contain discussion of specific future action that is merely contemplated[.]’” (see Exhibit 23, pg. 15). Mr. Moose concludes that the “City has full control over whether the Church will eventually get permission to build a new hall in the future. The application for such a project would trigger its own CEQA review...” (see Exhibit 23, pg. 15). In light of the above, the contentions of the Appellants regarding cumulative impacts raise no substantial issue with regard to the approved project.

5.6 Traffic

LCP Land Use Policy 5.6 states: *Require land use development to integrate into the larger circulation system by introducing its system of roads, pedestrians and bike paths with existing facilities and also design access to nearby areas in a manner that minimizes the necessity for automobile travel and potential automobile and pedestrian/bike conflicts.*

The Sierra Club contends that approved project will encourage, not minimize, automobile travel and will create potential pedestrian/bike conflicts in this pedestrian and bicycle recreation area (see Exhibit 3 for the full text of the appeal).



Appeal A-3-STC-01-045 Staff Report

Oblates of St. Joseph
Page 18

A traffic and circulation study prepared by Higgins and Associates Traffic Engineers (see Exhibit 24) evaluated the potential traffic impacts due to the internal expansion of the Oblates of St. Joseph Church and its related parking expansion project. The level of service was analyzed at the West Cliff Drive/Pelton Avenue intersection on a Sunday, the time of greatest Church activity. Sunday traffic on West Cliff is also relatively higher than weekday traffic, especially during the summer, because of tourist and beach/surf activities along West Cliff Drive. The report states that with future added traffic from the church expansion and expanded parking lot, the intersection would operate at a satisfactory level of service (LOS) B on Sundays (LOS B = Stable Flow; Acceptable Delay). The traffic study further states that the LOS during weekday peak hours at the West Cliff Drive/Pelton Avenue intersection currently operates at a LOS A, including Gateway School traffic volumes (LOS A = Stable Flow; Very Slight or No Delay). Both these levels of service are well above the City-required threshold of level of service D (LOS D = Approaching Unstable Flow; Tolerable Delay). Only a few Church activities during the year are expected to create vehicle demand overlaps with the Gateway School drop-off and pick-up times. In light of the above, the contentions of the Appellant regarding traffic impacts raise no substantial issue with regard to the approved project.



PUBLIC HEARING

Council closed the public hearing at the December 12, 2000 Council meeting and continued deliberation and action only to January 9, 2001, then to January 23, 2001, then to February 27, 2001, then to March 27, 2001. New information was presented at this meeting and public testimony was taken on the new information only.

730-50

28. 544 West Cliff Drive 99-109/98-152 - APN 004-571-02
(Oblates of St. Joseph, owner/filed: 4/22/99).

Appeal of the Zoning Board's Adoption of a Negative Declaration and Approval of Special Use, Design, and Coastal Permits for Expansion of a Church and Parking Lot, and Modification to Use Permit No. 98-152 to Allow Changes to the Approved Parking Circulation Plan which will be Effected with the Proposed Design. The Project has been Amended to Include a Variance to Modify Parking Standards. This Project Requires a Coastal Permit, which is Appealable to the California Coastal Commission After All Possible Appeals are Exhausted through the City. (Oblates)

Resolution No. NS-25,300 was adopted denying the appeal of Dennis J. Kelly without prejudice, and approving the adoption of the negative declaration and approval of variance to modify parking standards, special use, design, and coastal permits for the expansion of Oblates of St. Joseph Church and modification to use permit No. 98-152, 99-109/98-152; with the parking design Option 2.5 as presented at the meeting, which provides 117 parking spaces; and with the conditions of approval as revised by the Planning Department at the meeting; revising Condition No. 15, removing the requirement for 6" continuance concrete curb and adding wheel stops; and adding Condition 42 to read: "parking lot shall have restricted access between the hours of 10:00 p.m. and 6:00 a.m. Limited church events may use this parking lot during these hours with approval of the Zoning Board;" and with Condition No. 31 to read: "...and shall be approved by the ~~Planning Department~~ *Zoning Administrator*;" and with the final surface to be approved by the Planning Director.

Motion to review compliance of the Conditions of Approval of both Gateway School and the Oblates of St. Joseph, by the Zoning Board, with public notice within one year, or if a Master Plan is brought forth before this time, it shall replace the compliance review.

EXHIBIT NO. <u>1</u>
APPLICATION NO.
<u>A-3-STC-01-045</u>
<u>pg 1 of 5</u> California Coastal Commission

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ DENYING THE APPEAL OF DENNIS J. KELLY WITHOUT PREJUDICE, AND THE ADOPTION OF THE NEGATIVE DECLARATION AND APPROVAL OF VARIANCE TO MODIFY PARKING STANDARDS, SPECIAL USE, DESIGN, AND COASTAL PERMITS FOR THE EXPANSION OF OBLATES OF ST. JOSEPH CHURCH AND MODIFICATION TO USE PERMIT #98-152. 99-109/98-152

WHEREAS, the Oblates of St. Joseph applied for a Special Use, Design and Coastal Permit to expand a church and construct associated parking and a Modification to Use Permit #98-152 to allow changes to the approved parking and circulation plan at 544 West Cliff Drive and Variance to modify parking standards; and

WHEREAS, an Initial Study and Negative Declaration has been prepared for the project consistent with the California Environmental Quality Act; and

WHEREAS, the Zoning Board conducted public hearings on November 19, 1999, September 14, 2000 and October 26, 2000, and approved the application with the required findings and conditions of approval; and

WHEREAS, an appeal letter was filed on October 30, 2000, appealing the Zoning Board's approval of the applications; and

WHEREAS, the City Council conducted public hearings on December 12, 2000, January 23, 2001, February 27, 2001 and March 27, 2001 to consider the appeal of the Zoning Board's action approving the application; and

WHEREAS, the City Council reviewed alternative parking designs proposed by the applicant and a variance request to modify parking standards, and now makes the following findings:

With Respect to the Negative Declaration;

1. The City Council has considered the Negative Declaration together with comments received during the public review process and responses and supporting documentation provided and finds, based on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment as designed, and that the Negative Declaration reflects the City's independent judgment and analysis.

With Respect to the Special Use Permit, Section 24.08.050

2. Religious uses and related improvements are allowed subject to obtaining a Special Use Permit. The proposed seating and parking lot expansion conforms with the current zoning regulations and design guidelines and will add to the safety and convenience of citizens by providing an adequate, attractively designed off-street functional parking facility. (1)

Exhibit 1
A-3-STC-01-0
pg 2 of 5

3. Conditions have been imposed on the parking lot expansion to ensure that it minimizes the impacts on the surrounding uses with requirements such as landscape buffers, adequate drainage, and efficient circulation pattern. (2)

4. The expansion will not constitute a nuisance or be detrimental to the public welfare, because the use will be subject to compliance with the performance standards that regulate such nuisance impacts. (3)

With Respect to Design Permit, Section 24.08.430

5. The proposed parking lot expansion complies with General Plan policies related to site development, R-1-5 zone district development standards, and generally complies with Section 24.12.200 of the zoning ordinance regarding general parking lot development guidelines. (1)

6. The site plan has been designed to take into account its effect on surrounding land uses. The proposed parking lot expansion uses landscaping to help buffer the site and proposes a circulation pattern to limit traffic impacts to Pelton Avenue. (3,4)

7. The project site is level and does not contain native vegetation. The parking lot expansion overall will minimize alteration of the site by incorporating the existing parking lot circulation pattern in its design. (5)

8. The proposal will not obstruct ocean views, however existing landscaping along the driveway entries on West Cliff Drive have deteriorated. Project has been conditioned to re-plant and increase landscaping along the driveway entries along West Cliff Drive, and a landscape buffer installed along Pelton Avenue to enhance the visual quality and add to the protection of coastal views. (6)

9. The proposal will help minimize the effect of traffic conditions on abutting streets with the establishment of a parking facility with adequate circulation pattern. (7)

10. The additional parking area provides walkways and as conditioned will provide additional facilities for bicycles to insure alternative forms of transportation are provided. (8)

11. The proposed parking lot expansion area exceeds the minimum 10 percent required landscaping (29-31 percent). The area for expansion includes a 10 foot-wide landscape buffer along Pelton Avenue, which creates a visual and physical separation between the site and the surrounding properties to the west; and will break up the large expanse of paving to help screen vehicles. The landscape plan retains the garden area (Life Lab) for Gateway School and provides an adequate buffer for the adjacent residential uses. (9,10)

EXHIBIT NO. 1
APPLICATION NO.
A-3-STC-01-045
PS 3055 California Coastal Commission

With Respect to Coastal Permit, Section 24.08.250

12. The church expansion will not obstruct coastal views. For the portion of the project site that is adjacent to West Cliff Drive, a condition of approval has been included which requires replanting and enhancing the landscaping for the protection of coastal views. (1)

13. The site plan as designed will not affect natural habitats and natural resources. (2)

14. The proposal is consistent with the Local Coastal Land Use Plan and does not affect public access. (3,4)

15. Findings #5 and #6 are not applicable.

With Respect to Modification, Section 24.04.160

16. The circulation plan will have beneficial impacts on the school conditional use permit and no impact on the church use permit. (3c)

With Respect to Variance, Section 24.08.100

17. The hardship peculiar to the property is that the subject site has three street frontages, is near a monarch butterfly over wintering site, across the street from a State Park and adjacent to residential uses. The proposed parking lot expansion minimizes alteration to the existing site, retains major vegetation and as demonstrated provides an amount of parking that can sufficiently address the shared needs of the two uses on the site, the church and school use. (1)

18. Variance is necessary for the preservation and enjoyment of property rights. It is not a grant of special privilege in that the amount of parking provided is adequate to serve the need of both the church and school use have been shown to be functional with the amount proposed as confirmed in the Higgins and Associates Traffic Report dated March 14, 2001. (2)

19. Authorizing the variance will not be of substantial detriment to adjacent properties in that a review of the required parking for each use in the Higgins Report indicates that sufficient parking can be provided for both the church and school use on site. Therefore, the proposal will minimize any potential impact on parking, and general traffic/circulation on the neighboring streets. (3)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that it hereby adopts the Negative Declaration, attached hereto and made a part hereof as Exhibit "A"; denies the appeal; and approves a Variance to the Parking Standards, Special Use, Design, and Coastal Permits for the expansion of the church and parking lot, and Modification to Use Permit #98-152 for the changes to the parking and circulation plan for the private school located at 544 West Cliff Drive, subject to the Conditions of Approval listed in Exhibit "B," attached hereto and made a part hereof, and subject to the approved conceptual plan prepared by IPD

Exhibit 1
A-3-STC-01-015
pg 4 of 5

International Parking Design, Inc., as modified by Council at this meeting, attached hereto and made a part hereof as Exhibit "C."

PASSED AND ADOPTED this 27th day of March, 2001, by the following vote:

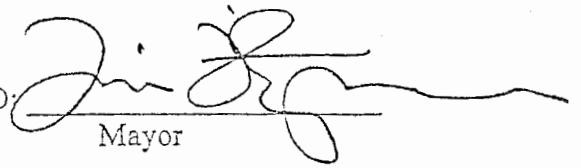
AYES: Councilmembers: Krohn, Reilly, Sugar, Primack, Kennedy, Porter;
Mayor Fitzmaurice.

NOES: Councilmembers: None.

ABSENT: Councilmembers: None.

DISQUALIFIED: Councilmembers: None.

APPROVED:


Mayor

ATTEST:


City Clerk

EXHIBIT NO. 1
APPLICATION NO.
A-3-STC-01-045
PG 5 of 5 California Coastal Commission

EXHIBIT "B"

CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

544 West Cliff Drive/126 Eucalyptus Ave. -- Application # 99-109

Variance to Modify Parking Standards, Special Use, Design and Coastal Permits for the expansion of a parking lot to accommodate an increase in church seating/pews at an existing church and Modification to Permit #98-152 for a Private School to change parking and traffic monitoring program.

1. If one or more of the following conditions is not met with respect to all its terms, then this approval may be revoked.
2. All plans for future construction which are not covered by this review shall be submitted to the City Planning and Community Development Department for review and approval.
3. This permit shall be exercised within three (3) years of the date of final approval or it shall be come null and void.
4. If, upon exercise of this permit, this use is at any time determined by the Zoning Board to be incompatible with the surrounding neighborhood, revocation of, or amendment to, this permit by the Zoning Board could occur.
5. The use shall meet the standards and shall be developed within limits established by Chapter 24.14 of the Santa Cruz Municipal Code as to the emission of noise, odor, smoke, dust, vibration, wastes, fumes or any public nuisance arising or occurring incidental to its establishment or operation.
6. The applicant shall be responsible for the completeness and accuracy of all forms and supporting material submitted in connection with any application. Any errors or discrepancies found therein may result in the revocation of any approval or permits issued in connection therewith.
7. All final working drawings (with required changes) shall be submitted to the Zoning Administrator for review and approval in conjunction with building permit application.
8. The development of the site shall be in accordance with the conceptual plans prepared by IPD International Parking Design, Inc. as modified and approved by the City Council on March 27, 2001 on file in the Department of Planning and Community Development of the City of Santa Cruz. All aspects of construction must be completed prior to occupancy. Modifications to plans or exceptions to completion may be granted only by the City authority that approved the project.
9. All requirements of the Building, Fire, Public Works and Water Departments shall be completed prior to final clearance.

Exhibit 2
A-3-STA-01-04
Pg. 1 of 4

CONDITIONS OF APPROVAL

For 544 West Cliff Drive/ 126 Eucalyptus Avenue - 99-109/98-152

10. The development of the landscaping shall include additional landscaping along West Cliff Drive and Pelton Avenue frontages, and along the western boundary of the new parking areas, with plan submitted for review and approval prior to the issuance of a building permit. Subsequent to approval of this project and prior to submittal of the required landscaping plan, no removal or pruning of trees, or any other change to existing vegetation on the site shall be made. The existing mature pine tree shall remain on the property and be incorporated in the landscaping plan.
11. Drought-tolerant plants shall be included on approved landscape plan as approved by the Zoning Administrator.
12. All landscaping shall be installed prior to final utility release or issuance of occupancy permits.
13. Subsequent to occupancy of the premises, all landscaping shall be permanently maintained. Such maintenance shall be secured through an 18-month bond prior to occupancy.
14. A fully automated irrigation system shall be installed in all planting areas.
15. Wheel stops or similar structures shall be used to separate parking spaces from landscaped areas. New parking areas shall avoid materials that are impervious or smooth surface. Plans and details for the parking lot shall be submitted for the Planning Director's review and approval.
16. All trees shall be a minimum 15-gallon size.
17. Bike parking shall be provided in accordance with Section 24.32.060(b) of the City's Zoning Ordinance.
18. All utilities and transformer boxes shall be placed underground unless otherwise specified.
19. An engineered grading, drainage and site plan for parking lot expansion shall be submitted in conjunction with application for building permits for review by the Public Works Department.
20. The plan for erosion control approved as part of this application shall be submitted and all work installed by November 1, unless a winter grading permit is issued. All work shall include measures to prevent blowing dust as deemed necessary by the City.
21. Any tree marked for preservation which is subsequently removed shall be replaced by two (2) specimen trees of a variety and at locations specified by the Zoning Administrator. All such trees shall be replaced prior to final clearance of the permit.

EXHIBIT "B"

CONDITIONS OF APPROVAL

For 544 West Cliff Drive/ 126 Eucalyptus Avenue - 99-109/98-152

22. Grading shall be done during periods of dry weather and protective measures shall be incorporated during grading to prevent siltation from any grading project halted due to rain. No earth-moving activities shall occur between December 1 and March 1.
23. Prior to site grading the perimeter of the project area and all trees and/or tree stands indicated for preservation or approved plans shall be protected through fencing or other approved barricade. Such fencing shall protect vegetation during construction and shall be installed to the satisfaction of the Director of Planning and Community Development.
24. Handicap access shall be provided in accordance with UBC.
25. All new mechanical equipment and appurtenances, including gas and water meters, electrical boxes, roof vents, air conditioners, antennas, etc. visible from the public way and from adjacent properties, shall be screened with material compatible with the materials of the building and shall be subject to the approval of the Zoning Administrator.
27. Signage shall be approved by the Zoning Administrator prior to application for building permits.
28. Plans shall include a minimum 28-foot inside turning radius. Details shall be submitted for review and approval by the Fire Department.
29. A separate irrigation meter is required for parking lot expansion. Plans and details shall be submitted to the Water Department for review and approval.
30. The permit allows church to increase number of pews/seating from 34 pews (204 seats) to 68 pews (408 seats) with 117 total parking spaces provided to accommodate this church increase and the existing private school use.
31. No parking lot lighting has been approved with this application. Any proposed future parking lot lighting shall be directed away from adjacent properties and shall be approved by the Zoning Administrator at a public hearing.
32. Oil/grease traps shall be installed for the new parking lot in accordance with the Public Works Department requirements. The traps shall be maintained by the property owner as the need warrants.
33. All plans for future construction, and any future modifications to the permit, including the future hall addition which is not covered by this review, shall require review and approval of a new Master Plan which is subject to environmental review.

Exhibit 2
A-3- STC-01-04
Pg 3 of 4

EXHIBIT "B"

CONDITIONS OF APPROVAL

For 544 West Cliff Drive/ 126 Eucalyptus Avenue - 99-109/98-152

- 34. Church activities shall be in the general nature as shown in the document labeled "Oblates of St. Joseph Activity Chart" submitted on 3/6/2000. The applicant shall be encouraged to consolidate evening activities to minimize impacts to the neighborhood.
- 35. The traffic circulation and school parking plan shall not be changed without a new modification permit being applied for and approved. Applicant shall submit for the Zoning Administrator's review and approval a copy of the lease agreement specifying the number, location and hours of use of parking spaces for the school within the Church parking lot. A minimum of 30 parking spaces shall be available for the private school. Parking for school employees shall be in the new parking area and in the parking spaces near the West Cliff Drive and Pelton Avenue corner of the subject property.
- 36. At least one traffic monitor shall be provided by the school during the school peak hours (8:00 a.m. - 9:00 a.m. and 2:15 - 3:20 p.m.).
- 37. The traffic circulation and school parking plan shall be distributed to all school parents each year as part of the enrollment or back to school process. The plan shall include a requirement that no student drop off/loading occur along Pelton Avenue by the Life Lab/driveway. Compliance with the plan shall be mandatory.
- 38. Best management practices during construction shall be used to control dust, including but not limited to: minimizing amount of exposed area, watering the active construction areas, and prohibiting grading during periods of high winds.
- 39. A public hearing by the Zoning Board shall be scheduled after the parking lot expansion has been in operation for one year to evaluate compliance with conditions for both church and school use.
- 40. In accordance with the goals of the City of Santa Cruz General Plan, the Oblates shall encourage alternative transportation means, such as carpools and van shuttles from other parking areas, on those occasions when the parking lot reaches capacity level.
- 41. There shall be no entrance or exit constructed onto Pelton Avenue from the new expanded parking area proposed in this application.
- 42. Parking lot shall have restricted access between the hours of 10 p.m. and 6 a.m. Limited church events may use this parking lot during these hours with approval of the Zoning Administrator.

EXHIBIT NO. 2
APPLICATION NO.
A-3-STC-01-045
pg 4 of 4 California Coastal Commission

RECEIVED



APR 25 2001

C.F.Z.
4/25/01

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

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

Sierra Club c/o Co-Chair Marilyn Fravel
c/o Box 178
Davenport CA 95017
Zip (931) 458 1959 Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Santa Cruz

2. Brief description of development being appealed:
Parking Lot Expansion at Oblates of St. Joseph Shrine

3. Development's location (street address, assessor's parcel number, cross street, etc.):
544 West Cliff Drive (126 Eucalyptus Avenue)
Santa Cruz, CA 95060 Parcel # 004-571-02

4. Description of decision being appealed:
a. Approval; no special conditions: _____
b. Approval with special conditions: X
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-STC-01-045
DATE FILED: 4/27/01
DISTRICT: Central Coast

EXHIBIT NO. <u>3</u>
APPLICATION NO.
<u>A-3-STC-01-045</u>
PR 1 of 8 California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF
LOCAL GOVERNMENT

Reasons Supporting This Appeal

The Oblates of St. Joseph parking lot project approved by the Santa Cruz City Council (the "City") on March 27, 2001 (the "Project") is inconsistent with the California Coastal Act; and with the City of Santa Cruz Local Coastal Program ("LCP"), as it applies to permanent protection of the state's natural and scenic resources, including future development (Public Resources Code ("PRC"), Section 30001).

1. Protection of ESHA

The Coastal Act defines ". . . 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" as an "Environmentally Sensitive Habitat Area" ("ESHA"). (PRC Section 30107.5) PRC Section 30240(a) provides that ESHA "shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Subsection (b) addresses development adjacent to ESHA and provides that any such development "shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat . . . areas."

The Project is located within a designated ESHA, and is adjacent to Lighthouse Field, which is also ESHA as defined and delineated by City of Santa Cruz, California LCP MAP EQ-9: Sensitive Species and Habitats.

To allow development within such ESHA will result in a significant disruption of habitat value within the ESHA. The Monarch Butterflies currently use the grassy area on the Oblates property adjacent to Lighthouse Field State Park for sunning and mating as they prepare to depart in the spring. The proposed Project will eliminate this habitat by replacing grass with an impervious surface to facilitate parking. This surface will accumulate oil, grease and other automotive toxins. Monarch Butterflies that are blown out of adjacent trees by winter storms or mating Monarch Butterflies flying over this area frequently fall to the ground. Cold Monarch Butterflies cannot fly once they fall to the ground. The Monarchs then use the open grassy area to warm and dry themselves in order to be able to fly again. If the Project is constructed the Butterflies would fall on impervious pavement and sustain wing damage from contact with grease and oil present on the pavement, or be crushed by cars entering or leaving the Project parking lot. Even though the

Oblates very occasionally use the grassy area for overflow parking, the grass is permeable and absorbs rain water, and may also filter oil and other toxins associated with parked vehicles, and so, while parking on the grass is harmful, it is not as harmful to the butterflies as an impervious surface. As the percentage of paved surface increases around Lighthouse Field, more Monarch butterflies will be damaged by oil and grease and killed by cars. Additional pavement or other structures in this area could change the microclimate in ways that cannot be predicted in advance and may irreparably harm the ESHA.

Moreover, the Project is not a use which is dependent upon the ESHA's resources. Monarch Butterflies are entirely dependent upon the unique qualities and resources of the ESHA, but a parking lot is an inanimate, manmade structure, and as such is clearly not dependent upon the vegetation, climate, or other inherent qualities and resources of a special habitat.

In the unlikely event that the Project location is not determined to be ESHA, the Project is situated adjacent to Lighthouse Field, which is unquestionably ESHA. The Project is not designed to prevent impacts which would significantly degrade either the Project ESHA or the adjacent Lighthouse Field ESHA, and, moreover, the Project is incompatible with the continuance of the habitat values offered by the ESHA. Without a comprehensive study and careful delineation that describes the habitat values constituting the ESHA at this location, it is impossible for the City to make a determination that the proposed Project is consistent with the City's own policies or the Coastal Act.

MAP EQ-9: Sensitive Species and Habitats, notes that ". . . Monarch habitat locations are depicted in very general areas; further study would be needed to determine more precise habitat areas." In this case, the City has not performed the required study to identify the special habitat area itself, but has instead relied upon an opinion of uncertain value obtained by the developer. The City has discussed the possibility of performing such a study *after* the permit has been issued for the Project (much like closing the barn door after the horse has escaped), but this study would come too late to ensure the protection of the Monarch habitat at the Project site. The lack of a comprehensive study is inconsistent with the City's LCP policies EQ 4.5.3 ("Protect monarch butterfly overwintering sites and ensure adequate buffering of these sites from development"), EQ 4.5.3.1 ("Maintain a list and map of monarch sites showing the boundaries of all monarch sites within the city"), and EQ 4.5.3.2 ("Require development in the vicinity of designated monarch sites to undergo environmental impact analysis . . ."). Map EQ-9 has not been amended to further refine the habitat area, and, likewise, the City's LCP has not been amended to indicate the results of such a comprehensive study.

EXHIBIT NO. 3
APPLICATION NO.
A-3-STC-01-045
PR 4 of 8 California Coastal Commission

A. Protection of Sensitive Species

The City requires the City to protect the ecological integrity of sensitive ecosystems, noting that once those "ecosystems are degraded, they are difficult, if not impossible, to restore." (See the City's General Plan ("GP"), Vol. I, Sec. EQ) The City defines Sensitive Species as "those species that rely on specific habitat conditions that are limited in abundance, restricted in distribution or are particularly sensitive to development." (GP, Sec. EQ.4) The City names the Monarch Butterfly as a Sensitive Species, and thus requires its protection and the protection of its habitat. The Project does not accomplish this required goal and so must be denied.

B. Protection of Monarch Habitat

The City's LCP requires that the City "[p]rotect monarch butterfly overwintering sites and ensure adequate buffering of these sites from development." (GP/LCP Policy EQ 4.5.3) The Monarch Butterfly habitat in Santa Cruz is both rare and significantly reduced from its historical distribution, both locally and statewide ("Limited Habitat"), and so it is "of special importance in meeting the general life requirements" of the Monarch Butterflies that inhabit such Limited Habitat.

Here, the City has issued a permit for development within a designated Monarch Butterfly overwintering site without consideration of the adequate buffering of the site necessary for ensuring the survival of this Sensitive Species. Nothing in the documentation for the Project indicates that the City has determined the appropriate buffer for the ESHA associated with the Monarch Butterfly at the Project site. The overwintering habitat of the Monarch Butterfly extends beyond the trees and includes adjacent open areas. The proposed Project will degrade and disrupt the ESHA buffer. The City has issued a permit for development within an open area that is indicated as ESHA on MAP EQ-9.

The Project site, while relatively small in and of itself, becomes more crucial as rare and fragile Monarch Butterfly habitat decreases overall, both in Santa Cruz (e.g., the decline of the Natural Bridges overwintering site) and within California in general. Any decrease in Monarch Butterfly habitat in turn contributes to the decline of the entire Monarch Butterfly western migration. The City and now the Coastal Commission must consider the incremental loss of Monarch Butterfly ESHA that occurs due to increased human activity within the coastal zone and the increasing pressure to develop within the coastal zone.

2. Cumulative Impact

The Legislature declares that California's goals for the coastal zone include protecting the overall quality of the coastal zone, and coordinating the planning and development in the coastal zone. (PRC Sections 30001, 30001.5) "Cumulative effect" means that the "incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (PRC Section 30105.5)

Here, the City did not address the Project in terms of its cumulative impact on current and probable future development. The Oblates have publicly stated that they intend to build some type of social hall (the "Hall") in the future, and the site plans submitted with the application clearly show the footprint for that Hall and paths from the parking lot to the Hall. The City has prepared a Negative Declaration for the Project. However, a much more comprehensive study, such as an Environmental Impact Report, is necessary to evaluate the significant cumulative impacts on the ESHA from a foreseeable larger project. These impacts might include decreased vegetated open area habitat, increased vehicle traffic associated with the proposed Hall, additional parking required by any future development, increased enrollment at the adjacent Gateway School and associated traffic impacts, and so forth. Although there are pre-existing structures adjacent to Lighthouse Field, the City's obligation to evaluate the incremental impacts of the Project and possible associated future projects at this site is not minimized.

Moreover, as the human population in the State of California rapidly increases, California's natural resources, and especially rare resources such as the habitat of the Monarch Butterfly, must be factored into any investigation of cumulative impact on that resource.

3. Additional Issues

Additional Reasons for Appeal from Coastal Permit Decision of Local Government:

- * Visual Resources, Special Communities, Neighborhood Issues and the relationship of these resources to this project. Project will degrade neighborhood character.
- * Viewshed and Coastal Act Section 30251 and the relationship of this project to West Cliff Drive, Lighthouse Field State Park and the views in and around the neighborhood adjacent to the project. New development in highly scenic areas. Project will degrade this highly scenic area.

Exhibit 3
A-3-STC-01-045
Pg 6 of 8

* Map CD-3: Scenic Views shows West Cliff Drive as a scenic drive. Project degrades views from Coastal Recreational Area and neighborhood.

* EQ 4.1: Protect the natural ecosystem of the Monterey Bay National Marine Sanctuary. Project will degrade Marine Resources and coastal water quality by increasing urban runoff, and by increased paved parking surfaces in the coastal zone.

* CD 2.1.3: Protect the Monterey Bay National Marine Sanctuary and the shoreline and views to and along the ocean, recognizing their value as natural and recreational resources. Increased parking in this area will degrade views in the area of the Sanctuary.

* LCP LUP 3.5: Protect coastal recreation areas, maintain all existing coastal access points open to the public, and enhance public access, open space quality and recreational enjoyment in a manner that is consistent with the California Coastal Act. Project will increase paved areas and associated urban runoff will affect Steamer Lane, a world famous surfing and coastal dependent recreation area. Additional paved parking lot will increase runoff into the Monterey Bay National Marine Sanctuary. Since surfers use this area the Project will have negative impacts upon a unique Coastal Recreation area. The grassy area proposed for a parking lot is occasionally used by the Oblates for overflow parking. This use is questionable because oil and other toxins can seep into the grass and the soil and then into the water table and seep into the Bay. Such urban runoff is known to contain a number of pollutants harmful to coastal water quality and recreational pursuits. Because of this, and because of the importance of the recreational resource offshore at this location, this project is not in conformance with the recreational policies of the Coastal Act.

* EQ 4.1.5: Maintain up-to-date list and map of sensitive, rare and endangered flora and fauna to ensure their protection in the environmental review process. The City has not prepared a study to further define monarch ESHA in this area prior to issuing a permit for Project development.

* EQ 4.9: LUP Resource maps shall be updated as new environmental information identifies additional natural resources areas and the updated maps submitted to the Coastal Commission for their files. Map EQ- 9 has not been updated prior to Project approval.

* CD 2.2: Preserve important public views and viewsheds by ensuring that the scale, bulk and setback of new development does not impede or disrupt them. Additional parking in this area will degrade local viewsheds by altering the views of the Bay that currently exist at this site.

* CD 3.5.2: Maintain the visual prominence of important City landmarks and destinations as viewed from major circulation routes and public viewpoints.

* Map CD-5: Community Landmarks and Historic Structures. The Oblates building is shown as an historic building - as a shaded area - on this map. LCP CD 3.5: New or renovated development shall add to, not detract from City-identified landmarks, historic areas and buildings, and established architectural character worthy of preservation. The Project, as designed, by replacing an open grassy area with a paved surface and parked automobiles, will change and degrade the character of an historic building indicated on Map CD-5.

* CD 3.5.1: Protect and enhance historic street patterns. Project will not protect historic street patterns. Project will degrade historic character of area by increasing automobile traffic and thereby changing transportation patterns.

* LCP LUP 1.6: Minimize, when practicable, obstruction of important views and viewsheds by new development. In the Coastal Zone, development shall be sited and designed to and along the ocean and in scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and to restore visual quality in visually degraded areas. Project will degrade the visual quality of a scenic area.

* LCP LUP 5.6: Require land use development to integrate into the larger circulation system by introducing its system of roads, pedestrians and bike paths with existing facilities and also design access to nearby areas in a manner that minimizes the necessity for automobile travel and potential automobile and pedestrian/bike conflicts. Project will encourage, not minimize, automobile travel and would therefore create potential pedestrian/bike conflicts in an area that is a wonderful pedestrian and bicycle recreation area. Project is not consistent with LUP 5.6.

* ~~Coastal Recreation and urban runoff and the relationship to a world famous surfing and coastal recreation area~~ Coastal Recreation and urban runoff and the relationship to a world famous surfing and coastal recreation area. typo -
RF

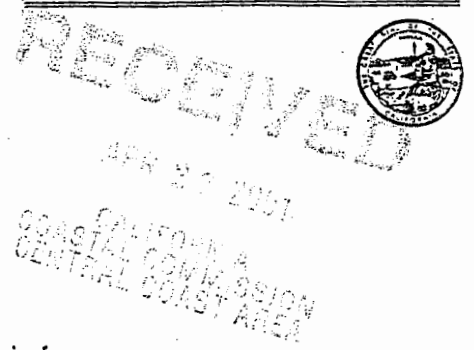
4. Conclusion

In consideration of the issues discussed above, the Project violates the Coastal Act, and we urge the Commission to find a substantial issue and deny this Project.

EXHIBIT NO. 3
APPLICATION NO.
A-3-5TC-01-05
California Coastal Commission

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
408-427-4853



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s): - PRIMARY CONTACT
ROBERT ADELMAN
105 EUCALYPTUS AVE
SANTA CRUZ, CA 95060
(311) 467-3164
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:
SANTA CRUZ CITY COUNCIL

2. Brief description of development being appealed:
PARKING LOT, CORNER OF WEST CLIFF & PELTON, SANTA CRUZ

3. Development's location (street address, assessor's parcel number, cross street, etc.):
CORNER OF WEST CLIFF DRIVE & PELTON
544 WEST CLIFF DRIVE, SANTA CRUZ, CA 95060
APN 004-571-02

4. Description of decision being appealed:
a. Approval; no special conditions: _____
b. Approval with special conditions: _____
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: 3-STC-01-045
DATE FILED: 4/27/01
DISTRICT: Central Coast

EXHIBIT NO. <u>4</u>
APPLICATION NO.
<u>A-3-STC-01-045</u>
<u>PS 1 of 7</u> California Coastal Commission

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

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

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other: _____

6. Date of local government's decision: 2/13/01

7. Local government's file number: 99-109

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:

COLANGELO DE ST JOSEPH
594 WEST OCEAN DRIVE
SANTA ANA, CA 92700

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) _____

- (2) _____

- (3) _____

- (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.

EXHIBIT NO. <u>4</u>
APPLICATION NO.
<u>A-3-STC-01-045</u>
<u>PS 2 of 7</u> California Coastal Commission

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

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

SEE ATTACHED DOCUMENT


THIS PROJECT WILL VIOLATE LCP RESOURCE PROTECTION POLICIES. THE PROPERTY TO BE DEVELOPED IS A MARINE DISTRICT OVER WATERSIDE STR.

PROJECT IS DISSEMBLED BECAUSE PROHIBIT LET WILL BEVE A PROPOSED CONVENTION CENTER. COMMUNITIE IMPACT WAS NOT ADRESSED.

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 4/20/06


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 _____

EXHIBIT NO. <u>4</u>
APPLICATION NO.
<u>A-3-STC-01-045</u>
 <u>TX 3 07</u> California Coastal Commission

PRINCIPAL LEGAL ERRORS BY PLANNING DEPARTMENT

1. The Planning Department stated that the Coastal Act (specifically ESHA law) does not apply to the City of Santa Cruz

Source: See Response to Sierra Club letter: "The City's LCP is the coastal policy for the area and not Public Resources Code Section 30240" (see page 23-97 of materials for December 12, 2000 City Council meeting)

2. The Planning Department stated at the December 12, 2000 public hearing that the Oblates property was not in an ESHA.

Source: The City of Santa Cruz LCP at Map EQ-9 clearly shows that the Oblates property is in an ESHA for Monarch butterflies. Map EQ-9 has a note stating: "Monarch habitat locations are depicted in a very general area; further study would be needed to determine more precise habitat areas." The Planning Department relied on this general note for its statement that it had determined the subject meadow was not in an ESHA. But there was no study nor amendment of the LCP.

3. The Negative Declaration was incorrect both as a matter of law and as a matter of fact.

As a matter of law: Since the Oblates property is located within an ESHA, the Coastal Act at section 30240 states that development will be allowed within an ESHA only for "uses dependent upon those resources." This is confirmed by City attorney Barisone in his memorandum dated September 20, 2000. However, by reason of the Planning Department's errors at 1 and 2 above, this was not the legal standard used in preparing the Negative Declaration.

As a matter of fact: The Planning Department issued a Negative Declaration with almost every box checked off "No Impact." As to the Monarch butterfly habitat, the Planning Department relied upon a five paragraph letter from Dr. Bell that did not even address the issue. Subsequent to the Negative Declaration, additional materials were submitted by Dr. Travis Longcore, Dr. Kingston Leong and Dr. Walter Sakai. All of them called into question the negative impact of a parking lot on this site.

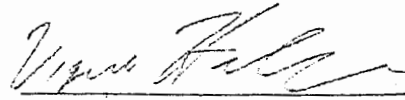
The Planning Department erred on the law of cumulative impact. The Oblates have publicly announced that they intend to build some type of hall in the future which will be supported by the parking lot. The site plans submitted with the application clearly show the footprint for that hall and paths from the parking lot to the hall. Yet, the Planning Department refused to consider the cumulative impact of the hall on the ground that the applicant had not yet filed for a building permit or other application. This is a violation of applicable law.

EXHIBIT NO. 4
APPLICATION NO.
A-3-STC-01-015
PR 4 of 7 California Coastal Commission

I hereby certify that I am an appellant in the appeal of the decision by the Santa Cruz City Council on permit number 99-109 for a parking lot at 544 West Cliff Drive.

Name and mailing address of appellant:

Virginia R. Hartman
301 Wanzel St
Santa Cruz, CA 95060


Signed

Name and mailing address of appellant:

Brian Craft
299 San Jose Ave
Santa Cruz, CA 95060


Signed

Name and mailing address of appellant:

~~301 Wanzel St~~
Alex Yierat
301 Wanzel St
Santa Cruz, CA 95060


Signed

Name and mailing address of appellant:

Elke Armstrong
328 Main St. Apt. 9
Santa Cruz, CA 95060

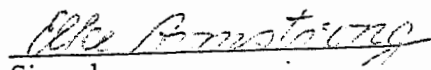
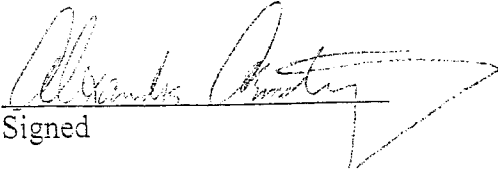

Signed

EXHIBIT NO. 4
APPLICATION NO.
A-3-STC-01-045
pg 5 of 7
California Coastal Commission

I hereby certify that I am an appellant in the appeal of the decision by the Santa Cruz City Council on permit number 99-109 for a parking lot at 544 West Cliff Drive.

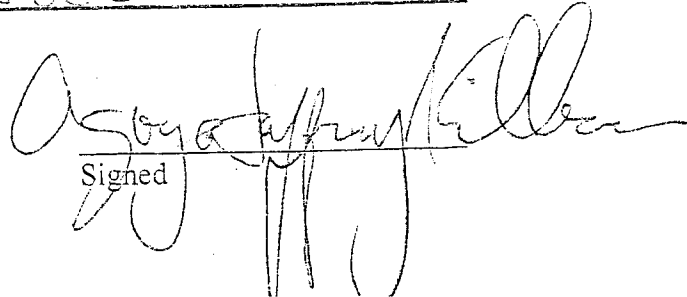
Name and mailing address of appellant:

Alexandra Armstrong
105 Eucalyptus Ave.
Santa Cruz, CA 95060


Signed

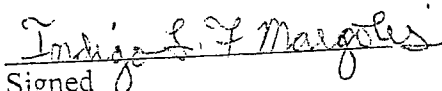
Name and mailing address of appellant:

Agoya Jeffrey Killeen * AGOYA JEFFREY KILLEEN
103 EUCALYPTUS AVE
SANTA CRUZ, CA 95060


Signed

Name and mailing address of appellant:

Indigo L.F. Margolis
103 Eucalyptus Ave
Santa Cruz, CA 95060


Signed

Name and mailing address of appellant:

ALDO GIACCHINO
1005 PELTON Ave
SANTA CRUZ, CA 95060

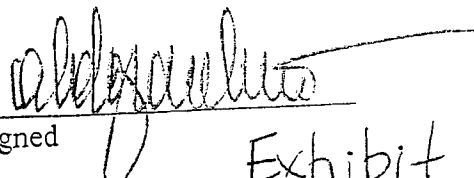
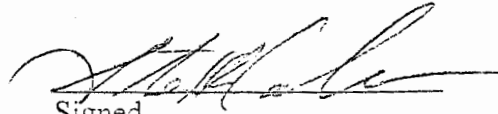

Signed

Exhibit 4
A-3-STC-01-045
pg 6 of 7

I hereby certify that I am an appellant in the appeal of the decision by the Santa Cruz City Council on permit number 99-109 for a parking lot at 544 West Cliff Drive.

Name and mailing address of appellant:

STEVE R. CARLSON
209 Lighthouse Ave.
Santa Cruz CA 95060


Signed

Name and mailing address of appellant:

Ralph Berger
69 Ortalon Ave
Santa Cruz, CA 95060

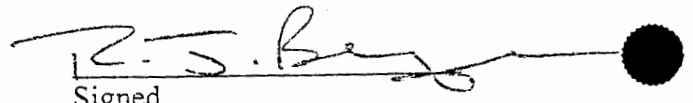

Signed
4/24/01

EXHIBIT NO. 4
APPLICATION NO.
A-3-STC-01-045
PC 787 California Coastal Commission



68-36

EXHIBIT NO. 5
APPLICATION NO.
A-3-STC-01-045
PA 1 of 1 California Coastal Commission

LIGHTHOUSE AV

AVENUE A

EUCALYPTUS AV

Gateway School

PELTON AV

WEST CLIFF DR

MIRACOLI
OVER-WINTERING
GRAVE

Historical
marker

6

01/13/2001
1"=100'

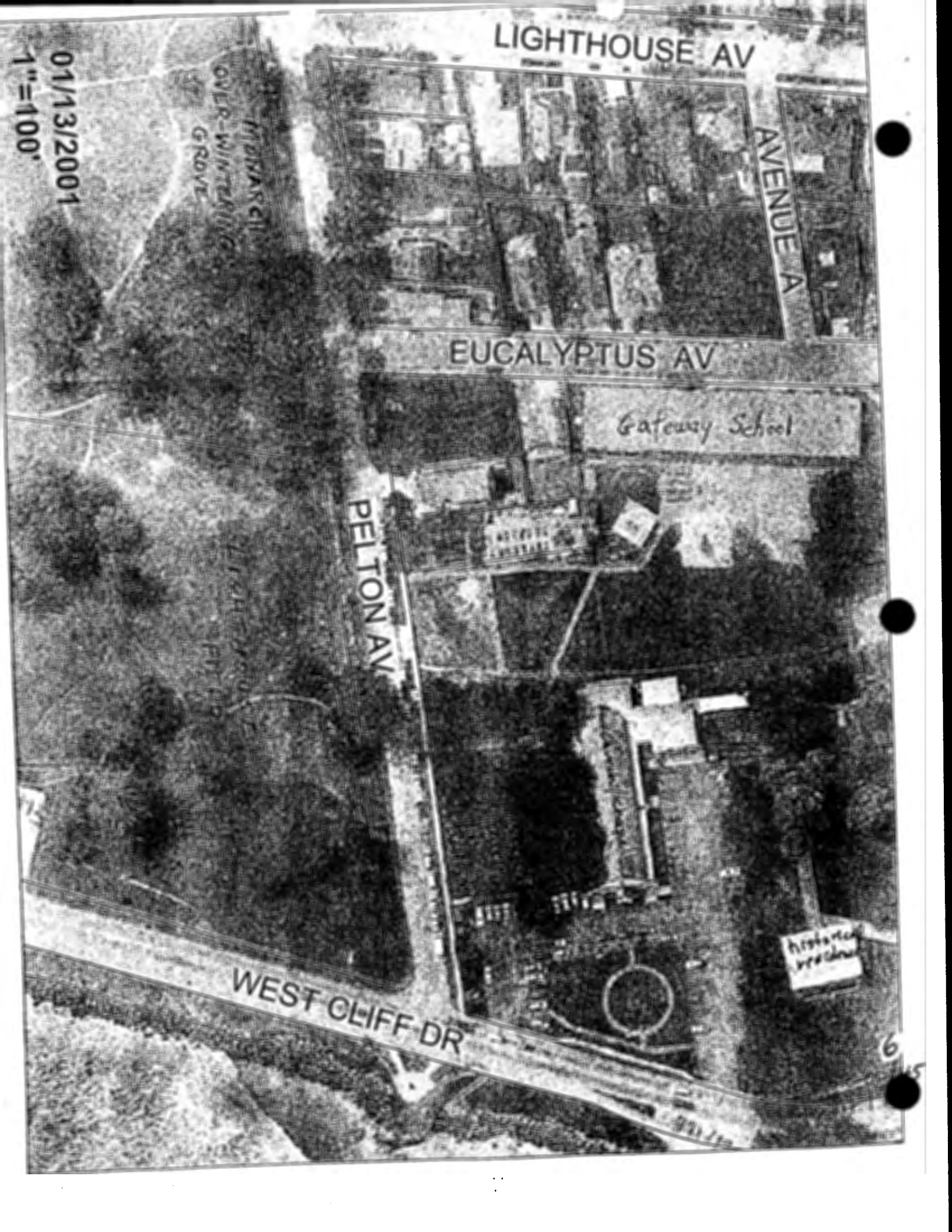


EXHIBIT "C"

MODIFIED

PARKING LOT EXPANSION

CITY COUNCIL APPROVED DESIGN - MARCH 27, 2001



No Pelton Exit



Site Plan



TO BE LANDSCAPED

(additional landscaping also on W. Cliff & Pelton frontages)

Oblates of St. Joseph Shrine

EXISTING PARKING
117 SPACES

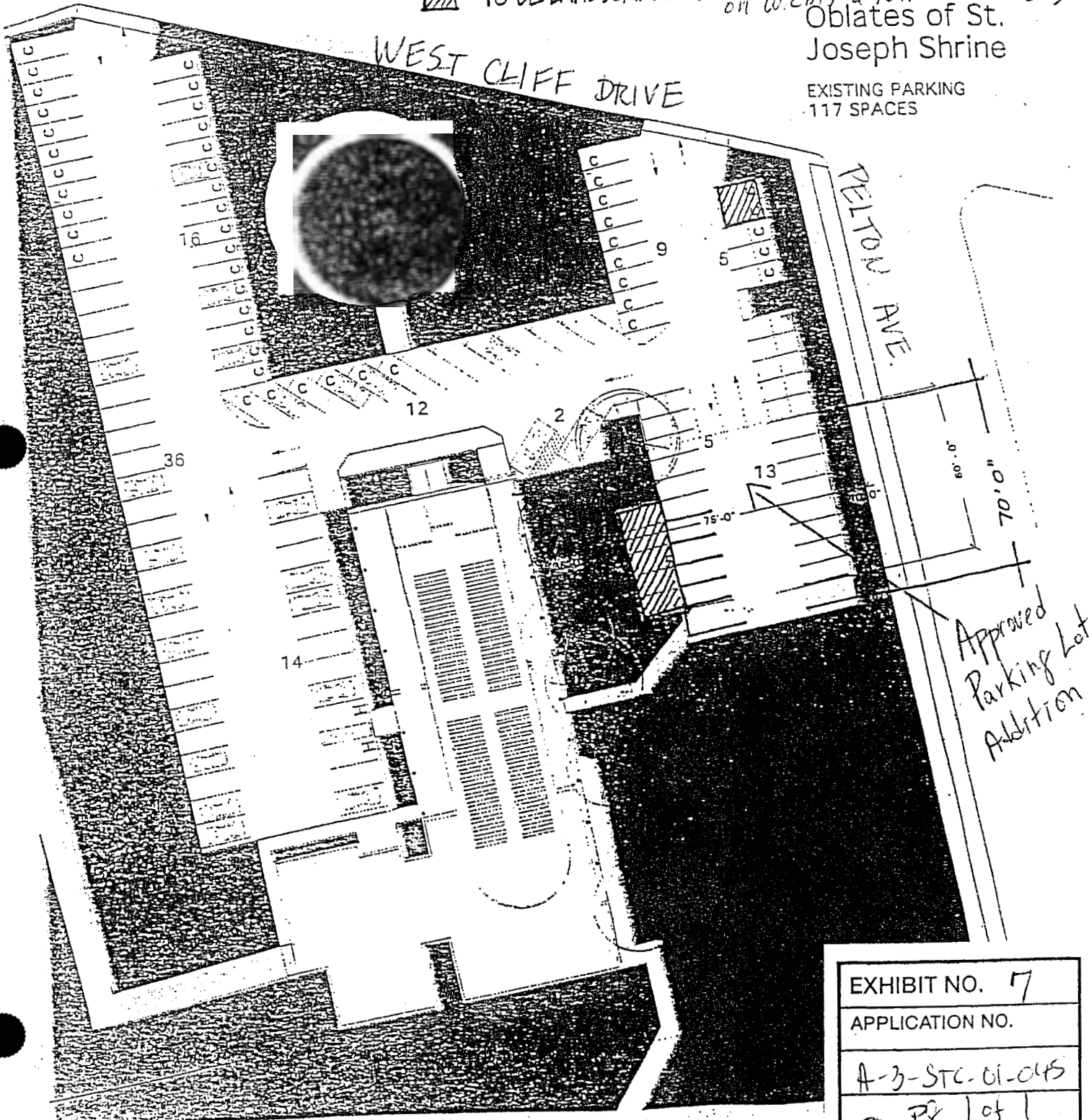
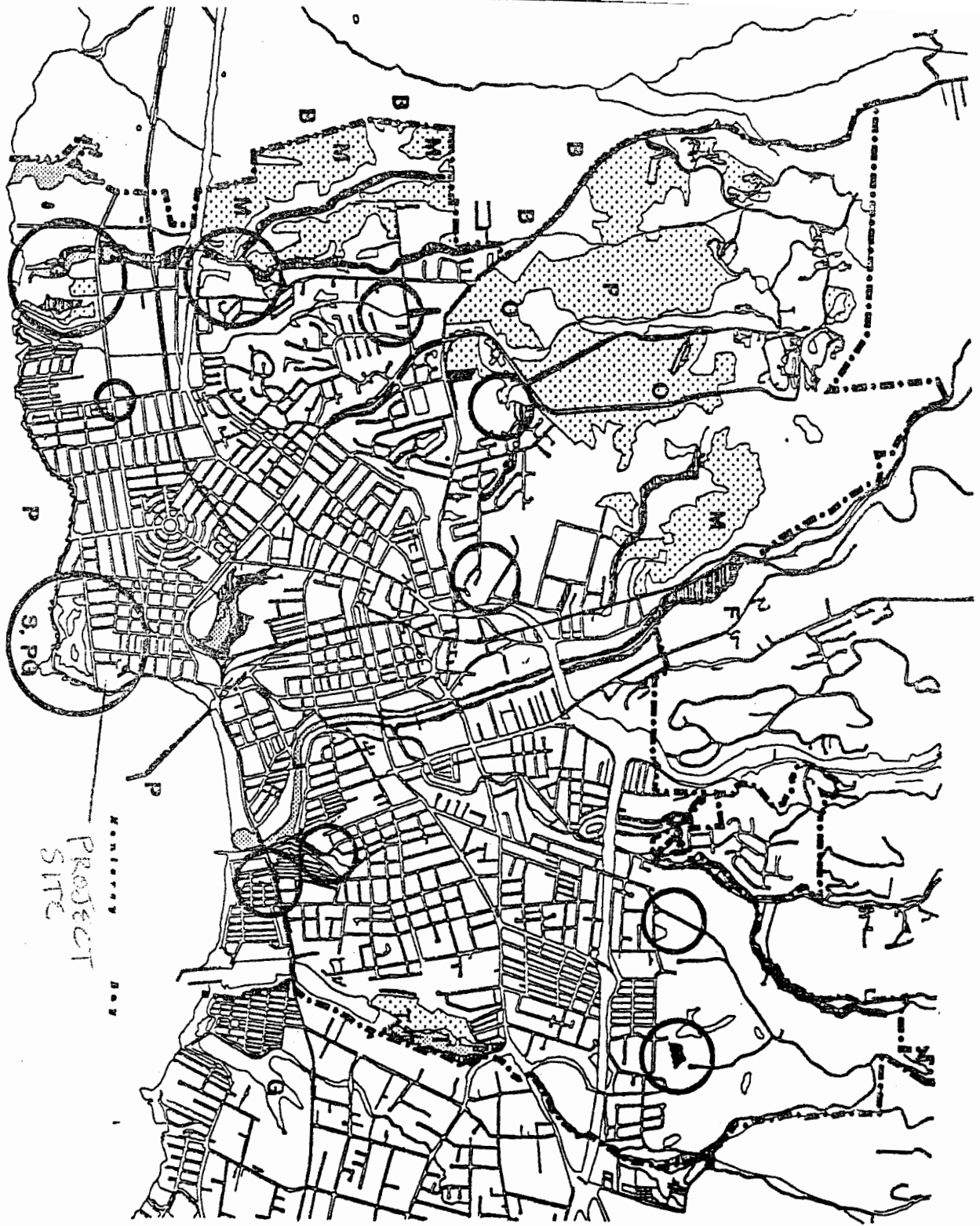


EXHIBIT NO. 7
APPLICATION NO.
A-3-STC-01-045
PK lot 1 California Coastal Commission



MAP EQ-9: SENSITIVE SPECIES AND HABITATS
 The City of Santa Cruz, California



LEGEND

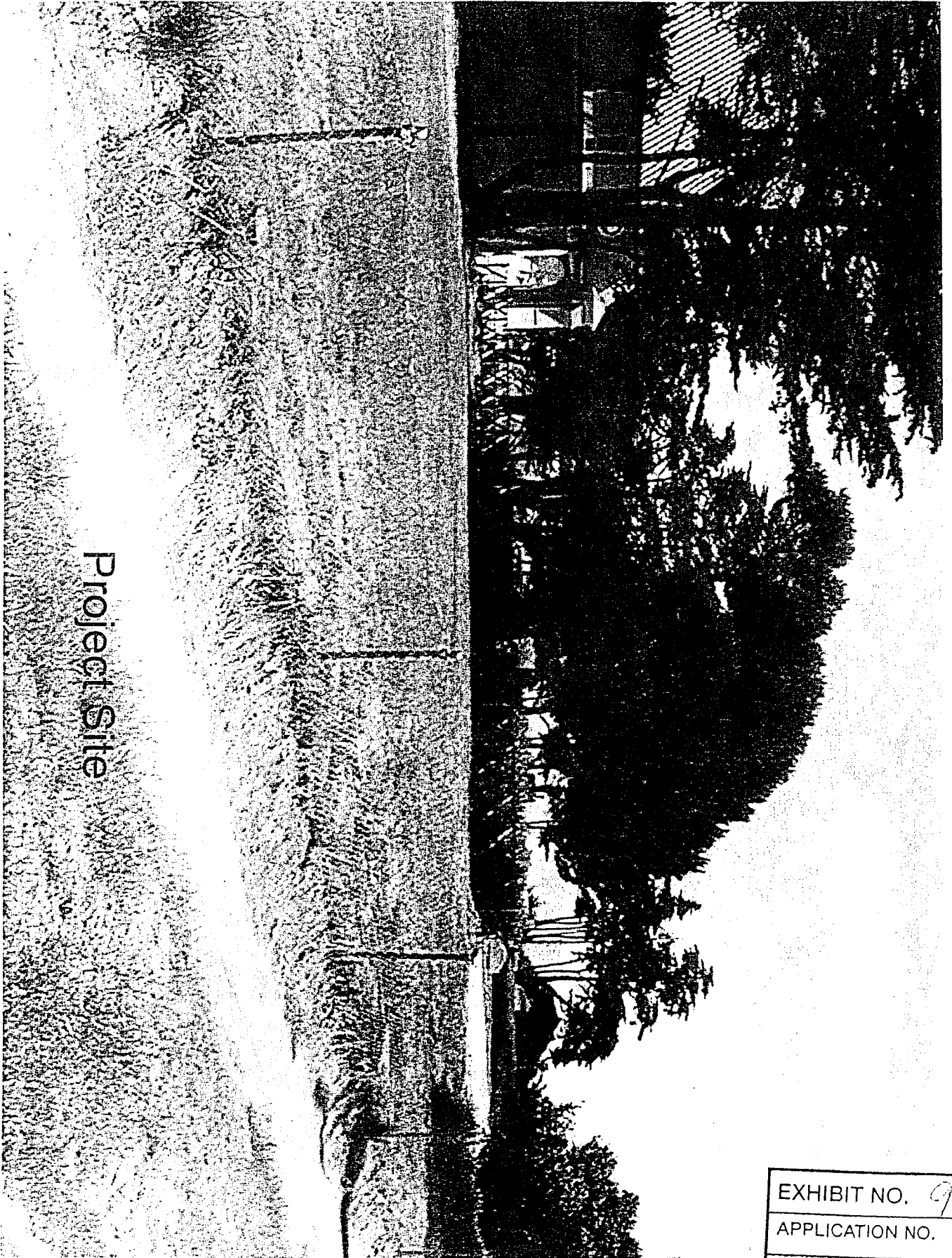
- WETLANDS
- RIPARIAN
- GRASSLANDS
- B OHIONE TIGER BEETLE
- G TIDEWATER COBY
- M MIKA MOUNDS
- O BURROWING ORL
- P CALIFORNIA BROWN PELICAN
- MONARCH BUTTERFLY
- PG PIGEON GULLANOT
- S BLACK SHIFF
- T SANTA CRUZ TARPLANT
- F AMERICAN PEREGRINE FALCON

SOURCES: California Natural Diversity Database (CND), ERA Associates, Monarch Project, Rogers E. Johnson & Associates, 1990

NOTE: Monarch habitat locations are depicted in very general areas; further study would be needed to determine more precise habitat areas.

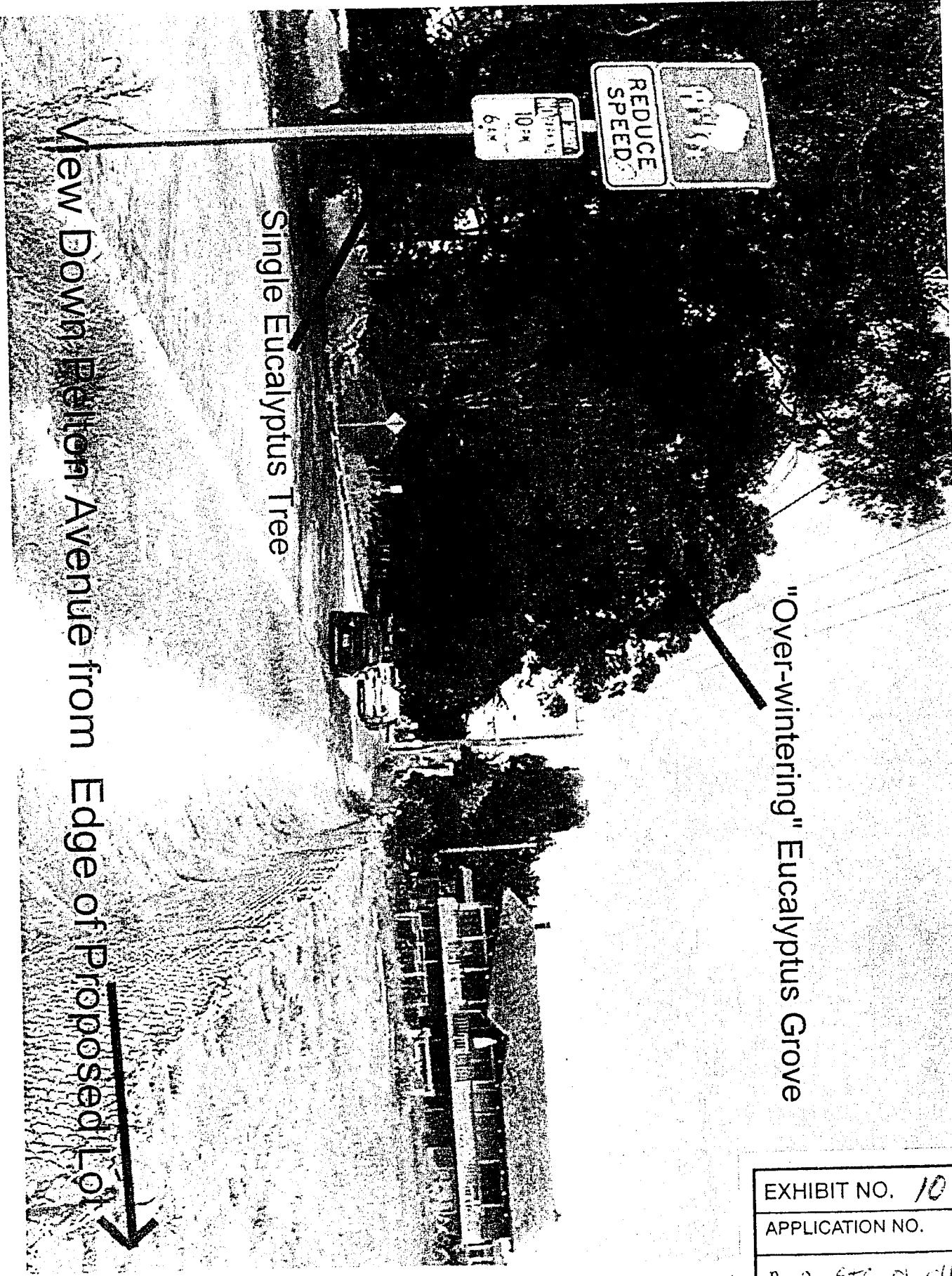


EXHIBIT NO. 8
APPLICATION NO.
A-3-STC-01-04
PR 1 of 1
California Coastal Commission



Project Site

EXHIBIT NO. 9
APPLICATION NO.
A-3-STC-01-045
PP 1 of 1 California Coastal Commission




"Over-wintering" Eucalyptus Grove

Single Eucalyptus Tree

View Down Patton Avenue from Edge of Proposed Lot



EXHIBIT NO. 10
APPLICATION NO.
A-3-STC-01-045
 Pg 1 of 1 California Coastal Commission

30 November 1999

To: Diedra Hamilton
From: Elizabeth Bell
Re: Oblates of Saint Joseph

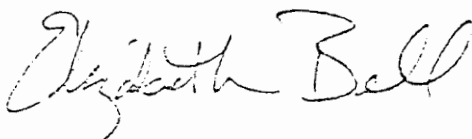
This letter evaluates the potential impacts of the proposed development at the Oblates of Saint Joseph on the nearby monarch butterfly overwintering habitat at Lighthouse Field. I visited the site on 23 November 1999 and evaluated the plans for a new parking lot.

This project has two potential impacts on the adjacent monarch habitat due to: (1) removal of one pine tree and (2) loss of midwinter nectar resources. However, both of these impacts can be mitigated to less than significant levels.

The large cypress trees on the St. Joseph's property play an important role in the monarch habitat by providing wind protection to the grove at Lighthouse Field. However, none of these trees will be removed in this project design. Based on the enclosed landscape design map and my on-site conversation with Ms. Hamilton, it is my understanding that only one tree will be removed from the project site. This pine tree is located along the edge of the existing parking lot and its removal is necessary to accommodate the entrance of the new parking lot.

Given the location of the pine tree and its relatively small stature, the loss of wind protection due to its removal is unlikely to adversely affect the quality of the monarch habitat. However, removal of the tree does contribute to long-term cumulative loss of wind protection for the habitat. Thus, I recommend replanting 2 cypress trees (*Cupressus macrocarpa*: 24 inch box) across the street in Lighthouse Field, as mitigation for loss of this tree. Location of the new trees is critical to habitat function and I can provide guidance on this once approval for the planting has been acquired.

Paving of the vacant lot will eliminate midwinter nectar resources, such as wild radish and mustard, for the butterflies on the project site. This impact may be mitigated by incorporating some "butterfly" plants into the landscape design for the parking lot; these plants will provide nectar resources for the overwintering monarchs. Planting 5-10 *Escallonia* spp. shrubs would greatly benefit the arriving monarchs in the fall, as these shrubs bloom during the fall. Access to fall nectar sources near the overwintering site may reduce the dependence of the butterflies on mid-winter nectar resources. Additional plantings of some species that flower mid-winter, such as: *Limonium californicum*, *Tagetes lemonii* and *Echium fatuosum*., would mitigate loss of wild mustard and radish on-site.



Elizabeth Bell, Ph.D.
Biologist

248A McGivern Way
Santa Cruz, CA 95060
(831) 426-1543

EXHIBIT NO. //
APPLICATION NO.
A-3-STC-01-045
PC 1051 California Coastal Commission

RECEIVED

JAN 17 2001

17 January 2000

To: The City of Santa Cruz
From: Elizabeth Bell
Re: Oblates of Saint Joseph Project

This letter provides a summary/clarification of my testimony (given at the Santa Cruz City Council meeting on 12 December 2000) concerning potential impacts of a proposed parking lot addition (at the Oblates of Saint Joseph property on West Cliff Drive and Pelton Avenue) on monarch butterfly wintering habitat at Lighthouse Field State Beach. Extensive public comments during this hearing revealed serious misconceptions regarding monarch butterfly biology, and confusion regarding potential impacts of the proposed project on the monarchs. My purpose here is to clarify issues relating to monarch butterfly wintering biology and conservation of their habitats, and to address some of the issues that were raised during the public comment period.

Background

I have been systematically visiting the Lighthouse Field monarch butterfly wintering site for over 15 years as part of an on-going county-wide monitoring effort that began in 1980. In most years, I visit each site at least three times during the wintering season. During these visits I visually estimate monarch population sizes, document roost locations, note mortality and estimate nectar (flower) availability.

Monarch occupation at the Lighthouse Field site has increased over the years, both in terms of the length of the period that monarchs are present (duration of residence) and the number of monarchs that winter there (population size). During the period of these observations, the site at Lighthouse Field has transcended, from a temporary (autumnal) roost area, into a full-term overwintering site. Currently, the Lighthouse Field roost area supports the largest population of wintering monarchs in Santa Cruz County.

General Features of Monarch Wintering Habitats

Monarch roost trees are identified by the seasonal presence of clusters of gregariously roosting butterflies. Monarch butterfly roost areas are composed of trees that provide (1) a diversity of suitable roost limbs, with (2) seasonally appropriate sun/shade exposure, and (3) wind protection in most, if not all, directions. Although topographic (landform) features and buildings may also contribute to site suitability by contributing wind protection and/or shade, tree configuration ultimately determines site suitability.

In the context of regional monarch wintering site assessments, population size (the number of monarchs roosting at the site), stability (the degree to which the population size changes over the course of the wintering season) and duration of residence (the length of time monarchs roost in clusters on the site) are the key parameters used in determining the relative importance of a particular habitat. Changes in the habitat that result in measurable change in any of these parameters constitute significant impacts.

Population stability and duration of residence of wintering monarch populations are enhanced by: (a) freedom from disturbance (by wind, predators and people); (b) high habitat heterogeneity (the presence of a diversity of seasonally suitable roost locations in the habitat); and (c) the presence of on-site nectar and water sources. This is not to say that monarch wintering populations cannot persist in the absence of one or more of these features, but that their stability and persistence will be greater in accord with the degree to which these issues are resolved by the habitat.

Exhibit 12
A-3-STC 01-045
PY 1 of 4

The Lighthouse Field Monarch Wintering Habitat

The roost trees at Lighthouse Field are only moderately protected from strong winds by the close "circle" of trees that provide the site's primary wind protection and shade. Unlike the wintering site at Natural Bridges, which is nestled in a ravine, the wintering habitat at Lighthouse Field stands on a flat coastal terrace above the ocean. Much of the wind protection at this site is thus provided by secondary windbreak trees that surround the roost area at various distances across Lighthouse Field, and by neighborhood trees and buildings north of Pelton Avenue.

The relative value of windbreak trees diminishes with both distance and redundancy. The trees closest to the roost trees (primary windbreak trees) provide the most critical wind protection, while trees at increasing distances (secondary windbreak trees) provide progressively less effective (i.e., less important) wind protection. The value of a particular tree is also reduced by the presence of other trees in the same area that serve the same function (functional redundancy). Thus, the loss of a single tree among many that provide secondary wind protection in a given direction (i.e., a case of high functional redundancy), is unlikely to create a significant (measurable) impact because its function will still be provided by the trees that remain. In contrast, where a single tree provides the only secondary wind protection in a particular direction, its loss could constitute a significant negative impact.

Trees and buildings on the Oblates of Saint Joseph property contribute secondary wind protection for the Lighthouse Field roost area. However, under the present proposal to add additional parking on the Oblates' property, no trees will be altered or removed. Thus no impact on secondary wind protection for the Lighthouse Field monarch wintering site will result from this project as presently proposed.

The importance of nectar sources to the maintenance of population stability also diminishes with increasing distance and redundancy. Wintering monarch population sizes tend to decrease over time when individuals are forced to forage more than a few hundred feet from the roost area. This is because the further away from the roost site that a monarch forages, the greater the likelihood that it will not return to the site. Thus, nectar sources close to the site stabilize the population to a greater degree than sources at greater distances. Moreover, only a relatively small proportion of the wintering monarch population is usually compelled, by hunger (low fat reserves), to seek nectar. Although this proportion increases over time, as more individuals run low on fat reserves, the availability (and thus redundancy) of nectar sources also typically increases during the later part of the wintering period.

At the Lighthouse Field site, monarchs forage mainly on blue-gum eucalyptus blossoms among the primary and secondary windbreak trees, and on various forbs (mainly radish and Bermuda buttercup) in the open (moderately wind-protected) spaces between the primary and secondary windbreak trees. In most years, these sources provide ample on-site nectar. Monarchs, however, also forage in the neighborhood north of Pelton and on the Oblates of Saint Joseph property. In comparison to the availability of on-site nectar (i.e., the number of flowers) at Lighthouse Field, the amount of nectar typically available in the proposed parking area on the Oblates' property is small and its loss can easily be compensated for by the proposed landscape planting.

Road-Kill Mortality

Windy winter storms occasionally dislodge considerable numbers of roosting monarchs. If this occurs at night, or at temperatures below the monarch's flight threshold (55°F), dislodged butterflies glide, and are blown, throughout the roost area and onto the intersection of Pelton and Eucalyptus Avenues. Unusually strong south winds can occasionally blow monarchs to greater distances into the neighborhood north of Pelton and, in rare instances, onto the Oblates of Saint Joseph property.

Exhibit 12
A-3-STC-01-045
P8 2 of 4

Butterflies that become trapped on the street by rain or low temperature are at risk of being crushed by the first vehicle that comes their way. It only takes one. The greatest road-kill mortality will thus occur where the trapped butterflies are most concentrated, usually just north of the clusters at the intersection of Eucalyptus and Pelton. In most years, the number of monarchs killed on the street is relatively low (usually fewer than 100 in populations of tens of thousands). Although this may still seem like high mortality, "natural" mortality at many sites (e.g., predation by birds such as starlings, jays and chestnut-backed chickadees) often greatly exceeds this level.

The likelihood of many monarchs becoming trapped on the ground 150-200 feet from the roost area in the proposed Oblates of St Joseph parking lot is very low. Moreover, episodic increases in traffic on Pelton associated with functions at the Oblates facility are unlikely to measurably increase road-kill mortality, since more than enough traffic is already present on Pelton and Eucalyptus Avenues to kill all the monarchs that become trapped on the street.

In any case, road-kill mortality close to the roost area will always be far more severe than at greater distances. Thus, public concern for the safety of monarchs at Lighthouse Field would be far more effective if directed toward reducing road-kill mortality at the intersection of Eucalyptus and Pelton during severe wind storms, than by denying the Oblates proposed parking lot.

On warm sunny days, monarchs often bask and sip dew in the grassy open spaces between the roost area and the secondary windbreak trees at Lighthouse Field. During the later part of winter, individuals running low on winter fat reserves often seek nectar from flowers in these areas and in the surrounding neighborhood, including the Oblates of St Joseph property. As stated above, creating the proposed parking lot will slightly (though not significantly) reduce potential foraging area for wintering monarchs; however, the proposed landscape planting will more than compensate for this loss.

Foraging monarchs are alert and able flyers and are usually able to avoid passing cars as they cross streets. Thus adding "butterfly" nectar sources on the Oblate's property should not significantly increase road-kill mortality, even if it increases the number of monarchs that fly across Pelton to take advantage of it.

Warm weather conditions from mid-January through February often stimulate substantial mating activity in male monarchs. During the mating period, monarch pairs often end up on the ground (and street) where they are at risk of being stepped on by park visitors and/or run over by passing vehicles. As with wind disturbance, the greatest concentration of grounded monarchs will occur near the roost area; thus, the likelihood of mating monarchs being crushed in the Oblates' proposed parking lot addition is much lower than the likelihood that they will be crushed by park visitors or by vehicles at the intersection of Pelton and Eucalyptus.

Thus, although road-kill mortality (resulting from both foot traffic and vehicular traffic) is a current problem in this wintering habitat, it is unlikely to increase measurably as a result of the creation of the proposed parking addition over 150 feet away from the roost area on the Oblates of Saint Joseph property.

Other Issues

Several members of the public expressed concern at the City Council meeting that the large eucalyptus tree just south of the proposed parking area (across Pelton) might act as a monarch roost (cluster) tree, and that additional pavement of the parking area might negatively affect butterflies roosting in this tree. Although I have frequently evaluated the bloom status of this tree, I have only rarely seen monarchs in it, and I have never seen clusters (masses of gregariously roosting monarchs) in it. In any case, this tree is poorly protected from wind and could not support monarch clusters except during periods of calm winds.

Exhibit 12
A-3-STC-01-04
Pg 3 of 4

Monarchs often fly out from the roost area during calm sunny days in mid-winter to bask in the sun and to seek nectar and dew. If they are shaded by a passing cloud, or if they become too hot, they often close their wings and appear to be roosting. However, they do not typically form clusters in such situations, and usually do not roost overnight at such distances from the main roost area, if they can avoid it.

I suspect that the monarchs observed in this tree were basking/roosting butterflies that later returned to clusters in the main roost area, and that monarchs do not normally form clusters in this tree. This tree serves as a secondary windbreak tree for the main roost area adjacent to Pelton at Eucalyptus; however, without valid documentation of monarch clusters in this tree, it should not be considered as a roost tree.

Conclusions

The proposed parking addition at the Oblates of Saint Joseph does not require tree removal and thus does not alter wind protection or roost options for monarchs at Lighthouse Field.

Although the proposed project slightly reduces current potential nectar availability in the area, it compensates for this reduction by providing other sources through appropriate landscape plantings. Moreover, since foraging monarchs are alert and able flyers, it is unlikely that they will be killed while crossing Pelton Avenue to nectar at the Saint Josephs planting.

The distance between the proposed parking area and the Lighthouse Field roost area makes it highly unlikely that monarchs will be blown and stranded on the ground in the proposed parking area. Thus, it is also unlikely that monarchs will die as a result of such stranding.

The monarch wintering habitat at Lighthouse Field has evolved in the context of the present configuration of trees, roads and buildings that surround it. In spite of the occasional mortality that results from butterflies being killed by passing cars and pedestrians, Lighthouse Field continues to provide suitable habitat for the many thousands of monarchs that successfully overwinter there each year. The proposed creation of additional parking spaces on the Oblates of St Joseph property should have no significant impact on monarch butterflies wintering at Lighthouse Field State Beach.

Elizabeth Bell, Ph.D.

Elizabeth Bell, Ph.D.
Biologist

1165 Lisa Lane
Santa Cruz, CA 95062
(831) 464-0589

EXHIBIT NO. 12
APPLICATION NO.
A-3-STC-01-045
CC FY 4 of 4 California Coastal Commission

David L. Suddjian
Biological Consulting Services

801 Monterey Avenue, Capitola, CA 95010
dsuddjian@aol.com, 831-476-9602, 831-479-9603

RECEIVED
DEC 27 2000
CITY PLANNING DEPT

December 26, 2000

City of Santa Cruz
Planning Department
Attn: Juliana Rebagliati
809 Center Street
Santa Cruz, CA 95010

RE: Proposed parking lot at the Shrine of St. Joseph Guardian of the Redeemer,
544 West Cliff Drive, Santa Cruz, CA.

Dear Ms. Rebagliati,

I am writing to provide input on two biological issues that have been raised with regard to the proposed parking lot expansion at the Shrine of St. Joseph at 544 West Cliff Drive in Santa Cruz. Please forward these comments to the attention of the City Council. I have been tracking the project through the local newspapers and in conversations with interested parties. I did not attend the December 12 City Council meeting which entertained comments on the project, but I have since read an article in the Santa Cruz Sentinel about the meeting and spoken with several people who were present.

I am a wildlife biologist, with special expertise in the birds of Santa Cruz County. I maintain the bird records for the county for the Santa Cruz Bird Club and have been intensively involved with bird studies throughout the county for over 15 years. I have worked as an independent consultant in the county for over 12 years. During that period I have worked on a number of projects involving the monarch butterfly. I have observed birds and butterflies at the Obiates' property and surrounding area many times since 1986.

I believe the status of the peregrine falcon and monarch butterfly at the project site have been misrepresented by some persons who have spoken in opposition to the proposed project. I offer the following comments neither in opposition or support of the project, but simply to provide correct information which may be used to help the City of Santa Cruz make a responsible decision.

EXHIBIT NO. 13
APPLICATION NO.
A-3-STC-01-04
PY 1053 California Coastal Commission

Peregrine Falcon

The peregrine falcon does not and is not known to have ever *nested* at the project site or anywhere in the near vicinity. The site and vicinity do not provide suitable nesting habitat, which is normally high cliffs away from disturbance. Individuals might occasionally use trees near the shrine as a *temporary perch*, but they have never been recorded to *roost* there (i.e., spend extended periods perching, especially overnight, over multiple dates). A photo or report of a bird perched in the trees there does not mean the spot is important for peregrine falcons. The species also probably only rarely if ever actually forages on the shrine property.

The peregrine falcon occurs at the City of Santa Cruz primarily during the non-breeding season from September to March, but occasionally also in the spring and summer months. The population of nesting pairs in the Santa Cruz Mountains region is growing, but at present none of these pairs nests close to Santa Cruz and peregrines rarely visit there in the breeding season. Other individuals pass through the Santa Cruz area during migration, while others remain locally for part or all of the winter season. These migrant and wintering individuals are very wide ranging, covering large areas and visiting many spots while foraging on any given day. They are not closely linked to any small parcel, such as the Oblates' property. The only regular roost site that is known in the nearby area is in a eucalyptus tree near the RR trestle at the mouth of the San Lorenzo River. One to two falcons have roosted there daily during the non-breeding season for several years.

While a peregrine might occasionally perch in the trees at or near the Oblates' property, or a foraging bird might occasionally be active in the area, the project site is clearly not important or significant for the welfare of the local peregrines. It is not good foraging habitat, and is in no way noteworthy as a regularly-used perching site. Indeed, I suspect falcons only very occasionally perch there, and I have personally never seen one there. There is, however, no shortage of suitable perch sites nearby, especially at the uplands of Lighthouse Field State Beach.

Thus, if the project were to occur as proposed, there would be no impact to any roost or nest site, and really no impact on foraging area. Most local peregrines cover several square miles or more daily in their foraging rounds, visiting many types of habitats including downtown Santa Cruz. Most foraging activity in the West Cliff Drive area involves peregrines hunting for birds along the shoreline, the San Lorenzo River and over the near shore ocean waters. As it stands, peregrines regularly forage along West Cliff Drive and coexist just fine with the already high level of human use and numerous parking areas. Indeed, use of the coastline along West Cliff Drive by falcons has even increased.

Monarch Butterfly

I believe that Elizabeth Bell has correctly characterized the use of the project site and vicinity by monarchs. In my experience as a biological consultant in the Santa Cruz area,

Exhibit 13
A-3-STC-01-045
pg 2 of 3

Ms. Bell is generally recognized as an expert on the species' local status and habitat needs.

It has been my observation that, having visited the site off and on for some 14 years, the trees at the Oblates' property are not regularly used by roosting butterflies. They do not provide the shelter and micro-climatic features that are found at sites used by roosting butterflies. It is not at all surprising that butterflies would be seen on the site during the day, as they occur throughout the area, especially given the increased utilization of trees at Lighthouse Field. However, it is wrong to characterize the Oblate's property as an important or significant roost for monarchs. Additionally, I think the proposed landscaping would be an improvement over the impoverished foraging resources that the site currently offers this butterfly.

Thank you for the opportunity to provide these comments, and your consideration of them. Please feel free to contact me directly on this matter.

Sincerely,



David L. Suddjian
Wildlife Biologist

EXHIBIT NO. 13
APPLICATION NO.
A-3-STC-01-045
PG 3 of 3 California Coastal Commission

(No letterhead. Emailed)

20 February 2001

Attn: Juliana Rebagliati
Planning and Community Development
The City of Santa Barbara
809 Center Street, Room 106
Santa Cruz, CA 95060

To The City of Santa Cruz:

My name is Walter H. Sakai. My CV is attached, but some highlights include the fact that I have been conducting research on monarch butterflies and monitoring monarch overwintering sites along the California coast since 1985. I have consulted on a number of projects associated with monarch overwintering sites most recently for Esalen Institute in Monterey County along the Big Sur coast. I was also Santa Barbara County's monarch biologist on the Ellwood project that has been mentioned a number of times in the materials sent to me by your staff. I also wrote the key letter to the California Coastal Commission regarding the Ellwood Shores development, in which the Coastal Commission decided to extend the monarch overwintering site buffer zone to 150 feet. I was also a member of the Significant Ecological Area Technical Advisory Committee for Los Angeles County for 10 years, and am presently a member of the Environmental Review Board for the City of Malibu. Thus, I have had extensive experience in both reviewing Environmental Impact Statements and Reports, as well as evaluating monarch overwintering sites.

I have been asked to evaluate a project near what has become a major monarch overwintering site in Santa Cruz County. The project is referred to as 544 West Cliff Drive 99-109/98-152 APN 004-571-02. Also called the Oblates of St. Joseph site, it is located 1-300 feet northeast of the Lighthouse Field State Beach monarch overwintering site (erroneously referred to as Lighthouse Field State Park), on the north side of Pelton Avenue, and west of West Cliff Drive. To summarize and to insure that I understand the scope of the project, the project entails the conversion of a weedy field into 48 new parking places.

Personal History relative to the Lighthouse Field State Beach Site

Prior to the late 1850's when eucalyptus was introduced, this marine terrace was apparently treeless or at best sparsely treed, and it is likely no monarchs roosted in this area. Numerous prior visits were made by the monarch biologist John Lane beginning in 1979 onward. John Lane's research on this site indicates that there are reports of monarchs overwintering here since the 1890's, although it is unclear if the article was talking about the huge monarch site at the west end of Lighthouse Field or the present location. The apparently large monarch overwintering site at the west end of Lighthouse Field was lost to development.

My understanding (not being a long time resident of Santa Cruz) is that there was a monarch site at the present location, which was then lost in a series of severe storms which knocked down many of the trees that formed the monarch grove. In the intervening years, scattered trees have come up, either naturally or by planting. I do not have this date. I first visited the Lighthouse Field State Beach site in 1990. In 1990, I reported this overwintering site to the California Department of Fish and Game's Natural Diversity Database. Thus, this site is listed as Occurrence #105 on the database.

My inventory protocol for California monarchs has been to visit sites in early January. Thus, since 1990, I have managed to visit this site seven January's in the last 11 seasons. In addition, I have reports from other monarch biologists over the years. My records indicate that in most years there were a few thousand monarchs at this site, but the site was abandoned by January in most years. Such sites have been referred to as "Autumnal sites." However, in the last five or so years this site has progressively become one of the larger sites in California with monarchs utilizing the site through the entire winter. Such sites are then referred to as "Permanent sites." In the last few years, it has become larger than its more famous sister site at Natural Bridges State Beach.

One of the real puzzles to Monarch biologists is that this Lighthouse Field site is atypical of most monarch overwintering sites. Most monarch sites will large numbers of monarchs resemble Natural Bridges or Moran Lake.

This is a relatively small grove of trees. Lighthouse Field lacks any sort of geographic protection (hill, drainage, etc) being on a flat marine terrace. There is no understory protection from winds. Without this understory, there is no thermal protection inside the grove. Yet this now very overwintering colony is found at this site. John Lane 15 years ago said this area would be a great monarch site if trees were appropriately planted; it appears natural tree growth has proven him correct.

Caveat

As an important caveat of this report, I must emphasize that with an exception or two, I do not have any hard scientific data to support my findings, except to say that I have seen hundreds sites in California and have visited many of them numerous times over the last 15+ years.

No site visit was made to this project. I am familiar with the Lighthouse Field State Beach Monarch overwintering site and am generally familiar with the surrounding area. I admittedly never gave the project site much more than a glance during visits to the monarchs.

I am also not commenting on topics such as piecemeal development, storm water drainage, and other non-monarch related topics. Traffic is, however, pertinent and will be discussed as it relates to monarch butterflies.

I also had an almost hour telephone conversation regarding this site and discussed points of agreement and disagreement about this site.

Discussion

In general, I believe that the findings of Dr. Elizabeth Bell, which were supported by John Dayton, are essentially correct. However, further analysis and rigor could have been incorporated into their report to support their findings. Thus, Dr. Longcore's and others have questioned of her findings

One, the actual overwintering site was never determined. What is the extent of the grove of trees? This includes both roost trees for the monarchs as well as the surrounding buffer trees described by Bell. And which trees do the monarchs actually roost in? This is important, as there has been mention of the buffer zones determined by Santa Barbara County and the Coastal

Commission. In both instances, the buffer zone begins at the dripline of the grove of trees. Bell indicated that the project was more than 100 feet from the overwintering site, but from what point. If one does not know where the trees and the grove are located, how can one determine if a project is too close to the monarchs. Granted this buffer distance is a somewhat arbitrary number, it is a defensible point. The lack of this information is also contrary to the County LCP (4.5.3.1). Further, Strelow's letter say "at least 100 feet," while Bell (17 January 2001) states "150-200 feet from the roost area." The Metro Santa Cruz, January 17-24, 2001, p9 cites "clusters fewer than 100 feet away." Thus, either the monarch grove or the parking lots seems to be floating and moving. As picky as this may seem, see point number twelve below.

In conversations with Dayton, Bell and Dayton seem very reticent to delineate this grove saying nearby buildings and trees separate and distant from the cluster of trees that the monarchs roost in serve as part of buffering to protect the monarch. Although this idea is for the most part true, most other monarch site analyses delineate the grove (i.e. an outline of the grove of trees on a map). Without this delineation, one can not make statements above of how far the site is from the project. If in fact, the nearby buildings and trees separate and distant from the cluster of trees that the monarchs roost in for the monarch overwintering site, one can argue that the project is directly adjacent to or even within the monarch overwintering site. This would require then a full Environmental Impact Report.

Two, in Bell's letter date 30 November 1999 I agree with the analysis of the potential impacts on the loss of midwinter nectar resources. I can not comment on the loss of one pine tree, as I was not provided with an information on its location. My concern is that the location of this tree was never sited, and no explanation was ever given as to why this tree was unimportant while (presumably) nearby Monterey cypresses were important.

In a phone conversation with Juliana Rebagliati on 12 February 2001 and further reading, I learned that this tree would not be removed.

Three, monarch butterflies do not use the surrounding fields *only* as a midwinter nectar source. They utilize the moisture (dew) on the plants in the fields as a source of moisture. This point was never addressed by Bell. Although this is probably an issue only in the drier months of October (and November), the issue was not addressed.

Four, the low profile (height) of the project is in its favor in terms of impacting the monarch site, and the fact that the project is on the lee side of the prevailing northwesterly winds is favorable to the project. Yet, on windy days when monarchs are blown from the grove, they will be pushed toward the future parking lot. If the monarchs are blown out of the trees and into the street and parking to the northeast or leeward side of the grove, they could end up as roadkills.

Five, it is stated that the increase in traffic due to doubling the number of seats in the church and increasing parking is insignificant compared to the existing traffic in this area. My gut instinct tell me that this is incorrect. I ask if this analysis included traffic above and beyond the traditional Sunday service? I do not claim to be a traffic engineer or an expert on the goings on at churches, but most churches have more than a Sunday service. Some have a children's service (where parents drop off their kids) early followed by one or more adult service (when parents return) and even an evening service. There are weekly Bible studies, youth group meetings, prayer groups, confessional, funerals, and such. Certainly, three of the days with the largest attendance to churches (Thanksgiving, Christmas, and New Years) occur when monarchs are present. I recently spoke at a Boy Scout group that met at a local church. Thus, the weekly church traffic will be may 10-20X that of Sunday service alone. Have these been taken into account? (This also refers to Item 17 on "Response to Comments, p2-101, p5). I suspect that the heavy traffic along West Cliff Drive swamps the Church traffic, but the key aspect is the traffic that turns into and out of the church area, and see below.

Six, at present, traffic on Pelton is likely to be just residential traffic, but since there will now be an entry way into the parking lot from Pelton, how much increase in traffic will there be from the church on Pelton toward Pelton x Eucalyptus, where Bell notes where there will be a tendency of greater numbers of downed monarchs? This may be especially important as the butterflies blown out of the grove will be greater on Pelton, which passes right next to the grove and within 10-20 feet (?) of the grove. Note: the absence of Point One prevents an accurate assessment of distance here. (This also refers to Item 17 on "Response to Comments, p23-101, p5)

Cars going north on West Cliff Drive will have a harder time turning left into the Church parking lot. Thus, many will turn left at Pelton, where there is a stop sign (?) and enter the parking lot from Pelton. This again will increase traffic close to the monarchs. The traffic engineer's opinion that the present entry configuration will ease traffic flow in the area is probably correct, but this configuration will put the butterflies at greater risk from car related mortality. (See Number Eight below)

In the response to comments, page 23-101, p5, item #16, there is reference to "an one way in and out system," but this is not marked on any of the maps or photos I was provided, which may affect my interpretation above.

The same Metro Santa Cruz paper cited above notes that the Gateway School parking and access will be moved to the Pelton parking lot. If true, this too will increase traffic along Pelton and impact the butterflies.

In conversation with J. Rebagliati on 20 February 2001, it was suggested that the Pelton access to the parking lot be made an exit only and a left turn only. This would certain help monarchs.

Seven, I am not familiar with the wind patterns in Santa Cruz and specifically the area of Lighthouse Field, but I suspect that the prevailing Westerlies means northwesterly winds. Since the project is on the lee side, its impact is minimal. Its low profile means low impact. I am not sure exactly sure but normally pre-storm winds come from the east and storm winds come from the south. Yet Westerlies which are often quite strong after storms will blow monarchs out of the trees onto Pelton and toward the parking lot.

Eight, road-kill mortality is another issue. I have some unpublished data on this subject, which indicates that mortality can be quite high. My findings indicate that fairly substantial number of monarchs are killed by vehicular traffic when flying across roads, although in my study sites, speeds were much higher. What should be of concern is that the distances from the colony to the road in my study sites ranged from 0 to 1500 feet. Even at this farther distance there was mortality from cars. And these were NOT mating monarchs that were on the ground. At another site where clusters often form directly over the road, most mortality occurred during mating.

Anecdotal reports describe literally hundreds of monarchs were blown out of the trees during severe storms, of which several typically occur each year in the Santa Cruz region. In general, these butterflies survive if they are not stepped on, run over by cars, and do not fall in puddles of water. Apparently, people walk up and down Pelton during and after these storms rescuing downed and water logged monarchs. I suspect that if you would interview some of the docents at Natural Bridges State Beach, you might get a better picture of this, and maybe

Exhibit 14

A-3-STC-01-045
Pg 3 of 5

some photo-documentation.

Bell compares the degree of avian predation with roadkills, saying the latter "often greatly exceeds this level." The spin on this is that then the opposite is also true.

Based on my experience, I feel that this is a significant concern especially since traffic should increase on Peltor with the added traffic..

Nine, in most analyses I have ever conducted or read, there is usually some assessment of the total resource regionally. Is this the only monarch overwintering site in the county or in the area? That "area" is determined under the guidance of County. Generally, I look at all sites within a five mile radius. How does this overwintering site fit in with the big picture for the area? Even if it is not the only site, is it the largest site? Or is it a small autumnal site?

E.g. Ellwood Main in Santa Barbara is one of a dozen plus sites within five miles radius, but it is the largest site, the most important site, the best known site, and the most visited site. It is the "keystone" site in the area.

Although a map of the area is presented showing the monarch overwintering sites, the map is over 10 years old, and the monarch biologist did not address the sorts of concerns I have mentioned above.

In addition, by looking at historical sites (sites that no longer exist, such as the site that used to exist at the west end of Lighthouse Field), one can address incremental loss of monarch overwintering sites over the years.

Dayton in our telephone conversation indicated that Moran Lake, Natural Bridges and Lighthouse Field are the only active sites left in Santa Cruz and so Lighthouse Field is now one of the major sites in the Central coast. If so, a more critical look at this site is warranted.

Ten, there has been comment that monarchs may roost in other nearby trees. I agree with Bell that I have never seen and would not expect monarchs to roost in these other trees. But there is a (CA DFG NDDDB occurrence #106) site reported at St. Joseph's Shrine. John Lane reported 20-30,000 monarchs there in 1983. It is unclear how long the butterflies stayed, yet no one has seen monarchs there since (except flyers). Monarchs have also roosted in other nearby locations (See CA DFG NDDDB), but most have not been used in recent years.

Eleven, in regards to Mr. Suddjian's letter, I agree that monarchs do not roost on the proponents property, but that is not the major concern. Rather it is the loss of butterflies by pedestrian and car traffic that is of concern.

Twelve, in the "Response to Comments" p25-98 or p2, the statement that there is "no City or Coastal Commission standard regarding a specific setback distance between development and Monarch butterfly habitat areas" is correct, but there have been precedents set. Although there is no Santa Cruz City regulation, there has been a very recent high profile decision in Santa Barbara at the Ellwood Main site, where a specific setback was recommended by Coastal. There is also a Santa Barbara County regulation regarding setback and the 1987 recommendation by Nagano and Sakai

Thirteen, I wonder if City has a copy of the Xerces Society/Monarch Projects two publications, The Monarch Habitat Handbook, A California Landowner's Guide to Managing Monarch Butterfly Overwintering Habitat, and Conservation and Management Guidelines. Elizabeth Bell and John Dayton are both co-authors of these publications and should have copies; otherwise, copies can be obtained from the Xerces Society.

Fourteen, the concern about automobile emission is likely to be insignificant. The prevailing winds will blow exhaust away from the monarchs.

Conclusions:

I agree with Bell that the project will have little impact on the monarchs in terms wind, nectar, exhaust, and distance between the project and the monarchs. I think the basic problem was that there was not a thorough report done by both Bell and the City of Santa Cruz. The two page report requested by the project consultant on monarchs did a disservice to the proponent and the monarchs.

I would disagree with Bell in regards to the impact of roadkills. During occasional severe winter storms and during mating season (which should be starting soon), there is definitely a greater risk of butterfly mortality.

Further Study:

About the only researcher that I am aware of that has the equipment to conduct a full monitoring program collecting meteorological data to evaluate the site would be Dr. Kingston Leong at Cal Poly SLO. This effort would have to be done beginning before the monarchs arrive until after they leave. Normally researcher leave equipment

to collect continuous data, but there is no way to leave equipment at this site even overnight. Thus, regular trips must be made to the site in order to conduct monitoring. This would be an expensive and lengthy process.

A more observational study conducted by local monarch experts like Bell and Dayton, where roost trees can be determined, regular surveys can be made to determine mortality especially during and after big storms, and such (basic environmental data). This would be less expensive but just as lengthy.

Both of these options would take at least a year to complete. I would think a more reasonable solution could be found without a long term study, or while a long term study is ongoing. But I suspect the political climate may not allow for that.

Mitigation:

No work will be done while monarchs are overwintering.

The proponent will plant additional vegetation in and around the Lighthouse Field grove to provide additional buffer, in numbers determined by City staff and at locations determined by a monarch biologist. My logic for this is that this may begin to ameliorate the winds that blow the monarchs out of the trees during severe winter storms. Possibly the above roadkill problem can solve this problem by providing better wind protection.

As mentioned above, the Pelton access to the parking lot will be an exit only, and left turn only.

A statement incorporated, where the applicant will provide further mitigation of some dollar amount if the long-term study indicates significant impact to the monarchs.

Also note that my experience is that the term "will" be used rather than "should."

If there are further questions, you can contact me at Santa Monica College, 1900 Pico Blvd, Santa Monica, CA 90405-1628. My phone is 310.434.4702, and my email is sakai_walter@smc.edu.

Walter H. Sakai
Professor of Biology
Santa Monica College

Literature cited:

Bell, E., L.P. Brower, W.H. Calvert, J. Dayton, D. Frey, K. Leong, D. Murphy, R.M. Pyle, W. Sakai, K. Snow, and S. Weiss. 1993. The Monarch Project's Conservation and Management Guidelines. The Xerces Society. Portland, OR. 43pp.

Brower, L.P., M. Monroe, & K. Snow. Undated. The Monarch Habitat Handbook. A California Landowner's Guide To Managing Monarch Butterfly Overwintering Habitat. The Xerces Society. Portland, OR. 16pp.

Nagano, C.D. and W.H. Sakai. 1987. The Monarch butterfly [Danaus plexippus (L.)] wintering colonies in the Ellwood area of Santa Barbara County, California, U.S.A. A report and management recommendation to the California Coastal Conservancy and the Santa Barbara County Department of Resource Management, 17pp.

EXHIBIT NO. 14
APPLICATION NO.
A-3-3TC-01-045
CC PY 5055 California Coastal Commission

CAL POLY

CALIFORNIA POLYTECHNIC STATE UNIVERSITY
SAN LUIS OBISPO, CA 95107

BIOLOGICAL SCIENCES DEPARTMENT
(805) 750-2788 FAX (805) 750-1419

12 February 2001

Ms. Juliana Rebagliati
City of Santa Cruz
809 Center Street
Santa Cruz, CA 95010

Dear Juliana,

Thank you for sending me the City Council Report of the Project Description, Title 14 Zoning Ordinance, and the correspondences of Beth Bell, Stephanie Strelow, David Suddjian, and Travis Longcore. The information contained in these documents has provided me with a better understanding of the controversies. I believe the controversies can be resolved if valued judgements were based on scientific data, rather than on opinions or on personal experiences without the data to support one's observations. I believe Dr. Bell's testimonies, however, present a picture closer to my experiences and field research findings on the biology and behavior of overwintering butterflies in California. Her rendition of the importance of windbreak trees in the creation and the maintenance of a wintering habitat was depicted remarkably well. She also presents a good account on the effects of winter storms to roosting butterflies of that habitat and on mortality caused by vehicular traffic on Pelton and Eucalyptus Avenues. Perhaps, Dr. Bell's arguments could be strengthened if she has actual data on the butterflies' "sphere of biological activities" i.e., areas used for roosting, sunning, feeding, and mating. If the sphere of biological activities is clearly defined for this wintering site, then impact of a proposed parking lot to neighboring overwintering butterflies could be better evaluated.

Dr. Longcore presents good arguments for the need to delineate habitat used by the overwintering butterflies such as feeding and mating and to better define the buffer zone for this overwintering habitat. A buffer zone, however, is often a nebulous value unless it is based on data that define the monarch's "sphere of biological activities" and the forested areas that helped create the microclimatic conditions conducive for winter aggregation.

Since the proposed parking lot on Oblates' property will not involve removal or alteration of trees, the main concerns are focus on the monarch's winter activities such as sunning, feeding, mating, and roosting. My field investigations have shown that overwintering butterflies occur in groves that offer specific microclimatic conditions conducive for winter aggregations (Leong 1990, Leong et al. 1991). Within a winter grove, the roosting

butterflies are not randomly dispersed throughout the winter grove, but are found only on trees that shelter them from strong gusty winds and provide optimum exposures to filtered winter sunlight (Leong 1990, Leong et al. 1991). Roosting butterflies will move to different trees within a defined area or "bubble of suitable conditions" depending on the direction and strength of the winds (Leong et al. 1991; Leong 1998). Winds greater than 2 m/sec are very disruptive to overwintering butterflies. At this velocity or greater, butterflies are blown from their roost or are dislodged from the foliage by vigorous branch movements. If ambient temperatures are 55° C (flight threshold) or greater, the expunged butterflies would fly to other trees within the grove that offer better wind protection. If ambient temperatures are below 55°C, the butterflies are dislodged from their roost due to high winds and are blown to the ground. The butterflies will remain on the ground until ambient temperatures reach flight threshold. If storm winds (≥ 2 m/sec) enter the roosting area, the overwintering butterflies will temporarily or permanently abandon a winter grove for the season (Leong 1998).

During warm winter days, the butterflies would leave their roost to sun, to feed on nectar, morning dew or water from neighboring ponds or streams. My field investigations on winter foraging activities of monarch butterflies at Pismo North Beach wintering site, San Luis Obispo County, have shown that they actively feed between the hours of 9 am to 1 pm (information presented at ESA meeting in November 1997). After 1 pm, most butterflies stop foraging and return to their roosting trees to reform winter aggregations. The foraging butterflies, at least in San Luis Obispo County, did not venture far from the grove to seek nectar or water. They were seldom observed more than a kilometer from the grove, even if sources of winter flowering plants or water were abundantly available at this distance from the grove (Leong, 1997 unpublished data). Similarly, the butterflies were observed sunning mainly on foliage of trees in sunlit southern areas of the grove.

Prior to their spring migration, the butterflies begin to mate in earnest by mid February (Leong et al 1995, Frey, et al. 1992). The male monarch butterflies would "capture" females in flight or while they sun on foliage (Leong 1995). Of the two mating strategies observed in the field, males capturing females on foliage were the most common method of securing a mate at Pismo wintering site. Once coupled, the male would carry the female to foliage located high on the tree.

The arena of mating and sunning activities was centered mainly in the southern regions of the winter grove proper. The numbers of mating pairs counted on the ground were more numerous beneath grove trees in sunlit areas (Leong et al. 1995 and Frey, et al. 1998) than areas (100 ft) further away from these trees.

The "sphere of biological activities" just described was for overwintering butterflies of San Luis Obispo County. I have observed similar activities for Natural Bridges (Leong and Frey 1991) and for Pacific Grove (Leong 1994) wintering sites. The boundaries of the monarch's winter activity areas and the forested areas comprising the habitat are essential parameters needed to: (1) effectively evaluate the impact of any habitat modifications (i.e., parking lot on Oblates' property); (2) determine the size of buffer

Exhibit 15

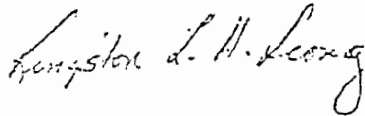
A-3-STC-01-045

pg 2 of 3

zones for the habitat; and (3) implement long term management polices of wintering sites.

My proposed project will identify the boundaries of the sphere of biological activities for the overwintering butterflies at this wintering site for one complete season (November to March). The habitat and surrounding areas will be divided into 20 to 30, 30-meter grids to determine the environmental conditions of the habitat and the aggregation areas within the grove. At each intersection of the grid, the temperatures (wet and dry bulb), solar radiant energy, light intensity, wind velocity (highest), and wind direction will be recorded. The environmental conditions will be monitored twice monthly along with their feeding, sunning and mating activities associated with the surrounding grove areas during the hours of 8 am to 2 pm. The data gathered would be used to define the sphere of biological activities for the overwintering butterflies at this site as well as the forested areas that created the microclimatic conditions conducive for winter aggregations.

Sincerely,



Kingston L. H. Leong, Ph.D.
Entomologist
Biological Sciences Department
California Polytechnic State University
San Luis Obispo, CA 93407
Telephone: 805-756-2373
Fax: 805-756-1419

EXHIBIT NO.	15
APPLICATION NO.	
	A-3-STC-01-045
	PR 3 of 3
California Coastal Commission	



Land Protection Partners

P.O. Box 24020, Los Angeles, CA 90024-0020
Telephone: (310) 276-2306

RECEIVED

DEC 11 2000

COUNCIL AND
CITY MANAGER

December 10, 2000

Mayor Tim Fitzmaurice and City Council
City of Santa Cruz
809 Center Street
Santa Cruz, CA 95060

Re: 544 West Cliff Drive - 99-109/98-152 - APN 004-571-02

Dear Mayor Fitzmaurice and Councilmembers:

A proposal to construct a parking lot immediately adjacent to the Lighthouse Field Monarch butterfly overwintering site has been brought to my attention by local residents, who have asked for an expert analysis of the project and its potential impacts to the butterfly. I hold a Ph.D. in biogeography from UCLA, where my research centered on the response of arthropods to ecological restoration projects. I have completed research on the assessment and management of several endangered butterfly species, and serve as a member of the Quino checkerspot butterfly Recovery Team for the U.S. Fish and Wildlife Service. I also serve as an appointed member of the Environmental Review Board for the County of Los Angeles, which is composed of resource experts who review development proposals for consistency with the local Land Use Plan and the California Coastal Act. In addition, I have provided expert testimony to the California Coastal Commission on the impacts of proposed development on numerous occasions, including on issues of Monarch butterfly overwintering habitat and its protection at the Ellwood site north of Santa Barbara. In that instance, the Commission increased the buffer area and eliminated a road to protect a Monarch overwintering site. This letter therefore serves to analyze the impacts of the proposed parking lot expansion on Monarch habitat at Lighthouse Field and the consistency of the project with the Coastal Act and the California Environmental Quality Act.

The first difficulty in analyzing the impacts of the proposed development is that the City has not provided a definitive account of the extent of the environmentally sensitive habitat area (ESHA) associated with the Monarch butterfly overwintering grove. The City indicates that Monarch butterflies are found in the Lighthouse Field area of the City (Map EQ-9) but indicates that "Monarch habitat locations are depicted in very general areas; further study would be needed to determine more precise habitat areas." This intention is echoed by the City's ESHA determination for Arana Gulch, which states that "ESHA boundaries within the City of Santa Cruz shall be based on surveys and analyses conducted by qualified biologists and botanists. This will include recent and historic survey data." This determination further indicates that the City's policy is to "[c]ontinue the protection of rare, endangered, sensitive and limited species and the habitats supporting them as shown in Map EQ-9 or as identified through the planning process or as designated as part of the environmental review process." However, nothing in the documentation for the proposed parking lot expansion indicates that the City has delimited the ESHA associated with the Monarch butterfly. This is curious, because the

Study was done by E. Bell

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EXHIBIT NO. 16
APPLICATION NO.
A-3-STC-01-045
PP 1 of 5 California Coastal Commission

City is responsible under the Coastal Act to protect such areas from significant disruption of habitat values (Section 30240(a)) and from degradation by development in adjacent areas (Section 30240(b)). Without a delineation and description of the habitat values that constitute the Monarch overwintering site, it is impossible for the City to evaluate the impacts on that ESHA, either from direct disruption or indirect degradation, and make a determination that the proposed project is consistent with the City's own policies or Section 30240 of the Coastal Act.

Absent an adequate description of the ESHA, the material in the environmental documentation for the project offers sufficient information to draw some preliminary conclusions about its extent. As indicated in the City's response to comments on the Negative Declaration, the eucalyptus grove approximately 100 feet from the proposed parking lot supports overwintering Monarch butterflies. In addition, local residents indicate the single eucalyptus directly across the street (approximately 25 feet) from the project supports monarchs during some years. This is consistent with the year-to-year variation in Monarch habitat use in other areas, and the full extent of Monarch usage should be recognized as ESHA, especially in light of the City's own policy to consider historic surveys in the designation of ESHAs. However the overwintering habitat of the butterfly extends beyond the trees themselves and includes adjacent open areas that are used for nectaring and basking.¹

Drinking water is also essential for successful winter survival and is provided by dew Flowering plants growing in and near the colonies supply nectar to supplement internal fat reserves. At the California site nectar is supplied by gum trees, mule fat (*Baccharis*), wild mustard (*Brassica*), and numerous other native and cultivated species.²

Monarch expert and biology professor Walter Sakai elaborated on this habitat function in a letter to the California Coastal Commission, stating that "Monarchs also need to drink water every few days to once a week depending upon the humidity" and also noting that open spaces are necessary for the butterflies to sun themselves in the morning when they become active.³

Based on these facts of Monarch biology, the description of the project site, and photographs of the area, it is clear that the proposed project site is part of the Monarch overwintering habitat at Lighthouse Field. It is for this reason that Monarch overwintering habitat in the coastal zone is typically identified as a grove of trees with a buffer surrounding it to protect the sunning and nectaring areas. Sakai and Nagano argue that this buffer should be 300 feet in their 1987 report. At the Ellwood grove north of Santa Barbara, the California Coastal Commission required a 150 foot buffer from the outermost eucalyptus tree in a Monarch grove. Construction of a project with no buffer around overwintering trees would almost certainly violate Section 30240 of the Coastal Act.

1. Nagano, C.D., and W.H. Sakai. 1987. The Monarch butterfly [*Danaus plexippus* (L.)] wintering colonies in the Ellwood area of Santa Barbara County, California, U.S.A. A report and management recommendation to the California Coastal Conservancy and the Santa Barbara County Department of Resource Management. 17 pp. Nagano, C.D., and W.H. Sakai. 1989. The Monarch Butterfly. *Audubon Wildlife Report*: 1989/90: 367-385. Sakai, W.H., and W.H. Calvert. 1991. Statewide Monarch Butterfly Management Plan for the State of California Department of Parks and Recreation. Report to California Department of Parks and Recreation. Interagency Agreement No. 88-11-050. 209 pp. Wells, H. and P. H. Wells. 1991. The Monarch Butterfly: A Review. *Bulletin of the Southern California Academy of Sciences* 91(1):1-25.
2. Nagano and Sakai 1989 at 371.
3. Sakai, W.H. 1998. Letter to California Coastal Commission. April 8.

EXHIBIT NO. 16
APPLICATION NO.
A-9-STC-01-dt
PP 2 of 5 California Coastal Commission

The fact that structures are preexisting next to several Monarch sites in California, and indeed adjacent to the Lighthouse Field site, does not minimize the City's obligation to evaluate the incremental impacts of the project itself. The project would remove roughly a half acre of grassy habitat, characterized by plant species that are known to be nectar sources for Monarchs. The site is made more valuable because of past residential development near the grove that has resulted in relatively little open space on the north side of the grove. In addition, the project site constitutes a significant portion of the open space in the lee of the grove. The prevailing winds at this particular locality are from the southwest, as is common along the California coast and evident from the windtopped form of the trees in the area.

While the loss of habitat is the primary direct impact of the proposed project, a second and equally important impact is the increased mortality that will result from cars. This is a twofold impact. First, the project turns a current butterfly habitat into a parking lot where butterflies will be crushed to death, changing the area from a habitat resource to a site of mortality. Second, the project will increase traffic on Pelton Avenue, increasing mortality on this street. Roadkill is an important source of mortality for overwintering monarchs. Sakai found between 1 and 4 percent roadkill at three overwintering sites near roads in California.⁴ This percentage is equivalent to the rate of death from predation by birds. Other studies of roadkill of butterflies report 7% mortality per season in species with behavioral characteristics similar to Monarchs.⁵

Two aspects of Monarch biology result in roadkill deaths. As discussed above, Monarchs leave the overwintering groves periodically to obtain water, crossing roads when they are present. Second, Sakai notes that "beginning in late January, monarchs in the colonies begin to mate preceding spring remigration [citations omitted] [when] literally hundreds of coupled monarchs fall out of the sky onto the ground."⁶ During mating, the males must carry the females, and often the result is a pair of mated monarchs on the ground. As the percentage of paved surface and traffic increases surrounding the Lighthouse Field, more individuals will be killed by cars. Similarly, as the amount of traffic close to the overwintering monarchs is increased, the likelihood increases that more butterflies will be killed.

The Negative Declaration does not sufficiently consider the increased risk for death of overwintering Monarchs from increased paved surfaces and increased vehicular traffic near the grove. There is no evidence that a thorough consideration of this impact was made by the City. While to the non-scientist an annual loss of between one and seven percent of a population may not seem important, it can have significant long-term effects. A population that decreases seven percent each year will be halved in eleven years.

The Lighthouse Field overwintering site seems to be increasing in importance in recent years, with 35,000 butterflies estimated in 2000, more than the 20,000 estimated for Natural Bridges State Beach.⁷ Historically, Natural Bridges was a more important site; in 1990, Sakai and Calvert reported 5,000 butterflies at Lighthouse Field and 70,000 at Natural Bridges.⁸ The reason for this increase seems to

4. Sakai, W.H. 1998. Monarch Butterflies. A New Item at the Roadkill Café. Unpublished manuscript.
5. Munguia, M.J., and J.A. Thomas. 1992. Use of road verges by butterfly and bumblebee populations, and the effect of roads on adult dispersal and mortality. *Journal of Applied Ecology* 29:316-329.
6. Sakai 1998 at 4.
7. Musitelli, Robin. 2000. Zen and the art of counting Monarchs. *Santa Cruz Sentinel*, December 3.
8. Sakai and Calvert 1991 at 62-63.

EXHIBIT NO. 16
APPLICATION NO.
A-3-STC 01-045
PP 3 of 5 California Coastal Commission

be decreased habitat values at Natural Bridges, which makes the Lighthouse Field more important to the species in a regional perspective.

In short, the City has erred in preparing a Negative Declaration for the proposed project, because the project may indeed result in a significant adverse impact on the environment. Even the City's own Monarch expert indicates that the loss of nectaring habitat must be mitigated to a level of less than significant through special landscaping.⁹ This concedes that a significant impact would occur absent mitigation, in which case the City must prepare at a minimum a Mitigated Negative Declaration.¹⁰ However, other aspects of the project would require further review, likely an Environmental Impact Report. For example, considerable discussion is evident in the Negative Declaration and the letters from the public regarding the meeting hall planned for the site by the project proponents. This discussion is predominantly considered in terms of "cumulative impacts" and "piecemealing." My consideration of the project plans indicate that the proposed project may indeed have significant environmental impacts, triggering the need for more than a Negative Declaration, wherein a discussion of the incremental impact of other "reasonably anticipated future projects producing related or cumulative impacts" is merited.¹¹ The future meeting hall is reasonably foreseeable inasmuch as its footprint is provided on project diagrams. A lack of detail in the proposal is no excuse for failure to consider its cumulative impacts.¹² Furthermore, because the proposed parking lot would also provide parking to the future hall, the project proponents cannot avoid studying the cumulative impacts simply by deferring initiation of environmental review for the hall. In review of cases on the issue of improper division of projects, courts have ordered that lead agencies include impacts of related projects, even those that could be "anticipated beyond the near future."¹³

Alternatively, if the City accepts the applicant's argument that the future hall is not yet a project deserving of cumulative impact analysis, the parking lot itself should be analyzed for its growth-inducing impacts. In this respect, lead agencies must "discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively."¹⁴ Clearly, construction of the parking lot would "encourage and facilitate" the construction of a meeting hall on the site. Indeed, the lot is immediately adjacent to the future building site, and the Preliminary Landscape Design supplied in the Negative Declaration shows a walkway connecting the parking lot to the proposed structure. Because the new lot would provide parking, at least in substantial part, for the new structure, it must be interpreted to encourage or facilitate its ultimate construction.¹⁵ The City should therefore recognize this growth-inducing impact of the parking lot itself and incorporate an analysis of the loss of this additional open space and potential additional traffic in the evaluation of the parking lot at this time.

9. Bell, Elizabeth. 2000. Memo to Dierdra [sic] Hamilton.

10. Ironically, the Preliminary Landscape Plan for the project includes *none* of the nectar sources recommended by Dr. Bell as mitigation for the project. In fact, the proposed landscaping contains only a negligible native element, and largely contains plants with dubious value as nectar sources.

11. CEQA Guidelines, § 15130, subd. (b).

12. *Terminal Plaza Corp. v. City and County of San Francisco* (1st Dist. 1986) 177 Cal.App.3d 892 at 904-905.

13. *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (4th Dist. 1983) 172 Cal.App.3d at 168-169.

14. CEQA Guidelines, § 15126, subd. (g).

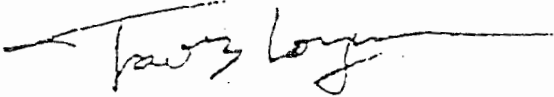
15. Even if the meeting hall is never constructed, the City is still obligated to assess its impacts. All that matters is that the project is reasonably foreseeable at the time of EIR preparation. *City of Antioch v. City Council* (1st Dist. 1986) 287 Cal.App.3d at 1337.

EXHIBIT NO. 16
APPLICATION NO.
A-3-STC-01-045
PG 4 of 5 California Coastal Commission

City of Santa Cruz
December 10, 2000
Page 5

In the context of environmental review of this project, it is evident that the project proponent has no vested right to intensified use for the property in question. Development has already occurred and no taking would occur were the parking lot to be denied by the City. Such denial would be consistent with a reasonable interpretation of the resource protection provisions of the Coastal Act as applied to the Monarch butterfly overwintering habitat at and adjacent to Lighthouse Field.

Sincerely,



Travis Longcore, Ph.D.

EXHIBIT NO. 16
APPLICATION NO.
A-3-STC-01-045
PG 5 of 5 California Coastal Commission

JAMES F. SWEENEY
sweeney@sweeney-grant.com

ERIC GRANT
grant@sweeney-grant.com



ATTORNEYS AT LAW

CALIFORNIA • DISTRICT OF COLUMBIA

WELLS FARGO CENTER
400 CAPITOL MALL, SUITE 900
SACRAMENTO, CALIFORNIA 95814

(916) 341-0321
FACSIMILE (916) 444-1933
www.sweeney-grant.com

June 18, 2001

BY FACSIMILE TRANSMISSION

Ms. Susan Craig
Coastal Planner
CALIFORNIA COASTAL COMMISSION
725 Front Street Suite 300
Santa Cruz, California 95060

Re: Coastal Commission Appeal regarding Oblates of St. Joseph Property
Appeal No. A-3-STC-01-045

Dear Ms. Craig:

This letter follows up your telephone call of earlier today.

You requested a clarification from the Oblates of St. Joseph regarding their plan to move forward with the construction of the parking lot expansion at the Shrine of St. Joseph on West Cliff Drive in Santa Cruz should the instant appeal be denied. In this regard, you indicated that LCP EQ Policy 4.5.3.2, included in the local coastal program for the City of Santa Cruz, allows construction only during months when monarch butterflies are not present and prohibits pesticide use in developments in the vicinity of designated monarch butterfly sites. You noted that these conditions appear to have been inadvertently omitted from the permit approved by the Santa Cruz City Council on March 27, 2001 authorizing the parking lot expansion.

By way of clarification, the Oblates of St. Joseph would certainly agree, as part of their management plan, to undertake construction of the Shrine parking lot expansion only during months when monarch butterflies are not present and to refrain from the use of pesticides in the parking lot area to be constructed. If necessary, my clients would stipulate to amending the permit granted on March 27, 2001 to include these additional conditions.

Of course, the Oblates' willingness to voluntarily agree to such conditions, and to so stipulate, is offered to the Commission wholly without prejudice to any matter at issue in the instant appeal and should not be construed, either explicitly or implicitly, as a concession or waiver as to any issue pertaining the Oblates' application for a permit to expand the Shrine parking lot on the West Cliff Drive property. As I have noted previously, we believe the "issues" raised by the appellants are purely pretextual, wholly

Exhibit 17
A-3-STC-01-045
Pg 1 of 2

BY FACSIMILE TRANSMISSION

Ms. Susan Craig

June 18, 2001

Page 2 of 2

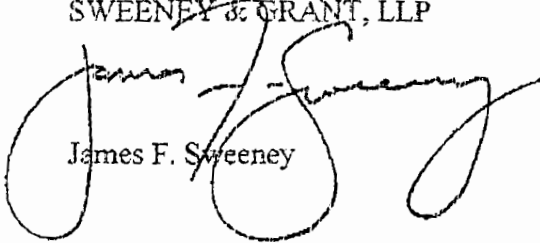
unsupported by the record, and intentionally calculated to delay the project and deliberately obstruct the religious mission and ministry of the Oblate community. We sincerely believe, as our filing before the Commission will indicate, that this matter does not present a "substantial issue."

Moreover, the Oblates' willingness to voluntarily comply with LCP EQ Policy 4.5.3.2 of the local coastal program is not intended to be, nor should it be construed as, an admission that the West Cliff property lies within an environmentally sensitive habitat area ("ESHA"). Indeed, the Oblates contend that the West Cliff property does not lie within an ESHA. However, in order to comply with the provisions of the local coastal program and in the interests of civic responsibility, the Oblates will voluntarily agree to be bound by the aforementioned conditions without prejudice to litigating such issues in any future proceedings concerning this project.

Please feel free to call me if you have any questions. I appreciate your courtesy in contacting us and look forward to being of further assistance to you if you have a need.

Very truly yours,

SWEENEY & GRANT, LLP


James F. Sweeney

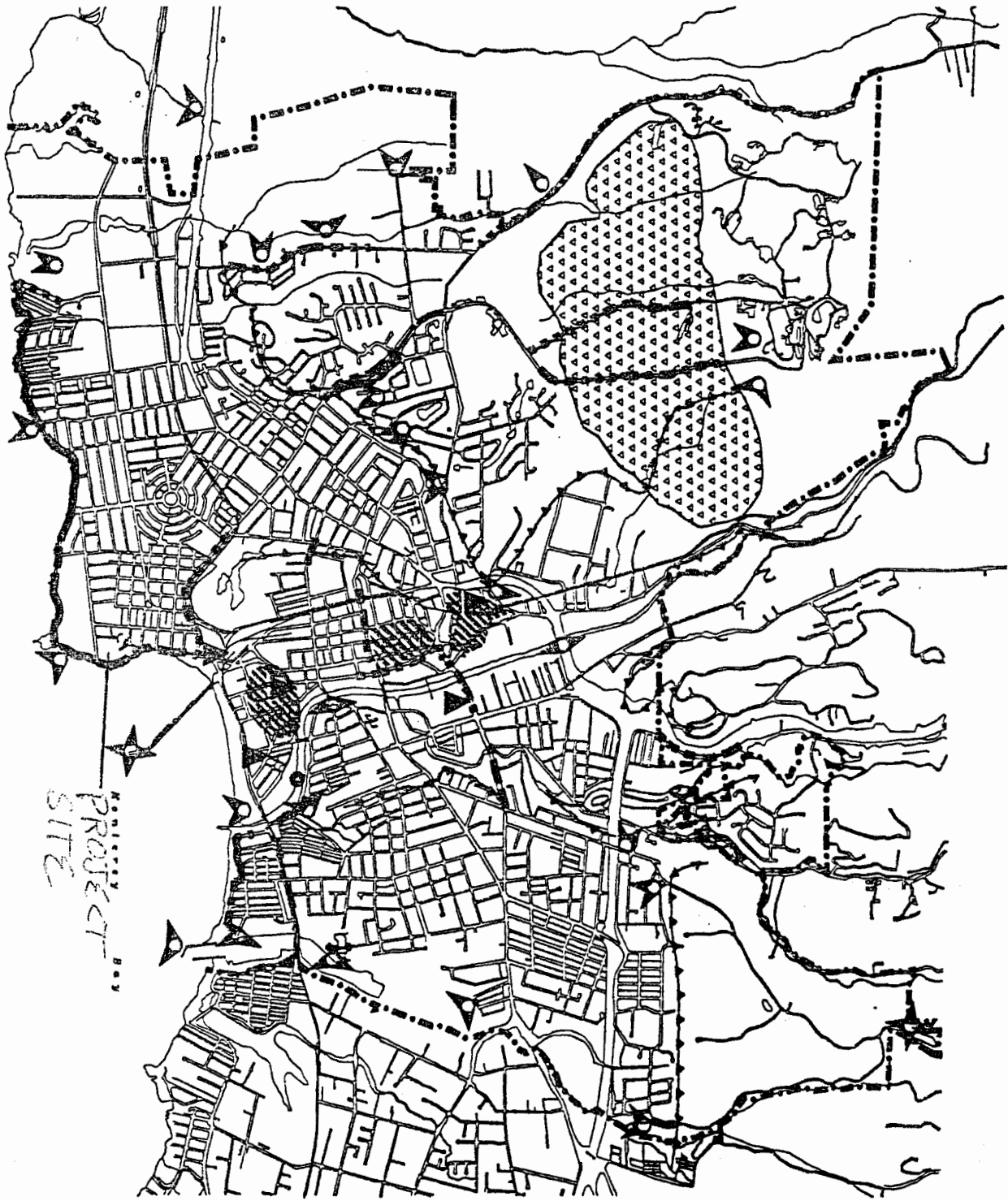
Cc: Very Rev. Philip Massetti, O.S.J.
Provincial, Oblates of St. Joseph

JFS:slc

EXHIBIT NO. 17
APPLICATION NO.
A-3-STC-01-045
pg 2 of 2 California Coastal Commission









MAP CD-3: SCENIC VIEWS
The City of Santa Cruz, California



PROJECT SITE

LEGEND

SCENIC VALUES:

-  VIEWPOINTS AND PANORAMAS
-  VISUALLY DISTINCTIVE STRUCTURES
-  SCENIC DRIVES
-  URBAN SKYLINE
-  RIDGE SKYLINE
-  FOOTHILL SKYLINE

SOURCE: City of Santa Cruz Planning Department, 1992

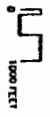

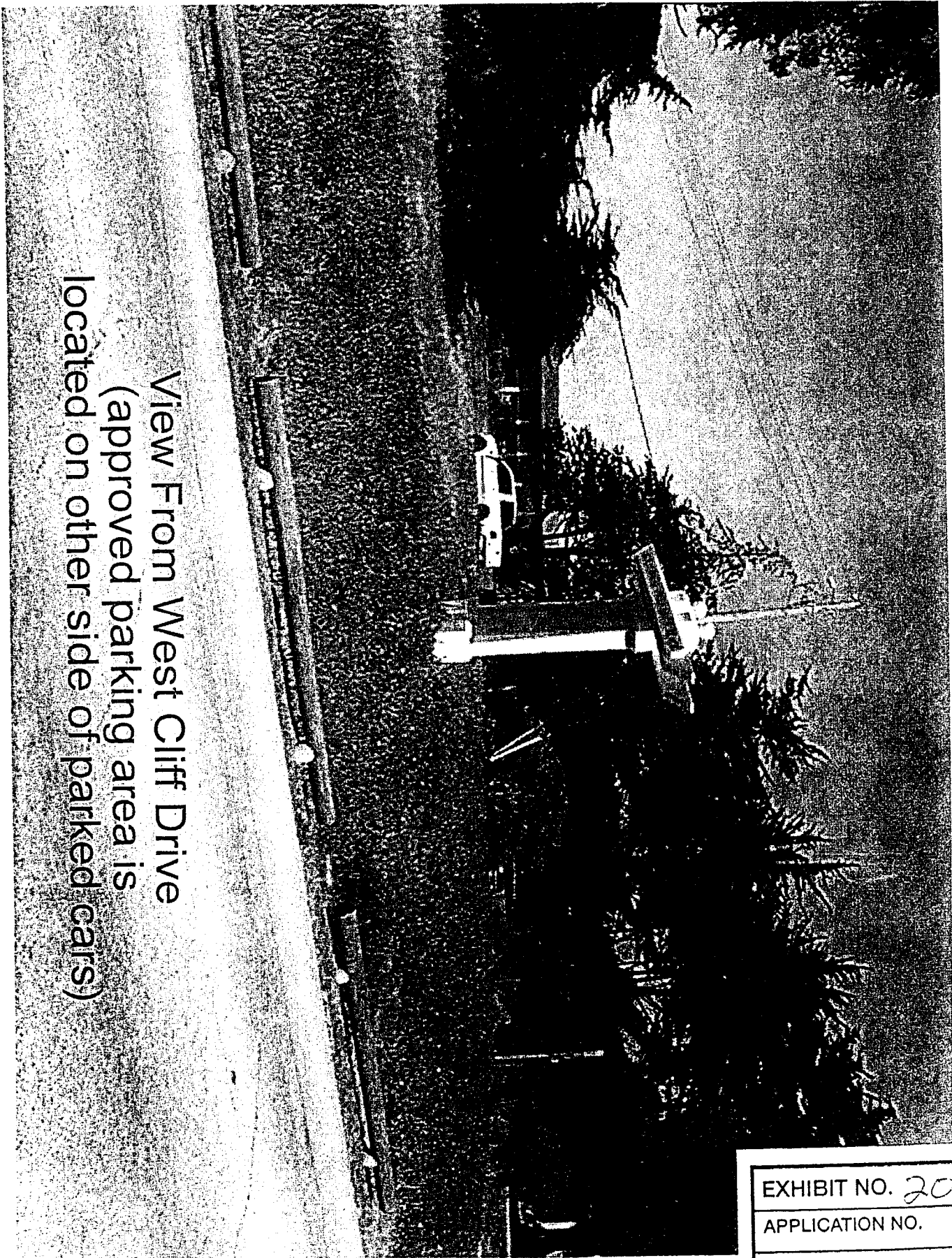


EXHIBIT NO. 18
APPLICATION NO.
A-3-5TC-01-045
 California Coastal Commission

View From West Cliff Drive

Approved Parking Area

EXHIBIT NO. 19
APPLICATION NO.
A-3-57C-01-045
pg 1 of 1 California Coastal Commission



View From West Cliff Drive
(approved parking area is
located on other side of parked cars)

EXHIBIT NO. 20
APPLICATION NO.
A-3-STC-01-049
pg 1 of 1 California Coastal Commission

MAP CD-5: COMMUNITY LANDMARKS AND HISTORIC BUILDINGS
 The City of Santa Cruz, California



LEGEND	
	SCHOOLS
	CHURCHES
	LANDMARKS
	HISTORIC BUILDINGS
1	CROSS ROADS
2	ESTATE
3	LAKE
4	PARK
5	LIGHT HOUSE FIELD
6	LIGHTHOUSE POINT
7	NEARY LAGOON
8	TOWN CLOCK
9	GOVERNMENT CENTER
10	DREAM INN
11	WHAIRP
12	BOARDWALK
13	ROLLER COASTER
14	SUNSHINE VILLA
15	WIDE STREET
16	CANNERY
17	FREDBRICK ST. PARK
18	BEACIL ACCESS
19	HARBOR
20	JOHN FRANKS PARK
21	HEALTH FACILITY
22	CIVIC CENTER
23	CITY HALL
24	WIGGLYS
25	CANYON
26	ADOBE
27	U.C.S.C.
28	OCTAGON MUSEUM
29	BRANCFORTE ADOBE
30	HOLLY CROSS CHURCH
31	THE CIRCLES

Source: City Santa Cruz
 Planning Department, 1992

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 REVISED 03/1992

Exhibit 21
 A-3-5TC 01-00
 Pg 1 of 1

REMY, THOMAS and MOOSE, LLP
ATTORNEYS AT LAW

MICHAEL H. REMY
TINA A. THOMAS
JAMES G. MOOSE
WHITMAN F. MANLEY
ANDREA A. MATARAZZO
ERIK K. SPIESS
RENEE F. HAWKINS
OSHA R. MESERVE

455 CAPITOL MALL, SUITE 210
SACRAMENTO, CALIFORNIA 95814

GEORGINNA E. FOONDOS
LAND USE ANALYST

Telephone: (916) 443-2745
Facsimile: (916) 443-9017
E-mail: randt@rwo.com
jmoose@randm.com
http://www.randm.com

BRIAN J. PLANT
OF COUNSEL

MEMORANDUM

TO: Nancy Concepcion Boyle
FROM: Jim Moose JM
DATE: September 4, 2000
RE: Staff Report for Oblates of St. Joseph Project

On August 11, 2000, shortly after I commenced a three-week vacation, you sent me a memorandum with three "requests" associated with the proposed Oblates of St. Joseph project. I understand that, during my absence, either you or Juliana Rebagliati spoke with my partner Whit Manley, who was able to provide the needed help with respect to two of the three requests. This memorandum addresses the remaining one: the need for language, for insertion in your staff report, explaining why neither the City nor the applicant is guilty of "segmentation" (or "piecemealing"). Set forth below is language that I hope you will be able to drop right into your staff report.

I leave it to you and your colleagues to decide whether to put a heading at the beginning of the discussion, and whether to break the discussion into separate components.

I have included headings that you might want to use. If they don't fit your format, feel free

Exhibit 23
A-3-STC-01-045
Pg 1 of 15

September 4, 2000
Page 2

to delete them. Alternatively, feel free to assign them numbers or letters if need be, so that they will fit with whatever format you're using.

You should also feel free to delete any language I have included defining certain acronyms or terms (e.g., CEQA, CEQA Guidelines, and NEPA) as though they're appearing in the Staff Report for the first time. If an earlier part of the Staff Report has introduced a particular acronym or term, there would be no need to define it again in my section.

In quoting the Initial Study near the beginning of the section, I am relying on the only one I've seen, which follows a negative declaration form sheet dated February 14, 2000. If a new version of the Initial Study exists, you might want to check to see whether the quotations I use are still accurate; and you might need to modify my description of the document. I just call it "Initial Study." Perhaps it should be "Revised Initial Study" or "Second Revised Initial Study." I don't know.

Finally, you might want to add some details to my rather skeletal discussion of the proposed "Future Hall." I have mentioned, as you'll see, that it is identified on a site plan, but I haven't discussed the details, which I don't really know. You may want to add some more detail. The logical place to do so would probably be in or after the second paragraph below. It may be, however, that descriptions elsewhere in your Staff Report will supply the missing detail.

* * * *

EXHIBIT NO. 23
APPLICATION NO.
A-3-STC-01-045
PG 2 of 15 California Coastal Commission

September 4, 2000
Page 3

Key CEQA Issues Associated With Project

Introduction

City Staff believes that nothing in the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") requires the City, at present, to consider any potential future expanded uses within the overall Church complex beyond those set forth in the pending application. In particular, the City is not required to treat a potential "Future Hall" either as an integral part of the pending project or as a "probable future project" for purposes of addressing "cumulative impacts." These issues merit extended discussion because a number of the people commenting on the proposed negative declaration have expressed contrary views.

These issues have arisen because, as the Initial Study notes, "the project site plan identifies an expanded church building labeled 'Future Hall'." The Initial Study then goes on to state that "Church representatives have indicated that they are planning for this use in the future." Based at least in part on these statements, a number of persons who commented on the proposed negative declaration suggest that CEQA requires the City to address the environmental effects of a "Future Hall" prior to approving the limited project – a parking lot expansion and modification – reflected in the pending application.

Staff respectfully disagrees. Although the Church may, at present, intend at some point to file an application to gain approval of a "Future Hall," no such application is

September 4, 2000
Page 4

pending at present, and may never be filed. In discussions with staff, the applicant has identified a number of contingencies that could affect its decision whether to seek approval for a "hall." If and when an application for a "hall" is filed, the application would trigger its own environmental review process. This prospect is sufficient to ensure that the City will fully consider the impacts of such a project before it can be approved.

Nor would the construction of a "Future Hall" be a necessary outgrowth or consequence of approval of the pending project. The proposed parking lot expansion and modification will, if approved, permit the Church to add pews to its existing building in order to allow for greater attendance at religious services. Thus, the new parking spaces will serve a discernable purpose even if the Church never pursues an application for an additional "hall." To use legal terminology, the current project would have "independent utility" regardless of whether a new hall is approved and built in the future.

For these reasons, which are explained in more detail below, CEQA does not require the City to treat any such potential future use as reasonably foreseeable. If Staff presented City decisionmakers with environmental impact analysis that assumed the eventual approval and construction of a future hall, there would be a danger that the more limited impacts of the pending project itself might be obscured. A "hall" would be a separate future project that can be considered, if need be, on its own merits.

EXHIBIT NO. 23
APPLICATION NO.
A-3-STC-01-04
PG 4 of 15 California Coastal Commission

September 4, 2000

Page 5

The matter at hand implicates two related but distinct legal concepts that frequently arise as agencies consider their CEQA obligations for proposed projects. The first is the general prohibition against "piecemealing" projects. The second is the general concept of "cumulative impacts." Piecemealing disputes typically focus on how narrowly or broadly to define the "project" being studied in an EIR or negative declaration. Cumulative impact disputes, in contrast, focus on how broadly to define the universe of "reasonably foreseeable probable future projects" to be accounted for in predicting how a proposed project's incremental impacts interrelate with, or compound, those of *other* projects not yet approved or implemented. These two legal concepts are discussed at length below.

Piecemealing

"Piecemealing" is a shorthand expression for legal principles first expressed in generalities, but more recently made the subject of precise legal tests. In 1975, the California Supreme Court declared generally that CEQA mandates "that environmental considerations do not become submerged by chopping a large project into many little ones - each with minimal potential impact on the environment - which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 283-284, citing CEQA Guidelines, § 15165.)¹ Many later court decisions have either quoted

¹ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000. They have been renumbered since 1975. The *Bozung* decision actually cited former section 15069, which in 1986 became section 15165.

this language directly, or have expressed the same sentiment in slightly different language. (See *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 165 (quotes *Bozung*); *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 243 (same); *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1333 (same); and *McQueen v. Board of Directors of the Midpeninsula Regional Open Space District* (1988) 202 Cal.App.3d 1136, 114 (“[a] narrow view of a project could result in the fallacy of division . . . , that is, overlooking its cumulative impact by separately focusing on isolated parts of the whole”).)

The best means of understanding the practical scope and meaning of the broad statement made in *Bozung* is to analyze the facts of that case and of the later cases that have quoted it. *Bozung* itself held that an annexation proposal and the development it would facilitate should be considered together. (13 Cal.3d at pp. 278-281.) *Citizens Association* invalidated the use of two separate negative declarations for a single shopping center project requiring both legislative and quasi-adjudicatory approvals. (172 Cal.App.3d at pp. 165-167.) *City of Carmel-by-the-Sea* held that a rezone application should not be processed without consideration of the kinds of development that the new zoning would permit. (183 Cal.App.3d at pp. 244-247.) *City of Antioch* invalidated a negative declaration for a road and sewer project because the analysis ignored the development that such infrastructure could facilitate. (187 Cal.App.3d at pp. 1333-1336.) And *McQueen* held that, in purchasing

Exhibit 23
A-3-STC-010
pp 6 of 15

September 4, 2000
Page 7

contaminated open space land, an open space district could not ignore the environmental effects associated with inheriting a contamination problem. (202 Cal.App.3d at pp. 1146-1147.)

These cases give rise to the following general conclusions. First, where a single development project requires multiple agency approvals, all such approvals should be considered within a single environmental document. Second, where a "planning level" decision such as an annexation or rezone will indirectly permit land uses never previously permitted in an area, the environmental document for the planning decision should address those uses.² Third, the decision to put infrastructure in or on the ground should be accompanied by a generalized analysis of the growth that is likely to follow. And fourth, environmental review for land purchases should address foreseeable environmental problems following from such purchases.

Building on these general principles, in 1988 the California Supreme Court developed a precise legal test for a key subset of the universe of "piecemealing" issues: the question of when an environmental document must define its "project" to include either future phases of an initially approved land use or other foreseeable consequences of that use.

²/ Another case supporting this proposition is *Christward Ministry v. Superior Court* ("*Christward I*") (1986) 184 Cal.App.3d 180, 191 (the environmental review for a general plan amendment tending to concentrate solid waste facilities in a certain area should examine the effects associated with the construction of such facilities).

Though this legal test is framed in terms of EIR requirements, its logic applies with equal force to negative declarations.

In *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 396, the Court declared that “an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable *consequence* of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.” (Emphasis added.)

In the context at hand, the most significant aspect of this formulation is the element of *causation* implicit in it. The Court held that a project EIR need only treat later land use activities as part of the “project” at issue where such activities are in some sense *caused* by the initial project approval. This legal test, which should also apply to negative declarations, can be easily squared with the cases described above if causation in this context is understood to suggest a reasonable probability, rather than an absolute certainty, that environmental impacts will follow from certain kinds of decisions. Thus, it is reasonably probable, if not absolutely certain, that annexations and rezones will ultimately result in certain kinds of development, just as it is reasonably probable that the construction of roads and sewers will lead ultimately to new development taking advantage of that infrastructure.³

³/ There are several Court of Appeal decisions consistent with the reasoning of *Laurel Heights*, including some decided before 1988. See, e.g., *Los Angeles Unified School Dist. v. City*

September 4, 2000

Page 9

As noted earlier, Staff believes that City approval of parking lot modifications would in no way *cause*, or even render reasonably foreseeable, any future approval of a proposed "hall" on the Church property. A decision to approve the parking lot changes would in no way bind the City to approve a future hall, or create economic or political momentum that would reasonably permit the applicant to argue that the approval of one constituted some kind of express or implied commitment to subsequently approve the other. A hall is a separate future project that must be judged on its own merits, in light of its own impacts.

Stated another way, the parking lot project, if approved, would have "independent utility" even if a hall is never pursued by the applicant or approved by the City. This fact

of Los Angeles (1997) 58 Cal.App.4th 1019, 1028 ("an environmental impact issue is ripe for consideration when it is 'a reasonably foreseeable consequence' of the [specific] plan [at issue] and the agency preparing the plan has 'sufficient reliable data to permit preparation of a meaningful and accurate report on the impact' of the factor in question"); *Lake County Energy Council v. County of Lake* (1977) 70 Cal.App.3d 851, 854-857 (upholds EIR for an exploratory geothermal drilling project; the respondent county properly declined to treat potential future commercial drilling operations as part of "project"; "[a]t this point, no one knows whether the exploratory wells will uncover a reservoir of geothermal energy, whether the energy resource will consist of steam or hot water, whether that resource will prove of sufficient quantity, quality or temperature pressure so as to justify development, or how extensive such development will be"); and *Big Rock Mesas Property Owners Association v. Board of Supervisors* (1977) 73 Cal.App.3d 218, 228 (upholds an EIR for a residential development project focusing primarily on the first phase of proposed development; "Phase II development is considered hypothetical since a formal development request has not been received and there is no firm commitment to develop this area"; "[p]rior to development of Phase II, additional approvals and more detailed environmental documentation would be required").

Exhibit 23
A-3-STC-01-045
Pg 9 of 15

September 4, 2000
Page 10

provides another reason why CEQA does not require the City to treat a "hall" as part of the project now pending.

The concept of independent utility comes from another important case on the subject of piecemealing: *Del Mar Terrace Conservancy, Inc. v. City Council of the City of San Diego* (1992) 10 Cal.App.4th 712, 732-733. There, the Court of Appeal dealt with an issue different from the one addressed in *Laurel Heights*: namely, when it is permissible to focus an environmental document, for project description purposes, solely on one small piece of what is arguably a larger project. In *Del Mar Terrace*, the court upheld an EIR that treated as the "project" at issue one freeway segment within a long-term, multi-segment regional plan to expand the freeway system throughout San Diego County. Because the one segment would serve a viable purpose even if the later segments were never built, the court found no problem with the agency's focus on that limited project. In reaching its holding, the court embraced the "independent utility" concept developed in federal case law interpreting the National Environmental Policy Act (42 U.S.C. § 4321 et seq.) ("NEPA"), which is analogous to CEQA in many ways. That federal case law deals with claims regarding the alleged "segmentation" of highway projects (a concept akin to the California notion of "piecemealing").

In short, *Del Mar Terrace* provides that an EIR (and, by analogy, a negative declaration) can focus, for project description purposes, solely on one project that is arguably

September 4, 2000
Page 11

part of a larger scheme where that project has "independent utility" that justifies its separate processing and approval. Thus, even if the City of Santa Cruz assumes for the sake of argument that the proposed parking lot expansion and modification is part of a larger Church scheme in which a future hall is currently a contemplated component, that fact would not require the City to define the "project" at issue now as including such a proposed hall.

In summary, the CEQA case law on "piecemealing" yields the following principles. In considering whether to treat a limited proposed project as merely a de facto part of a larger project, an agency must ask itself whether the potential later actions or activities at issue would be "reasonably foreseeable *consequences*" of the limited project. If they would not, an environmental document need not consider them, unless they happen to be "probable future projects" for purposes of cumulative impact analysis (discussed below). Furthermore, where a limited project has "independent utility" even though it is arguably a part of a larger scheme, the agency can limit its "project description" to that limited project.

Cumulative Impacts

As noted earlier, the CEQA concept of "cumulative impacts" is conceptually distinct from the related concept of "piecemealing." Piecemealing, as just explained, deals with future actions that would be *caused* in some sense by an initial project approval. Cumulative impact analysis, in contrast, attempts to identify "probable future projects" that,

September 4, 2000
Page 12

though not outgrowths of the project at hand, will likely cause impacts that exacerbate those of the project for which a negative declaration or EIR is being prepared.

The CEQA Guidelines define “[c]umulative impacts” as “two or more individual effects which, when considered together, are considerable or . . . compound or increase other environmental impacts.” (CEQA Guidelines, § 15355.) Stated another way, “a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the [environmental document] together with other projects causing related impacts.” (CEQA Guidelines, § 15130, subd. (a)(1).)

“The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” (CEQA Guidelines, § 15355, subd. (b).)

As these well-known statements of the law make clear, the “reasonably foreseeable probable future projects” to be considered in a cumulative impact analysis typically are not components of, or outgrowths from, the individual project studied in an environmental document. Rather, these future projects are typically separate and distinct projects – usually with different applicants – that may cause *impacts* similar to, or related to, those of the individual project being processed.

EXHIBIT NO. 23
APPLICATION NO.
A-3-STC-01-045
Pr 12 of 15 California Coastal Commission

September 4, 2000

Page 13

The leading case regarding how to define "reasonably foreseeable probable future projects" is *San Franciscans for Reasonable Growth v. City and County San Francisco* (1984) 151 Cal.App.3d 61, 72-79. There, the Court of Appeal held that, where an agency is using the "list method" of assessing cumulative impacts,⁴ this category includes pending proposed projects subject to "environmental review," even if such projects have not yet been approved or denied. The approval of such proposed projects is "reasonably foreseeable" because of the extensive investments applicants must make to bring their proposals so far into the planning pipeline.

The court reached these conclusions in finding inadequate four related EIRs analyzing the effects of constructing proposed high-rise office buildings in downtown San Francisco. The documents had failed to analyze adequately the cumulative effects of several other proposals for office buildings for which the respondent's planning department had already received applications. The court found it

"illogical that an EIR should carefully evaluate the direct impacts of one project which is 'under environmental review,' but completely ignore the cumulative impacts of that project's siblings in the same category. Nothing makes the EIR's subject project more 'probable' or 'foreseeable' than any of the other projects under review, just as nothing makes them less so."

(*Id.* at p. 75.)

⁴/ The "list method" of assessing cumulative impacts is not the only permissible methodology. Agencies may use instead the so-called "summary of projections" method. (Compare CEQA Guidelines, § 15130, subd. (b)(1)(A) with subd. (b)(1)(B).)

The court added that "the fact that other projects being reviewed are as close to being built as the subject project makes it reasonable to consider them in the cumulative analyses." (*Ibid.*) Before reaching these conclusions, the court had explained that

"Experience and common sense indicate that projects which are under review are 'reasonably foreseeable probable future projects.' A significant investment of time, money and technical planning in the construction of a high-rise office building has already occurred before a project is even submitted . . . for initial review. Once environmental review commences, planning and investment in the project inevitably increase as the building is changed and modified in order to minimize concern over environmental impacts."

(*Ibid.*)

Notably, the holding of *San Franciscans for Reasonable Growth* is reflected in 1998 amendments to CEQA Guidelines section 15130, subdivision (b)(1)(B)(2):

"'Probable future projects' may be limited to those *projects requiring an agency approval for an application which has been received* at the time the notice of preparation is released, unless abandoned by the applicant; projects included in an adopted capital improvements program, general plan, regional transportation plan, or other similar plan; projects included in a summary of projections of projects (or development areas designated) in a general plan or a similar plan; projects anticipated as later phase of a previously approved project (e.g. a subdivision); or those public agency projects for which money has been budgeted."

(Emphasis added.)

This language provides clear authority for limiting the universe of "reasonably foreseeable probable future projects" to projects for which formal applications are currently pending. Presumably, such future projects can, and in some instances should, be considered together with projects from other categories described above (e.g., those in an "adopted capital improvements program").

EXHIBIT NO. 23
APPLICATION NO.
A-3-STC-01-045
PG 14 of 15 California Coastal Commission

In the matter at hand, the Church has not filed an application for a "hall," and may never do so. It cannot be said, then, that the Church has made the "significant investment of time, money, and technical planning" necessary for the preparation of such an application. Rather, even though the Church may currently anticipate pursuing such an application eventually, its actual plan to do so remains speculative. An environmental document "need not contain discussion of specific future action 'that is merely contemplated[.]'" (*Del Mar Terrace, supra*, 10 Cal.App.4th at p. 738, quoting *Laurel Heights.*)⁵

As noted earlier, the City has full control over whether the Church will eventually get permission to build a new hall in the future. The application for such a project would trigger its own CEQA review, which would have to address the "baseline" environment as it exists at that time,⁶ and which would have to consider, in addition, any cumulative impacts associated with "probable future projects" that are "reasonably foreseeable" at that time.

⁵/ See also *Lake County Energy Council, supra*, 70 Cal.App.3d at pp. 854-855 ("where future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences"); see also Pub. Resources Code, § 21080, subd. (e)(2) ("speculation" is expressly excluded from definition of "substantial evidence").

⁶/ See CEQA Guidelines, § 15125, subd. (a).

EXHIBIT NO. 23
APPLICATION NO.
A-3-STC-01-045
PG 15 of 15 California Coastal Commission

HIGGINS ASSOCIATES
CIVIL & TRAFFIC ENGINEERS

1335 First Street, Suite A, Gilroy, CA 95020 • 408 848-3122 • fax 408 848-2202 • e-mail info@kbhiggins.com

June 21, 2000

Father Philip Massetti
Oblates of St. Joseph
544 West Cliff Drive
Santa Cruz, CA 95060

Re: Oblates of St. Joseph Parking Lot Expansion Cumulative Analysis, Santa Cruz, California

Dear Father Massetti,

This letter documents an analysis of the potential traffic and parking related impacts due to the internal expansion of the Oblates of St. Joseph Church and its related parking expansion project with regards to the Gateway School activities. The project is located at 544 West Cliff Drive, north of Pelton Avenue in Santa Cruz, California. The project involves the expansion of the parking lot to accommodate future extra demand as documented in our July 29, 1999 report, included as Appendix A. The number of parking stalls on the site would increase from 93 existing spaces to 147 total spaces. The project site is shown in relation to the local road network on Exhibit 1. Exhibit 2 presents the proposed parking lot expansion and configuration.

Existing Traffic Level of Service

In the July 29, 1999 report, level of service was analyzed at the West Cliff/Pelton intersection for a Sunday, the time of greatest Church activity. Sunday traffic on West Cliff Drive is also relatively higher compared to weekday traffic, as the tourist and surf/beach activities are major regional attractions. With future added traffic, the intersection would operate at a very satisfactory level of service (LOS) B on Sundays.

The LOS during weekday peak hours are not significantly different on West Cliff Drive. During the AM peak hour, the only vehicle activity on site is the drop-off of Gateway School students, which generates approximately 132 trips during the peak hour between 8 and 9 AM (see attached February 10, 2000 letter to Gateway School documenting existing traffic conditions, included as Appendix B). Afternoon school activities generate approximately 100 trips at the church parking lot. An additional count of morning traffic at the West Cliff/Pelton Eucalyptus/Pelton and Lighthouse/Pelton intersections was performed on Tuesday, April 25, 2000. The level of service at these two intersections is presently LOS A, as summarized on Exhibit 3. City of Santa Cruz counts on Pelton dating back to 1991 show hourly volumes in the order of 120 vehicles an hour during the 9 AM to 10 AM peak hour between West Cliff and Eucalyptus. These volumes did not include Gateway School traffic and are comparable to the 8:00 to 9:00 volumes collected on April 25, 2000 (151 vehicles an hour) which do include the school traffic.

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EXHIBIT NO. 24
APPLICATION NO.
A-3-STC-01-04
PP-123 California Coastal Commission

Father Massetti

June 21, 2000

Page 2

Parking Demand

Exhibit 4 presents a count of the number of parked vehicles on site during various hours of a weekday. Exhibit 5 presents the various on-site activities held at the church. The only regular weekday activity would be the Holy Mass, which is celebrated from 11:00 AM to 12:00 PM. All other weekday activities occur on a punctual basis, either weekly, monthly or even less often. On a typical day, with only Holy Mass service, the number of vehicles parked on site peaks at approximately 57 cars. Of these, approximately half are parked cars from the Gateway School staff. The vehicle demand for the Holy Mass may then be estimated to be approximately 30 vehicles. When correlated to an average number of 45 attendees (40 to 50 attendees according to the Church), the parking generation rate may be estimated to 0.67 cars per attendee. A count of parking attendance on March 8, 2000, Ash Wednesday, showed that the parking lot was full. Accounts of attendees parking off-site reflects the limit in present supply of parking spaces. Ash Wednesday would qualify as a Religious Feast Day, with an average attendance of 75 persons. The 60 vehicles generated on Ash Wednesday would yield a parking rate of 0.8 vehicles per attendee. Given that regular Mass attendees would also be present, and that an unknown amount of vehicles were parked off-site, the rate of 0.67 cars per attendee seems to also be valid for special occasions.

The enclosed July 29, 1999 letter discusses the week-end parking demand situation. In summary, the extra pews would create an extra demand for parking, which would worsen the existing parking deficiency for Sunday service. The extra parking spaces will have two added advantages to non-Church related activities:

- 1 Relief of on street parking along Pelton, Eucalyptus and Lighthouse. Given that churchgoers will not have to park along Pelton Avenue or even as far as Eucalyptus when the existing parking lot is full, these on-street spaces will be used by the Sunday surf or tourist crowd, and therefore will not intrude as far into the neighborhood from West Cliff Drive as if there were no extra Church parking spaces.
- 2 Gateway School drop-off/pickup of kindergarten to grade 3, which occurs along Eucalyptus, could also occur at the parking lot extension, as the distance to the school will be reduced and this drop-off/pickup zone might become more attractive to some parents. This would also reduce the traffic intrusion into the neighborhood from West Cliff Drive.

Only a few Church activities create vehicle demand overlaps with the school drop-off and pick-up. The rare AM conflict would result from Pilgrimage or Days of Retreat activities and occasional PM overlap would occur for Art Museum/Bookstore and/or Processions which would last into the middle afternoon. Ash Wednesday celebrations did not start until after 10:00 AM and were over by 1:00 PM, thus did not interfere with the school's traffic, which clearly defines the peak hours of traffic off of Pelton Avenue.

EXHIBIT 24
A-3-STC-01-045
p. 11. PG 2 of 3

Future Traffic Level of Service

The street PM peak hour would not be more congested than the AM peak hour, or even the afternoon peak school hour. This is because of the two major traffic generators, local residents commuting to work and the Gateway school traffic, the AM peak hour is the only time the two are on the road at the same time.

Church activities consist of two different uses, masses and celebrations in the main sanctuary, and other special or scheduled used in the multi-purpose hall. Sanctuary uses are non existent before 9:00 AM, while multi-purpose hall uses are very infrequent. During the mid-afternoon and PM peak hour, sanctuary uses are minimal (funerals, baptisms, weddings, etc.), whereas multi-purpose hall uses are occasional. The increase in pews for sanctuary purposes will not preclude the use of the multi-purpose hall as the new seating will be removable and temporary, until another multi-purpose hall is built, which could then allow permanent new seating in the sanctuary.

When the Church activities are super-imposed on the peak hours, the sanctuary does not usually coincide with either of the three peak hours (AM, mid-afternoon or PM), see Exhibit 7, whereas the multi-purpose hall activities could have some overlap with afternoon traffic. Furthermore, most of the Church traffic is oriented to and from West Cliff Drive, especially during special events when patrons who do not know the area very well will tend to stay on the main streets. As a worst case scenario, activities "conflicting" with the AM peak hour, which would use the multi-purpose hall, were analyzed and would generate approximately 50 trips. This use would consist of special retreat or conference events and the mostly out-of town patrons would be arriving in the area from West Cliff Drive, and would not even reach the West Cliff/Pelton intersection. As a worst case scenario, it was assumed 10 of these vehicles could get lost and drive through the residential area to arrive via Lighthouse and Pelton. Exhibit 3 presents the existing plus School traffic exiting on Pelton, with the extra Church traffic at the Lighthouse and Eucalyptus intersections.

Intersection levels of service will not change with the Church activities in the morning, as all intersections in the vicinity of the Church have ample capacity, as illustrated on Exhibit 3.

Parking Lot Options

Future demand for parking will be increased as the number of pews will be doubled (as documented in the July 29 letter, and repeated in the next paragraph) while other occasional activities will also increase. As much as 200 cars would necessitate parking for extraordinary events such as barbecues/mass/processions.

The extra spaces will also allow the Gateway School vehicles that are parking and/or dropping off/picking up students in the church lot to be closer to the school, consequently further from the

Exhibit 3
Pg. A-3-STC-01
045
P8 3 of 3

To Chairperson Wan and Coastal Commissioners

Re: Oblates Appeal: A-3-01-045

I am writing in regard to the proposed parking lot on the Oblates property adjacent to the Butterfly habitat at the State Park at Light House Field. This ESHA is to be protected under the coastal act and the laws of the state and country. The use of impervious surfaces are to be minimized and post development runoff is not to exceed predevelopment runoff. This Project next to the world class surfing area of Steamers Lane in the Monterey Bay Marine Sanctuary points to the need to be very sensitive to the upholding of these rules to protect our environment.

The spiritual importance of the natural environment is an innate experience for the human. The Oblates Shrine to St. Joseph is a Pilgrimage Sight where people come to meditate, pray and contemplate in a natural setting. The Shrine is used as a place of worship where people come together to celebrate the Divine expressed through their belief in Christ. Christ spoke of the birds of the air and the lilies of the field. The Bible begins in the Garden of Eden and Christ rising from the dead come at Easter when life celebrates its emergence from the cocoon of winter. St Frances is the archetypal celebrant of the divine expressed in the natural world. As Joseph walked with Mary to Bethlehem and Christ walked on the water it might suggest that walking to a shrine is in keeping with pilgrimage. For those coming to join in celebration of the Mass, car pooling can bring people together soon and allow them to share together some what longer. As Christ overthrew the money changers at the Temple and the biblical admonition that man cannot serve two masters, God and money, I doubt that the Oblates want to expand there parking to support there business of leasing to the preparatory school or want to expand their Chapel to increase donations. If the number of people coming to celebrate the mass is increasing, it may indicate a need to expand the Praish Church or perhaps build another place of worship on the Westside of Santa Cruz, out of ESHA.

As the loss of habitat is increasing with the ballooning population growth in this area. It points out the need to protect not only the over wintering tree, as these are known to change over the season and years, but to look at how the incremental loss of habitat leads to the plummet in the population of Monarch Butterfly, as seen in the Eastern migration in Mexico.

With each loss of habitat the remaining habitats need extra vigilance. The remaining sights at Moran lake, Rispan Mansion, Porter Gulch Next to Cabrillo College and sights that might be used as the primer sights are degraded, need to be respected and preserved

These butterfly are natures example of transformation that Christianity is based on and if any organization should help protect them, the Oblates could. If they don't then the Coastal Commission must protect them for those who find the divine expressed through nature.

I pray that you will help protect these miracles of nature.

Thank you

Charles Paulden

415 Palisades Santa Cruz Ca 95062

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EXHIBIT NO. 25A
APPLICATION NO.
A-3-STC-01-045
pg 1 of 1 California Coastal Commission

March 30, 2001

Dear Sir,

We are residents on the 1122 West Cliff Dr, S.C. - 95060 - 426 - 7944.

We are appealing the decision of the city council of Santa Cruz to allow the expansion on the church property at Light House Point.

The residents of the Pelton Ave. area objected to having the road used for access for the Church activities planned. All the traffic would go on West Cliff Dr. which has too much on it as is. There is no control as to traffic by trucks, tour buses, etc. & the community must share some of the responsibility of what flows on our arteries. If no one else is willing to accept it, then we must reject the developments to properties that would impact this wonderful West Cliff Dr. It is a linear park loved by everyone.


RECEIVED

APR 02 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Sincerely,

Mr. & Mrs. Raymond Douglas

EXHIBIT NO. 25B
APPLICATION NO.
A-3-STC-01-045
07 lot 1
 California Coastal Commission

1016 Pacific Grove Lane, Apt. 2
Pacific Grove, CA 93950

June 24, 2001

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JUN 26 2001

Coastal Commission
925 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Commissioners:

We recently read in vol. 40, #3 of THE VENTANA about the possible threat to the Monarch butterfly habitat in Santa Cruz County. According to the article the proposed extension of the parking lot by the Oblates of St. Joseph is located adjacent to a significant Monarch butterfly overwintering area. Many Monarch areas have been encroached upon over the years. It is important that we refrain from doing more damage. These insects are so lovely and so many people derive great pleasure from their awesome migration. Please don't allow further destruction of their sanctuaries. Thank you.

Sincerely,

Margaret Rich Calvin Rich

Margaret Rich
(831)643-2521

Calvin Rich

EXHIBIT NO. 25C
APPLICATION NO.
A-3-STC-01-045
PR 10/1 California Coastal Commission

June 23, 2001

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

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JUN 26 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Sirs:

This note is in regards to the Oblates parking lot project.

We are requesting that you uphold the appeal (A-3-01-045) and deny the project until a regional evaluation of Monarch butterfly habitat in Santa Cruz County has been completed. Let's do the evaluation before the project is put into place.


Thank you in advance.

Sincerely

Denyse Frischmuth
Robert W. Frischmuth

Denyse and Robert Frischmuth

283 Grove Acre Avenue
Pacific Grove, CA 93950

EXHIBIT NO. 25D
APPLICATION NO.
A-3-STC-01045
 DC Lohi California Coastal Commission

Susan Craig

From: Renee Flower [renee@reneeflower.com]
Sent: Friday, June 08, 2001 1:28 PM
Subject: Oblates parking lot appeal comments

Susan,

I'm certain that you've already noticed these things, and that your comb has much finer teeth than mine, but anyway...

Both the City's conservation regulations policy 24.14.080 (2), and LCP Map EQ-9, use the word *precise* when describing habitat areas and boundaries. Elizabeth Bell's letter of November 30, 1999, does not seem to present any precise areas or boundaries, she only identifies particular trees on the site, and mentions some flowering plants on the site.

I do not have the knowledge to determine if the area in question is ESHA or ESHA buffer, but Ms. Bell states that the project has two potential impacts on the adjacent habitat and that those impacts can be mitigated. She does not indicate the precise boundary of the adjacent habitat, but she does mention the Grove at Lighthouse Field.

I assume that there is no way to mitigate for impacts upon actual ESHA -- it is fragile and irreplaceable -- so is the Oblates project site then considered to be a buffer area if those impacts can be mitigated? Do buffer areas require precise boundaries? At this point I become even more confused, and wonder how the adjacent roads, houses, and vacant lots would be classified if the Oblates project site is identified as buffer.

"24.14.080 (2). Precise boundaries of designated areas. The precise boundary of areas identified in subsection (1), above shall be determined on a case by case basis by a biologist..."

LCP MAP EQ-9 "...further study would be needed to determine more precise habitat areas."

Also, the Lighthouse Field State Beach Management Plan does not mention Monarchs specifically, but only states in LCP LF 1.5 that "Natural wildlife populations shall be protected and perpetuated." Since this management plan is not before you at this time, that policy is probably not applicable to the Oblates issue...

That's all I have to say, any more and I'll get twisted into a pretzel...

--Renee

"Always remember that you are absolutely unique.
Just like everybody else."
--MARGARET MEAD

Renée Flower
1747 King Street
Santa Cruz, CA
95060
831.427.2202

EXHIBIT NO. 25E
APPLICATION NO.
A-3-STC-01-015
PR 1061 California Coastal Commission

