

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION/DeNOVO FINDINGS

Local government:Monterey County

Local Decision:Resolution 02-212 (PLN000239) Approved with conditions May 28, 2002 by the Monterey County Board of Supervisors (See Exhibit E).

Appeal NumberA-3-MCO-02-058

Applicant.....Murray & Carol Smith

Appellants:.....Commissioners Sara Wan and John Woolley; Ken & Sharene Virnig, C/O Lombardo & Gilles, Attn: Todd Bessire; Janice M. O'Brien; Robert Berglass; Charles T. Olvis, and League of Women Voters of the Monterey Peninsula.

Project location.....3105 Seventeen Mile Drive, Pebble Beach (APN 008-012-007) (See Exhibits A, B, C) Del Monte Forest (Monterey County).

Project descriptionDemolition of existing, one-story residence and construction of a new two-story single family residence with attached three-car garage, new driveway, addition and replacement of perimeter grape stake fence, new 6 ft. entry gate with stone columns and associated grading.

File documents.....County coastal permit file PLN000239; Monterey County Board of Supervisors Resolution # 02-212; Monterey County Local Coastal Program, including *Del Monte Forest Land Use Plan* and *Monterey County Coastal Implementation Plan*.

Staff recommendation ...Project raises a Substantial Issue; denial of *de novo* permit application.

Summary of Staff Recommendation:

The project is located in the Del Monte Forest planning area of Monterey County (project vicinity and site location maps are shown in Exhibits A and B, respectively). The applicant proposes to demolish an existing 2,250 square foot, one-story single family home and to construct a 4,802 sf, two-story single family home, a 900 sf attached garage, a new driveway, a new 6 ft. entry gate, and to repair and replace a 4 to 6 ft. grape stake fence. The project proposes to increase site coverage from the existing 2,850 square



California Coastal Commission
December 12, 2002 Meeting in San Francisco

Staff: SAM Approved by: *DSL*

feet (6.8% coverage) to approximately 10,678 square feet (25.4% coverage) on a lot that is entirely environmentally sensitive habitat in the form of remnant sand dunes.

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, and that the coastal development permit be **denied** due to the project's inconsistencies with the LCP, described herein.

The LCP requires protection of environmentally sensitive habitat areas (ESHA), among other ways, by prohibiting non-resource dependent development in ESHA, limiting the amount of vegetation and land that can be disturbed, and requiring deed restrictions or permanent conservation easements over ESHA. The project is inconsistent with these requirements because it allows non-resource dependent residential development in ESHA; because it allows for a larger house than currently occupies the site, increasing the amount of land disturbance and vegetation removal; and because it does not protect all ESHA on site with a conservation easement or deed restriction.

The LCP requires protection of visual resources by requiring new development to minimize alteration to natural landforms and to be subordinate to and harmonize with the natural setting. The LCP also protects visual resources by requiring structures to be sited and designed to blend in with the natural setting, and for screening of new development in visually sensitive areas. This project is inconsistent with these requirements because the proposed house is greater in height and thus more visually intrusive than the existing house, and its larger mass requires a greater amount of landform alteration to accommodate the development. The project is also inconsistent because no screening of the structure from public view with native vegetation is provided.

LCP Policy requires the preservation of historical cultural resources. The house proposed for demolition may be an historic structure that provides an example of early Wrightian modern architecture, and is the only home of this type in the Pebble Beach area. The County's approval is inconsistent with Policy 63 because it only considered archaeological resources and did not evaluate cultural resource issues such as historical architecture. Depending on the results of such evaluation, alternatives that would preserve the architectural character of the existing residence may be needed.

Staff Report Contents

| | |
|--|---|
| Summary of Staff Recommendation: | 1 |
| I. Local Government Action | 4 |
| II. Summary of Appellants' Contentions | 4 |
| III. Standard of Review for Appeals | 4 |
| IV. Staff Recommendation on Substantial Issue | 5 |
| V. Staff Recommendation on De Novo Permit | 5 |
| VI. Recommended Findings and Declarations | 6 |
| A. Project Description and Location | 6 |
| B. Analysis of Appeal Issues | 6 |
| 1. Environmentally Sensitive Habitat Resources | 6 |



| | |
|---|----|
| A. Appellant's Contentions..... | 7 |
| B. Local Coastal Program Provisions..... | 7 |
| C. Local Government Action..... | 9 |
| D. Substantial Issue Analysis and Conclusion..... | 9 |
| 2. Visual Resources..... | 14 |
| A. Appellants' Contentions..... | 14 |
| B. Local Coastal Program Provisions..... | 15 |
| C. Local Government Action..... | 16 |
| D. Substantial Issue Analysis and Conclusion..... | 16 |
| 3. Need for Comprehensive Review | 17 |
| A. Appellants' Contentions..... | 17 |
| B. Local Coastal Program Provisions..... | 18 |
| C. Local Government Action..... | 18 |
| D. Substantial Issue Analysis and Conclusion..... | 18 |
| 4. Historic Resources | 18 |
| A. Appellants' Contentions..... | 18 |
| B. Local Coastal Program Provisions..... | 19 |
| C. Local Government Action..... | 19 |
| D. Substantial Issue Analysis and Conclusion..... | 19 |
| C. Substantial Issue Analysis- Conclusion | 20 |
| D. De Novo Coastal Permit Findings | 20 |
| E. California Environmental Quality Act (CEQA)..... | 22 |
| IV. Exhibits | |
| A. Regional Location Map | |
| B. Project Vicinity Map | |
| C. Assessor's Parcel Map | |
| D. Project Plans | |
| E. Final Local Action from Monterey County Board of Supervisors, Resolution #02-212 Findings and Conditions. | |
| F. Appellant's Contentions | |
| G. Ferreira Biology Reports (2000 and 2001) | |
| H. Tom Moss Biology Report for 3129 17-Mile Drive | |
| I. Jeff Norman's 09/18/01 Biologic Resources Letter | |
| J. 2001 Aerial Photo of Project Area. | |
| K. Kent Seavey's 08/24/01 Historic Resources Letter | |
| L. Site Photos | |
| M. Public Comment | |
| N. Applicant's Response | |



I. Local Government Action

The Monterey County Planning Commission originally approved a proposal for demolition and reconstruction of a single-family home on this site on October 31, 2002. The project was then appealed to the Monterey County Board of Supervisors, and a slightly redesigned project was approved on May 28, 2002 (Resolution #02-212). The proposed project involves the demolition of an existing one-story 2,250 square foot single-family dwelling, and the construction of a two-story, 4,802 sf single-family dwelling. The project also includes an attached, 900 sf three-car garage, a new driveway and motor court, repair and replacement of a 4 to 6 ft. grape stake fence and a new 6 ft. tall entry gate.

County approval of the project includes adoption of a Mitigated Negative Declaration and Mitigation Monitoring Plan, and approval of a Coastal Administrative Permit and Design Approval (PLN000239), subject to 37 special conditions of approval. All permit findings and conditions are included in Exhibit E.

II. Summary of Appellants' Contentions

The appellants have appealed the final action taken by the Monterey County Board of Supervisors (Resolution 02-212), asserting that approval of the project is inconsistent with policies of the Monterey County Local Coastal Plan in the following areas:

- a. Environmentally Sensitive Habitat Areas (ESHA)
- b. Visual Resources
- c. Need for Comprehensive Environmental Review
- d. Historic Resources

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

III. Standard of Review for Appeals

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



because Section 30603(a)(1) allows for appeals of any development located between the first public road and the sea.

IV. Staff Recommendation on Substantial Issue

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

MOTION: Staff recommends a “NO” vote on the following motion:

“I move that the Commission determine that Appeal No A-3-MCO-02-058 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a NO vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue 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:

The Commission hereby finds that Appeal No. A-3-MCO-02-058 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Staff Recommendation on De Novo Permit

The staff recommends that the Commission, after public hearing deny the coastal development permit.

MOTION: Staff recommends a “NO” vote on the following motion:

“I move that the Commission approve Coastal Development Permit No. A-3-MCO-02-058 for the development proposed by the applicant.”

STAFF RECOMMENDATION OF DENIAL:

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



RESOLUTION:

The Commission hereby **denies** a permit for the proposed development as conditioned below, on the grounds that the development does not conform to the policies of the Monterey County certified Local Coastal Program. Approval of the permit will not comply with the California Environmental Quality Act (CEQA) because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

VI. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description and Location

The project consists of demolition of the existing one-story house and replacement with a larger two-story single family home, an attached three-car garage, an expanded driveway and the addition of a motor court, repair and replacement of a 4 to 6 foot grape stake fence, and the addition of a 6-foot entry gate. The existing, one-story, 2,250 square foot house and 600 square feet of paving are currently located on the front of the lot, close to Seventeen Mile Drive, almost directly across from the Bird Rock pull out, in the Del Monte Forest planning area of unincorporated Monterey County (See Exhibit B). The proposed two-story house and attached garage will have a footprint of 5,469 square feet, and the new driveway and motor court will cover roughly 5,209 square feet of the lot, for a total of 10,678 square feet or 25.4% lot coverage.

Seventeen Mile Drive is a highly visited scenic drive prized for its expansive views of the Pacific Ocean, that also provides fairly low cost visitor recreational opportunities. Surrounding land uses adjacent to the project area include single-family residential units to the north, east and south sides of 17-Mile Drive, a 20-acre dune restoration area located just to the north of the site, and open ocean to the west. The existing homes in this area consist of primarily one-story homes and some two-story homes.

The Spyglass Hill Golf Course is located slightly inland of the site, and the Cypress Point Golf Links is located roughly 2,000 feet to the south. Physically, the area is generally comprised of remnant sand dunes, which change gradually into Monterey pine forest (See Exhibit J). The area is included in the Asilomar dune system, which stretches roughly 4 miles from Point Pinos in the north to Fan Shell Beach to the south, and has the same physical characteristics including the same types of rare vegetation and animal species.

B. Analysis of Appeal Issues**1. Environmentally Sensitive Habitat Resources**

A. Appellant's Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP for the following reasons (See Exhibit F for complete text of appellants' contentions):

- The project consists of new development in ESHA that is not dependent on the "resources therein".
- The project has not been sited and designed to prevent impacts to ESHA.
- A scenic and conservation easement is required over ESHA, and the County easement requirement does not include all ESHA on site.
- The County approval allows for non-native landscaping in ESHA.
- The project allows for a circuitous driveway rather than keeping access simple and direct.

B. Local Coastal Program Provisions

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

- *Policy 8 Environmentally sensitive habitat areas that are not designated as rehabilitation areas shall be protected against any significant disruption of habitat values. Within environmentally sensitive habitat areas, new land uses shall be limited to those that are dependent on the resources therein. Land uses immediately adjacent to environmentally sensitive habitat areas shall be compatible with long-term maintenance of the resource; development shall be sited and designed to prevent impacts which would significantly degrade the protected habitat...*
- *Policy 13 The protection of environmentally sensitive habitats shall be provided through deed restrictions or permanent conservation or scenic easements granted to the Del Monte Forest Foundation. Where developments are proposed within or near areas containing environmentally sensitive habitat, such restrictions or easements shall be established through the development review process...*
- *Policy 14 Near environmentally sensitive habitat areas, the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) shall be restricted to the minimum amount necessary to accommodate development....*
- *Policy 15 The use of non-invasive plant species and appropriate native species shall be required in landscape materials used in projects, especially in developments adjoining environmentally sensitive habitat...*
- *Policy 17 Prior to approval of development on existing legal lots of record, protection of rare, endangered, and sensitive native plant and animal habitats which potentially occur in the area shall be ensured by the following means:*



- *A site survey shall be conducted by a qualified botanist (or biologist in the case of animal habitat) for the purpose of determining the presence of rare, endangered, or unique plants and developing appropriate mitigation. This survey should be conducted in April or May, as it must be designed to detect the presence of any of the habitats listed in Appendix A of this Plan.*
- *Performance standards covering building locations, lot setbacks, roadway and driveway width, grading, and landscaping shall be established as a means of carrying out the recommendations of the site survey. The purpose of this is to isolate building sites from identified locations of rare or endangered plants or other environmentally sensitive habitat.*
- *Scenic or conservation easements covering the environmentally sensitive habitat shall be dedicated to the Del Monte Forest Foundation as provided by policy 13 above.*
- *Policy 18 Uses of the remnant native sand dune habitat shall be limited to low-intensity scientific, educational, or recreational activities dependent on the resource, except in Spanish Bay rehabilitation area, where policy 93 shall apply. Particular attention shall be given to protection of rare and endangered plants from trampling...*
- *Section 20.147.040.B.3.b Scenic or conservation easements covering the environmentally sensitive habitat shall be dedicated to the Del Monte Forest Foundation as provided by Development Standard #7 of this section (Ref. Policy #17 Del Monte Forest Area Land Use Plan. The easement may also be extended to cover the buffer area required in Section 20.147.040.B.1, upon recommendation in the biological survey prepared for the project pursuant to Section 20.147.040.A as needed to protect the habitat's long-term maintenance.*
- *Policy 74 Environmentally sensitive habitat areas will remain undeveloped except for parking or similar access facilities. Access improvements shall be developed consistent with the site-specific recommendations of the LUP Access Maps (Appendix B)*

Also relevant is the LCP's definition of ESHA:

- *Environmentally sensitive habitat areas are those in which plant or animal life or their habitats are rare or especially valuable due to their special role in an ecosystem. These include rare, endangered, or threatened species and their habitats; other sensitive species and habitats such as species of restricted occurrence and unique or especially valuable examples of coastal habitats; riparian corridors; rocky intertidal areas; nearshore reefs; offshore rocks and islets; kelp beds; rookeries and haul-out sites; important roosting sites; and Areas of Special Biological Significance (ASBS).*
- *In the Del Monte Forest Area, examples of terrestrial, aquatic, and riparian habitats which have been determined to be entirely or in part environmentally sensitive include: the rare Monterey cypress and endangered Gowen cypress forest communities, the endemic Monterey pine/Bishop pine association, remnants of the indigenous coastal sand dunes, riparian corridors, wetlands,*



and sites of rare and endangered plants and animals associated with these and other habitats. A complete listing is included as Appendix A of this Plan. The locations of these are shown in Figure 2.

C. Local Government Action

Finding numbers 1 and 2 in the County's action (Resolution 02-212, Exhibit E) address environmentally sensitive habitat issues. Finding #1 (Exhibit E, Page 1) states that the project is consistent with the plans policies, requirements and standards of the LUP. Evidence listed here is the biological reports prepared by Jean Ferreira (August 15th and 22nd of 2000 and May 8, 2001).

Finding #2 (Exhibit E, Page 3) states that the project will not have significant adverse impacts on the environment, and that a Mitigated Negative Declaration was prepared and the project incorporates all mitigation measures noted therein. The finding also includes approval of a monitoring report. Evidence for this finding states that no facts or reasonable assumptions have been submitted that refute the conclusion of the biological report by Jean Ferreira.

In addition to the County's findings, conditions of approval are placed on the project to mitigate for potential impacts to environmentally sensitive habitat areas. Condition #1 requires a Mitigation Monitoring Agreement; #17 requires a conservation and scenic easement over the rear portion of the property, the proposed dune restoration area, the 100' setback from the centerline of Seventeen Mile Dr., and the 20' side yard setback areas. The easement may allow for "private recreational access and enjoyment" including the placement of a boardwalk and a bench in the environmentally sensitive habitat area. Condition #18 requires a reduction in size of the motorcourt by removing the 10' wide extra parking area at the side of the garage, Condition #20 requires restoration of 7,000 sf of the lot to provide habitat area for the Monterey spineflower, and #21 requires a restoration plan for the "propagation and introduction of the Monterey spineflower" to the restored areas. Other conditions of approval require a biological monitor prior to construction, a pre-construction training session about the sensitivity of the area, a long-term management plan for the habitat area, moving the structures 10 feet toward 17-Mile Dr., and for landscaping with low water use or native drought resistant plants.

D. Substantial Issue Analysis and Conclusion

1) The Project Site is ESHA

The project site is located within the Asilomar dune complex, on the east side of 17 Mile Drive in a fairly large sand dune system referred to as the Spyglass Hill sand dune area (See Exhibit G, Ferreira 2000). The Asilomar Dune complex is approximately 4 miles long and extends from Point Pinos on the north end, south to Fan Shell Beach (See Exhibit H). Asilomar and most of the Monterey area coastline is formed by Santa Lucia granodiorite. This dense, hard rock is comprised of large rectangular crystals of feldspar, quartz, and mica. It was exposed through massive uplifts and this movement caused it to crack. The cracks weaken the integrity of the rock, making it more vulnerable to erosion. During severe winter storms the sand is moved from the shoreline into the ocean where it forms sandbars just off shore. In spring, the gentler waves redeposit the sand onto the beach. In late spring, the winds blow the unusually



pure, white quartz sand, farther inland where it is caught by plants in the foredunes.

The Asilomar Dune system, including the project site, is an environmentally sensitive habitat area for several reasons. First, coastal dunes are an extremely limited environmental resource of statewide significance. Oceanfront dunes provide unique, sensitive habitat values. Throughout its history, the Commission has placed a high priority on the protection and preservation of dune systems, including the Asilomar Dune system (Examples include Bonnano, Griggs & Miller 3-83-110; Page 3-96-102; Knight 3-99-071 Baldacci 3-01-013 and Child 3-02-023). The native landscape of the Asilomar Dunes comprises a community of coastal plants and associated animal life distinct from all other areas of California. For these reasons, this landscape is worthy of maximum protection and restoration.

Coastal dune ecosystems are threatened by the loss, fragmentation and disruption of habitat associated with development. For example, of the 27 dune fields in coastal California, the Monterey Bay dune system is one of the largest covering about 40 square miles. However, less than half of the dune field has survived urbanization, conversion to military or agricultural uses, sand mining, and shoreline erosion.

The Department of Fish and Game (DFG) has identified the Spyglass Hill area as a "significant natural area." Pursuant to a list of criteria including: 1) the occurrence of extremely rare species or natural communities and, 2) an ensemble of three or more rare species or natural communities within 500 meters of each other, this area has been mapped on the DFG Significant Natural Areas map for Monterey County. The Significant Natural Areas program was established to identify high-priority sites for the conservation of California's biological diversity and to inform decision makers about the importance of these sites. The programs goals include: 1) identifying the most significant natural areas in California; 2) ensuring the recognition of these areas; and 3) seeking the long-term perpetuation of these areas.

Coastal staff conducted a reconnaissance-level biological survey of the site on September 4, 2002. The plant community observed on-site can be classified as central dune scrub (Holland 1986), characterized by medium to low shrubs on exposed slopes of poor soil. Common plant species observed in the habitat include mock heather (*Ericameria ericoides*), beach sagewort (*Artemesia pycnocephala*), and beach primrose (*Camissonia cheiranthifolia*). Central dune scrub was identified as having "highest inventory priority" in 1986 by DFG. This plant community is limited in distribution throughout its range and is considered rare.

One of the most critical functions of the dune system is its role as a habitat for a very unique flora and fauna. Species present in this habitat are specially adapted to the conditions and opportunities found in dunes. Dune plants in particular play a special role by both stabilizing the dunes from the effects of wind erosion and hosting rare fauna. However, as the natural dune system has been reduced and fragmented, the risk of extinction has increased for many of these species. Thus, each new impact within the dunes system has and will continue to contribute to the cumulative decline of these species.

A review of the California Natural Diversity Database (CNDDB) to evaluate the special-status species that have been documented in the vicinity of the Smith Property was conducted by Coastal staff. A number of listed and declining sand endemic species have been observed near the site (Tables 1 and 2). This is an area rich in biodiversity and high in endemism and therefore, there are many special-status



species that occur in the dune habitat.

Table 1. Special-Status Animal Species Known to Occur in the Spyglass Hill Area

| Common Name | Scientific Name | Status |
|------------------------|----------------------------------|------------------------------------|
| Black legless lizard | <i>Aniella pulchra nigra</i> | State Species of Special Concern |
| Smith's blue butterfly | <i>Euphilotes enoptes smithi</i> | Federal Endangered Species |
| Globose dune beetle | <i>Coelus globosus</i> | Federal Species of Special Concern |

Table 2. Special Status Plant Species Known to Occur in Spyglass Hill Area

| Common Name | Scientific Name | Status |
|----------------------------|--|---|
| Coastal dunes milk-vetch | <i>Astragalus tener</i> var. <i>titi</i> | State and Federal Endangered Species |
| Monterey spineflower | <i>Chorizanthe pungens</i> var. <i>pungens</i> | Federal Threatened Species |
| Menzies's wallflower | <i>Erysimum menziesii</i> ssp. <i>menziessii</i> | State and Federal Endangered Species |
| Sand gilia | <i>Gilia tenuiflora</i> ssp. <i>arenaria</i> | State Threatened and Federal Endangered Species |
| Beach layia | <i>Layia carnosa</i> | State and Federal Endangered Species |
| Tidestrom's lupine | <i>Lupinus tidestromii</i> | State and Federal Endangered Species |
| Monterey Indian paintbrush | <i>Castilleja latifolia</i> | CNPS List 4 |

According to surveys conducted on the property for special-status plant species on August 15 and 22, 2000, and May 8, 2001 (See Exhibit G, Ferreira 2000, 2001), the site is currently known to support at least one listed plant species, the federally listed Threatened Monterey spineflower (*Chorizanthe pungens* var. *pungens*). Monterey spineflower was listed by the US Fish and Wildlife Service in 1994



due to threats to its persistence from: industrial, residential and golf course development, recreational use, dune stabilization projects, agricultural conversion, and military activities (Federal Register 1994). This plant species is only found scattered on sandy soils along and adjacent to the coast of southern Santa Cruz County and northern Monterey Counties and inland to the coastal plain of Salinas Valley (Federal Register 1994).

Monterey spineflower is vulnerable to random fluctuations or variation (stochasticity) in annual weather patterns and other environmental factors (Federal Register 1994). This species is an annual plant and a portion of the seeds produced each year lay dormant in the upper layer of sand in what is referred to as the "seedbank." Only a small fraction of the seeds produced by a plant each year become seedlings, thus locations of individual plants vary from year to year. Due to this phenomena, it is critical that conservation efforts for the species focus on protecting the ecosystem within which the plant occurs rather than focusing on where a few individuals are observed in a given year. This approach will allow the species to shift in distribution over time, an inherent aspect of the species ecology.

The long term probability of the conservation of Monterey spineflower is dependent upon the protection of existing population sites, and the maintenance of ecological functions within these sites, including connectivity between sites within close geographic proximity to facilitate pollinator activity and seed dispersal mechanisms, and the ability to maintain disturbance factors (i.e., dune dynamics) that maintain the openness of vegetative cover on which the species depends (Federal Register 2002). Fragmentation of habitat (e.g. through the construction of roads or certain types of fencing) must be minimized so that seed dispersal agents may move the seed (Federal Register 2002) and to facilitate pollinator activity as well. Therefore, it is important to preserve all areas that currently support the species since it has already undergone a reduction in the range which places great importance on the conservation of all known remaining sites (Federal Register 2002).

Since this population is the southern most occurrence of the species along the coast, the individuals may have genetic characteristics that have allowed them to survive under slightly different environmental conditions than the other populations. This potential uniqueness may be important for the long-term survival of the species (Federal Register 2002).

The surveys conducted by Elkhorn Native Plant Nursery did not reveal the presence of any other special-status plant species. However, due to the transient nature of some of these plant species, it is possible that they may exist in the seed bank on the site.

It is also noted that, the survey report prepared by Elkhorn Native Plant Nursery overlooked the presence of Monterey Indian paintbrush on the site. This species was observed on the site by consulting biologist, Jeff Norman (See Exhibit I), and coastal staff confirmed its presence. This species is identified on CNPS List 4, which is designated for species that are significant locally. The presence of this species is an indication of a plant community that is maintaining biological integrity.

Several animal species also have the potential to occur on the site including; Smith's blue butterfly (*Euphilotes enoptes smithi*), globose dune beetle (*Coelus globosus*) and black legless lizard (*Anniella pulchra nigra*). While these three species were discussed in the applicant's biological report, their



potential occurrence was dismissed, inappropriately, without having conducted surveys.

Smith's blue butterfly is a federally-listed Endangered butterfly that once ranged along the coast from Monterey Bay south through Big Sur to near Point Gorda, occurring in scattered populations in association with coastal dune, coastal scrub, chaparral, and grassland habitats. They spend their entire lives in association with two buckwheat plants in the genus *Eriogonum*. Emerging in late summer and early autumn, the adults mate and lay eggs on the flowers of these host plants. The eggs hatch shortly thereafter and the larvae begin to feed on the flowers of the plant. Important habitat for the Smith's Blue is threatened by development and the invasion of non-native plants. Dune buckwheat (*Eriogonum parvifolium*), a Smith's blue butterfly host plant, has been documented on the project site.

The globose dune beetle, a federal species of special concern, is endemic to California's coastal dune system. These beetles are primarily subterranean, tunneling through sand underneath dune vegetation. The species is fairly widely distributed in spite of the fact that the adults lack functional wings, however, due to habitat losses, there is some concern about its continued existence. Therefore, this species requires careful monitoring. Although no globose dune beetles were observed on the property by Elkhorn Native Plant Nursery, surveys were not conducted for species and therefore it is not possible to rule out their potential presence.

The black legless lizard is a fossorial (burrowing) animal that typically inhabits sand or loose soil. This species is regarded as a Species of Special Concern by DFG because of habitat loss due to human impacts to coastal dune habitats (Jennings and Hayes 1994). The potential for this species to occur on the site was identified in the biological report prepared for the applicant (See Exhibit G, Ferreira 2000). Ms. Ferreira states "if the lizard is present on the site, they would likely be near the mature mock heather shrubs in the 'Habitat' area." However, knowledge of the longevity, movement, and microhabitats of these lizards is incomplete because studying them in their underground habitat is difficult. Recent studies have shown that the legless lizards can utilize many different microhabitats and may reside in the soil/sand at a maximum depth of 11.5 cm. Therefore, assumptions of species/habitat affinities stated in the biological report may not be based on current knowledge of the species ecology, and its potential presence cannot be dismissed.

In conclusion, based on the above evidence, including the location of the site within the significant and sensitive Asilomar dune ecosystem, the existing resources on site, biology reports prepared for the project site, and the fact that a rare plant community, a federally-listed threatened plant, and potentially several other sensitive species occur on the site, the Commission finds that the project site meets the definition of ESHA established in the LCP.

2) The Project is Inconsistent with LCP Protection Provisions

The LCP contains numerous policies designed to protect environmentally sensitive habitat areas such as the area's indigenous remnant coastal sand dunes. Policy 8 prevents disruption of ESHA and restricts development to that which is resource dependent, such as nature study, and LCP Policy 18 specifically limits use of remnant sand dune habitat to "low-intensity scientific, educational, or recreational activities dependent on the resource...". Additionally, Policies 13 and 17 require



conservation easements over the sensitive habitat areas, and Policies 14 and 15 restrict removal of indigenous vegetation and the use of non-native plant species for landscaping. Policy 17 also provides for change in building design and location to avoid impacts to ESHA.

The project is inconsistent with LCP policies 8 and 18 because it involves residential development that is not resource dependent, nor a scientific, educational or recreational use, in remnant dune ESHA. As shown in project plans approved by Monterey County, the project involves the expansion of an existing house (through demolition and rebuild) into sensitive dune habitat (See Exhibit D, Page 1). The new house would increase coverage from approximately 6.8% of the lot (2850 sq. ft), to just over 25% (7828 sq.ft), -- nearly three times greater. This approval allows an unnecessary increase in the building footprint for a residential (i.e. non resource dependent) use in ESHA. In addition to an significant increase in the house size, its design includes a large motor court in the rear of the house and longer driveway than currently exists. This impact could be avoided by designing the house to not include a large motor court, and to provide main access to the front or side of the house rather than the rear, thus avoiding the long driveway. Also, the proposed fence is not consistent with avoiding impacts to the dune habitat system because its design prohibits the free movement of sand and seeds required for a healthy dune system (See Exhibit L for site photos). Although site plans show an existing fence around the perimeter of the property (See Exhibit D), a staff site visit confirmed that the existing fence does not surround the property, leaving the dune habitat in the rear of the property easily accessible to animals and the dispersal of seeds.

It is also inconsistent with LCP policies 13 and 17 because the proposed conservation easement area does not protect all ESHA on site outside of the building envelope. Moreover, the project has not been designed and sited to avoid impacts to ESHA, inconsistent with LCP policies 17 and 8. For example, the construction of a larger house and driveway/motor court will result in the removal of ESHA; an impact that could be avoided by siting and designing the home to be similar in size and location to the existing home (see de novo findings for more detail). The project is similarly inconsistent with LCP policy 14 because the removal of indigenous vegetation and land disturbance has not been minimized. Finally, the project is inconsistent with Policy 15 because the local approval does not limit landscaping material to native plants. Thus, the project does not adequately protect the dune habitat resources along Seventeen Mile Drive in the Del Monte Forest, and raises a substantial issue regarding inconsistency with LCP policies 8,13, 14, 15, 17, and 18.

2. Visual Resources

A. Appellants' Contentions

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

- This project is disproportionate to the lot and the adjacent front line houses.
- This project will impact the viewshed of the Bird Rock viewing area and Spyglass Hill Road.



- The house location does not blend in with the dunes.

B. Local Coastal Program Provisions

The appellants specifically reference the following Land Use Plan (LUP) and Coastal Implementation Plan (CIP) policies regarding visual resources (See Exhibit F for complete text of appellants' contentions):

- *Policy 51 Areas within visually prominent settings identified on the LUP Visual Resources Map, when proposed for development, should be developed so that the lots and/or buildings are situated to allow the highest potential for screening from view the development and its access roads....*
- *Policy 55 Areas within the viewshed of scenic corridors identified on the LUP Visual Resources Map shall be zoned with a district, which requires adequate structural setbacks (generally a minimum of 50), the siting and design of structures to minimize the need for tree removal and alterations to natural landforms. New structures shall be designed to harmonize with the natural setting and not be visually intrusive.*
- *Policy 56 Design and siting of structures in scenic areas should not detract from scenic values of the forest, stream courses, ridgelines, or shoreline. Structures, including fences, shall be subordinate to and blended into the environment, using appropriate materials, which will achieve that effect. Where necessary, modifications shall be required for siting, structural design, shape, lighting, color, texture, building materials, access, and screening.*
- *Policy 57 Structures in scenic areas shall utilize native vegetation and topography to provide screening from the viewing area. In such instances, the least visible portion of the property should be considered the most desirable building site location, subject to consistency with other siting criteria (e.g., proximity to environmentally sensitive habitat areas and safe access).*
- *Policy 58 Parking on the seaward side of 17-Mile Drive should be designed to minimize the visual impact of parked vehicles in the viewshed and disturbance to the habitat. The appropriate site specific access recommendations shall apply to this area.*
- *CIP Section 20.147.070.A. Public Viewshed Determination¹ The project planner shall make an on-site investigation in order to determine whether the project is within the public viewshed or affects visual access from public viewing areas. Proposed buildings shall be accurately indicated as to dimensions, height and rooflines by poles with flags. The location of proposed access roads shall be accurately indicated by stakes with flags. Both poles and stakes shall remain in place for the duration of the project review and approval process. The project planner, at his/her discretion in the process of the on-site review, may record the proposed development photographically, and may require that the applicant superimpose on the photographs a representation of the proposed project. During the on-site investigation, the planner shall also review the project for conformance with the ordinance elements and shall determine development alternatives which would bring the project into full conformance with the*



ordinance.

- *CIP Section 20.147.070.C. General Development Standards 1 Development, along with related access roads, within visually prominent settings as identified on Figure 2C "Visual Resources" in the Del Monte Forest Area Land Use Plan shall be sited on the least visible area of the lot, subject to consistency with other development standards of this implementation ordinance and as determined by staff field review of the proposed development on its' impact of visual sensitivity. Structures shall be screened from view using native vegetation and topography (Ref. Policy #50 Del Monte Forest Area Land Use Plan.)*
- *CIP Section 20.147.070.C. General Development Standards 3 Ridgeline development is prohibited... "Ridgeline Development" is development on the crest or side of a hill which creates a silhouette against the sky when viewed from a public viewing area. A Use Permit for such development may only be granted if the decision-making body is able to make findings that: 1)... 2)... or 3) development on the ridge will minimize grading, tree removal or otherwise better meet resource protection policies of the Del Monte Forest Area Land Use Plan or development standards of this ordinance...*

C. Local Government Action

The County's action (Resolution 02-212, Exhibit E) allows for the demolition of a single-story home and its replacement with a larger two-story home on Seventeen Mile Drive. Finding #1 (Exhibit E, Page 1) states that the project is consistent with the plans policies, requirements and standards of the LCP. Evidence for this finding states that Planning and Building Inspection staff reviewed the project for conformity with the LCP. There is no separate finding dealing with visual impacts of the development.

The project is conditioned to use unobtrusive lighting and control off-site glare, to get approval from the Planning and Building Inspection Department regarding the location, type and size of all antennas, satellite dishes and similar appurtenances, and to protect native trees located close to the construction site. Additionally, the project is conditioned to require landscaping, and to continuously maintain the plant material "in a litter-free, weed-free, healthy, growing condition."

D. Substantial Issue Analysis and Conclusion

The protection of visual resources in the Del Monte Forest planning area is of high concern. There are numerous LCP policies designed to protect visual resources in this planning area, especially along scenic corridors and other sensitive visual areas, such as those visible from Point Lobos State Park. The visual Policy Guidance Statement describes 17-Mile Drive as an important visitor destination and lists the objective of the Plan as the protection of the area's "magnificent scenic and visual resources." Also found in the Policy Guidance Statement are the guiding principles of avoiding incompatible development and to encourage improvements that complement the natural scenic assets. This statement explicitly states, "only compatible development along 17-Mile Drive should be allowed."

The appellants contend that the new house will have visual impacts, specifically that it will be too large for the lot; that it will impact public viewing areas such as the Bird Rock pull out and Spyglass Hill Rd.;



and that the house location does not blend in with the dunes. Their concern is that this project will have impacts on the viewshed from the 17-Mile Drive scenic corridor.

The proposed project is inconsistent with the requirements of Policy 55 because the new residence will alter natural dune landforms, and it has not been designed to harmonize with the natural setting, specifically the surrounding dune habitat. As detailed in Finding 1 above, the proposed house and driveway/motor court has a much larger footprint than the existing residence, and because of the size, a greater amount of landform alteration (i.e. of dune habitat) is required for its development. The project also has not been sited to minimize detracting from scenic values of the shoreline as required by Policy 56, because the development, including the fence, has not been designed to be subordinate to and blended into the environment. The existing house is one story, with a flat roof that is stepped up gradually to simulate the gradual slope of the dunes (See Exhibit L). Similarly, the size of the proposed structure does not blend in with the surrounding dune environment. The height of the proposed structure is 26 feet 4 inches, with a steep sloping roof, as opposed to the existing structure's one story and flat roofs with stepped increases to the full height (see Exhibit D for site elevations). The proposed fence is also inconsistent with this policy because its design will breakup the relatively expansive views along the shoreline and scenic corridor.

Additionally, the project is inconsistent with Policies 51 and 57 which require maximum screening with native vegetation and topography because the new house is designed in a manner that makes it more visible from the Bird Rock public viewing area and unable to be adequately screened with native dune vegetation. Finally, the development may create ridgeline impacts because it will create a "silhouette against the sky when viewed from a public viewing area", which is prohibited by CIP Section 20.147.070.C. General Development Standards 3 (See Exhibit L). Thus, the project as proposed and conditioned by the County is inconsistent with LCP visual policies 55, 56, 51, 57 and CIP Section 20.147.070.C, and the Commission finds that a substantial issue is raised with respect to visual issues.

3. Need for Comprehensive Review

A. Appellants' Contentions

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

- Lack of fair or impartial hearing.
- Findings not supported by the evidence.
- The decision was contrary to law.

The appellants do not specifically reference any LCP or LCIP policies with regard to the issue of comprehensive environmental review (See Exhibit F for complete text of appellants' contentions).



B. Local Coastal Program Provisions

The LCP contains the following relevant policies regulating the public hearing process and defining required findings for Coastal Administrative Permits:

- *CIP Section 20.84.030 Public Hearing Required Any action to approve or deny any application for a discretionary permit by an Appropriate Authority, including the Board of Supervisors, shall require that a public hearing be held and notice given pursuant to this Chapter.*
- *CIP Section 20.76.050.C In acting on a Coastal Administrative Permit, the Appropriate Authority shall make findings as necessary to support its decision on the permit. Such findings shall address, but not be limited to, consistency with the Monterey County Local Coastal Program, site suitability, environmental issues, public access pursuant to Section 20.70.050.B.3 of this Title, and Variances where applicable. The findings shall include a determination that the subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of Title 20 and that all zoning violation abatement costs have been paid.*

C. Local Government Action

Appeal findings #10, 11, and 13 (Exhibit E, Page 5) state that public hearings were held on October 29, 2001 with the Planning Commission; October 31, 2001 with the Planning Commission; and May 21, 2002 with the Board of Supervisors. The County adopted the findings required by CIP Section 20.76.050.C as findings 1, 2 and 3 of the final Resolution 02-212 (See Exhibit E, Pages 1-3).

D. Substantial Issue Analysis and Conclusion

The County conducted public hearings in accordance with LCP requirements and adopted the findings called for by 20.76.050. Thus, the appellants' contentions regarding hearings and findings do not raise a substantial issue. The more general contentions regarding evidence and consistency with the law are addressed in the other sections of this report. These sections conclude that, based on the evidence, the County's action is indeed in conflict with the LCP, and therefore raises a substantial issue.

4. Historic Resources

A. Appellants' Contentions

The appellants contend that the project on appeal is inconsistent with the Certified LCP because it involves the removal of a historic resource.

The appellants do not specifically reference any LCP or LCIP policies (See Exhibit F for complete text of appellants' contentions).



B. Local Coastal Program Provisions

The Land Use Plan and Coastal Implementation Plan contain policies designed to protect archaeological and cultural resources:

- *Policy 63 When developments are permitted on parcels where archaeological or other cultural resource sites are located, project design shall be required which avoids impacts to such sites. Where the site has religious significance, emphasis should be placed on preserving the entire site; likewise, where the site is of known regional significance, consideration shall be given to nominating the site to the National Register and preserving it.*
- *CIP Section 20.147.080.D General Development Standards 1 All development permitted on parcels containing archaeological or other sensitive cultural resources must design such development to avoid impacts to those sites. ... (Ref. Policy #63 Del Monte Forest Area Land Use Plan.)...*

C. Local Government Action

Finding #1 in Resolution 02-212 (Exhibit E, Page 1) states that the project is consistent with the "plans, policies, requirements and standards of the Local Coastal Program (LCP)." Evidence for this finding cites an archaeological report prepared by Archaeological Consulting, and states that the report "found no evidence of cultural or historical resources". The County did not evaluate the architectural significance of the existing structure.

D. Substantial Issue Analysis and Conclusion

The archaeological report prepared by Archaeological Consulting on July 31, 2000 states that no evidence of historic cultural resources were found on the parcel. Project methodology consisted of a literature search of files of the Northwest Regional Information Center of the California Archaeological Inventory located at Sonoma State University and a search of Archaeological Consulting's personal files and maps. Field reconnaissance was also conducted on July 18, 2000. In addition, the California Inventory of Historical Resources, California Historical Landmarks, and the National Register of Historic Places were checked for cultural resources that might be present other than archaeological resources. None were discovered.

Although no archaeological resources have been identified on the site, the existing home to be demolished may indeed have historic significance, based on its architectural type, that merits an evaluation under LCP Policy 63 and IP section 20.147.080.D. A letter submitted by a historian hired by an appellant (See Exhibit K) describes the existing house on the site, constructed in 1952-1953, as a Usonian house (See Exhibit L, Page 4). According to the historian, this type of architecture, termed modern, was developed by Frank Lloyd Wright in the 1930's as a means to provide affordable housing in America. Usonian houses are characterized by low or flat roofs, finishes using natural materials, carports and the lack of basements, along with a flow of internal spaces, and a brick utility core with a massive chimney stack. The existing house was not designed by Wright himself, but by one of his protégés, and is possibly the only example of a Wrightian Usonian house in Monterey County. The house in question, along with two



others in the area, provide notable examples of modern architecture in close vicinity to the site (Pers. Comm. Kent Seavey 9/6/02).

Given the potential historic architectural design of the structure, a more in-depth review of its regional significance is needed to evaluate the consistency of its demolition with Policy 63 and IP section 20.147.080D. If such a review concludes that the existing structure is a regionally significant historic resource, the LCP requires the consideration of alternatives that would protect the resource, such as those that would retain the structure's unique architectural character. Therefore, the Commission finds that the appeals raise a substantial issue with respect to protection of historic/cultural resources.

C. Substantial Issue Analysis- Conclusion

In conclusion, the appeal raises a substantial issue in terms of compliance with the LCP, with respect to environmentally sensitive habitat, visual issues, and historic resource issues. The development approved by Monterey County, Board of Supervisors Resolution #02-212 does not conform to LCP policies protecting the historical, scenic and natural resources of the project site as required by the Monterey County Certified Local Coastal Program.

D. De Novo Coastal Permit Findings

The applicant proposes to demolish an existing, one-story, single-family residence and replace it with a much larger two-story, single-family residence, garage, and motor court. As discussed in the Substantial Issue findings above, **directly incorporated into these *de novo* findings by reference**, this project is inconsistent with the Monterey County LCP and cannot be approved.

First, as established in the above findings, the project is located on Seventeen Mile Drive, in the Asilomar dunes complex, an area of remnant sand dune habitat. The applicant proposes a non-resource dependent development in ESHA, and has not avoided and minimized damage to the remnant dune habitat. Nor does the project provide for the maximum amount of protection of remaining dune habitat on site through the use of conservation easements. Therefore, this development is inconsistent with LCP policies 8, 13 17, 14 and 18, which respectively require development in ESHA to be resource dependent and require resiting or redesign to prevent impacts to ESHA; to provide conservation easements over the ESHA on site; to restrict land disturbance (paving) and removal of indigenous vegetation near ESHA; and uses in remnant dunes to be of a scientific, educational or recreational nature.

Second, the above findings also show that the project is inconsistent with the LCP's visual protection policies. The applicant proposes to build a house that is larger than the existing residence, consisting of a greater amount of landform alteration, in addition to being more visually intrusive than the existing structure. The proposed development, including the proposed grape stake fence, is not subordinate to nor does it blend in to the surrounding dune habitat. Additionally, the proposed project does not include screening of the development from the public with native vegetation and topography. Therefore, this development is inconsistent with LCP policies 55, 56, 51 and 57 which require minimization of natural



landform alteration and for structures to harmonize with the natural setting; structures to be designed and sited in a manner that does not detract from the scenic values of the shoreline and for structures to be subordinate to and blended into the environment; and provision of the maximum screening with natural vegetation or topography from viewing areas. Thus, as designed, the project is inconsistent with visual protection policies and therefore must be denied.

Finally, the above findings also show that the project has the potential to conflict with LCP policy #63 and IP section 20.147.080.D, which protect cultural resources. In light of the fact that the County did not evaluate the historic value of the existing house proposed for demolition, and given that the only available historic evaluation of the existing house states that the house is a sensitive cultural resource, there is evidence supporting a conclusion that the existing house must be protected until proven otherwise or until its demolition is adequately mitigated. Thus, this project is not in conformance with LCP policy 63 and IP section 20.147.080.D pertaining to protection of cultural resources.

Because of these inconsistencies with the LCP, required design modifications to the project are numerous and substantial. In this instance, it would be more practical for the applicant to submit a redesigned project to the County, consistent with the LCP requirements, than it would be for the Commission to approve the project subject to conditions that would require substantial redesign and review by Commission staff through the condition compliance review process.

Alternatives

There are alternatives to demolishing the existing house on site and replacing it with a larger structure. The lot already contains a single-family home; continued use of the existing house is a viable use that avoids additional impacts to ESHA consistent with LCP requirements. Additionally, if the existing house is determined not to be a significant historical resource, or if the impacts to historical resources associated with its demolition are adequately mitigated for, the potential remains that the existing house could be demolished (or remodeled) and the applicant could propose to rebuild within the existing development footprint to avoid further impacts to ESHA. Similarly, the possibility also exists that if the existing house is demolished, given the proper determination of its historicity and mitigation for demolition, that a structure could be proposed outside of the existing development footprint as long as the new proposal does not exceed the size of the existing development footprint and would be more protective of the site's ESHA. For example, an alternative building envelope that is closer to 17-Mile Drive, combined with restoration of the existing footprint area may be a viable option for development because it would allow for a larger contiguous dune habitat area behind the house. Policy 84, not raised in this appeal, establishes a minimum setback of 15-20 feet from the front lot line, and thus would allow the building footprint to be moved closer to 17-Mile Dr. to achieve greater protection of the dune habitat. Although strict adherence to the screening aspect of Policies 51 and 57 would conflict with ESHA policies because low-growing native dune plants aren't generally suitable for screening, the Del Monte Forest Land Use Plan states that the protection of natural resources takes precedence over other resource concerns. *Chapter 6* provides that proposals "must satisfy the natural resource protection policies" of the plan, and that "If land use and natural resource protection policies conflict, resource protection policies shall prevail" (Emphasis added). Thus, staff notes that an alternative project could be accepted because the LCP prioritized the protection of natural resources. However, the alternative would have to be



designed to maximize protection and enhancement of dune habitats, such as one that replaces the existing residence with one of equal or smaller size closer to the street, and also provides for protection and enhancement of dune resources on the remainder of the site.

Conclusion

This analysis has revealed fundamental inconsistencies with Monterey County LCP, as well as significant issues that were not satisfactorily addressed by the County analysis. The project as presented does not conform to LCP policies calling for the protection and maintenance of Environmentally Sensitive Habitat areas and the protection of visual and cultural resources. Therefore, because the proposed demolition and reconstruction project is not resource dependent development in ESHA, causes negative visual impacts, and will destroy a potentially significant historical resource, it is inconsistent with LCP policies designed to protect the resources found at the project site, and must be denied.

E. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA.

Section 15042 of the CEQA Guidelines provides that "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment if the project were approved as proposed." The CEQA provides that its requirements do not apply to an exercise of a governmental body's regulatory authority in the manner described by section 15042. Public Resources Code Section 21080 outlines the application of CEQA to discretionary approvals of projects. Section 21080(b)(5) of the CEQA states that the requirements of the CEQA shall not apply to "projects which a public agency rejects or disapproves." Therefore in this instance CEQA requirements do not apply.



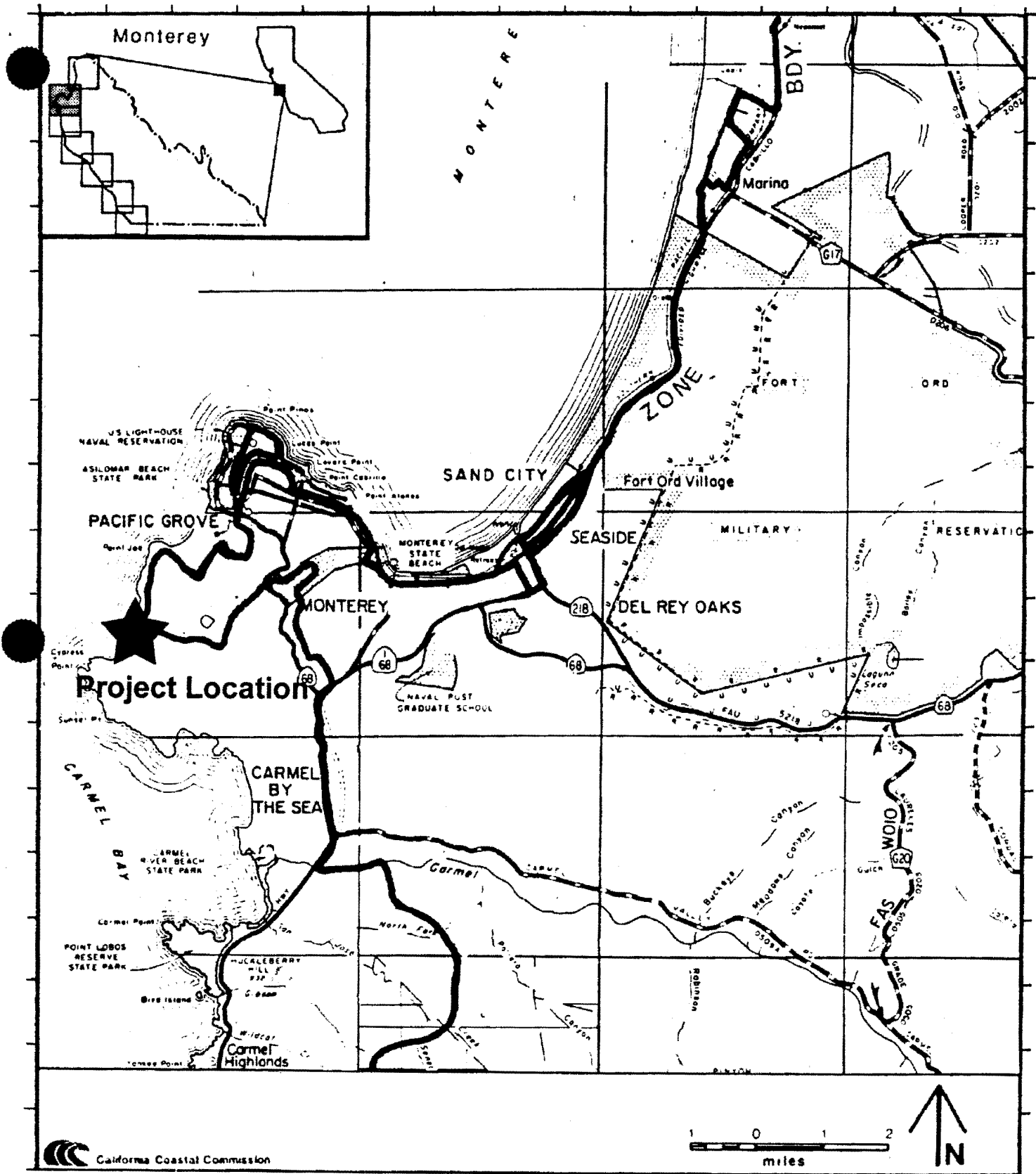


Exhibit A
 Location Map
 Smith Demo/Rebuild Appeal
 A-3-MCO-02-058

A-3-MCO-02-058
Smith Demo/Rebuild

TAX CODE AREA

COUNTY OF MONTEREY
ASSESSOR'S MAP
BOOK 8 PAGE 01

151D

02

SPYGLASS HILL
GOLF COURSE

SILVER TRAIL

PARCEL A
VOL. 14 E.J. PAGE 101
1.234 AC.

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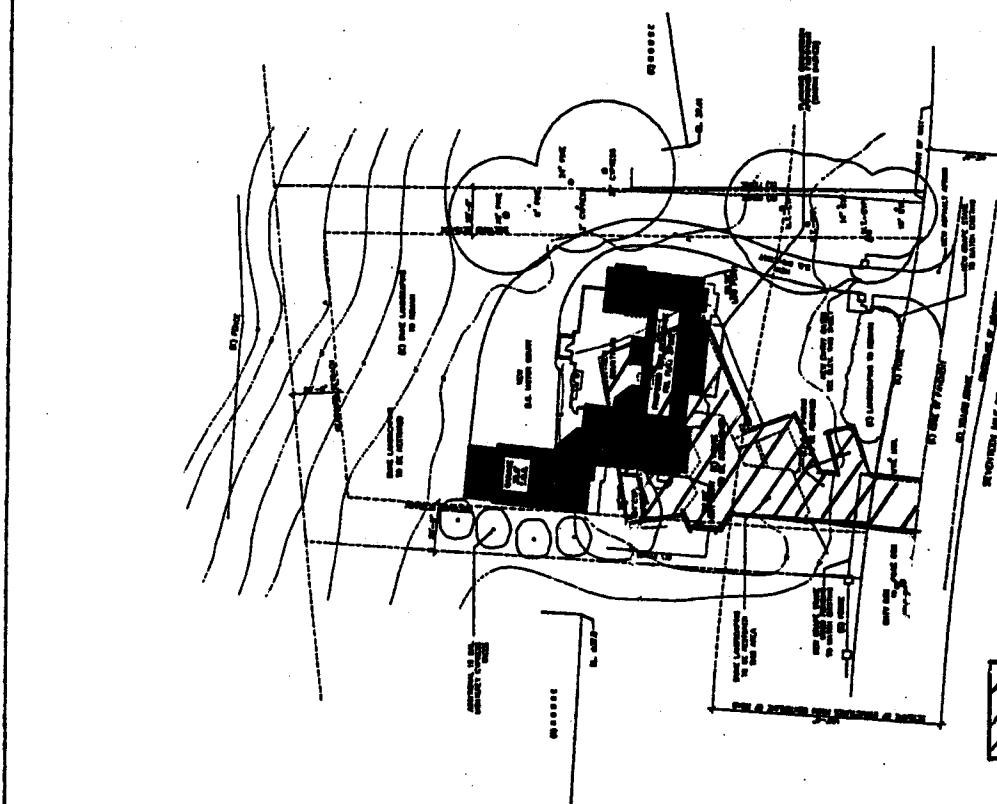
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LOT 11

THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE DESIGNER ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THIS PLAN.



APPROXIMATE AREA OF EXISTING DEVELOPMENT

SITE PLAN

PROJECT INFORMATION

PROJECT DESCRIPTION:
CONSTRUCTION OF THE EXISTING SINGLE FAMILY RESIDENCE
AND ATTACHED 3 CAR GARAGE WITH REMEDIATION WORK.

PROJECT ADDRESS:
3105 SEVENTEEN MILE DR. PEBBLE BEACH, CA 93955

OWNER:
MURRAY & CAROL SMITH

ARCHITECT:
JAMES H. SMITH AIA
3105 SEVENTEEN MILE DR. PEBBLE BEACH, CA 93955
TEL: (408) 318-1111
FAX: (408) 318-1112

PROPOSED FLOOR AREA

| | |
|-------------------|------------|
| BASE FLOOR | 4,300 S.F. |
| UPPER LEVEL | 1,500 S.F. |
| TOTAL GARAGE AREA | 4,370 S.F. |
| GARAGE | 800 S.F. |
| PROJECT TOTAL | 5,820 S.F. |

PROPOSED FLOOR AREA BASE

| | |
|--------------------|------------|
| BASE FLOOR AREA | 4,300 S.F. |
| BASE FLOOR PERCENT | 73.9% |

PROPOSED FLOOR AREA BASE

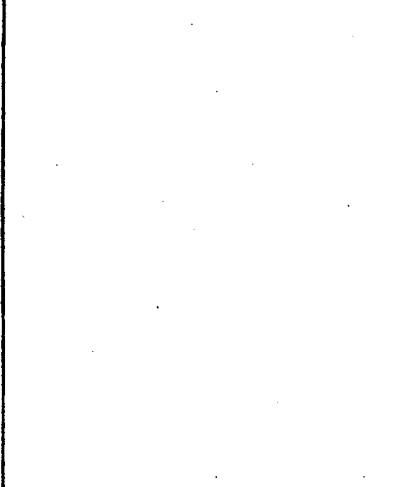
| | |
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| BASE FLOOR AREA | 4,300 S.F. |
| BASE FLOOR PERCENT | 73.9% |

PROPOSED FLOOR AREA BASE

| | |
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| BASE FLOOR AREA | 4,300 S.F. |
| BASE FLOOR PERCENT | 73.9% |

PROPOSED FLOOR AREA BASE

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| BASE FLOOR AREA | 4,300 S.F. |
| BASE FLOOR PERCENT | 73.9% |



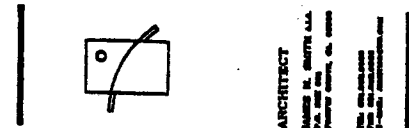
ENTRY GATE

GATE LIFTING MECHANISM

GATE CONTROL SYSTEM

EROSION CONTROL RECOMMENDATIONS:

1. EROSION CONTROL SHOULD BE INSTALLED IN THOSE AREAS NECESSARY FOR THE EXISTING SINGLE FAMILY RESIDENCE AND ATTACHED 3 CAR GARAGE WITH REMEDIATION WORK.
2. EROSION CONTROL SHOULD BE INSTALLED IN THOSE AREAS NECESSARY FOR THE EXISTING SINGLE FAMILY RESIDENCE AND ATTACHED 3 CAR GARAGE WITH REMEDIATION WORK.
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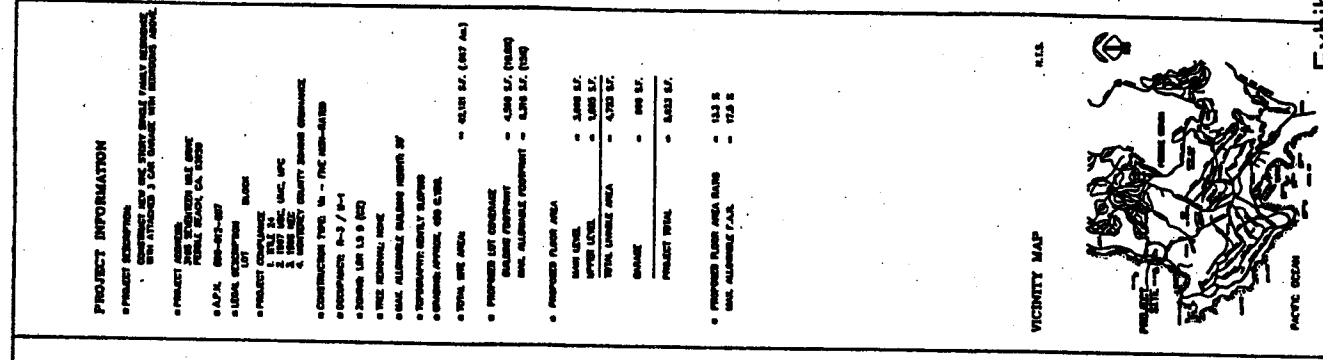


ARCHITECT

JAMES H. SMITH AIA
3105 SEVENTEEN MILE DR. PEBBLE BEACH, CA 93955
TEL: (408) 318-1111
FAX: (408) 318-1112

RESIDENCE FOR

MURRAY & CAROL SMITH
3105 SEVENTEEN MILE DR. PEBBLE BEACH, CA 93955



APPROXIMATE AREA OF EXISTING DEVELOPMENT

SITE PLAN

EROSION CONTROL RECOMMENDATIONS:

1. EROSION CONTROL SHOULD BE INSTALLED IN THOSE AREAS NECESSARY FOR THE EXISTING SINGLE FAMILY RESIDENCE AND ATTACHED 3 CAR GARAGE WITH REMEDIATION WORK.
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THIS PLAN IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE DESIGNER ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THIS PLAN.



ARCHITECT
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FAX: (415) 321-1112
WWW.MURRAYCAROLSMITH.COM

RESIDENCE FOR
MURRAY & CAROL SMITH
3105 SEVENTEEN MILE DR., PEBBLE BEACH, CA

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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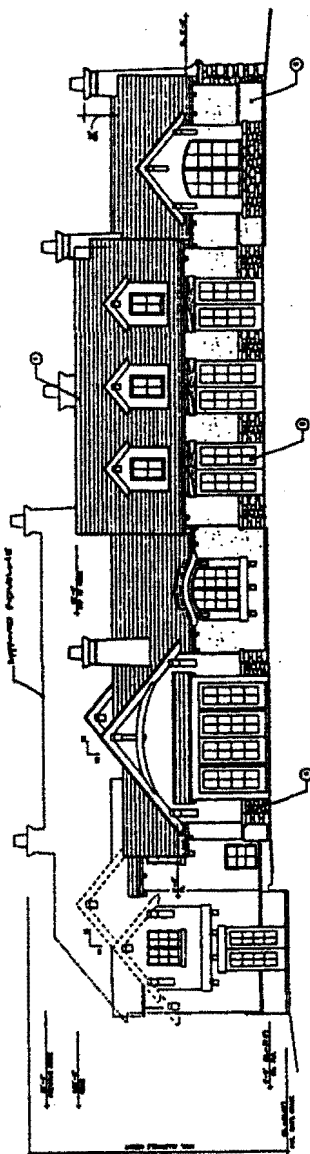
EXTERIOR
ELEVATIONS

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EXTERIOR FINISHES LEGEND

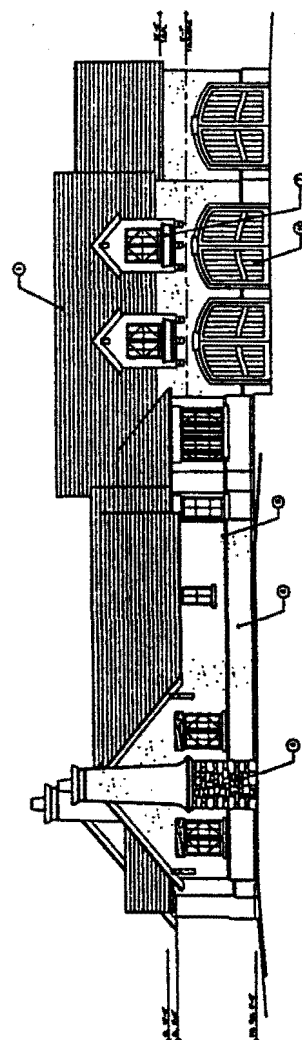
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EXTERIOR ELEVATION NOTES



WEST ELEVATION

VIEW FROM 17-MILE DRIVE



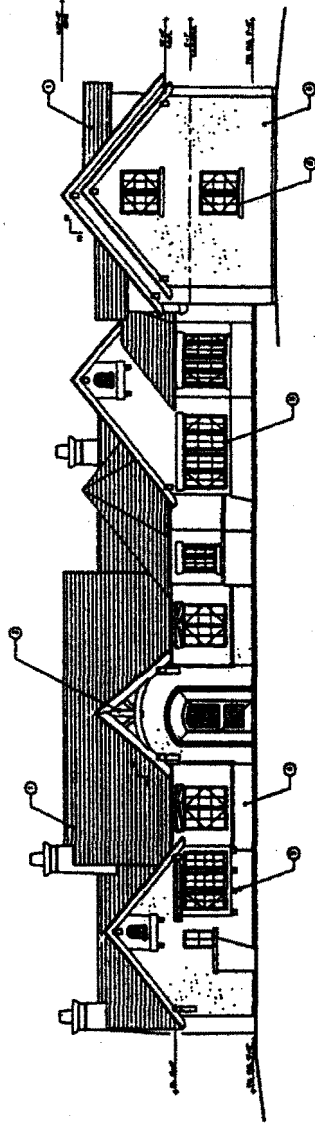
SOUTH ELEVATION

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

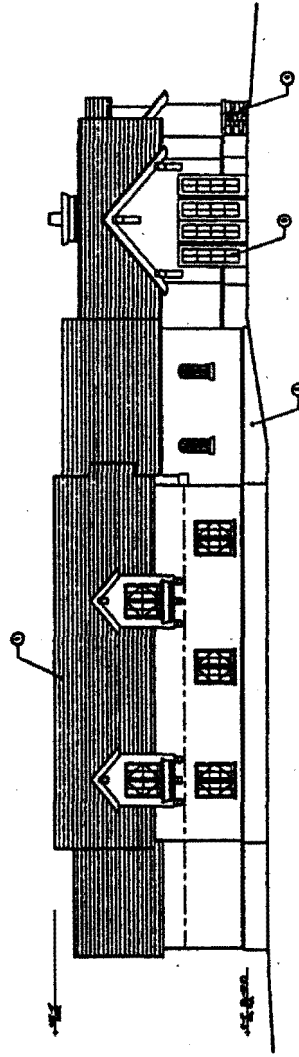
Exhibit D
pg. 4 of 6

- EXTERIOR FINISH LEGEND**
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EXTERIOR ELEVATION NOTES



EAST ELEVATION



NORTH ELEVATION

MURRAY & CAROL SMITH
RESIDENCE FOR
3105 SEVENTEEN MILE DR. PEBBLE BEACH, CA.

ARCHITECT
JAMES H. SMITH, AIA
P.E. and AIA
FACULTY, PEPPER HARBOR, CA. 94065
TEL: 415/461-1111
FAX: 415/461-1112
E-MAIL: JSMITH@MURRAY-CAROL.COM

EXTERIOR ELEVATIONS

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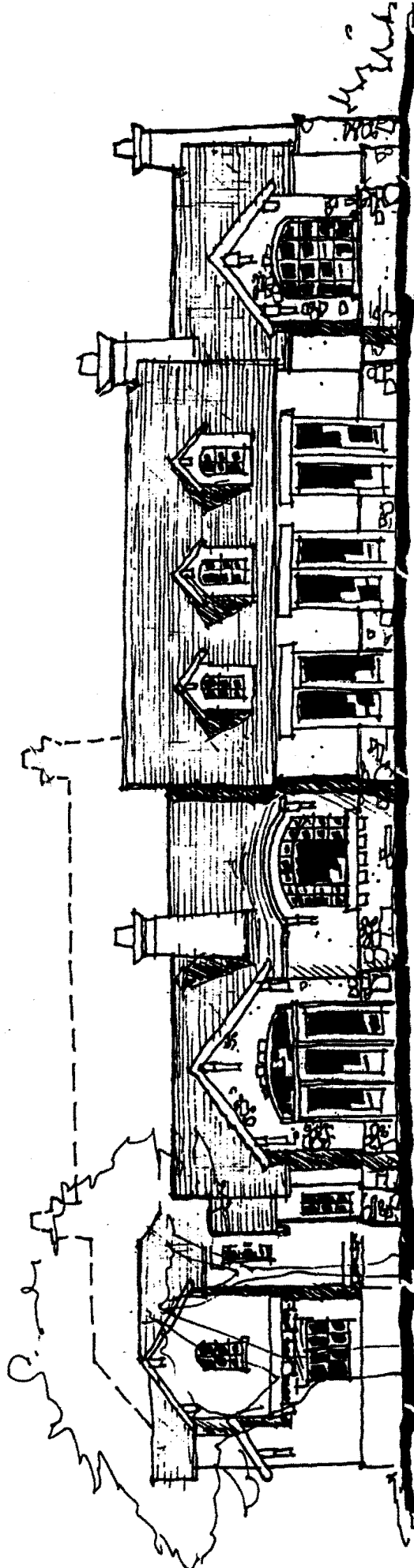
Exhibit D

pg. 5 of 10

A-3-MCO-02-058

Smith Demo/Rebuild

Appeal



ELEVATION - 17 MILE DR.

3.17.02

1/8"

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit D
pg. 6 of 6

MONTEREY COUNTY

PLANNING & BUILDING INSPECTION DEPARTMENT

2620 1st AVENUE MARINA, CA 93933

(831) 883-7500 FAX: (831)384-3261



RECEIVED

JUL 19 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

July 17, 2002 / By Certified Mail

Rick Hyman, Deputy Chief Planner
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

**Re: Final Local Action Notice
Murray and Carol Smith
3105 Seventeen Mile Drive, Pebble Beach
APN 008-012-007-000
Permit # PLN 00 0239**

Dear Rick Hyman:

Enclosed is a copy of Resolution No. 02-212 before the Board of Supervisors in and for the County of Monterey, State of California, granting permit approval for the development project as detailed in the resolution. The action was taken by the Board on May 28, 2002.

The planner who was handling this project has left the Planning Department's employ, and I am the newly assigned planner for the project. I apologize that submittal of this notice to you has been delayed.

Sincerely,

Jack Nelson
Senior Planner
(831) 883-7522

Enclosure: Before the Board of Supervisors in and for the County of Monterey, State of California, Resolution No. 02-212

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

RECEIVED

JUL 19 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Resolution No. 02-212)
Adopt a Mitigated Negative Declaration and Mitigation)
Monitoring Plan and approve a Coastal Administrative)
Permit and Design Approval for **Murray and Carol Smith**)
(PLN 000239) to allow the demolition of an existing one-)
story single family dwelling and construction of a two-story)
single family dwelling with an attached three-car garage,)
new driveway (decomposed granite), addition and)
replacement of sections of the perimeter grape stake fence)
(4 to 6 feet in height), new 6 foot timber entry gate with)
stone columns and associated grading. The property is)
located at 3105 Seventeen Mile Drive (Assessor's Parcel)
Number 008-012-007-000), northeasterly of the)
intersection of Seventeen Mile Drive and Spyglass Hill)
Drive, Del Monte Forest Land Use Plan.)

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-MCO-02-359
APPEAL PERIOD 7/22-8/2/02

In the matter of the application of PLN 000239 (Murray and Carol Smith)

WHEREAS: The Monterey County Board of Supervisors pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Coastal Administrative Permit and Design Approval, located fronting on and easterly of Seventeen Mile Drive at 3105 Seventeen Mile Drive (Assessor's Parcel Number 008-012-007-000), Del Monte Forest Area, Coastal Zone

WHEREAS: Said proposal includes:

1. Adoption of a Mitigated Negative Declaration and Mitigation Monitoring Plan, and
2. Coastal Administrative Permit and Design Approval to allow the demolition of an existing one-story single family dwelling and construction of a two-story single family dwelling with an attached three-car garage, new driveway (decomposed granite), addition and replacement of sections of the perimeter grape stake fence (4 to 6 feet in height), new 6 foot timber entry gate with stone columns and associated grading.

NOW, THEREFORE, the Board of Supervisors finds as follows:

1. **FINDING:** The subject Coastal Development Permit and Design Approval (PLN000239), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Local Coastal Program (LCP). The LCP for this site consists of the Del Monte Forest Land Use Plan, Del Monte Forest Coastal Implementation Plan (Part 5), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). The property is located at 3105 Seventeen Mile Drive, in the Del Monte Forest area of the Coastal Zone. The parcel is zoned "LDR/1.5-D (CZ)" (Low Density Residential, 1.5 Acres per Unit, Design Control District). The site is physically suitable for the use proposed. The
Appeal

Exhibit E
pg 2 of 12

project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights. No access is required as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 20, and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The certified Del Monte Forest Land Use Plan
- b) The certified Monterey County Coastal Implementation Plan regulations for Low Density Residential, 1.5 Acres per Unit or the "LDR/1.5-D (CZ)" District in the Coastal Zone, and
- c) Chapter 20.14 Monterey County Coastal Implementation Plan regulations for development in the Del Monte Forest Land Use Plan.

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, and Cypress Fire Protection. There has been no indication from these agencies that the site is not suitable for the proposed development. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for improvements.

EVIDENCE: The proposed Single Family Residential use is consistent with the development standards for Low Density Residential Development, pursuant to Title 20, Monterey County Coastal Implementation Plan (Part 1).

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Planning Commission.

EVIDENCE: Archeological Report prepared by Archeological Consulting found no evidence of cultural or historical resources.

EVIDENCE: "Assessment of Potential Impacts on Sensitive Biological Features" prepared by Jean E. Ferreira, Elkhorn Native Plant Nursery.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: The on-site inspection by the project planner on January 29, 2001 and March 28, 2001 to verify that the proposed project complies with the Del Monte Forest Area Coastal Implementation Plan (Part 5).

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

EVIDENCE: The project site is not identified as Environmentally Sensitive Habitat on Figure 2, Del Monte Forest Land Use Plan.

A-3-MCO-02-058
Smith Demolition/Rebuild
Appeal

Exhibit E
pg. 3 of 12

2. **FINDING:** The proposed project, including all permits and approvals, will not have significant adverse impacts on the environment. A Mitigated Negative Declaration has been prepared and is on file (File # PLN000239) in the Department of Planning and Building Inspection. All mitigation measures identified in the Initial Study and Mitigated Negative Declaration and all project changes required to avoid significant effects on the environment have been incorporated into the approved project or are made conditions of approval. A Program for Monitoring and/or Reporting on Conditions of Approval (hereafter "the Program") has been prepared pursuant to Public Resources Code 21081.6 and is made a condition of approval. The Program is attached hereto as Exhibit "C" and is incorporated herein by reference. Potential environmental effects have been studied, and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed, may have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and the testimony and information received, and scientific and factual data presented as evidence during the public review process. The Monterey County Planning and Building Inspection Department, located at 2620 1st Avenue, Marina, is the custodian of the documents and the materials that constitute the record of proceedings upon which the adoption of the Mitigated Negative Declaration is based.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file.

EVIDENCE: County staff prepared an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on July 24, 2001. The following evidence has been received and considered: All comments on the Initial Study; evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

1. "Assessment of potential Impacts on Sensitive Biological Features" by Jean E. Ferreira, Botanist, Elkhorn Native Plant Nursery dated August 22, 2000 and Amendment (to allow a spring survey of the site) to the report dated June 12, 2001.
2. Preliminary Archaeological Reconnaissance of Assessor's Parcel Number 008-012-007 by Archaeological Consulting.

EVIDENCE: The Program for Monitoring and/or Reporting on Conditions of Approval, prepared and required pursuant to Section 21081.6 of the Public Resources Code, is made a condition of approval and is designed to ensure compliance during project implementation.

A-3-MCO-02-058

Smith Demo/Rebuild

Appeal

Exhibit

pg. 4 of 12

Exhibit E

pg. 4 of 12

EVIDENCE: No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

EVIDENCE: Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

3. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

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

4. **FINDING:** Development of properties located in the Monterey Peninsula Water Management District ("District") depends in large part, on the availability of water pursuant to an allotment system established by the District based on a prorationing of the known water supply for each of the jurisdictions served by the California-American Water Service Company

EVIDENCE: Staff report, oral testimony at the hearing; administrative record.

5. **FINDING:** Based upon the District's water allotment system, the County of Monterey ("County") has established a system of priority distribution of water allocation for properties within its own jurisdiction. Current information available to the County indicates that the County's share of water under the District's allotment system, over which the County has no control, has been exhausted to the point that the County is unable to assure that property owners who do or have obtained development permits for their properties will be able to proceed with their development projects.

EVIDENCE: Staff report, oral testimony at the hearing; administrative record.

6. **FINDING:** In view of the preceding finding, and the fact that the present application for a permit otherwise meets all County requirements, the County approves the application subject to determination by the Monterey County Water Resources Agency, in the form of a water availability certification, that water is available for the project and the applicant's being able to obtain a water use permit from the District.

EVIDENCE: Staff report, oral testimony at the hearing; administrative record.

A-3-MCO-02-058

Smith Demo/Rebuild

Appeal

Exhibit E
pg. 5 of 12

7. **FINDING:** The project is appealable to the Board of Supervisors and the California Coastal Commission.
EVIDENCE: Sections 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

FINDINGS FOR APPEAL

8. **FINDING:** The property which is the subject of this appeal is located at 3105 Seventeen Mile Drive, in the Del Monte Forest area, in the County of Monterey ("the property").
EVIDENCE: Planning Commission Resolution No. 01066; Planning and Building Inspection Department File No. PLN000239; administrative record.
9. **FINDING:** Applicant filed with the County of Monterey an application for a Coastal Administrative Permit and Design Approval to allow demolition of an existing one-story single family dwelling and construction of a two-story single family dwelling with an attached three-car garage, new driveway (decomposed granite), addition and replacement of sections of the perimeter grape stake fence (4 to 6 feet in height), new 6 foot timber entry gate with stone columns and associated grading on the property.
EVIDENCE: Planning and Building Inspection Department File No. PLN00023; administrative record.
10. **FINDING:** Applicant's application for a Coastal Administrative permit and Design Approval came for consideration before the Planning Commission at a public hearing on October 29, 2001
EVIDENCE: Planning Commission Resolution No. 01066; Planning and Building Inspection Department File No. PLN000239.
11. **FINDING:** At the conclusion of the public hearing on October 31, 2001, the Planning Commission approved the application on the basis of the findings and evidence contained in Planning Commission Resolution No. 01066.
EVIDENCE: Planning Commission Resolution No. 01066; Planning and Building Inspection Department File No. PLN000239.
12. **FINDING:** Appellant timely filed an appeal from the Planning Commission alleging that (1) there was a lack of fair or impartial hearing; (2) the findings, conditions, or the decision of the Planning Commission were not supported by the evidence; and (3) that the decision was contrary to law.
EVIDENCE: Appellant's Notice of Appeal; files of Clerk of the Board of Supervisors.
13. **FINDING:** Pursuant to the provisions of the Monterey County Zoning Ordinance and other applicable laws and regulations, the Board, at a continued public hearing on May 21, 2002, heard and considered the appeal.
EVIDENCE: Minutes and other records of the Board of Supervisors' meeting of May 21, 2002; files of the Clerk of the Board of Supervisors and Planning and Building Inspection Department/Rebuild

FINDING: Upon consideration of the documentary information in the files, the staff reports, the oral and written testimony and other evidence presented before the Planning Commission the Board Denied the appeal and finds as follows:

- A. There was a fair and impartial hearing on the permit application before the Planning Commission, and appellant has bailed to sustain its burden as to this contention.
- B. The findings, conditions, or decision of the Planning Commission are supported by the evidence and the same are hereby adopted and incorporated herein by reference.
- C. The Planning Commission decision is in accordance with and not contrary to law.

EVIDENCE: Oral testimony, staff reports, and documents in the administrative record.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors does hereby approve the Smith application (PLN 000239) subject to the following conditions:

1. The subject Coastal Administrative Permit and Design Approval would allow the demolition of an existing one-story single family dwelling and construction of a two-story single family dwelling with an attached three-car garage, new driveway (decomposed granite), addition and replacement of sections of the perimeter grape stake fence (4 to 6 feet in height), new 6 feet timber entry gate with stone columns and associated grading. The project is located at 3105 Seventeen Mile Drive (Assessor's Parcel Number 008-012-007-000), northeasterly of the intersection of Seventeen Mile Dr and Spyglass Hill Dr, Del Monte Forest Land Use Plan. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to the Issuance of Grading and Building Permits:

2. The applicant shall record a notice which states: "A permit (Resolution #01066) was approved by the Board of Supervisors for Assessor's Parcel Number 008-012-007-000 on May 21, 2002. The permit was granted subject to 37 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. The applicant shall enter into a Mitigation Monitoring Agreement with the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

AS-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit E
pg. 7 of 12

4. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection Department)**
5. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**
6. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
7. The applicant shall obtain a grading permit from the Building Inspection Division. **(Planning and Building Inspection)**
8. The roadway surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting the imposed load of the apparatus. **(Cypress Fire Protection District, CDF)**
9. For residential driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. **(Cypress Fire Protection District, CDF)**
10. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. **(Cypress Fire Protection District, CDF)**
11. Where gates are to be locked, the Reviewing Authority having jurisdiction may require installation of a key box or other acceptable means to immediate access for emergency equipment. **(Cypress Fire Protection District, CDF)**
12. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. **(Cypress Fire Protection District, CDF)**
13. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for: "The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be

A-3-MSS-02-058

Smith Demo/Rebuild

Appeal

Exhibit E
pg. 5 of 12

determined by the enforcing jurisdiction. Four(4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation. Rough-in inspections must be completed prior to requesting a framing inspection (Garage Included)." (Cypress Fire Protection District, CDF)

14. A drainage plan shall be prepared by a registered civil engineer or architect to address on-site and off-site impacts, and necessary improvements shall be constructed in accordance with approved plans. (Water Resources Agency)
15. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property in the form of an approved Water Release Form. (Water Resources Agency)
16. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. (Planning and Building Inspection)
17. A conservation and scenic easement shall be conveyed to the County over the rear portion of the property where dune habitat area exists, proposed dune restoration area, 100' setback from the centerline of Seventeen Mile Drive, and the 20' sideyard setbacks, excepting approved development. The easement may allow for private recreational access and enjoyment by the property owner including the placement of boardwalk and bench subject to the approval by a qualified biologist. Scenic and conservation deed to be submitted to and approved by the Director of Planning and Building Inspection.
18. Reduce the size of the motor court on southeast side by eliminating the extra ten feet of Decomposed Granite surfacing extending beyond the eastern edge of the garage. This will reduce the impacted habitat area by 200 ft², lowering the total impact area from 3,400 ft² to 3,200 ft². (MM1) (Planning and Building Inspection Department)
19. The seed from the Monterey spineflower plants that will be covered by the development footprint shall be collected by a qualified biologist at the correct time of year for mature seed and properly stored (in dry, cool and consistent temperature) for propagation or broadcast onto the restoration sites. Seed shall not be stored more than twelve months, due to the drop in viability. (MM5) (Planning and Building Inspection Department)
20. Potential loss of current and potential Monterey spineflower habitat shall be offset by creating spineflower habitat on 7,000 sq. ft. of restored or enhanced dunes. These restored dunes areas will include area on the rear slope of the parcel covered by iceplant, with the balance filled by the creation of a new dune habitat on the northwest corner of the lot in the front of the proposed residence. Removal of existing vegetation and restoration shall be in accordance with the recommendations of the Biological report, plans for such shall be subject to the approval of the Director of Planning and Building Inspection Department. (MM6) (Planning and Building Inspection Department)
21. A restoration plan for the propagation and introduction of the Monterey spineflower on the restored dune areas will be written and implemented by a qualified restoration botanist. The goal of the restoration plan shall be to create self-perpetuating pockets of Monterey spineflower in numerous locations on the restored habitat areas. The plan shall

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit E
pg. 9 of 12

outline methods of propagation, planting, and monitoring. The monitoring period shall cover a minimum of 3 years from the date of first flowering of the Spineflower on the treatment area and will continue until the success criteria has been met. The criteria for determining the success of the introduction of spineflower will be the presence of at least two additional pockets of Monterey spineflower in the restored dune areas that have been self-perpetuating for at least three seasons, with numbers of individuals increasing or remaining stable during the monitoring period. (MM7) (Planning and Building Inspection Department)

22. A biological monitor shall inspect the site before construction, coordinate establishment of the construction boundary on the edge of habitat area, oversee protection fence construction, monitor grading and periodically check construction for consistency with these mitigation recommendations. This monitor shall be selected and under contract pursuant to the mitigation monitoring agreement prior to issuance of permits. (MM8) (Planning and Building Inspection Department)
23. During a pre-construction meeting with the architect or owner, construction manager, and sub-contractors, the biological monitor will make a presentation to the group on the sensitivity of the habitat and discuss protection measures for the habitat during the construction phase. All sub-contracts shall include a statement that the sub-contractor shall not disturb the habitat area by grading, parking, material storage, human traffic, or any other construction activity. (MM9) (Planning and Building Inspection Department)
24. A management plan to insure protection of the habitat area shall be prepared and implemented prior to issuance of building permits. This plan shall insure long-term health of the habitat area, including limitation of access to the area. (MM10) (Planning and Building Inspection Department)
25. The proposed structures shall be moved ten feet forward towards Seventeen Mile Drive, and the extra parking spot at the eastern end of the parcel shall be eliminated. This will eliminate construction impacts to the habitat area. (MM11) (Planning and Building Inspection Department)
26. If, during the course of construction, cultural, archaeological, historical or palentological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (Planning and Building Inspection Department)
27. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be
A-3-MCO-02-058
Smith Demo/Rebuild
Appeal
Exhibit E
pg. 10 of 12

demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**

28. A deed restriction shall be recorded for the property stating that: "An Archaeological Report dated July 31, 2000, has been prepared on this property by Archaeological Consulting, and is on file in the Monterey County Planning and Building Inspection Department. The recommendations contained in said report shall be followed in all further development of this property." **(Planning and Building Inspection Department)**
29. A deed restriction shall be recorded for the property stating that: "an Assessment of Potential Impacts on Sensitive Biological Features" prepared by Jean E. Ferreira, Elkhorn Native Plant Nursery, dated August 22,, 2000 and an amendment dated June 12, 2001, has been prepared on this property, and is on file in the Monterey County Planning and Building Inspection Department. The recommendations contained in said report shall be followed in all further development of this property." **(Planning and Building Inspection Department)**

Prior to Final Building Inspection/Occupancy:

30. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
- a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection)**
31. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection Department)**
32. A landscaping plan shall include low water use or native drought resistant plants, low precipitation sprinkler heads (dispenses less than 0.75 inches of water per hour at any pipe pressure), bubblers, drip irrigation and timing devices. The landscaping plans shall conform with Chapter 18.50, Residential, Commercial and Industrial Water Conservation Exhibits, found in Title 18 of the Monterey County Code. **(Planning and Building Inspection Department)**

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit E
P. 11 of 12

33. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
34. The existing grade beyond the new edge of motor court shall be preserved to maintain grade in the preserved habitat prior to and during all stages of construction. **(MM2)**
(Planning and Building Inspection Department)
35. To minimize potential impacts on the habitat areas, all sand removed during grading must be moved, stored, and/or taken off site to the northwest side of the parcel. **(MM3)**
(Planning and Building Inspection Department)
36. The edge of construction corridor adjacent to the preserved habitat area must be kept under 3 foot width and fenced with a 5-foot construction fence. No material storage or construction traffic of any kind will be allowed on the preserved habitat area. **(MM4)**
(Planning and Building Inspection Department)
37. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection Department)**

PASSED AND ADOPTED on this 28th day of May, 2002, upon motion of Supervisor Johnsen, seconded by Supervisor Calcagno, by the following vote, to-wit:

AYES: Supervisors Armenta, Pennycook, Calcagno and Johnsen

NOES: Supervisor Potter

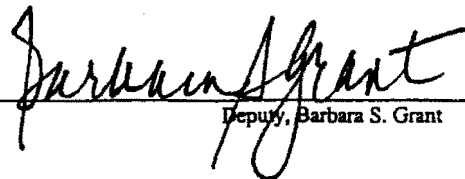
ABSENT: None

I, Sally R. Reed, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page X of Minute Book 71, on May 28, 2002.

Dated: June 12, 2002

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

By


Deputy, Barbara S. Grant

cc: Planning & Building
S-7 3150.000

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit E
pg. 12 of 12

CALIFORNIA COASTAL COMMISSION

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

**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):

| | |
|---------------------------------|--|
| Commissioner Sara J. Wan, Chair | Commissioner John Woolley |
| California Coastal Commission | California Coastal Commission |
| 45 Fremont St., Ste. 2000 | 45 Fremont St., Ste. 2000 |
| San Francisco, CA 94105 | San Francisco, CA 94105 (415) 904-5200 |
| Zip | Area Code Phone No. |

SECTION II. Decision Being Appealed

1. Name of local/port government:

Monterey County

2. Brief description of development being appealed:

Demolition of existing one-story residence and construction of a new two-story single family residence with attached three-car garage, new driveway, addition and replacement of perimeter grape stake fence (4 to 6 ft. in height, new 6 ft. timber entry gate with stone columns and associated grading.

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

3105 Seventeen Mile Drive, Pebble Beach, Monterey County

APN 008-012-007-000

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-02-058

DATE FILED: 8/1/02

DISTRICT: Central

RECEIVED

AUG 01 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit F
pg. 1 of 18

Attachment A

Reasons For Appeal of Murray and Carol Smith Permit PLN000239

The Monterey County Planning Commission approved a coastal development permit for Murray and Carol Smith to allow the demolition of an existing, 2,250 square foot, one-story single family dwelling and construction of a 4,802 square foot, two-story single family dwelling with an attached 900 square foot, three-car garage, new driveway (of decomposed granite), addition and replacement of sections of the perimeter grape stake fence (4 to 6 feet in height), new 6 foot timber entry gate with stone columns, and associated grading. Existing developed site coverage is 2,850 square feet, project approved by Monterey County will cover almost four times that amount (10,678 square feet). The property is located at 3105 Seventeen Mile Drive (Assessor's Parcel Number 008-012-007-000), northeasterly of the intersection of Seventeen Mile Drive and Spyglass Hill Drive, in the Del Monte Forest Land Use Plan area.

Development in ESHA. The entire site project site is comprised of remnant dune habitat, and so is considered environmentally sensitive habitat area (ESHA). The Del Monte Land Use Plan (LUP) Policy 8 states that new development within environmentally sensitive habitat areas shall be limited to uses "that are dependent on the resources therein", and that development adjacent to ESHA "shall be sited and designed to prevent impacts which would significantly degrade the protected habitat." This policy also requires ESHA to be "protected against any significant disruption of habitat values." Therefore approval of the proposed development, which will substantially increase impacts on ESHA because of increased site coverage is not in conformance with this LUP policy.

LUP Policies 13 and 17 provide for the protection of ESHA through required deed restrictions or permanent conservation easements. Although Condition of Approval #17 the County's permit requires a conservation easement, it does not include all areas of the site outside of the building and driveway footprints and thus does not adequately protect all ESHA on the site. CIP Section 20.147.040.B.3.b also requires scenic or conservation easements, specifically to "protect the habitat's long-term maintenance". Leaving areas of ESHA on the lot outside of the building and driveway footprints is inconsistent with this section of the CIP as well as Policies #13 and 17.

Additionally, LUP Policy 15 requires the use of "appropriate native species" in landscaping. Condition of Approval #32 of the County's permit requires a landscaping plan "including low water use or native drought resistant plants". This condition is not consistent with LUP Policy #15 because it does not restrict plantings specifically to the "appropriate native species", but leaves the option to plant non-native plants that are "low water use".

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PAGE 03

STATE OF CALIFORNIA - THE RESOURCE AGENCY

State Data, County

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 225 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 (831) 427-4443

**RECEIVED**

JUN 10 2002

**APPEAL FROM COASTAL PERMIT
 DECISION OF LOCAL GOVERNMENT**

**CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA**

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

SECTION I. Appellant(s):

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

KEN and SHARENE VIRNIG c/o LOMBARDO & GILLES

Post Office Box 2119

Salinas CA 93902-2119

(831) 754-2444

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

MONTEREY COUNTY

2. Brief description of development being appealed:

Demolition of historic resource and construction of single-family dwelling in remnant dune habitat

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

3105 Seventeen Mile Drive, Pebble Beach

APN 008-012-007-000

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-02-058

DATE FILED: 8/1/02

DISTRICT: Central

**A-3-MCO-02-058
 Smith Demo/Rebuild
 Appeal**

Exhibit F
 pg. 3 of 18

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.)

As indicated in March 8, 2002, letter from Stephanie Matraw to Monterey County (See Exhibit "A"), the project does not conform to the following policies and sections of the Monterey County LCP: LUP Policy 8; LUP Policy 13; LUP Policy 15; LUP Policy 17; CIP Section 20.147.070.C; LUP Policy 58; CIP Section 20.147.070.C.2; Monterey County LCP Chapter 6.

Also see policies set forth in neighbors' appeal to the Monterey County Board of Supervisors attached hereto as Exhibit "B."

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.

LOMBARDO & GILLES

By:

Signature of Appellant(s) or Authorized Agent

TODD D. BESSIERE

Date

6/7/2002

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

SECTION VI. Agent Authorization

I/We hereby authorize LOMBARDO & GILLES representative and to bind me/us in all matters concerning this appeal.

to act as my/our

Signature of Agent

Smith/Demo/Rebuild

Date

Appeal

Exhibit F

pg. 4 of 18

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P. 02

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CALIF COASTAL COMM

PAGE: 02

STATE OF CALIFORNIA - THE RESOURCES AGENCY

CRAT DAVIS, GUSTON

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SAN JOSE, CA 95099
(415) 437-1650



March 8, 2002

Kris Barry
Monterey County Planning & Building Inspection
2620 First Ave.
Marina, CA 93933

Subject: *Murray Smith PLN000238, comments to Board of Supervisors*

Dear Kris,

We have received and reviewed the Staff Report for the Murray Smith proposal at 3105 Seventeen Mile Drive for the February 5, 2002 Board of Supervisors meeting. We understand that this item was continued at this meeting, and we would like to submit comments for the continued hearing.

As relayed by our September 5, 2001 letter, our main concern with respect to this project is the loss of environmentally sensitive habitat entailed by the current project design. Based on our analysis of the site thus far, it appears that the entire project site, other than the existing development footprint, should be considered sensitive dune habitat. LUP policy 8 states that new development within environmentally sensitive habitat areas (ESHA) shall be limited to uses "that are dependent on the resources therein." It appears that development is proposed for areas that currently support endangered plants, which would not be in conformance with this LUP policy. Additionally, it is likely that the entire area would support native dune plants if the development were removed, thus any development on this site would constitute development in ESHA.

A large portion of the habitat on site has been degraded by the existing residential development on the property, which consists of a one-story house, driveway and landscaping. To comply with LUP policies regarding development in ESHA, we suggest that any proposed development be located within the footprint of the existing development, and that no further disruption of dune habitat be allowed. Therefore, as currently designed and sited, the project is not consistent with the LUP.

In addition, to comply with the ESHA Policy Guidance Statement and policies 8 and 15, we would also recommend: the restoration of habitat areas which have been degraded by non-native plants; that only native dune plants found in the area be used on the property; and that invasive plants be eradicated. In accordance with LUP policies 13 and 17, we suggest that the entire property be protected by a conservation easement with the exception of an approved building envelope. To accomplish this, an adequate habitat map would be required detailing which areas are to be restored and the exact location of the building envelope. All portions of the lot not included in the building envelope should be placed under conservation easement.

We recognize that protecting habitat on the site may conflict with other policies of the LUP, specifically those intended to address visual impacts. Coastal Implementation Plan Section 20.147.070.C.8 requires a minimum setback of 100 feet from the centerline of 17-Mile Drive, and Section 20.147.070.C.2 states that "All structures shall be subordinate to and blended into the environment, using appropriate construction and landscaping materials to achieve that

A-3-MCO-02-058
Smith Demo/Rebuild

Exhibit F
pg. 5 of 18

MAR-11-2002 MON 10:24 AM M J PLANNING CSTL

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P. 03

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CALIF COASTAL COMM

PAGE 03

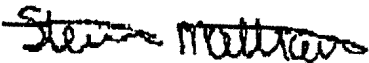
Kris Berry
Smith PLND00239 comments
March 8, 2002
Page 2

effect..." In addition, LUP Policy 56 states that "Where necessary, modification shall be required for siting, structural design, shape, lighting, color, texture, building materials, access and screening".

Chapter 6: Implementation and Administration of the Del Monte Forest Land Use Plan, under Development Permit Review, gives some guidance for handling policy conflicts. It states, "If land use and natural resource protection policies conflict, resource protection policies shall prevail." Thus, protection of visual resources on the site should be considered subordinate to protection of the site's dune habitat. Although requiring any new development on site to be located within the footprint of the existing development conflicts with LUP policies to protect visual resources, the new development should be designed to be "subordinate to and blended into the environment", and to conform to visual policies to the extent possible, thus, lessening any potential visual impacts. Thus, in addition to resiting, a redesign of the proposed house may be necessary to better conform to the LUP's visual policies.

In conclusion, we would recommend redesign of the project due to inconsistencies with the LUP's ESHA policies. It appears to be possible for these policies to be met through resiting and/or redesign of the proposed residence. We appreciate the opportunity to comment on this project at this stage, and we may have additional comments after further review.

Best regards,



Stephanie Matraw
Coastal Planner
Central Coast District Office

EXHIBIT "A"

Appellant appeals the October 31, 2001, decision of the Planning Commission to approve demolition of a historic structure and construction of a two-story single-family dwelling. This appeal is brought on the basis that (1) there was a lack of a fair and impartial hearing; (2) the findings and decision are not supported by the evidence; and (3) the decision is contrary to law.

I.

LACK OF FAIR OR IMPARTIAL HEARING

The Planning Commission provided the applicant, and their respective representatives in support of the project an unlimited period of time to speak before the Planning Commission. The applicants and their representatives, a neighbor, architect, biologist and family members were not limited to the amount of time for their testimony. The Planning Commission broke for lunch, and without warning to the opposition, after the Planning Commission returned from lunch, informed the opponents that they would be limited to three minutes per person.

The opponents' representatives had prepared their testimony based on an understanding that, since the applicants and proponents for the project were not limited to three minutes in time, they would be treated in a similar manner.

II.

FINDINGS NOT SUPPORTED BY THE EVIDENCE

The Commission's findings for approval are supported by neither the evidence presented at the hearing nor the evidence cited in the Resolution.

Finding No. 1: This finding inaccurately states that the project conforms to the plans, policies, requirements and standards of the Local Coastal Program. Attached hereto and incorporated herein is Exhibit "B," a binder with specific policies for which the project is not compatible, including the following:

- C.I.P. Section 20147.070.C.1: The project is substantially larger, more visible and obstructs public views to the ocean.
- C.I.P. Section 20147.070.C.2: The project does not blend with the environment like the surrounding homes. As indicated in Section 6 of Exhibit "B," modifications of the home are mandated by this section of the Monterey County LCP;

**Del Monte Forest Land Use
Plan, Policy 51:**

The project is located on a knoll within the property area most visible from Seventeen Mile Drive and importing fill material is proposed, rather than excavation, which increases the project's visibility from Seventeen Mile Drive, contrary to the mandate of this policy.

**Del Monte Forest Land Use
Plan, Policy 56:**

The project blocks views to the ocean from surrounding scenic areas, as depicted on photos in Section 8 of Exhibit "B," contrary to the mandates of this policy.

C.I.P. Section 20.147.070.A.1:

The project driveway circuitously winds its way around to the back half of the property and behind the proposed structure, rather than providing simple and direct access, as mandated by this section of the Coastal Implementation Plan. The existing access is "simple and direct."

**Del Monte Forest Land Use
Plan, Policy 57:**

The applicant removed trees in violation of the County Code prior to submitting an application for the demolition of the existing historic residence and prior to proposing the two-story structure. Said tree removal was in direct violation of the County Code (See Section 3 of the Exhibit "B") and the proposal is, therefore, in violation of Del Monte Forest Land Use Plan, Policy 57.

**Del Monte Forest Land Use
Plan, Policy 18:**

Although the applicant's biological consultant classified the property as remnant native sand dune habitat, the County findings failed to recognize that Policy 18 limits development within this type of habitat to "low intensity scientific, educational or recreational activities." In this regard, the only manner in which the applicant could demolish a structure and rebuild in compliance would be to build in the same footprint, without disturbing any of the remnant dune habitat.

**Del Monte Forest Land Use
Plan, Policy 74:**

As indicated in the above analysis, this property is a remnant dune, and the development must be limited to the existing developed areas.

Finding No. 2: This finding incorrectly suggests that adoption of a negative declaration is appropriate. As indicated in Sections 1, 3, 4, 5, 6 and 8 of Exhibit "B," the amount of public controversy, a proposal to demolish a historic structure, development within a remnant dune

habitat and conflicting expert testimony prohibits adoption of a negative declaration and mandates an environmental impact report.

Finding No. 4, Water Availability: As documented in Section 2 of Exhibit "B," the water allocation for this project is at issue and an appeal has been filed with the Monterey Peninsula Water Management District with respect to the applicant's representation of the existing number of fixture units legally installed. To date, there is no clear explanation or valid water release form filed with the County of Monterey.

III.

THE DECISION WAS CONTRARY TO LAW

On August 29, 2001, the Planning Department Zoning Enforcement Division was notified that trees from the Smith property were removed without the proper permits and that, pursuant to Monterey County Code Section 2.90.130, the County of Monterey may not process a permit or deem it complete until such time as the property is completely restored to its pre-violation state. The County overlooked the violation, deemed the application complete and held a hearing. (Please refer to the evidence provided in Section 4 of Exhibit "B.")

Adoption of a Negative Declaration is contrary to law. As indicated above, the potential adverse environmental impacts and public controversy require preparation of an Environmental Impact Report.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4663



**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):

JANIE M. O'BRIEN
3137 17 MINE DR.
Box 1037, PEBBLE BEACH, CA.
93953 (831) 625-1386
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

MONTIEREY COUNTY

2. Brief description of development being appealed:

DEMOLITION OF HISTORIC HOUSE & CONSTRUCTION
OF OVER-SIZED HOUSE IN REMNANT DUNE
HABITAT EXPRESSLY PROTECTED IN LCP.

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

3107 17 MINE DR. PEBBLE BEACH
APN 008-012-007-000

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-02-058

DATE FILED: 8/1/02

DISTRICT: Central

RECEIVED

JUN 20 2002

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.)

THIS PROJECT IS IN VIOLATION OF POLICIES CONTAINED IN THE NATURAL & VISUAL RESOURCES ELEMENTS IN THE OPERATIVE MCP. THESE POLICIES HAVE BEEN IDENTIFIED IN A MARCH, 2002 LETTER FROM THE COASTAL COMMISSION AND ALSO IN TESTIMONY OF THE MONTEREY PENINSULA LEAGUE OF WOMEN VOTERS. THIS PROJECT IS COMPLETELY DISPROPORTIONATE TO THE LOT AND THE ADJACENT FRONT HINE HOUSES. IT WILL STAND OUT LIKE A LIGHTHOUSE & IMPACT THE VIEWSHED OF THE BIRD ROCK VIEWING AREA WHICH IS THE MOST HEAVILY VISITED TOURIST STOP ON THE DRIVE. IT WILL SET A PRECEDENT THAT WILL ENCOURAGE MIAMI BEACH STYLE DEVELOPMENT IN WHAT IS NOW A CHARMING HOW KEY COASTAL STRETCH. IT MUST NOT BE PERMITTED. THE EFFICACY OF ANY ENVIRONMENTAL PROTECTIVE DOCUMENT IS DETERMINED BY ITS IMPLEMENTATION. THE IMPLEMENTATION IS THE STRICT RESPONSIBILITY OF THE JUDICIAL BODY, I.E. THE COASTAL COMMISSION.

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.

Janice M. O'Brien
Signature of Appellant(s) or Authorized Agent

Date 6/19/02

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit F
pg. 12 of 18

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

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



RECEIVED

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

JUN 21 2002

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

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREASECTION I. Appellant(s):

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

ROBERT BERGLASS12770 BRISTOL CIRCLE SOUTHLOS ANGELES, CALIF. 90049FAX - 310 - 394-1581(310) 395-2924

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

MONTCELY COUNTY

2. Brief description of development being appealed:

SINGLE FAMILY HOME ON REMNANT DUNE HABITAT

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

3105 17 MILE DRIVE, PEBBLE BEACH, CALIF 93953APN 008-012-007-000

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-MCO-02-058DATE FILED: 8/1/02DISTRICT: Central

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.)

- 1) Please see EXHIBIT A - attached letter from your office, dated 3-8-2002
- 2) THE AREA IS A ENVIRONMENTALLY SENSITIVE HABITAT - ESHA
- 3) CURRENT PLANS ARE APPROX. 3000 SQ. FT BIGGER THAN THE HOME ON THE SITE - APPROX 2000 - AT 5000 SQ. FT. THAT IS 150% BIGGER
- 4) ALSO, CURRENT DRIVEWAY IS APPROX 20' x 30' = 600 SQ. FT. NEW DRIVEWAY, MOTOR COURT ETC IS 5000 SQ. FT.
- 5) AT LEAST 10,000+ SQ. FT. WILL BE ON DUNES HABITAT OR ABOUT 4-5 TIMES THE CURRENT HOME.
- 6) GASTVIEW FROM SPYGLASS HILL ROAD WILL BE DESTROYED
- 7) HOME LOCATION IS ON THE HIGHEST POINT OF THE PROPERTY, INSTEAD OF FOLLOWING LUP POLICIES OF BLENDING INTO THE ENVIRONMENT.

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.

Robert Berglass (ROBERT BERGLASS)
Signature of Appellant(s) or Authorized Agent

Date 6-20-2002

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

SECTION VI. Agent Authorization

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

Robert Berglass
Signature of Appellant(s)

Date 6-20-2002
A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit F
pg. 14 of 18

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4443

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED

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

JUN 26 2002

SECTION I. Appellant(s):CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

Charles T. Olvis

1153 Spyglass Hill Rd

P.O. Box 1533

Pebble Beach, CA 93953

(831) 624-8154(h) 755-5216(w)

Zip

Area Code Phone No:

SECTION II. Decision Being Appealed

1. Name of local/port government:

Monterey County

2. Brief description of development being appealed:

Demolition of existing residence and construction of single-family
residence in remnant dune habitat.

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

3105 Seventeen Mile Drive, Pebble Beach

APN 008-012-007-000

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XXX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-MCO-02-058DATE FILED: 8/1/02DISTRICT: Central

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

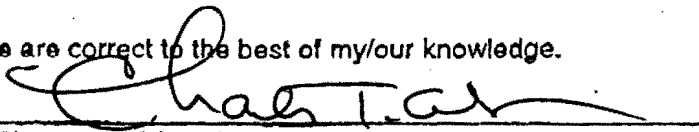
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The project does not conform to the following policies and sections of the Monterey County LCP: LUP Policy 8; 13;15;17. It additionally does not conform CIP Section 20.147.070.C; C.2.; and Monterey County LCP Chapter 6. This appellant is particularly concerned with the expanded "footprint" of the new project. It appears that this project greatly exceeds the limits of the original project. It furthermore requires that a significant amount of fill be utilized to increase the height of the residence. With reference to LCP 20.147.070.C.2, the new project can not possibly blend into the environment when compared to present structure. This observation is relevant especially considering all the trees which have been removed by the present owner.

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
Charles T. Olvis
Date 6/24/02

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit F
pg. 16 of 18

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

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

RECEIVED



JUN 27 2002

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION I. Appellant(s):

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

LEAGUE OF WOMEN VOTERS OF THE MONTEREY PENINSULA
P.O. Box 1995
MONTEREY CA 93942
831 648-8683

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

MONTEREY COUNTY

2. Brief description of development being appealed:

DEMOLITION OF HISTORIC RESOURCE AND
CONSTRUCTION OF SINGLE FAMILY DWELLING
IN REMNANT DUNE HABITAT

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

3105 SEVENTEEN MILE DRIVE, PEBBLE BEACH
APN 008-012-007-000

4. Description of decision being appealed:

a. Approval; no special conditions:

b. Approval with special conditions: XX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MCO-02-058

DATE FILED: 8/1/02

DISTRICT: Central

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.)

PROPOSED PROJECT IS IN CLEAR VIOLATION OF THE FOLLOWING POLICIES UNDER THE BSHA SECTION OF THE MCP: POLICIES 8, 14 AND 55.

THE SCENIC & VISUAL RESOURCES IN THE MCP STATE "IN ORDER TO PROTECT THE SCENIC AND VISUAL RESOURCES OF THE DEL MONTE FOREST, ONLY COMPATIBLE DEVELOPMENT ALONG THE 17 MILE DRIVE SHOULD BE ALLOWED.

IT IS INCUMBENT UPON THE COUNTY TO COMPLY WITH ITS OWN DOCUMENT. IT IS ALSO AN INVALUABLE OPPORTUNITY TO ADOPT EXPLICIT CRITERIA TO GOVERN FUTURE DEVELOPMENT IN THIS SENSITIVE COASTAL AREA.

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.

Beverly H. Bean President LVMF
Signature of Appellant(s) or Authorized Agent

Date

6/26/02

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit F
pg. 18 of 18

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FEB 25 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Elkhorn
Native Plant Nursery

**Assessment of Potential Impacts on
Sensitive Biological Features
at
3105 17 Mile Drive
Pebble Beach, CA 93950
APN 008-12-007**

Prepared For:

James Smith
Architect

Prepared By:

Jean E. Ferreira
Botanist
Elkhorn Native Plant Nursery

August 22, 2000

A-3-MCO-02-058
Smith Demo/Rebuild

Appeal

Exhibit **G**
pg. 1 of 13

Elkhorn Native Plant Nursery

Property & Project Background Information

On August 15 and 22, 2000, Jean Ferreira conducted a biological survey at 3105 17 Mile Drive, Pebble Beach, California. The entire parcel was surveyed in compliance with the permit process of Monterey County. The owners of the parcel are proposing to demolish the existing home and garage to construct a new single family residence with an attached 3-car garage with a second story. A new driveway will enter the west side of the parcel from 17 Mile Drive, swing around the south side of the new house, near the parcel boundary and meet the garage at the rear of the property. The parcel is # 008-12-007 and is 42,121 ft² (.967 ac). It is located on the eastside of 17 Mile Drive in the Spyglass Hill sand dune area, just south of Bird Rock.

Survey method

The survey was conducted by walking very slowly in a back and forth zigzag pattern, covering the entire parcel. The survey was conducted between 9:30am and 12:30pm on Tuesday, Aug 5, 2000. It was a sunny calm morning. Mapping was completed on Tuesday August 22, 2000 during the morning hours.

Findings

The parcel is located just across the 17 Mile Drive from the ocean edge, between Point Joe and Cypress Point. The area consists of a fairly large dune system referred to as the Spyglass Hill sand dunes. The study parcel was originally central dune scrub habitat, as were all adjacent properties. Homes have been developed in the immediate area on large parcels, typically about 1 acre in size.

A complete plant species list was created for the parcel (Table 1). Some animal species were observed on the site; however, the list in Table 2 contains species that are commonly expected to be in the mid-dunes of the Pebble Beach area.

The existing house and its immediate perimeter have been landscaped with non-native species for many years. Monterey Cypress, Monterey Pines, and Australian Tea Trees were planted on the north, west, and southern boundaries to provide screening. Iceplant and other succulents were planted in beds near the house and on the slope immediately below and behind the house. The landscaped area is presently of no significance biologically. It is mapped on Map 1 as 'Landscaping'. The areas outside of the landscaped area has native

Elkhorn Native Plant Nursery

Table 1. Plant Species List for the Smith Residence: 3105 17 Mile Drive, Pebble Beach, CA. Compiled on 15-Aug-00.

| Family | Species | Common Name | Location on Site | | |
|-------------------------------|---|----------------------|------------------|-------------|-------------|
| | | | Habitat Area | Org. Habit. | Landscaping |
| Aizoaceae (Iceplant) | <i>Carpobrotus edulis</i> * | Iceplant | X | X | X |
| | <i>Drosanthemum floribundum</i> * | Rosea ice plant | | | X |
| Asteraceae (Sunflower) | <i>Ericameria ericoides</i> | Mock heather | X | X | X |
| | <i>Lessingia filanginifolia</i> var. <i>californica</i> | Beach aster | X | | |
| | <i>Artemisia pycnocephala</i> | Beach sagewort | X | X | X |
| | <i>Gnaphalium stramineum</i> | Cudweed | X | X | X |
| | <i>Arctotis hybrid</i> * | African daisy | | | X |
| Boraginaceae (Borage) | <i>Cryptantha leiocarpa</i> | Popcorn flower | X | X | |
| Crassulaceae (Stonecrop) | <i>Dudleya caespitosa</i> | Sea lettuce | X | | |
| | <i>Crassula argentea</i> * | Jade Plant | | | X |
| | <i>Sempervivum tectorum</i> * | Hens & Chicks | | | X |
| Cupressaceae (Cypress) | <i>Cupressus macrocarpa</i> | Monterey cypress | | X | X |
| Cyperaceae (Sedge) | <i>Carex pansa</i> | Dune sedge | | X | |
| Fabaceae (Pea) | <i>Lotus heermannii</i> va. <i>orbicularis</i> | Woolly lotus | X | | |
| | <i>Lupinus arboreus</i> | Bush lupine | X | X | |
| Liliaceae (Lily) | <i>Agave spp.</i> * | Agave | | X | X |
| | <i>Agapanthus orientalis</i> * | Lily-of-the-nile | | | X |
| | <i>Kniphofia uvaria</i> * | Red hot poker | | | X |
| Myrtaceae (Myrtle) | <i>Leptospermum laevigatum</i> * | Australian tea Tree | | | X |
| Nyctaginaceae (Four O'Clock) | <i>Abronia latifolia</i> | Yellow sand verbena | X | X | |
| | <i>Abronia umbellata</i> | Pink sand verbena | X | | |
| | <i>Sonchus oleraceus</i> * | Common sow thistle | | X | |
| | <i>Conyza canadensis</i> * | Horseweed | | X | X |
| Onagraceae (Evening Primrose) | <i>Camissonia cheiranthifolia</i> | Beach primrose | X | X | |
| Pittosporaceae | <i>Pittosporum undulatum</i> * | Victoria box | | X | X |
| Polygonaceae (Buckwheat) | <i>Polygonum paronychia</i> | Dune knotweed | X | | |
| | <i>Chorizanthe pungens</i> var. <i>pungens</i> | Monterey spineflower | X | | |
| | <i>Eriogonum parvifolium</i> | Coast buckwheat | X | X | |
| Poaceae (Grass) | <i>Poa douglasii</i> | Dune bluegrass | X | | |
| | <i>Festuca sp. (annual)</i> * | Fescue | | X | X |
| | <i>Bromus diandrus</i> | Ripgut brome | | X | X |
| | <i>Polypogon monspeliensis</i> * | Rabbitfoot grass | | X | X |
| Scrophulariaceae (Figwort) | <i>Castilleja latifolia</i> | Monterey paintbrush | X | | |

* = Non-native species

List compiled by Jean Peters

Elkhorn Native Plant Nursery

Table 2. Potential Animal Species List for the Smith Residence: 3105 17 Mile Drive,
Pebble Beach, CA.

| Family | Species | Common Name |
|--------------------|------------------------------|----------------------|
| Mammals | | |
| Procyonidae | <i>Procyon lotor</i> | Raccoon |
| Mustelidae | <i>Mephitis mephitis</i> | Stripe Skunk |
| Canidae | <i>Canis latrans</i> | Coyote |
| | <i>Vulpes fulva</i> | Red Fox |
| Sciuridae | <i>Citellus beecheyi</i> | CA Ground Squirrel |
| Geomyidae | <i>Thomomys bottae</i> | Valley Pocket Gopher |
| Cricetidae (Mice) | <i>Peromyscus spp.</i> | Mice |
| | <i>Microtus californicus</i> | CA vole |
| Leporidae (Rabbit) | <i>Lepus californicus</i> | Blacktail Jackrabbit |
| | <i>Sylvilagus ssp.</i> | |
| Cervidae | <i>Odocoileus hemionus</i> | Black-tailed Deer |
| Birds | | |
| Pelecanidae | | |
| Recurvirostridae | | |
| Laridae | | |
| Accipitridae | | |
| Falconidae | | |
| Emberizidae | | |

List compiled by Jean Ferreira

Elkhorn Native Plant Nursery

central dune scrub habitat remaining, some in a natural state on the steepest part of the slope behind the existing house, and some in a degraded state, that is found on the flatter areas closer to the existing building. The degraded habitat areas have a mix of native and non-native species, with low diversity of native species and low coverage. It is shown on Map 1 as 'Degraded Habitat'. The habitat area on the slope at the rear of the lot is primarily native plant species with fairly good cover for the community. This area provides habitat for the native insect and animal life that is associated with the central dune scrub. It is delineated on Map 1 as 'Habitat' area.

Sensitive Plant Community

The central dune scrub community is listed by the California Department of Fish and Game as a sensitive habitat. This ranking does not give it legal status under the endangered species laws but draws attention to it as a threatened community. The main threats to this community have been urbanization, sand mining, and human recreational use. Numerous special status (rare, threatened, endangered) plants and animals are found in the community of central dune scrub in the Monterey Bay area. Table 3 lists the potential special status species found in this habitat. The survey conducted for this report targeted these species.

Sensitive Plant Species

Table 3 lists the potential sensitive plant species for the coastal dune areas on the Monterey Bay. Although the survey was conducted in August, which is late in the blooming season, due to my familiarity with these species and their microhabitats from past surveys of their known populations, the plants would be recognizable on the Smith parcel, if present.

One special status species was found on the Smith property: *Chorizanthe pungens* var. *pungens*, the Monterey spine flower. It occurs scattered through the upper habitat area, shown on Map 1. *C. pungens* var. *pungens* was listed by the federal government as a threatened species in 1994, due to a loss of habitat. Threatened species are defined as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

C. pungens var. *pungens* is a prostrate annual with light pink flowers with small hooked awns on the involucre that give the flowers a spiny feel. It is found only in the coastal dunes and coastal scrub of the Monterey Bay area. The *C. pungens* var. *pungens* is an annual plant, surviving from year to year by the

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Table 3. Potential Special Status Plants and Animals in Fore and Mid-Dune Systems of the Monterey Bay.

| Species | Common Name | Listing | | |
|---|--------------------------|---------|----|------|
| | | Fed | CA | CNPS |
| Plants | | | | |
| <i>Arctostaphylos pumila</i> | Sandmat Manzanita | SC | | 1B |
| <i>Astragalus tener</i> var. <i>titi</i> | Coastal Dunes Milk-vetch | E | E | 1B |
| <i>Chorizanthe pungens</i> var. <i>pungens</i> | Monterey Spineflower | T | | 1B |
| <i>Cupressus macrocarpa</i> | Monterey Cypress | SC | | 1B |
| <i>Erysimum ammodendrum</i> | Coast Wallflower | SC | | 1B |
| <i>Erysimum menziesii</i> var. <i>menziesii</i> | Menzie's Wallflower | E | E | 1B |
| <i>Erysimum menziesii</i> var. <i>yadonii</i> | Yadon's Wallflower | E | E | 1B |
| <i>Gilia tenuiflora</i> ssp. <i>arenaria</i> | Sand Gilia | E | T | 1B |
| <i>Layia carnosa</i> | Beach Layia | E | E | 1B |
| <i>Lupinus tidestromii</i> | Tidestrom's Lupine | E | E | 1B |
| <i>Potentilla hickmanii</i> | Hickman's Cinquefoil | E | E | 1B |
| <i>Trifolium polyodon</i> | Pacific Grove Clover | SC | R | 1B |
| Insects | | | | |
| | | | | CDFG |
| <i>Coelus globosus</i> | Globose Dune Beetle | SC | | |
| <i>Euphilotes enoptes smithi</i> | Smith's Blue Butterfly | E | | |
| Reptiles | | | | |
| <i>Anniella pulchra nigra</i> | Black Legless Lizard | PE | | SC |
| Birds | | | | |
| <i>Charadrius alexandrinus nivosus</i> | Western Snowy Plover | T | | SC |

SC = Species of Concern

E = Endangered

R = Rare

T = Threatened

1B = Plants Rare, Threatened or Endangered in CA, CNPS ranking

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preservation of its seed bank in the upper layers of the sand. Locations of individual plants may vary slightly from year to year, requiring conservation efforts to focus on the habitat rather than individuals.

Although the native stands of Monterey Cypress are considered a special status species, all Monterey cypress on the Smith property have been planted and the parcel is north of the natural population of Monterey cypress in Pebble Beach.

Sensitive Animal Species

Four sensitive animal species are listed on Table 3, as potentially present in dune systems in the Monterey Bay area. None of the four were confirmed to be present on the Smith parcel.

The globose dune beetle is typically found within the top layer of sand at the base of native plants in the fore-dune. The beetle is typically associated with beach bur and sand verbenas. The Smith site is mid-dune, with no beach bur. What sand verbenas are present are small and scattered. Although not confirmed on the site, preservation of the 'Habitat' area, will preserve potential habitat for the globose dune beetle.

The Smith's Blue butterfly is found on fore and mid-dunes with populations of its host plants, the dune buckwheat and coast buckwheat. The Smith property has only a couple of individuals of the dune buckwheat present, not enough to attract the butterfly. Coast buckwheat is absent from the site. The individuals of the dune buckwheat are primarily in the 'Habitat' area. Again if this area is preserved, the buckwheats will be available for the butterflies.

The Black legless lizard is also found below the surface of the sand, typically in mid to rear-dune areas, in the mulch and under canopy of mature shrubs such as mock heather. The mid-dune vegetation on the Smith parcel is primarily composed of sub-shrubs and herbaceous plants, that do not provide the protection that legless lizards seek. If the lizard is present on the site, they would likely be near the mature mock heather shrubs in the 'Habitat' area.

The western snowy plover feeds and nests on fore-dunes and salt flats. The Smith parcel does not have the correct habitat to attract the plovers.

Potential Impacts

The footprint of the proposed development does not impact any visible Monterey spineflower from this spring's bloom, but as designed will cover

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potential habitat. Specifically, the driveway to the southwest of the house and the motor court area will cover approximately 2,600 ft². of sand dune habitat that is presently available for colonization by the Monterey spineflower. This area is presently in a degraded state, probably due to higher foot traffic than received on the hillside (above 32'). There are also large patches of ice plant within this area; habitat exists in the pocket between patches, a niche Monterey spineflower is very capable of colonizing. The western edge of the habitat area will also be eliminated under the present design. A slight reduction in size of the motor court could remedy this potential impact.

Mitigation Recommendations

1. Reduce size of motor court on southeast side by eliminating the semi-circle extension and pulling in the south corner 10 feet.
2. Do not change the grade beyond the new edge of motor court; Monterey spine flower is an annual plant, maintaining grade to preserve seed bank is critical.
3. All sand removed during grading must be moved, stored, and/or taken off site to the northwest side of the parcel.
4. Edge of construction corridor adjacent to the habitat area must be kept under 5 feet width and fenced with a 5-foot construction fence. No material storage or construction traffic of any kind will be allowed on the habitat area.
5. The permanent loss of approximately 2,600 ft². of potential Monterey spineflower habitat shall be offset by recreating spineflower habitat on 5,300 ft². of restored dunes. The restored dune habitat areas will be on the rear slope of the parcel presently covered by iceplant and by the creation of a new dune on the northwest corner of the lot. Habitat area on the rear slope shall be enhanced by killing ice plant within the area with herbicide and left to die in place. Manual removal will cause too much disturbance of the hillside. Thinning of the dead iceplant mats shall be considered to open up the sand surface. Planting of Monterey spineflower plugs or seed and monitoring the results shall be first outlined in a restoration plan and performed by a qualified restoration botanist under the approval of the USFWS. The new dune on the west side of the house will be planted with native dune species. Bare sand openings for native annuals to colonize will be designed into the dune planting and into the outlying landscape where possible.

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6. A biological monitor shall inspect site before construction, coordinate establishment of the construction boundary on edge of habitat area, oversee protection fence construction, monitor grading and periodically check construction for violations of these mitigation recommendations.
7. During a pre-construction meeting with the architect or owner, construction manager, and sub-contractors, the biological monitor will make a presentation to the group on the sensitivity of the habitat and discuss protection measures for the habitat during the construction phase. All sub-contracts shall include a statement that the sub-contractor shall not disturb the habitat area by grading, parking, material storage, human traffic, or any other construction activity.
8. A management goal for present and future property owners should be to protect the rear lot hillside and the new dune on the northwest corner of the parcel as 'Dune Habitat Area'. Foot traffic should be kept to a minimum in these fragile areas.

Mitigated Impacts

If the mitigation measures are implemented as outlined above, approximately a 2,600 ft². area of potential Monterey spineflower habitat will be permanently lost under the drive and motor court, and approximately 5,300 ft². of dunes on the hillside and the northwest corner of the parcel will be gradually returned to available habitat. If the globose dune beetle or legless lizard is present, their habitat will be protected during the construction phase. In my opinion these measure will reduce the impacts to insignificance.

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FEB 25 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

June 12, 2001

Amendment to:

Assessment of Potential Impacts on Sensitive Biological Features at 3105 17-Mile Drive, Pebble Beach, CA 93950, APN 008-12-007, Jean E. Ferreira, Elkhorn Native Plant Nursery, August 22, 2000.

Prepared for: James Smith, Architect

Prepared by: Jean Ferreira, Botanist, Elkhorn Native Plant Nursery

The initial biological survey was conducted and a report written in August of 2000. During that survey, only one special status species, *Chorizanthe pungens* var. *pungens*, the Monterey spineflower, was found on the project site. The plant locations were mapped, and potential impacts and mitigation recommendations were made in the report.

Since August 2000, the proposed development plan has been changed, moving the location of the house, garage and motor court back on the parcel approximately 20 feet. The driveway has been shortened and moved to the southern edge of the parcel. A new survey for the Monterey spineflower was conducted by Jean Ferreira, on May 8, 2001. The survey was to assess any impact of the plan changes and also to have on record a biotic survey of the parcel, completed during the peak of the spring season.

Findings

No additional sensitive plant or animal species were noted on the parcel during the second survey. The distribution of the Monterey spineflower shifted slightly on the site, as typical with annual plants. In May 2001, two individuals of the spineflower were growing in the 'degraded habitat' area on the proposed site of the motor court. The largest cluster of plants on the property were generally in the same location as last year, at the base of the hill, in the center of the parcel.

A-3-MCO-02-058

Smith Demo/Rebuild

Exhibit G
pg. 10 of 13

Smith Biological Report Amendment

P.O. Box 270 • Moss Landing, CA 95059 • PHONE: 831 765-1207 FAX: 831 765-1659

Email: enpn@elkhornnursery.com • Website: www.elkhornnursery.com

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The spineflower plants on the Smith parcel were healthy, robust, and supported a large number of flowers.

Potential Impacts

Originally, the proposed development was sited on developed, landscaped, and degraded habitat areas as mapped in the August 2000 biotic report. The new location will encroach into the mapped habitat area, approximately 800 ft². The new siting of the motor court covers the current location of a few individuals of spineflower. It also has the potential to negatively impact the largest cluster of spineflower plants on the site, due to the proximity to the plants, the slope, and the nature of shifting sand. Because annual plants such as the spineflower rely on their seed stored in the soil to create subsequent years population, the preservation of that seed bank in the top three inches of sand is critical for the continuation on the population.

Currently there is approximately 7,800 ft² of habitat, and 2,600 ft² of degraded habitat on the site. The proposed development will impact the following areas listed in Table A-1.

Table A-1. Habitat areas for the Smith Residence: 3105 17 Mile Dr, Pebble Beach, CA.

| | Current Area | Area To Be Lost by Development | |
|------------------|----------------|--------------------------------|---------------|
| | | Original Siting | New Proposal |
| Habitat | 7,800 sq. ft. | 0 | 800 sq. ft. |
| Degraded Habitat | 2,600 sq. ft. | 2,600 sq. ft. | 2,600 sq. ft. |
| Total | 10,400 sq. ft. | 2,600 sq. ft. | 3,400 sq. ft. |

Mitigation Recommendations

1. Reduce the size of the motor court on southeast side by eliminating the extra ten feet of D. G. surfacing extending beyond the eastern edge of the garage. This will reduce the impacted habitat area by 200 ft², lowering the total impacted area from 3,400 ft² to 3,200 ft².

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2. Do not change the grade beyond the new edge of motor court; Monterey spine flower is an annual plant, maintaining grade in the preserved habitat area (eastern slope of the parcel mapped as 'habitat') to preserve seed bank is critical.
3. All sand removed during grading must be moved, stored, and/or taken off site to the northwest side of the parcel.
4. Edge of construction corridor adjacent to the preserved habitat area must be kept under 3 foot width and fenced with a 5-foot construction fence. No material storage or construction traffic of any kind will be allowed on the preserved habitat area.
5. The seed from the Monterey spineflower plants that will be covered by the development footprint, shall be collected by a qualified biologist at the correct time of year for mature seed and properly stored (in dry, cool and consistent temperature) for propagation or broadcast onto the restoration sites. Seed shall not be stored more than twelve months, due to the drop in viability.
6. The permanent loss of approximately 3,200 ft² of current and potential Monterey spineflower habitat shall be offset by creating spineflower habitat on 7,000 ft² of restored or enhanced dunes (hereinafter referred to collectively as "restored dunes"). These restored dune areas will include area on the rear slope of the parcel presently covered by iceplant, with the balance filled by the creation of a new dune habitat on the northwest corner of the lot in the front of the home. Restored dune areas shall be enhanced by killing ice plant with herbicide and leaving it to die in place. Manual removal of iceplant will not be used on slopes because it will result in too much disturbance of the hillside. Thinning of the dead iceplant mats shall be considered to open up the sand surface. The restored dune areas will be planted with native dune species in addition to the spineflower. Bare sand openings for native annuals to colonize will be designed into the dune planting and into the outlying landscape where possible.
7. A restoration plan for the propagation and introduction of the Monterey spineflower on the restored dune areas will be written and implemented by a qualified restoration botanist. The goal of the restoration plan shall be to create self-perpetuating pockets of Monterey spineflower in numerous locations on the restored habitat areas. The plan shall outline methods of propagation, planting, monitoring. The monitoring period will cover a minimum

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of 3 years from the date of first flowering of the spineflower on the treatment area and will continue until the success criteria has been met. The criteria for determining the success of the introduction of spineflower will be the presence of at least two additional pockets of Monterey spineflower in the restored dune areas that have been self-perpetuating for at least three seasons, with numbers of individuals increasing or remaining stable during the monitoring period.

8. A biological monitor shall inspect site before construction, coordinate establishment of the construction boundary on edge of habitat area, oversee protection fence construction, monitor grading and periodically check construction for consistency with these mitigation recommendations.
9. During a pre-construction meeting with the architect or owner, construction manager, and sub-contractors, the biological monitor will make a presentation to the group on the sensitivity of the habitat and discuss protection measures for the habitat during the construction phase. All sub-contracts shall include a statement that the sub-contractor shall not disturb the habitat area by grading, parking, material storage, human traffic, or any other construction activity.
10. A management goal for present and future property owners should be to protect the rear lot hillside and the new habitat area on the northwest corner of the parcel as 'Dune Habitat Area'. Foot traffic should be kept to a single path in these fragile areas.

Mitigated Impacts

If the mitigation measures are implemented as outlined above, approximately a 3,200 ft² area of current and potential Monterey spineflower habitat will be permanently lost under the drive and motor court, and 7,000 ft² of dunes on the parcel will be gradually returned to available habitat. If the globose dune beetle or legless lizard is present, all but 600 ft² their habitat will be protected during the construction phase. In my opinion these measures will reduce the impacts on the site and to the area to insignificance.

As an alternative, the proposed structures could be shifted ten feet toward the 17-Mile Drive. This shift, in addition to the elimination of the extra parking place at the eastern end of the garage, would eliminate the impact to the habitat area. Project impact would be reduced to the loss of 2,600 ft² of degraded habitat, as addressed in the biological report of August 2000, and reduce the amount of land that must be restored as mitigation.

THOMAS E. MOSS
Coastal Biologist

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NATIVE LANDSCAPE RESTORATION PLAN

3129 17-Mile Drive, Pebble Beach, CA
A.P.N. 008-263-03

Prepared For

The Paul Davis Partnership
511 Hartnell Street
Monterey, CA 93940

August 29, 1991

248 Chestnut Street
Pacific Grove, CA 93950

(408) 373-8573

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit *H*
pg. *1* of *3*

NATIVE LANDSCAPE RESTORATION PLAN

3129 17-Mile Drive, Pebble Beach, CA
A.P.N. 008-263-03

INTRODUCTION

BACKGROUND

This plan describes a program for the restoration and enhancement of the native plant community, or "native landscape," on the site. Specific procedures and standards are defined for restoring the vegetation.

Restoration of the native landscape is required as a condition of approval for the proposed development of a major addition to an existing residence on the site. In addition, a three year monitoring program is required to identify any follow-up maintenance needs and to ensure the success of the restoration project. Because of site condition and revegetation methodology, an extended period of monitoring totalling five years is recommended.

A botanical survey was prepared for the site in November 1978, and no rare or endangered plant species were recorded. However, because the survey was conducted at a time of year when the plant species of special concern are dormant and usually not visible, the validity of that survey is questionable. Therefore, in conjunction with the preparation of this landscape plan, the site was surveyed in July 1991 for the presence of any species of special concern. Five Tidestrom's lupines were located on the property to the east of the proposed building envelope. Protection measures are proposed in this plan for preventing damage during construction to this area and to other areas on the site that contain existing stands of native dune plants.

The total area of the property is 51,359 square feet. As a condition of approval of the residence addition, approximately 85 percent, or 43,655 square feet, of the property will require restoration.

REGIONAL SETTING

The property is located on coastal dunes near Fanshell Beach on the seaward extremity of the Monterey Peninsula. The dunes in this area form the southern boundary of the Asilomar Dunes Complex, which extends to the

north to Pt. Pinos, approximately four miles, forming a narrow, disjunct band of dunes.

In recent times, much of the original native flora and fauna of this relatively small and isolated dune system has been severely altered. Development of golf courses, hotels and resorts, and residences have directly impacted the dunes. Indirect impacts have resulted from the introduction of invasive, non-native (exotic) plants which have overrun and crowded out much of the remaining native flora.

By far, the most abundant and aggressive exotic plant in the Asilomar Dunes is the Hottentot fig ice plant. Originally from South Africa, ice plant has been used extensively in California as a bank stabilizer, particularly along state highways and on eroding coastal dunes. Ice plant has significantly degraded natural habitat values throughout the Asilomar Dunes.

The native landscape of the Asilomar Dunes is comprised of a community of coastal plants and associated animal life distinct from all other areas of California. For this reason, the natural landscape is worthy of preservation, maximum protection, and restoration where damaged or disturbed.

The California Coastal Commission considers the Asilomar Dunes to be an "environmentally sensitive habitat area", which is defined in the California Coastal Act of 1972, section 30107.5, as:

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

Six plant and animal species of special concern to both state and federal wildlife agencies are present in the Asilomar Dunes. These species include the following:*

Beach layia (Layia carnosa) FC2, SSC
California black legless lizard (Anniella pulchra ssp. nigra) FC2, SSC
Dune gilia (Gilia tenuiflora ssp. arenaria)
Menzies' wallflower (Erysimum menziesii ssp. menziesii) FC2, SE
Sandmat manzanita (Arctostaphylos pumila) FC2, SSC
Tidestrom's lupine (Lupinus tidestromii ssp. tidestromii) FC2, SE

* FC2 - Federal Candidate Category 2; SE - State Endangered; SSC - State Special Concern

Jeff Norman
Consulting Biologist
P.O. Box 15
Big Sur, CA 93920
(831) 667-0105
18 September 2001

5C

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SEP 04 2002

Kristina Berry
Monterey County Planning and Building Inspection Department
P.O. Box 1208
Salinas, CA 93901

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Biotic resources/impacts, Smith property, Pebble Beach.

Dear Ms. Berry:

At the request of Mr. Ken Virnig, I am submitting to you the following comments regarding potential biological impacts of the Smith project.

1. Implementation of the proposed project may result in impacts to Smith's blue butterfly (*Euphilotes enoptes smithi*), a Federally-listed endangered insect. The Smith property supports a population of one of the butterfly's host food plants, seacliff buckwheat (*Eriogonum parvifolium*). Although the biotic reports prepared for the Smith project mention the presence of seacliff buckwheat plants (called both coast buckwheat and dune buckwheat therein), their location on-site is not made clear. I would disagree with the conclusion that there are insufficient buckwheat plants on the Smith property to support Smith's blue; since neighboring properties within the short flight distance of the butterfly have adequate buckwheat, the few buckwheat plants on the Smith property would help support a potential local population of Smith's blue. The biotic report should have described more carefully the location of the buckwheat plants in relationship to the project, and what specific impacts to these plants may occur. A consideration of source habitat for Smith's blue on adjoining properties should also have been included.

2. I question the adequacy of restoring remnant dune habitat as mitigation for biotic impacts on the Smith property. This property consists of environmentally sensitive habitat that is recognized in the Del Monte Forest Land Use Plan as remnant dunes. Avoidance of sensitive habitat, and restoration of the damage already done by Mr. Smith to the habitat, would be required to achieve consistency with LUP policy toward ESHAs. Specifically, the impacts to Monterey spine-flower (*Chorizanthe pungens* var. *pungens*), a Federally-listed threatened plant, would be better reduced by minimizing the driveway so that vehicle access is limited to the front of the residence. Thus the high habitat value of the dunes on the parcel, and their contribution to the biodiversity of the adjoining dune tracts, would be retained. Additional mitigation could be

A-3-MCO-02-058
Smith Demo/Rebuild
1 Appeal

Exhibit I
pg. 1 of 2

derived by eradicating the iceplant on the property and replacing it with native dune species (including Monterey spine-flower), although this should not be the primary mitigation.

3. Because the project involves the taking of a Federally-listed plant (Monterey spine-flower) and the potential taking of a Federally-listed animal (Smith's blue butterfly), consultation with the U.S. Fish and Wildlife Service (FWS) should occur. FWS should be involved in the design of any mitigation measures involving Federally-listed species.

4. According to Mr. Virnig, the height of the proposed new Smith residence would be 28 feet. The greatly-expanded footprint would be built up toward the rear to attain this overall altitude; thus, the added height increase toward the rear of the footprint will be in excess of 28 feet. The mass and altitude of the new structure could shade much of the proposed dune restoration, resulting in failure to meet the stated success criteria for Monterey spine-flower mitigation. Structural shading could also substantially reduce habitat value in dune areas which would otherwise be unaffected by the project, causing additional impacts to Monterey spine-flower. If shading causes senescence or reduction of flowering of nearby buckwheat plants, an impact on Smith's blue butterfly may result.

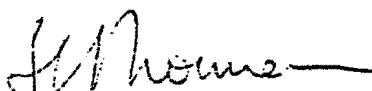
5. A substantial loss of dune habitat occurred when a row of conifers was cut down and chipped. The chipping waste was then spread over an area along the boundary with the Berglass property. According to Mr. Virnig, this occurred in late 1999 or early 2000, and without biological review. The biotic consequence of this action has been to create a thick mulch layer over the surface of the dune substrate, effectively destroying any dune vegetation which may have been present. The continued presence of this mulch layer is suppressing germination of any seeds which may be dormant in the substrate—any rare dune flora which may have been present has essentially been "put on ice." Such destruction of sensitive habitat prior to the performance of biological surveying is unfortunate indeed.

6. The biotic reports prepared for the Smith project should also discuss impacts to other rare plants, such as Monterey Indian paintbrush (*Castilleja latifolia*). This plant is present on the Smith property, yet is not mentioned in the impact/mitigation sections.

7. Suitable habitat is present on the Smith property for both the globose dune beetle (*Coelus globosus*), a Federal Special Concern species; and the black legless lizard (*Anniella pulchra nigra*), a California Special Concern species. However, biotic surveying for them was not conducted (or at least not described).

In particular, since I have found black legless lizards under boards in the Pebble Beach dunes, the categorization of the degraded areas as being unsuitable habitat is not supportable.

Sincerely,



Jeff Norman
A-3-MCO-02-058
Smith Demo/Rebuild
2 Appeal

Exhibit I
pg. 2 of 2

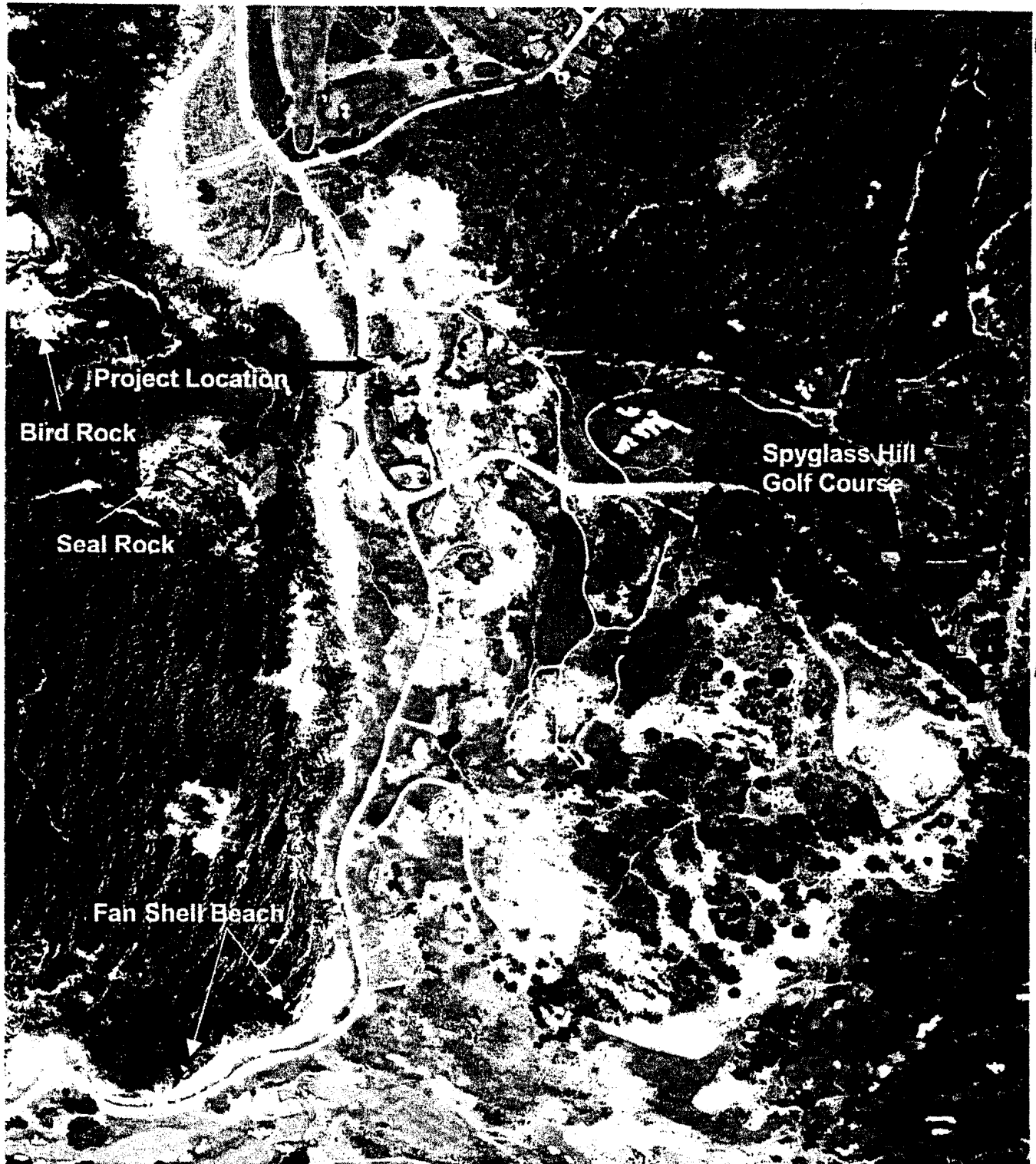


Exhibit J
2001 Aerial Photo
A-3-MCO-02-058
Smith Demo/Rebuild Appeal

KENT L. SEAVEY
310 LIGHTHOUSE AVENUE
PACIFIC GROVE, CALIFORNIA 93950
(831)375-8739

August 24, 2001

Mr. Todd Bessire
Lombardo & Gilles
Attorneys At law
318 Cayuga St.
Salinas, CA 93902

Dear Mr. Bessire:

Thank you for the opportunity to comment on the architectural significance of the property located at 3105 Seventeen Mile Drive, in Pebble Beach (APN # 008-012-007-000).

The one story masonry framed residence, constructed in 1952-53, is irregular in plan employing a polygonal module, and rests on a scored concrete slab foundation. The exterior wall cladding is a brick aggregate, laid in parallel courses to emphasize the horizontal lines of the structure. The flat, stepped roof system is covered with tar and gravel, matching the color of the surrounding beach sand. Thin eaves project out from the building envelope, providing shade in the summer and allowing the lower winter light into the narrow clearstory windows that characterize the visible fenestration from the street. Other fenestration includes full height fixed and sliding windows, most facing SW to catch views of the ocean, or facing easterly toward the interior of the lot. A small "V" shaped masonry guest house, similar in design to the main residence, and constructed in 1955 is found at the SE end of the patio. The buildings are well sited in the swale of a rising sand dune on the east side of Seventeen Mile Drive, just south of Bird Rock.

This modern residence is designed in the form of a Usonian house, an innovative building style developed by the noted architect Frank Lloyd Wright as a response to the need for affordable housing in America. Wright began the Usonian houses in 1937. The first was the Herbert Jacobs House in Wisconsin, they expanded into a whole series in the 1940s to form a key part in the development of domestic architecture in the United States. These modestly priced dwellings introduced the carport, low or flat roof, finishes employing natural materials and basement-free living.

The interiors of most were characterized by Wright's famous flow of internal spaces, and use of a brick utility core, emphasized by a massive chimney stack, co-locating the service functions, bathroom, kitchen, etc. in a single central location. Most of these features are present in the subject property.

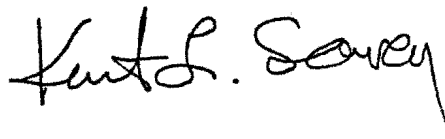
There is a strong Wrightian building tradition on the Monterey Peninsula, with Carmel's 1951-52 Walker House, by Wright as its central locus. Wright apprentices have worked here, Paffard Clay, Joseph Wythe, Rowen Maiden, and some still do including Allen Turpen and Mark Mills. In fact Mills Fan Shell House is just south along Seventeen Mile Drive from 3105.

As you know CEQA (PRC 21084.1) requires all properties fifty years and older to be reviewed for their potential historic significance. While the residence at 3105 Seventeen Mile Drive is just under the fifty year benchmark (1952-53), it otherwise appears to meet California Register of Historical Resources criteria 3, for listing as an example of a significant architectural style. Possibly the only example of a Wrightian Usonian house in Monterey County.

Monterey County has been following a policy of microscopic scrutiny of potential historic properties recently, some of which in Pebble Beach were constructed well beyond the fifty year CEQA benchmark. The California Coastal Commission is equally intent on the protection of significant historic resources in Carmel. In my professional opinion the current Mitigated Negative Declaration for the proposed project is flawed, as no architectural analysis for historic significance of the subject property was conducted.

Given the recent emphasis on identification and protection of significant historic resources by both the County of Monterey and the California Coastal Commission, and the failure of the mitigated Negative Declaration to do so, CEQA mandates preparation of an environmental impact report to assure that Monterey County does not lose an architecturally significant historic building.

Most Sincerely,



View from corner of 17-Mile Drive and The Dunes.

Existing House

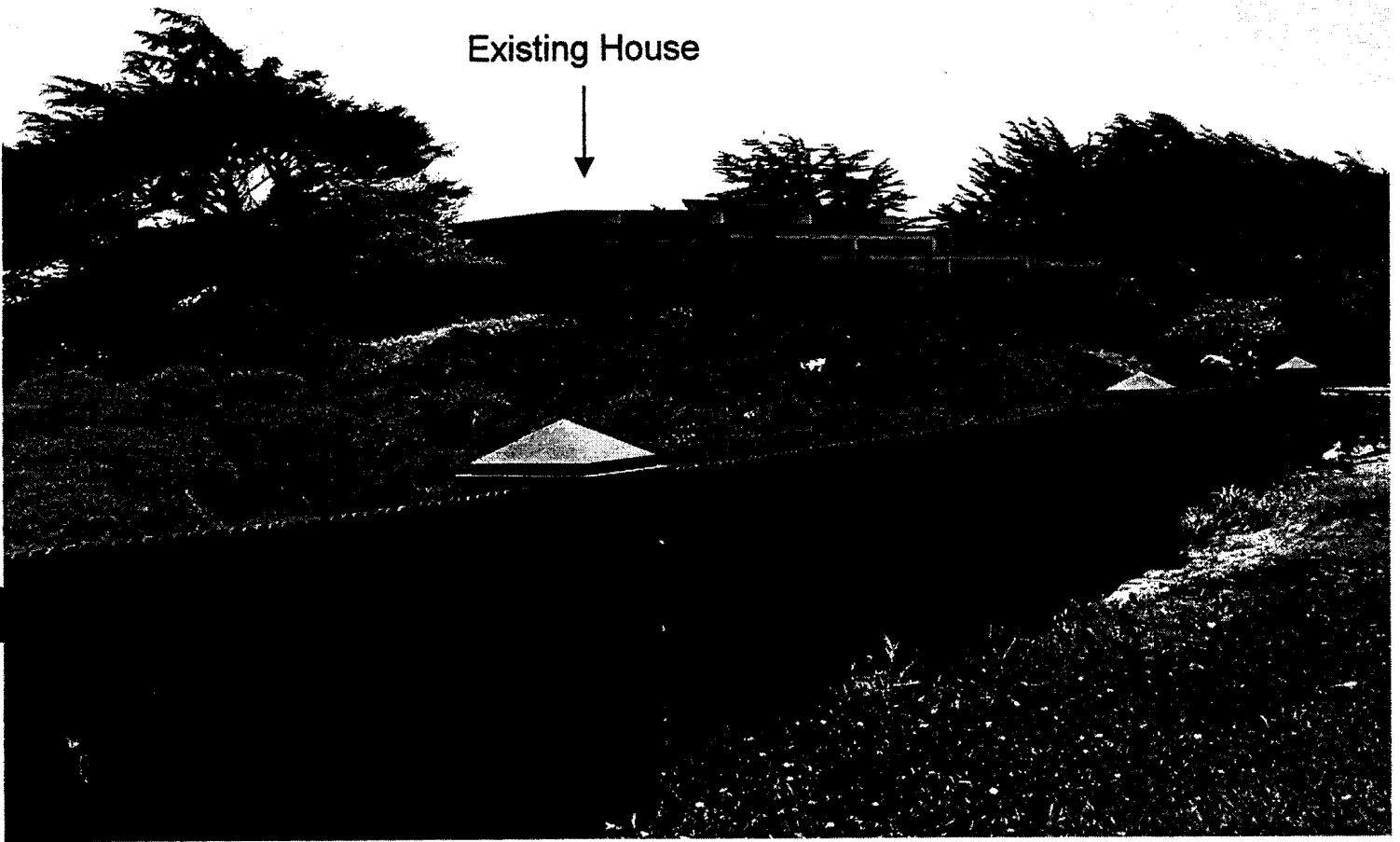


Exhibit L
Site Photos
Page 1 of 4
Smith Demo/Rebuild Appeal
A-3-MCO-02-058

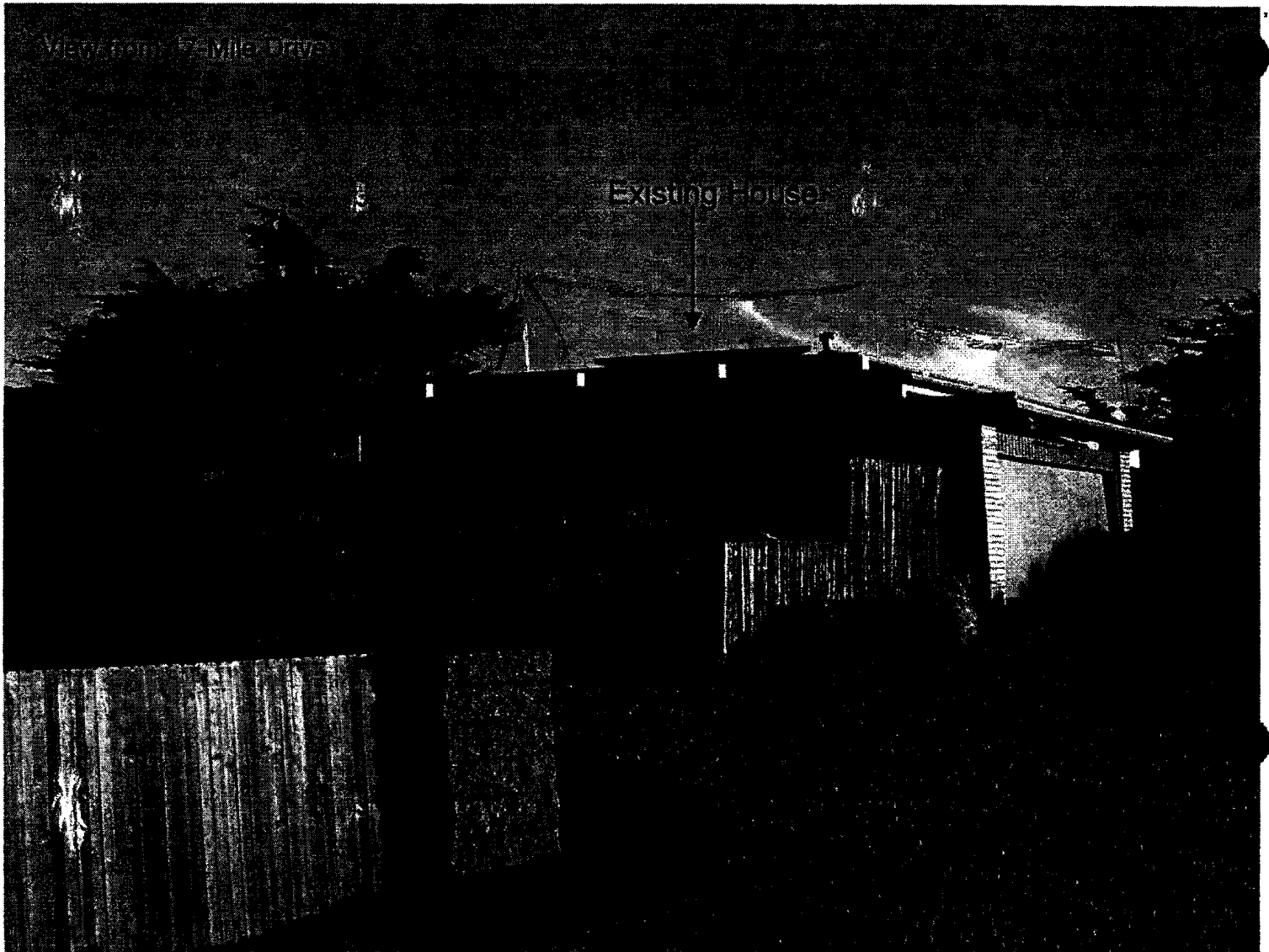


Exhibit L
Site Photos
Page 2 of 4
Smith Demo/Rebuild
Appeal
A-3-MCO-02-058

View from corner of 17-Mile Drive and The Dunes.

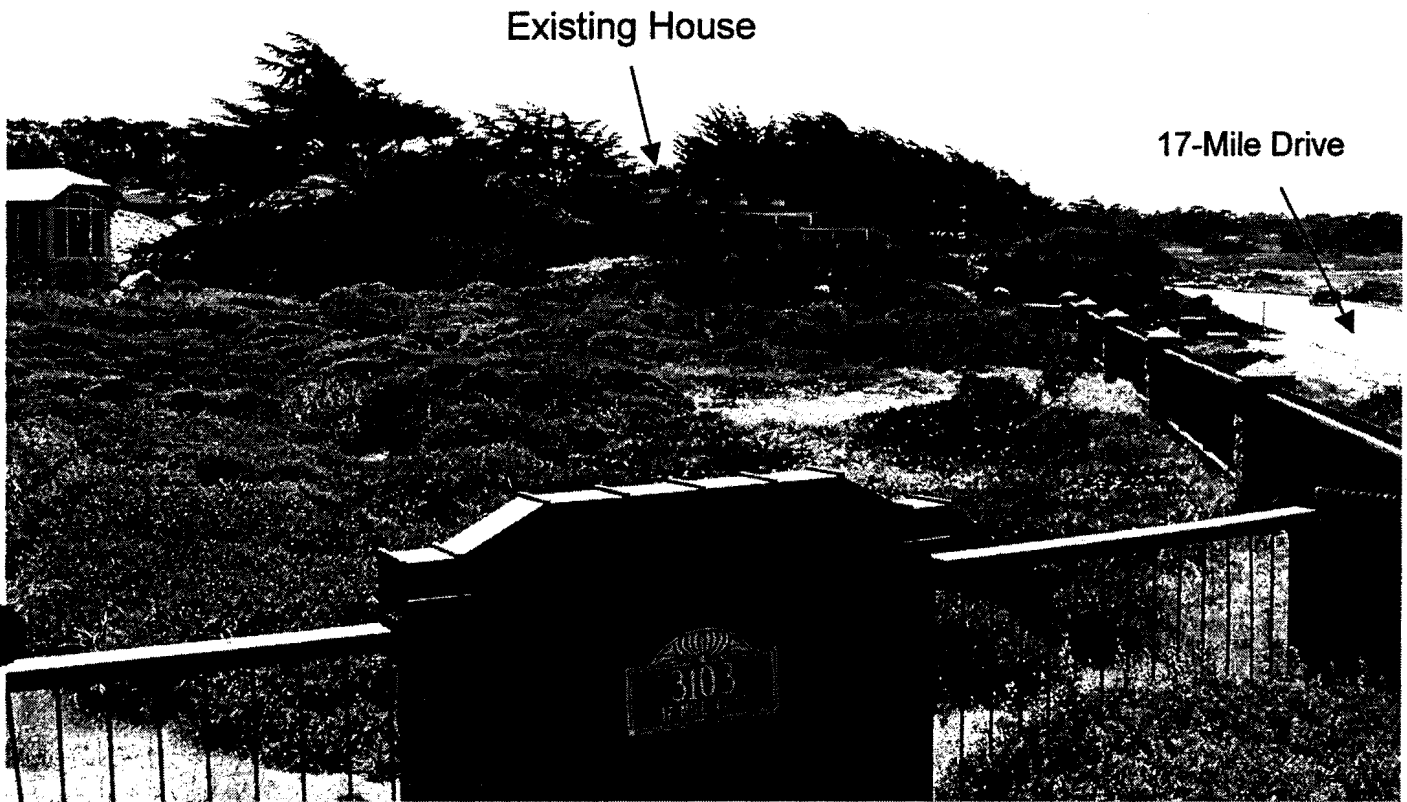


Exhibit L
Site Photos
Page 3 of 4
Smith Demo/Rebuild Appeal
A-3-MCO-02-058

Open Sand

Dune Habitat

Exhibit L

1950's Era Site Photo

Page 4 of 4

Smith Demo/Rebuild Appeal
3-MCO-02-058

RECEIVED

Sept. 28, 2002

SEP 30 2002

Agenda Item # W20a
Application # A-3-MCO-02-058
Janice M. O'Brien
Opposition

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
725 Front St. Ste. 300
Santa Cruz, Ca. 95060

Members of the Commission :

I am writing as a thirty year resident of the Del Monte Forest. My home is at 3137 17 Mile Drive, in close proximity to the proposed project. I am also representing Mrs. Betty Finlay, who lives on the corner of Spyglass Hill and the Drive.

This is an especially lovely stretch of the 17 Mile Drive as it approaches Cypress Point from the north and curves around Fan Shell Beach. The existing front line houses tend to be unobtrusive in design and in harmony with the dune habitat.

The proposed project is vastly out of proportion to the site and totally incompatible with the houses on either side. It will stand out like a light-house from the Bird Rock viewing area, one of the most popular on the Drive, in direct conflict with the LCP's requirement that the public view shed be protected.

The residents of this particular stretch are predominantly elderly and it is natural to assume that more houses will be coming on the market in the near future. Therefore, this is a critical opportunity to formulate policy which will set a precedent to assure the protection of the remnant dunes from the potential of Miami Beach style development. This is especially relevant at this time when the General Plan is in the process of being updated. It is inconceivable that County staff would support a Negative Declaration for a project in direct violation of the LCP which is unequivocal in its protection policies for this remnant dune area as environmentally sensitive habitat. This points up the obvious, that the most carefully crafted land use plan is only as effective as its implementation.

Having been privileged to live in this incredibly beautiful place, we want it to remain so for others to come. The community, as well as the applicant, will be best served by a design that respects this unique area.

We urge denial of this application.

Janice M. O'Brien
Janice M. O'Brien
Box 1037
Pebble Beach, Ca. 93953

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit *m*
pg. 1 of 2

Against W20a
Application #A-3-MCO-02-058
Ted R. Hunter
Against

Ted R. Hunter
P.O. Box 1189
Pebble Beach, CA 93953
Ph. 831-624-3734 Fax 831-620-1525
e-mail huntertr@ix.netcom.com

SEPT. 27 2002

Deputy Director
California Coastal Commission Staff
725 Front St. #300
Santa Cruz, CA 95060

Subject: Request that proposed new home for Carol and Murry Smith
at 3150 - 17 Mile Dr. Pebble Beach be Prohibited

Dear Director,

Please consider the neighbors and the vote of the Del Monte Forest Land Use
Advisory Committee that denied the proposed new, large, nonconforming home
at 3150 - 17 Mile Dr., Pebble Beach, CA 93953.

The Coastal Commissioners vote to deny the construction of this home will be
greatly appreciated. A modified structure that is in keeping with other homes
in the area is required.

Thank you,


Ted R. Hunter

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OCT 01 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit *m*
pg. 2 of 2

CHARLES R. KELLER
RONALD F. SCHOLL
THOMAS H. JAMISON
LARRY E. HAYES
MARK A. CAMERON
JOHN S. BRIDGES
DENNIS G. MCCARTHY
JACQUELINE P. MCMANUS
CHRISTOPHER E. PANETTA
DAVID C. SWEIGERT
VIRGINIA E. HOWARD
DANIEL J. DE VRIES
JENNIFER M. PAVLET
SARA B. BOYNS
CHRISTINE O. BREEN
H. DAVID HWANG

OF COUNSEL

LEWIS L. FENTON

FENTON & KELLER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2801 MONTEREY-SALINAS HIGHWAY

POST OFFICE BOX 791

MONTEREY, CALIFORNIA 93942-0791

TELEPHONE (831) 373-1241

FACSIMILE (831) 373-7219

SANTA CRUZ
COUNTY OFFICE

FIRST NATIONAL BANK BUILDING
635A MAIN STREET
WATSONVILLE, CA 95076
TELEPHONE (831) 761-2494
FACSIMILE (831) 761-2135

FROM SALINAS

TELEPHONE (831) 757-8937

September 19, 2002

JOHN S. BRIDGES

JBridges@FentonKeller.com
ext. 238

VIA OVERNIGHT MAIL

Ms. Diane Landry
District Manager
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

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SEP 20 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Carol and Murray Smith Project - 3105 17 Mile Drive, Del Monte
Forest (Commission Appeal No. A-3-MCO-02-058)
Our File: 31608.28191

Dear Diane:

We represent Carol and Murray Smith, the applicants for the above-referenced project. This letter is submitted in response to your August 1, 2002, Notification of Appeal. The focus of this letter is on the appeal filed by Commissioners Wan and Woolley.¹

¹ The other appeals should be dismissed for failure to comply with the certified Monterey County Local Coastal Program and/or California Coastal Commission Regulations regarding appeal requirements.

Four of the appeals (O'Brien, Berglass, Olvis, and League of Women Voters) were not filed by "qualified appellants" (California Code of Regulations ("Reg.") § 13112). Only an applicant or an "aggrieved person who exhausted administrative appeals" may qualify as an appellant (Reg. § 13111). This exhaustion requirement was upheld in La Costa Beach Homeowners Assn. v. South Coast Regional Commission (1979) 89 Cal.App.3d 327, 330, where the court held "there is nothing in [PRC § 30801] inconsistent with the requirement of full exhaustion of available remedies, including administrative appeal." LCP § 20.86.080 also limits aggrieved person appellants to those who have "exhausted all county appeals pursuant to this chapter." None of the above-referenced persons appealed the Monterey County Planning Commission approval of the project to the Board of Supervisors. Mere opposition at the County level does not equate to exhausting all County appeals and is insufficient to qualify a person as an appellant. Opposition at the County level may, however, qualify a person to testify at a Commission appeal filed by a qualified appellant (Reg. § 13117). Exhibit N

Ms. Diane Landry
District Manager
September 19, 2002
Page Two

The primary issue raised in the Commissioners' appeal is to what extent the Smith property should be considered an environmentally sensitive habitat area (ESHA). The appeal contends that the entire project site is ESHA and, therefore, the County approval conflicts with the certified Del Monte Forest Land Use Plan (LUP) with regard to development within or adjacent to ESHA. The entire Smith property is not ESHA and the approved project has been sited and designed to prevent impacts that would significantly degrade protected habitat and to protect against significant disruption of habitat values.

The certified LUP definition of dune ESHA is:

"Remnant coastal dunes where the natural land form is stabilized by Monterey Pine forest or other native vegetation (LUP Appendix A, Category A.4; emphasis added)."

Only the southeasterly most corner of the Smith property may meet this definition and that corner of the site has been completely avoided by project design and will be permanently protected pursuant to conditions of project approval imposed by the County (namely, the imposition of a conservation and scenic easement - County Condition No. 17). The balance of the property does not meet the LUP's definition of ESHA in that it is not natural land form remnant dune stabilized by native species. The balance of the property has been graded, developed, landscaped or otherwise occupied by non native species and has been used as a single-family home for over 40 years. The Smith property is also not identified as ESHA on LUP Figure 2 (Attachment 2).

As previously noted (reference our June 26, 2002, letter to Stephanie Matraw; Attachment 3) and as confirmed by Monterey County, the project was designed in strict compliance with LUP Policy 17. The qualified botanist for the project was and is Jean Ferreira of the Elkhorn Native Plant Nursery. Copies of Ms. Ferreira's reports are included in the County's files which reports and files are incorporated by reference herein. Ms. Ferreira's recommendations regarding the project design and mitigations were carefully followed. In response to the appeal, Ms. Ferreira has issued another letter (dated

The four appeals referenced above and the Virnig appeal should be dismissed since they were not timely filed. Public Resources Code Section 30603 combined with Reg. § 13110 require appeals to the Coastal Commission to be filed within the ten working day appeal period established from the date of receipt of the notice of the final local government action. In this case, said notice was received by the Coastal Commission on July 19, 2002. The ten working day appeal period therefore commenced on July 19, 2002, and expired on August 2, 2002. None of the five appeals were filed within the appeal period. In any event, a response to the substantive issues raised in these five appeals is contained in Attachment 1.

Ms. Diane Landry
District Manager
September 19, 2002
Page Three

September 12, 2002) specifically addressing the ESHA question and, consistent with the above discussion, has opined that the entire Smith property is not ESHA (Attachment 4). Ms. Ferreira's expert opinion in this regard has been corroborated by three other expert biologists with experience with the Del Monte Forest LUP (Attachment 5 - letter opinion from Mike Zander dated September 18, 2002; Attachment 6 - letter opinion from Joey Dorrell-Canepa dated September 15, 2002, and Attachment 7 - letter opinion from Biotic Resources Group - Kathy Lyons dated September 19, 2002). In addition, Attachment 8 is a September 16, 2002, declaration from Ed Brown who was the Coastal Commission District Director at the time the Del Monte Forest LUP was certified. Mr. Brown also agrees the entire Smith property is not ESHA.

With regard to the extent of the required conservation easement, the LUP only requires such easements to cover ESHA. In this case, the County's Condition 17 requires not only that the habitat area be covered by the easement but that additional area (dune restoration areas, 100 foot setback from centerline of 17 Mile Drive, and 20 foot sideyard setbacks excepting approved development) also be covered. It should also be noted that County Condition 24 specifically calls for a management plan to ensure the long-term health of the habitat area.

With regard to use of "appropriate native species" in landscaping, County Condition 32 is implicitly qualified by Condition 29 which requires all the recommendations (including landscaping) contained in the Ferreira reports to be followed in all further development of the property and by Condition 24 which specifically requires a management plan to ensure protection of the habitat area and its long-term health.

As noted in our earlier correspondence the Smiths have gone to great lengths to satisfy the interests of their neighbors as well as the Coastal Commission staff (ref. Attachments 1 and 3).² Also, in addition to the Berglass approval on the lot immediately north of the Smith property, other recent projects have been approved under the LUP which result in greater site coverage and/or lesser or no habitat restoration requirements (see Attachment 10). These approvals are further evidence of how the LUP has been consistently interpreted and applied. In light of this history, singling out the Smiths for different treatment would be arbitrary, capricious, discriminatory, and violative of a host of Constitutionally protected rights.

² If the compromise single story design for which the Board of Supervisors expressed a preference on May 28 (see Attachment 9) is ultimately rejected by the Coastal Commission, the Smiths will instead construct the Planning Commission approved 2-story design. That 2-story design approval is now final under PRC § 30625 because the appeal filed to the Coastal Commission on that design was not acted upon within the time required under PRC § 30621.

Ms. Diane Landry
District Manager
September 19, 2002
Page Four

With due respect, the Commissioners' appeal does not raise a substantial issue under Public Resources Code section 30625.b and it should, therefore, be dismissed without a hearing.

Very truly yours,

FENTON & KELLER
A Professional Corporation



John S. Bridges

JSB:jlc

cc: Murray Smith (w/encs., via overnight delivery)

Elkhorn

Native Plant Nursery

September 12, 2002

Mr. Murray Smith
P.O. Box 801
Pacific Grove, CA 93950

Dear Mr. Smith:

I understand your project has been appealed to the Coastal Commission and that the primary issue raised is whether your entire parcel constitutes remnant dune/environmentally sensitive habitat under the certified Del Monte Forest LUP. The LUP defines environmentally sensitive habitat as follows:


Remnant coastal dunes where the natural land form is stabilized by Monterey pine forest or other native vegetation (LUP Appendix A – Category A.4).

This definition has three parts: remnant coastal dune, natural land form, and stabilized by native vegetation. Only the southeast portion of your property, which has been completely avoided by the project design and will be protected by conservation easement, potentially meets this LUP definition. The rest of your property is stabilized by iceplant and other non-native landscape plants, or developed, and therefore does not meet the criteria.

Because your project was designed with my input in strict conformance with LUP Policy 17, it is, from a biological perspective, fully consistent with the certified LUP. Your approved project will not degrade any protected habitat nor disrupt habitat values. As conditioned by Monterey County (Conditions 17-25), the long-term maintenance of habitat on your property has been ensured.

If you have any further questions or desire any further clarification please let me know.

Sincerely,



Jean Ferreira
A-3-MCO-02-058
Smith Demo/Rebuild
Appeal

Exhibit N
pg. 5 of 13

ZANDER ASSOCIATES

Environmental Consultants

September 18, 2002

Mr. Murray Smith
P.O. Box 801
Pacific Grove, Ca 93950

**Smith Project - 3105 17-Mile Drive
Pebble Beach, CA**

Dear Mr. Smith:

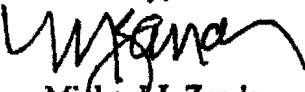
I have reviewed the County of Monterey Board of Supervisors' approval of your proposed project to demolish an existing single family dwelling and to construct a new single family dwelling and associated facilities at 3105 17-Mile Drive in Pebble Beach. I have also reviewed a biological resource assessment dated August 20, 2000 and an amendment to that assessment dated June 12, 2001, prepared for the project by Jean Ferreira of the Elkhorn Native Plant Nursery. Finally, I reviewed a September 12, 2002 letter to you by Ms. Ferreira stating that your project avoids remnant dune environmentally sensitive habitat (ESHA) and that, from a biological perspective, it is consistent with the certified Del Monte Forest Land Use Plan.

The proposed project will replace the existing residence with a new residence in approximately the same area. Associated facilities, specifically the driveway and motor court and the garage element have been adjusted in response to Ms. Ferreira's recommendations and County conditions of approval. Impacts of the project will be limited to the existing building footprint and areas identified by Ms. Ferreira as dominated by iceplant and non-native landscaping or otherwise degraded. Natural coastal dune landforms that support native vegetation have been avoided by the project design.

Given these facts, I concur with Ms. Ferreira's assessment that the project will not adversely impact remnant dune ESHA. In fact, the project will be beneficial by restoring and enhancing approximately 7,000 square feet of dune area.

Please feel free to call me if you have any questions.

Sincerely,



Michael J. Zander
Principal

To: Murray Smith
P.O. Box 407
Pebble Beach, CA. 93953

From: Joey Dorrell-Caneppa
Dune Biologist
P.O. Box 222652
Carmel, CA. 93922-2652
831-659-1263
831-915-7873 (cell)

Re: Smith Project - 3105 Seventeen Mile Drive, Pebble Beach

September 15, 2002

Dear Mr. Smith,

I have carefully reviewed the county's approval of your project at 3105 Seventeen Mile Drive, as well as the biological assessments for the project prepared by Jean Ferreira (dated August 22, 2000 and June 12, 2001). I have also reviewed Ms. Ferreira's letter to you (dated September 12, 2002) in which she concludes that the approved project is consistent with the certified Del Monte Forest Land Use Plan and that the development is not located in environmentally sensitive habitat. I agree with Ms. Ferreira's opinion that the only potential sensitive habitat is located on the southeast portion of your property, and that the project design avoids the sensitive area. In my opinion, the project is consistent with the Del Monte Forest Land Use Plan.

If you have any further questions, please call me at 659-1263.

Sincerely,

Joey Dorrell-Caneppa
Joey Dorrell-Caneppa

Biotic Resources Group

Biotic Assessments ♦ Resource Management ♦ Permitting

September 19, 2002

Murray Smith
P.O. Box 407
Pebble Beach, CA 93953

RE: Smith Project, 3105 Seventeen Mile Drive, Pebble Beach

Dear Mr. Smith,

At requested, I have conducted a review of the County of Monterey's approval of your project at 3105 Seventeen Mile Drive in Pebble Beach. In addition, I have reviewed the biological reports for the project prepared by Ms. Jean Ferreira of the Elkhorn Native Plant Nursery (*Assessment of Potential Impacts on Sensitive Biological Features at 3105 17 Mile Drive*, dated August 22, 2000 and *Amendment*, dated June 12, 2001). Finally, I reviewed a letter from Ms. Ferreira (dated September 12, 2002) stating that the proposed project avoids impacts to remnant coastal dunes and is consistent with the certified Del Monte Forest Land Use Plan (LUP). This peer review focused on a review of the findings presented in Ms. Ferreira's reports; the result of the peer review is described herein.

Upon review of the above-mentioned documents, I concur that the southeast corner of the subject parcel meets the LUP definition of a remnant coastal dune and is therefore considered an Environmentally Sensitive Habitat Area (ESHA), as defined by the LUP. This area, identified as "Habitat" by Ms. Ferreira, meets the LUP requirement since it is a natural landform stabilized by native plant species (LUP Appendix A – Category A.4). Secondly, I concur that the remainder of the parcel does not meet the LUP remnant coastal dune definition, as these areas are previously developed and disturbed, are not natural landforms and are not stabilized with native vegetation (i.e., these areas are dominated by non-native iceplant and landscape cypress and pine trees). Thirdly, I concur that the project is consistent with the policies of the LUP, in that the County-approved development (site plan, dated 4-19-02) avoids impacts to ESHA. Although Ms. Ferreira documented the occurrence of two individuals of Monterey spineflower (a federally-listed endangered plant species) within a degraded portion of the parcel, this species presence alone, does not constitute ESHA since the required dune habitat features are lacking and the species is not identified in the LUP (Appendix A, Category C). Lastly, I concur that the project is consistent with LUP policies as the proposed development avoids impacts to ESHA (consistent with LUP Policy 8) and degraded, non-ESHA areas will be enhanced and restored (consistent with LUP Policy 16).

In conclusion, it is my opinion that with successful implementation of the County's adopted mitigation measures, the proposed project will provide a net gain to remnant coastal dune resources through the restoration of existing degraded areas, dedication of conservation

easements over these areas and the establishment and protection of Monterey spineflower (and its habitat).

Thank you for the opportunity to provide these review services. Please let us know if you have any questions on these findings.

Sincerely,



Kathleen Lyons
Principal/ Plant Ecologist

1 JOHN S. BRIDGES (Bar No. 121343)
2 FENTON & KELLER
3 A Professional Corporation
4 2801 Monterey-Salinas Highway
5 Post Office Box 791
6 Monterey, CA 93942
7 Telephone: 831-373-1241
8 Facsimile: 831-373-7219

9 Attorneys for Applicant
10 Murray and Carol Smith
11 Appeal No. A-3-MCO-02-058

12 I, Edward Y. Brown, hereby declare as follows:

13 1. I was the District Director of the California Coastal Commission on
14 September 24, 1984, when the Del Monte Forest Land Use Plan was certified by the
15 Coastal Commission as consistent with the California Coastal Act.

16 2. In my capacity as District Director, I was responsible for the preparation
17 and certification of the LUP.

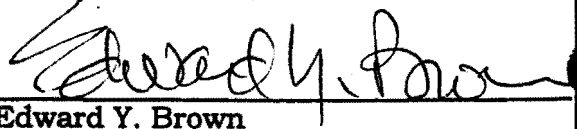
18 3. LUP Appendix A Environmentally Sensitive Habitat Area category 4.A
19 was intended to describe and apply only to those areas in the Del Monte Forest where
20 truly remnant natural land form dunes exist and are stabilized by native species.

21 4. With the possible exception of the southeasterly most portion of the
22 Smith property which has been avoided by the approved project design, the Smith
23 property with its existing development, grading, and non-native landscaping, is not
24 environmentally sensitive habitat.

25 5. In my opinion the approved Smith project (PLN 000239) is consistent
26 with the certified Del Monte Forest LUP.

27 I declare under the penalty of perjury under the laws of the State of California
28 that the foregoing statements are true and correct and that I could and would
competently testify if called as a witness in this matter.

Executed on this 16 day of September 2002, at Monterey, California.


Edward Y. Brown

Circa: Historic Property Development
155 Montgomery Street, #1111
San Francisco, CA 94104
415 362 7711

John Bridges
Fenton & Keller
2801 Monterey-Salinas Highway
Monterey, CA 93940
January 15, 2002

Re: 3105 Seventeen Mile Drive

Dear John,

Thank you for the opportunity to review and comment on the letter from Kent Seavey dated August 24, 2001 and accompanying CEQA Issues memo regarding the Smith house at 3105 Seventeen Mile Drive, Pebble Beach. For the reasons stated below, the Seavey materials do not represent substantial evidence under CEQA. At best they constitute only a speculative unsubstantiated narrative.

In his CEQA Issues document Mr. Seavey states that Frank Lloyd Wright "inspired many young architects to follow his 'organic' building concepts, including Ron Kelemmedson¹". While it is acknowledged that Mr. Wright has inspired generations of architects, no evidence or documentation was identified indicating that Klemmedson¹ had any particular or unique association with Wright or the Taliesin Fellowship.

With the dissemination and distillation of design concepts throughout this period, the so called "influence" that Mr. Seavey refers to may best be understood in a quote from the 1976 publication *Architecture of the Monterey Peninsula* which Mr. Seavey co-authored. "...Throughout the forties and fifties, most of the homes built in Pebble Beach were barely distinguishable from the insipid tract homes being built in other parts of California..." The chapter goes on to state that most of these "organic" houses are not architecturally inspiring and lists only a few of the more unusual homes. The subject property is not included on this list and is not representative of the building types discussed. The "Usonian" building-type is not identified as an architectural style of Pebble Beach.

The National Register Bulletin #15 *How to Apply the National Register Criteria for Evaluation*, "...exclude properties that achieved significance within the last fifty years unless they are of exceptional importance. Fifty years is the general estimate of time needed to develop historical perspective and to evaluate significance. This consideration guards against the listing of properties of passing contemporary interest and ensures that the National Register is a list of truly *historic* places". Exceptional importance is applicable to only those properties that are outstanding examples of their type.

¹The architect's name is spelled as Ron Kelemmedson and Ronald Klemmedson in Mr. Seavey's communication. Other records suggest that the name is D.L.Klemmedson. Research was conducted using all of the name spellings.

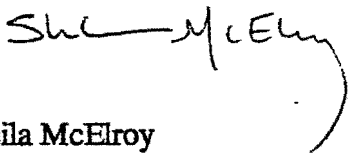
"In justifying exceptional importance, it is necessary to identify other properties within the geographical area that reflect the same significance or historical associations and to determine which properties *best* represent the historic context in question". Examples of Frank Lloyd Wright's work, and those architects who studied under him, are discussed in *Architecture of the Monterey Peninsula*. Using this book again as a reference, no correlation can be made between the properties identified in the chapter "Frank Lloyd Wright / His Influence" and the structure at 3105 Seventeen Mile Drive. The "strong Wrightian building tradition of Monterey Peninsula" is best represented by those properties named specifically in Mr. Seavey's opinion letter and in his book which have no relation or connection to 3105 Seventeen Mile Drive, whatsoever.

Additional research was conducted in the California History Room [Monterey Public Library] and the San Francisco History and Archives [San Francisco Public Library]. No material regarding the design of the 3105 building or architect Klemmedson was found. Based on the above described data, there is no evidence to support a presumption, much less a conclusion, of architectural significance on the national or even local level.

In summary, this lack of information and documentation clearly refutes the reliability of opinion that this property is somehow architecturally significant or exceptionally important. The materials provided do not represent substantial evidence under CEQA. Mr. Seavey's comments are not based on any factual, substantial or credible evidence of the property's historic significance. Moreover, his opinion of August 24, 2001 regarding 3105 Seventeen Mile Drive is contradicted by text included in his 1976 publication *Architecture of the Monterey Peninsula*.

Should there be any question, you may contact me at 415 362 7711.

Sincerely,



Sheila McElroy
Principal

