

CALIFORNIA COASTAL COMMISSION

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

Th8b

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STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE DETERMINATION/DENOVO FINDINGS

Local government:Monterey County

Local Decision:Resolution 02-252 (PC96036) Approved with conditions June 4, 2002 by the Monterey County Board of Supervisors (See Exhibit E).

Appeal NumberA-3-MCO-02-077

Applicant.....Dorothy Gorman-Mullins

Appellants:.....Commissioners Sara Wan and John Woolley.

Project location.....274 Paradise Road (East side of Paradise Rd. near Lake View Drive) (APN 129-096-029) in Prunedale, North County Planning Area (Monterey County) (See Exhibits A & B).

Project descriptionAllow minor land division of a 17.03-acre parcel into six parcels; grading and water system facilities; allow development on slopes greater than 25%; removal of 68 Coast Live oaks, and "rezone" the parcel from a "LDR-B-7(CZ)" to LDR, and then to "LDR-B-6(CZ)".

File documents.....County coastal permit file PC96036; Monterey County Board of Supervisors Resolution # 02-252; Monterey County Local Coastal Program, including *North County 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 North County planning area of Monterey County (project vicinity and site location maps are shown in Exhibits A and B, respectively). The applicant proposes to subdivide a 17.03-acre parcel into 6 parcels, grade and develop on slopes exceeding 25%, install a water system facility consisting of an additional well on each parcel and to remove 68 Coast Live oaks. The project includes removal of restrictive overlay zoning (LDR-B-7) prohibiting subdivisions except for limited circumstances, subdivision of the lot under the LDR zone district regulations, and then the placement of



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Staff: SAM Approved by: DSL 11/20/02

different restrictive overlay (LDR-B-6) prohibiting future subdivisions under any circumstance onto the parcels.

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 project presents both a significant procedural issue an LCP amendment from the Coastal Commission is required to change the zoning for the project and thus, the project is per se inconsistent with the LCP; and significant substantive issues relevant to ESHA protection, water supply and water quality.

Procedural Issue

Subdivision of this parcel is inconsistent with the current LDR-B-7(CZ) zoning. The LCP contains zoning districts that restrict subdivision of land in areas with environmental constraints, such as lack of water. "B-7" overlay zones cannot be subdivided until the property is rezoned. Although the LCP permits the placing of these restrictive zoning overlays on parcels without Coastal Commission approval, the removal of such restrictions is not allowed without an amendment to the LCP. To be considered for reclassification from LDR-B-7 to LDR (A zoning district that allows subdivision), the applicant must demonstrate through the LCP amendment review process that he has met minimum requirements with respect to water supply, drainage and traffic circulation among other constraints. No LCP amendment for this project has been submitted, nor has any analysis of substantive issues been completed.

Substantive Issues

Even if the LCP had been amended to allow removal of the B-7 Overlay prior to the approval of the subdivision application, other substantive inconsistencies with LCP policies arise, including questions concerning the adequacy of the water supply to support development, and inconsistency with environmentally sensitive habitat areas (ESHA) and erosion control policies designed to protect water quality and reduce hazards. These substantive issues need to be thoroughly evaluated prior to the submission of an LCP amendment to the Coastal Commission for certification.

Currently the parcel contains a large amount of maritime chaparral, a plant community classified as ESHA by the LCP. Although the subdivision does not create lots consisting entirely of ESHA, each proposed lot has ESHA on it. The LCP requires protection of 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 and an access road in ESHA; because it allows for substantial vegetation removal; and because it does not protect all ESHA on site with a conservation easement or deed restriction.

The project is located within an area of the North County Planning area that has been documented to have a serious groundwater overdraft problem, which contributes to saltwater intrusion and lowering of the water table. In areas of limited water supply, the LCP gives certain land uses, such as coastal



dependent uses and recreation and agriculture, priority for water over other uses, such as residential use. This project was approved without benefit of a site-specific hydrology report, and there has been no submission of proof of an adequate long-term water supply.

Additionally, the project is located in an area of North County subject to high erosion hazards based on the occurrence of steep slopes and erodible soils, which is exacerbated by removal of vegetation. The LCP protects lands in critical erosion hazard areas by requiring new development to minimize alteration to natural landforms, to have erosion control plans and retain the maximum amount of natural vegetation, and to place lands in critical erosion areas under a conservation easement. The LCP also protects critical erosion areas by limiting densities in such areas. This project is inconsistent with these requirements because natural vegetation would not be retained to the maximum extent possible, the development is not clustered in areas of non-critical erosion, and because no easement was required to protect the critical erosion areas of the property. This project is also inconsistent because it increases the density on a parcel that is within an area subject to Critical Erosion Area policies, which the County did not analyze.

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I. Local Government Action

The Monterey County Board of Supervisors approved a proposal for subdivision and rezoning of this parcel on June 4, 2002, the final Resolution that was received in the District office on August 27, 2002 (Resolution #02-252, Exhibit E). The proposed project involves the subdivision of a 17.03-acre parcel into six parcels; grading and water system facilities; a waiver of the policy prohibiting development on slopes greater than 25%, and removal of 68 Coast Live oak trees. As described by the County, the project also purports to rezone the property through removal of the B-7 overlay to the LDR zone district to allow the land division, and then applying a B-6 overlay that precludes future subdivisions.

County approval of the project includes adoption of a Mitigated Negative Declaration and Mitigation Monitoring Plan, and approval of a Coastal Development Permit and the waiver to allow development on slopes greater than 25% (PC96036), subject to 78 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 02-252), asserting that approval of the project is inconsistent with policies of the Monterey County Local Coastal Plan. The appellants contend that the project is procedurally inconsistent with the LCP because an amendment is required to change the zoning of this parcel, and no such LCP amendment was obtained from the Coastal Commission to allow the subdivision. The appellants also contend that the project has not adequately addressed the substantive issues of the region's limited water supply; the presence of Environmentally Sensitive Habitat Areas (ESHA), and the LCP's Critical Erosion Area policies. 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)(4) allows for appeals of any development approved by a coastal county that is not designated as the principle permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500). Subdivisions are listed as conditional uses in the LDR zone district and are not permitted at all in the "LDR-B-7" district.

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-02-077 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

STAFF RECOMMENDATION:

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-02-077 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-02-077 for the development as proposed by the applicant."

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit 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 a subdivision of a 17.03-acre lot into 6 parcels ranging from 1.59 to 5.0 acres in size; grading and water system facilities (i.e. individual wells); a waiver of policy prohibiting development on slopes greater than 25%, and removal of 68 Coast Live oaks. However, the parcel to be



subdivided has a zoning overlay that prohibits subdivision of those properties unable to meet minimum requirements with respect to limiting factors such as water supply, and traffic circulation. Demonstration that these constraints have been removed, through an LCP amendment certified by the Coastal Commission, is required in order to eliminate the "B-7" overlay and thus allow subdivision. Without addressing the LCP requirement, the County approval of this project also includes removal of the "B-7" zoning overlay restriction, rezoning to LDR to allow the division, and application of the stricter "B-6" zoning overlay to the new parcels. The parcel currently has an existing single-family home of 1,072 square feet and some associated outbuildings, including a barn, a shed and a detached garage, which would remain within proposed Lot 1, fronting on Paradise Road. Proposed Lots 2-6 would be located behind the existing residences on the eastern portion of the property and would be sold for residential development.

The project is located in North Monterey County roughly 2 miles east of Elkhorn Slough, and on the eastern side of Paradise Road near Lake View Drive. The project is also located within LUP-designated Subwatershed No. 29, a Watershed Restoration Area, and within the boundaries of the North County Hydrological Study Area, which has been determined to have groundwater overdraft and saltwater intrusion issues. The project also lies in a region with pockets of high erosion hazards (See Exhibit H). The surrounding parcels are mostly in residential use, and primarily zoned for Low Density Residential (Minimum parcel size of 1 acre) and Rural Density Residential (Minimum parcel size of 5 acres) use. This area of Monterey County, and the project site in particular, has a high concentration of maritime chaparral, which is considered an environmentally sensitive habitat by the North County Land Use Plan.

B. Analysis of Appeal Issues

1. Subdivision is Inconsistent with Current Zoning.

A. Appellant's Contentions

The appellants contend in part that: "Because the County cannot remove the "B-7" overlay from this lot without an LCP amendment, the proposed subdivision is inconsistent with the current zoning", and 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 B-7 overlay does not allow any land division.
- Allowable density of any proposed subdivision must be based on an evaluation of site conditions and cumulative impacts.
- Removal of the "B-7" overlay, rezoning to LDR without the overlay, and placement of "B-6" zoning overlay requires an LCP amendment from the Coastal Commission.

B. Local Coastal Program Provisions

The appellants cite the following North County Land Use Plan (LUP) and Coastal Implementation Plan



(CIP) policies:

- **CIP Section 20.42.030.G.1** (Relevant Portion of B-7 Overlay Restriction) *The lots as shown on the recorded Final Map or Parcel Map may not be further subdivided unless the lots are first reclassified from the "B-7" district. Lot line adjustments may be allowed...*
- **CIP Section 20.144.140.B.3.d.1** *Densities of residential subdivisions shall be based upon an evaluation of the site conditions and the development's cumulative impacts. As such, the maximum allowable density based on the evaluation shall be determined pursuant to Section 20.140.070. Factors to be considered include: geologic/flood/fire hazards, slope, vegetation, environmentally sensitive habitats, water quality and availability, erosion, septic tank suitability, adjacent land use compatibility, public services availability, and coastal access and visual resource opportunities and constraints. (Ref. Policy 4.3.6.D.1)*

The following policies are also relevant:

- **CIP Section 20.42.030.G.3** *Reclassification from "B-7" zoning to allow further subdivision may be considered when the applicant demonstrates to the satisfaction of the Board of Supervisors that he has met minimum requirements in respect to water supply, drainage, sewage disposal, parcel size and design, and traffic circulation for the total area included in the "B-7" district, created as a result of the subdivision of which the lot is a part. Upon application for a land division, the applicant shall provide appropriate copies illustrating the aforementioned information.*
- **CIP Section 20.94.042** *Zoning Changes and Amendments Not Subject to California Coastal Commission Certification: Zoning designation reclassifications constituting an amendment to this Title and initiated for the purpose of preserving or enhancing the coastal resources including adding any "B", "A", "HR", "Z" overlay zoning designations shall not require certification by the California Coastal Commission (Emphasis added).*

C. Local Government Action

Finding number 1 of the County's action (Resolution 02-252, Exhibit E) addresses zoning and density suitability, it states (Exhibit E, Page 2) that the parcel is zoned "LDR/B-7 (CZ)" and is consistent with the plans policies, requirements and standards of the LUP, specifically Coastal Implementation Plan (CIP) Chapter 20.42 governing "B" districts in the County's Zoning Ordinance. Evidence listed in support of this finding states that there is no indication from the Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Department and the North County Fire Protection District that the site is not suitable for the proposed development. Additional evidence goes on to state that the site is "physically suitable for the proposed density of the development" and that the project will result in a gross density of 2.83 acres per unit, and that the applicant has demonstrated "adequate water supply, drainage, sewage disposal, parcel size and design, and traffic circulation".

In addition to findings and evidence, the project was conditioned, among other things, to provide the Water Resources Agency a "water balance analysis describing the pre-development and post-



development water use on the property”, to submit a drainage report and to obtain a amended water system permit from the Division of Environmental Health, however, no substantive findings were made with respect to water use, density or the “rezoning”.

D. Substantial Issue Analysis and Conclusion

1) History of the Property

The Gorman property was originally a 25.53-acre parcel, which was split into two parcels in 1980. Subsequent to that 1980 subdivision, the B-7 overlay was placed on the zoning designation for each new parcel, one being 8.5 acres, and the other being the 17.03 subject parcel. At that time the owner received approval from Monterey County for a four-lot subdivision, but not from the Coastal Commission, which was generally not approving land divisions in the Moro Cojo watershed due to cumulative impact overdraft of groundwater and concerns about cumulative impacts prior to completion of the LCP. However, a two-lot subdivision was approved because two houses already existed on the parcel, one on each of the proposed lots (Coastal Permit P-80-272, Gorman).¹

In 1992, the 8.5-acre policy was again considered for a subdivision into three lots. Because of the B-7 overlay, the applicant, pursuant to the LCP, approached the Board of Supervisors for an LCP amendment. After review of the impacts on water supply, sewage disposal and traffic impacts, the Board was satisfied that the criteria of CIP Section 20.42.030.G.3 had been met, and submitted the amendment to the Coastal Commission for certification. After review by the Coastal Commission, Monterey County LCP Amendment No. 1-92 #2 was continued to allow the County to conduct additional analysis to show conformance with the certified LUP.

Monterey County LCP No. 1-93 #5 was subsequently approved to replace 1-93 #2, based on the additional analysis of density and cumulative impacts to the water supply. With respect to the groundwater overdraft, the subdivision proposal was assessed a water impact fee to help fund a study concerning the question of continuing groundwater overdraft, which has since been completed. Interestingly, the current project as approved by the County also includes a condition of approval requiring the applicant to pay a fee for the same “area-wide hydrological study to address groundwater overdraft and water resources in the project area” (See Exhibit E, Condition 12, Page 14). Additionally, the County prepared an LCP amendment to update the North County Area LUP to address the 50% buildout figure. The revised LUP policies would apply the resource and infrastructure constraint policies on a sub-basin/sub-watershed basis rather than to the entire planning area segment.² However, this LCP amendment was never completed and submitted to the Coastal Commission for certification.

2) The Subdivision is Inconsistent with Current Zoning

The project site is currently zoned “LDR-B-7(CZ), which, subject to CIP Section 20.42.030.G.1, may be subdivided only if the “B-7” district is removed through an LCP amendment. The “B-7” overlay

¹ Approved findings from Monterey County LCP Amendment No. 1-93 #5.

² Approved findings from Monterey County LCP Amendment No. 1-93 #5.



specifically allows removal of the "B-7" designation and thus subdivision of the property if the owner can adequately demonstrate that the subdivision complies with CIP Section 20.42.030.G.3. This ordinance requires the applicant to demonstrate to the Board of Supervisors that he has met the minimum requirements with respect to the limiting factors of "water supply, drainage, sewage disposal, parcel size and design, and traffic circulation" for the entire parcel. Once the applicant has demonstrated that the minimum requirements have been met, Section 20.42.030.G.3 states "further subdivision may be considered".

If the Board of Supervisors determines that subdivision of this parcel meets the minimum requirements for consideration of subdivision under 20.42.030.G.3, the allowable density of the subdivision must then be based on an evaluation of the site conditions and cumulative impacts as required by CIP Section 20.144.140.B.3.d.1. This Section of the CIP requires densities of residential subdivisions to be based on "an evaluation of the site conditions and the development's cumulative impacts." The Section lists factors to be considered, including water availability and quality, vegetation and environmentally sensitive habitats, and slope and erosion among others. This project is inconsistent with CIP Section 20.144.140.B.3.d.1 because these cumulative effects, coupled with the direct effects, have not been adequately evaluated, as evidenced by the lack of a site-specific hydrology report or a traffic study, and thus the subdivision density has not been determined in conformance with the LCP. Therefore, the Commission finds that subdivision of the project site is inconsistent with zoning ordinances 20.42.030.G.1 and 20.42.030.G.3, and thus the certified LCP. Therefore, the Commission finds that a substantial issue is raised with respect to allowing development inconsistent with current zoning of a parcel.

3) Removal of the B-7 Overlay Requires an LCP Amendment

The LCP provides for limited revisions to the "B" overlays, including the addition of such an overlay without certification by the Coastal Commission. CIP Section 20.94.042 allows addition of a "B" overlay specifically for the **purpose of preserving or enhancing coastal resources** without certification by the Coastal Commission. This section was designed with the intent to make it easier for the County to protect coastal resources through the imposition of more restrictive zoning in order to prevent the premature or inappropriate subdivision of certain lots. Because the intent of the zoning change, as specified in this Section, is "**preserving or enhancing**" coastal resources, certification of the change by the Coastal Commission is not required in such an instance.

However, this project purports to **remove** of an existing "B" overlay. Once the "B" overlay is removed, a subsequent subdivision of the parcel is proposed, and then the addition of a stricter "B" overlay onto the newly created parcels to prevent further subdivision is proposed. This effectively allows for a temporary lifting of the "B" overlay to facilitate a subdivision, and attempts to circumvent CIP Section 20.94.042 by then placing a stricter "B" overlay than previously existed on the property. Although the County may have interpreted this an action that is protective of the resources, the resource, open land and environmentally sensitive habitat in this instance, in fact has first been exploited by removal of the "B" overlay without Coastal Commission review and certification, and secondly by allowing a subdivision. Therefore, the project is inconsistent with



County Zoning Ordinance Section 20.94.042 because it impermissibly removes the "B-7" overlay to allow for subdivision without obtaining an LCP amendment. Thus, because the project is not consistent with current zoning, changing the zoning requires an LCP amendment, and based on the history of an LCP amendment being obtained prior to approval of subdivision of the adjoining parcel with identical zoning, a substantial issue is raised with respect to the County Zoning Ordinances, CIP Chapter 20.94.042.

This is not to suggest that merely applying for an amendment to the LCP to reclassify the zoning, after meeting the criteria of CIP Section 20.42.030.G.3, would resolve all of the substantive issues related to this project. If the Board of Supervisors determined that subdivision of this parcel was generally appropriate, substantive issues such as impacts to ESHA, and high erosion hazards must also be addressed. Furthermore, the analysis that allowed for the approval of the 1992 subdivision of the adjoining 8.5-acre parcel is no longer valid because the LCP amendment modifying water policies on which it was based was not ever submitted or certified by the Coastal Commission. The North County Hydrology study has been completed, and in the subsequent 7 years our understanding of the water situation in the region has improved, and a Comprehensive Water Resources Management Plan has been completed. It appears that the overdraft has become even more severe than it was at the time the original regional study was completed, and additionally, the LCP amendment contemplated by the County to address density issues with respect to the limiting factor of water supply was never submitted nor certified. Therefore, analysis that allowed for the subdivision of the 8.5-acre portion of the original parcel to be subdivided into three parcels does not apply to the subdivision of the 17.03-acre portion of the original parcel.

2. Water Supply

A. Appellants' Contentions

The appellants contend that if for some reason a subdivision were potentially appropriate for this parcel, the project on appeal would be inconsistent with the Certified LCP for the following substantive reasons:

- This project lacks a hydrology report and proof of an adequate long-term water supply.
- This project involves non-priority development in an area of limited water.

B. Local Coastal Program Provisions

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

- *Policy 4.3.5 General Policies 4 Where there is limited land, water, or public facilities to support development, coastal-dependent agriculture, recreation, commercial and industrial uses shall have priority over residential and other non-coastal-dependent uses.*
- *CIP Section 20.144.140.B.3.a Build-Out In the North County Land Use Plan area, a total of*



2,043 new lots or units may be created after certification of the LUP in June, 1982. This figure represents development at a level of 50% of the build-out remaining at the time of LUP certification. It was calculated by subtracting the number of existing units from the potential build-out (i.e. 7,835 units – 3,750 units = 4,085 units; 4,085 units X 50% = 2,043 units), at the time of LUP certification as provided in LUP Policy 4.3.3. The 50% build-out is permitted as the first phase of new development which limits groundwater use to the safe yield level. Additional development beyond this first phase shall require a Local Coastal Program amendment, pursuant to Appendix 13 of this ordinance, and shall only be permitted after safe yields of groundwater use have been established and water supplies are determined to be available, according to definitive water studies.

Between the time of LUP certification (June, 1982) and Coastal Implementation Plan preparation (July, 1987), a total of 168 lots were approved and a total of 119 final building permits were issued. As well, there were a total of 405 vacant residential parcels as of July, 1987. (These figures were calculated through use of County Planning Department and Assessor computer records.) Subtracting these figures from the 2,043 new lots or units provides the remaining build-out that may be permitted after County assumption of coastal development permitting authority, exclusive of one single family dwelling on a vacant lot of record. That remaining build-out figure is 1,351 new lots or units. This figure shall include senior citizen units, caretaker units, multiple family dwellings, employee housing, and lots created through subdivision approved after County assumption of permitting authority, but shall exclude development of a single-family dwelling on a vacant lot of record. (Ref. Policy 2.5.3.A.2 & 4.3.3)

- **CIP Section 20.144.070.D.1** A hydrologic report shall be required for any development which involves intensification of water use... Uses where the water will be used for agricultural operations shall not be exempted from the hydrologic report.

Other relevant policies include:

- **2.5.1 Key Policy** The water quality of the North County groundwater aquifers shall be protected and new developments shall be controlled to a level that can be served by identifiable, available, and long-term water supplies. The estuaries and wetlands of North County shall be protected from excessive sedimentation resulting from land use and development practices in the watershed area (Emphasis added).
- **Policy 2.5.2.3** New development shall be phased so that the existing water supplies are not committed beyond their safe long term yields. Development levels that generate water demand exceeding safe yield of local aquifers shall only be allowed once additional water supplies area secured.
- **Policy 2.5.3.A.2** The County's long-term policy shall be to limit ground water use to the safe-yield level. The first phase of new development shall be limited to a level not exceeding 50% of the remaining build out as specified in the LUP. This maximum may be further reduced by the County if such reductions appear necessary based on new information or if required in order to protect agricultural water supplies.



C. Local Government Action

The County's action (Resolution 02-252, Exhibit E) allows for the subdivision of a 17.03-acre parcel into 6 parcels ranging from 1.59 to 5.0 acres in size. Finding #8 (Exhibit E, Page 8) states that the project is consistent with Section 20.144.070 of the Coastal Implementation Plan. Evidence for this finding states that the parcel is located within Subwatershed No. 29, a Watershed Restoration Area, and thus the project has been conditioned to control site drainage and erosion resulting from future construction of single family dwellings on each lot.

Finding #6 (Exhibit E, Page 8) addresses the issue of density, by stating that the project is consistent with CIP Section 20.144.140.B.3.a. Evidence for this finding states that the project represents lots 825-829 out of a maximum of 1,351 new lots or units allowed to be approved since July 1987.

Additionally, Finding #9 (Exhibit E, Page 9) reiterates the fact that North Monterey County aquifers have a serious overdraft and saltwater intrusion problem. Evidence to support this finding states that Chapter 18.51 establishes a Water Impact Fee for development in the North County area to assist in financing a study of the safe yield of the North County aquifers, and the project has been conditioned to pay "the appropriate financial contribution" to implement the area-wide study.

In addition to findings and evidence, the project was conditioned, among other things, to provide the Water Resources Agency a "water balance analysis describing the pre-development and post-development water use on the property", to submit a drainage report and to obtain a amended water system permit from the Division of Environmental Health.

D. Substantial Issue Analysis and Conclusion

1) Status of Water in North Monterey County

The overdraft of and saltwater intrusion into aquifers in the North County planning area is of great concern. Prior to the certification of the North County area LUP, in June of 1982, groundwater overdraft in the area was well documented. In 1977 the State Department of Water Resources indicated that a general groundwater overdraft of about 15,500 acre-feet annually existed in the North County area. In 1980 the U.S. Geological Survey confirmed the overdraft of the Aromas Sand Aquifer, the major aquifer in the coastal zone, and estimated an overdraft in the study area of about 1,500 to 8,000 acre-feet. It was evident at the time the North County LUP was being written that continued overdraft in the North County area would lead to increasing saltwater intrusion of the aquifers and lower water tables as well, potentially leading to water shortages. At that time, it was understood that managing the demand for water within the limits of a long-term water supply would be a major challenge for the area, and that additional information was needed to determine the long-term safe yield of the North County aquifers.

Overdraft was clearly recognized as a problem in the 1982 LUP, which describes as evident the increasing saltwater intrusion and lowering of water tables resulting from the continued overdraft in the North County area. The LCP contains policies designed to protect water supply and quality in this planning area, and specifically to control density of development. Provisions were included to reduce



buildout if that seemed necessary once safe yields were determined by further study. The County, in an effort to determine the water supply and quality issues of the area, contracted for the North Monterey County Hydrogeologic Study, Volume I of which was completed in October 1995, and Volume II of which was completed in May of 1996. An extensive portion of the North County planning area is contained in the study area (See Exhibit G). Volume I, *Water Resources* report defined the water supply and water quality issues, and Volume II, *Critical Issues Report and Interim Management Plan* identified the key issues as well as potential interim solutions that could be implemented to start addressing the problems.

Subsequent to the recommendations in Volume II of the Hydrogeologic Study, the County drafted a Water Action Plan for the Hydrogeologic Study Area in 1997 to address the groundwater overdraft and related land disturbance problems in the area (See Exhibit G). The Action Plan included measures to amend the Grading and Erosion Control Ordinances; the Subdivision Ordinance; amendments to the Zoning Ordinance, and Title 15 (Public Services), as well as adoption of a Fallow Land Banking Program to remove certain existing agricultural lands from production.

In January 2002, the MCWRA released a Comprehensive Water Resources Management Plan (CWRMP) to address water supply and quality issues in North Monterey County. The plan recommends following the PVWMA's Basin Management Plan (BMP) to address water supply and water quality issues in the Pajaro, Springfield Terrace and Highlands North regions, and provides several alternatives for the Highlands South and Granite Ridge areas. The Comprehensive Water Resources Management Plan (CWRMP) reported current overdraft of 16,742 acre-feet per year (afy) in 2002³. With calculations of overdraft having increased substantially from 1977 to 2002, buildout could have been further restricted to less than 50%, based on the specific water supply policies of the LCP.

However, because the current demand (31,152 afy in 2002) is already much greater than the safe-yield figure (14,410 afy), any added demand is undesirable. Implementation of the LCP over recent decades has reflected increasing awareness of the serious nature of water supply/water quality issues in North Monterey County. Permits issued by the County from 1988 to the present have reflected a progressive shift toward stricter water supply control. Permits issued in the years shortly after LCP approval allowed lot subdivision since they were well within the 50% buildout level allowed. Finally, the county imposed an 18-month urgency ordinance (Ordinance No. 4083) prohibiting new subdivisions and conversion of non-irrigated land to irrigated land in North County effective on August 9, 2000. This ordinance received a 6-month extension (Ordinance No. 4134) on January 22, 2002, however, temporary ordinances are limited to 2 years, and thus the ordinance expired on August 9, 2002.

2) Substantial Issue Analysis

It is well documented that the cumulative impacts of development have caused an overdraft of the region's aquifers, threatening future water supplies through saltwater intrusion and a reduction in the water table. Given this tenuous situation, the sustainability of long-term water supplies for new

³ 2002 (Demand of 31,152 afy minus Sustained Yield of 14,410 afy = Overdraft of 16,742 afy). North Monterey County Comprehensive Water Resources Management Plan dated January 2002.



development need to be evaluated very closely. This project is inconsistent with LUP Key Policy 2.5.1, which requires new developments to be controlled to a level that can be served by identifiable, available, and long-term water supplies. Resolution 02-252 contains no evidence of an analysis of a potential long-term water supply for this project, yet finds that North County area aquifers have “a serious overdraft”, “seawater intrusion problems” and “nitrate pollution problems throughout the area”. To mitigate for this project’s potential impacts to the area’s already seriously overdrafted aquifers, they are required to pay a fee to finance a study (completed in 1996) and “management plans relating to the safe yield of the North Monterey County aquifers”. This mitigation is completely inadequate because it does not address the impact of this project- which will add 5 new dwelling units on a water supply already documented as being in serious overdraft. Thus, there is no evidence in the Resolution 02-252 that this proposed development can be served by “identifiable, available, and long term water supplies”. Therefore the project is inconsistent with LUP Key Policy 2.5.1, and the Commission finds that a substantial issue is raised with respect to adequate water supply.

The project is also inconsistent with CIP Section 20.144.070.D.1, which requires a hydrology report for any development that involves intensification of water use. This project can be expected to result in 5 new homes each using from .43-.75 acre-feet of water per year, or an increase of 2.15 to 3.75 acre-feet/year⁴. Finding #8 of Resolution 02-252 (Exhibit E, Page 8) states that the project is consistent with CIP Section 20.144.070 because the “project has been conditioned to control site drainage and erosion” resulting from future construction of homes on the lots. This finding makes no mention of the requirement for a hydrology report for any development that involves intensification of water use, which this project will when an additional 5 residences are built and occupied. Finding #9 on Page 9 of Exhibit E reiterates the serious overdraft of the region’s aquifers, and states that the project mitigates for this project’s potential impacts to the area’s already seriously overdrafted aquifers by paying a fee to finance a study (completed in 1996) and “management plans relating to the safe yield of the North Monterey County aquifers”. As discussed in the preceding paragraph, payment of a fee to fund a completed study is inadequate mitigation. There is no evidence in the record that this proposed development will be served by “identifiable, available, and long term water supplies”. Thus the project is inconsistent with CIP Section 20.144.070.D.1, because no hydrology report was completed for this project, and the Commission finds that a substantial issue is raised with respect to the issue of adequate water supply.

Finally, the project is also inconsistent with LUP Policy 4.3.5.4, which sets priorities for the type of development allowed in areas with limited land, water or public facilities. This policy gives the priority for development in areas with limited water to “coastal-dependent agriculture, recreation, commercial and industrial uses”, and states these uses “shall have priority over residential and other non-coastal-dependent uses”, thus delegating residential subdivisions to the lowest development priority for the North County planning area. Given the existing water shortage in this area of the County, the low priority for this type of development, and the fact that no project-specific hydrology report was prepared, the project as proposed and conditioned is inconsistent with these policies, and Commission finds that a

⁴ Figures based on those used by Monterey County to estimate water use of single-family homes. The low end of the range represents single-family homes with no potential for a second unit (such as a granny unit) and the high end of the range represents single-family homes with the potential for a second unit on the lot.



substantial issue exists with respect to viable, long-term water supply.

3. Environmentally Sensitive Habitat Resources

A. Appellants' Contentions

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

- Residential development is not a resource-dependent use.
- Development adjacent to ESHA is not compatible with long-term maintenance of the resource.
- Subdivisions resulting in significant impacts to ESHA are prohibited.
- Clustering of development is required to prevent habitat impacts.
- New residential development must be sited to protect maritime chaparral.

(See Exhibit F for complete text of appellants' contentions).

B. Local Coastal Program Provisions

The appellants cite the following LCP policies regulating land use in ESHA:

- *Policy 2.3.2.1 With the exception of resource dependent uses, all development, including vegetation removal, excavation, grading, filling, and the construction of roads and structures, shall be prohibited in the following environmentally sensitive habitat areas: riparian corridors, wetlands, dunes, sites of known rare and endangered species of plants and animals, rookeries, major roosting and haul-out sites, and other wildlife breeding or nursery areas identified as environmentally sensitive. Resource dependent uses, including nature education and research hunting, fishing and aquaculture, where allowed by the plan, shall be allowed within environmentally sensitive habitats only if such uses will not cause significant disruption of habitat values.*
- *Policy 2.3.2.2 Land uses adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts, upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource.*
- *Policy 2.3.2.3 New development adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New subdivisions shall be approved only where significant impacts to environmentally sensitive habitats from development of proposed parcels will not occur.*



- *Policy 2.3.2.4 To protect environmentally sensitive habitats and the high wildlife values associated with large areas of undisturbed habitat, the County shall maintain significant and, where possible, contiguous areas of undisturbed land for low intensity recreation, education, or resource conservation use. To this end, parcels of land totally within sensitive habitat areas shall not be further subdivided. On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to prevent habitat impacts.*
- *Policy 2.3.3.A.2 Maritime chaparral is an uncommon, highly localized and variable plant community that has been reduced in North County by residential and agricultural development. Further conversion of maritime chaparral habitat to agricultural uses is highly discouraged. Where new residential development is proposed in chaparral areas, it shall be sited and designed to protect the maximum amount of maritime chaparral. All chaparral on land exceeding 25 percent slope should be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself.*

The LCP also contains the following relevant policies:

- *Key Policy 2.3.1 The environmentally sensitive habitats of North County are unique, limited, and fragile resources of statewide significance, important to the enrichment of present and future generations of county residents and visitors; accordingly, they shall be protected, maintained, and, where possible, enhanced and restored*
- *Policy 2.3.2.6 The County shall ensure the protection of environmentally sensitive habitats through deed restrictions or dedications of permanent conservation easements. Where land divisions or development are proposed in areas containing environmentally sensitive habitats, such restrictions or easements shall be established through the development review process. Where development has already occurred in areas supporting sensitive habitat, property owners should be encouraged to voluntarily establish conservation easements or deed restrictions.*
- *Policy 2.3.2.8 Where development is permitted in or adjacent to environmentally sensitive habitat areas (consistent with all other resource protection policies), the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to the minimum amount necessary for structural improvements.*
- *CIP Section 20.144.140.B.3.d.1 Densities of residential subdivisions shall be based upon an evaluation of the site conditions and the development's cumulative impacts. As such, the maximum allowable density based on the evaluation shall be determined pursuant to Section 20.140.070. Factors to be considered include: geologic/flood/fire hazards, slope, vegetation, environmentally sensitive habitats, water quality and availability, erosion, septic tank suitability, adjacent land use compatibility, public services availability, and coastal access and visual resource opportunities and constraints. (Ref. Policy 4.3.6.D.1)*



C. Local Government Action

Finding #3 (Exhibit E, Page 5) states that the project will have a potential for changes to habitat resources upon which wildlife depends, and thus the project has been conditioned to pay the Environmental Document Fee. Additionally, Finding #4 (See Exhibit E, Pages 6-7) states that the project is consistent with LUP policies designed to protect ESHA. Evidence for this finding states that biological reports were prepared in May of 1996 and May 2001; that all protected habitat shall be restricted as a scenic or conservation easement; that the project has been redesigned to reduce grading and vegetation removal and to cluster the building sites on the parcel; no invasive plants shall be planted on any lot and that the redesigned map minimizes potential impacts to chaparral (See Exhibit D original map and Exhibit C revised map).

D. Substantial Issue Analysis and Conclusion

The North County area LUP includes maritime chaparral as ESHA, and Key Policy 2.3.1 describes it as unique, limited and a fragile resource of statewide significance, which, accordingly, shall be protected, maintained, and where possible enhanced and restored. Policy 2.3.3.A.2 also describes maritime chaparral as an uncommon plant community in North County that has been reduced by residential and agricultural development. The original biology report prepared for the project describes the majority of the portion of the lot to be subdivided as being in a "largely undisturbed state with natural habitat in abundance". Additionally, the subsequent biology report, prepared in 2001, describes the site as being over fifty percent covered with central maritime chaparral. Maritime chaparral is found on the steeper slopes on the northeastern portion of the property in addition to the lesser slopes where development is proposed.

Given that maritime chaparral is found in areas proposed for future development, the proposed development is inconsistent with LCP Policies 2.3.2.1 and 2.3.2.2. Policy 2.3.2.1 limits development within environmentally sensitive habitat areas to resource dependent uses, such as nature education and research, and Policy 2.3.2.2 limits land uses adjacent to ESHA to those compatible with long-term maintenance of the resource. For purposes of Policy 2.3.2.2, compatible is defined as only those uses that incorporate all site planning and design features necessary to prevent habitat impacts, and do not establish a precedent for continued land development that could degrade the resource on a cumulative basis. This project is inconsistent with policy 2.3.2.1 because an access road to the proposed residential parcels, and the establishment of building and septic envelopes are non-resource dependent development in ESHA.

This subdivision is also inconsistent with Policy 2.3.2.2 because the future residential use, with its accompanying removal of vegetation, primarily oak woodland, adjacent to ESHA, has not been designed to prevent habitat impacts. The proposed access route from lot 1 to lot 2 requires trimming of 3 manzanitas, and the building and septic envelopes of one lot (Lot #6) contain Pajaro manzanitas that must be trimmed or removed. In fact, the project has been conditioned (Exhibit E, Condition #3, Page 13) such that "all maritime chaparral habitat and tree removal on the parcel must be in accordance with" (Emphasis added) a habitat management plan, although removal of ESHA is not permitted by the LCP. While the impacts to 7 plants in the chaparral community may not seem like a large impact, their stress



and loss are impact enough to be inconsistent because the LCP requires that subdivisions be designed to prevent such impacts. Typically when projects are approved on parcels containing ESHA, not only are they not allowed to intrude into areas containing sensitive habitats, but a buffer zone is established to protect the habitat during construction and subsequent residential use. Additionally, a subdivision by nature establishes a precedent for continued land development due to the residential uses to follow, described in the LUP as one of the main threats to maritime chaparral. Therefore, this development proposed to take place within and adjacent to ESHA is inconsistent with the above policies, and thus raises a substantial issue with respect to protection of ESHA and its related habitat values.

Similarly, Policy 2.3.2.3 allows new subdivisions "only where significant impacts to environmentally sensitive habitats from development of proposed parcels will not occur". Although the County's Resolution finds that this project is consistent with this policy, the evidence does not support this finding. The project includes trimming of 3 Pajaro manzanitas and removal of 4 Pajaro manzanitas for an access road and building and septic envelopes, i.e. development that is non-resource dependent and causes impacts to ESHA. Thus, the project as proposed is inconsistent with Policy 2.3.2.3 and therefore raises a substantial issue with respect to protection of ESHA.

LCP Policy 2.3.2.4 requires clustering of development to prevent habitat impacts. Exhibits D (Original Proposal) and C (Revised/Current Proposal) show how the proposed subdivision map was revised to cluster the building lots in an attempt to prevent impacts to ESHA. However, even after revision of the proposal, the project is still inconsistent with Policy 2.3.2.4 because the LCP requires complete prevention of impacts to the habitat. The project is inconsistent with this policy because the revised subdivision map still proposes creation of a lot and an access road that will impact maritime chaparral through trimming of manzanitas for access and removal of manzanitas for a building and septic envelope, thus, the development has not been clustered to prevent habitat impacts. Pajaro manzanitas are a component of maritime chaparral, considered by the LCP to be a limited and fragile resource of statewide significance, and the removal and trimming of such vegetation is inconsistent with the LCP. Therefore, the Commission finds that a substantial issue exists with respect to protection of ESHA.

Additionally, the project is inconsistent with LCP Policy 2.3.3.A.2, which describes residential and agricultural development as a known threat to maritime chaparral and requires new residential development to be sited to protect the maximum amount of chaparral. This policy requires protection of all maritime chaparral on site, as that is the maximum amount that could be protected. This project, which includes the creation of building and septic envelopes that are located adjacent to, and as in Lot 6, within maritime chaparral and access roads that will impact maritime chaparral, is inconsistent with the protection of all maritime chaparral on the site. Additionally, the revised biology report notes that Pajaro manzanitas, identified as a Federal Species of Special Concern and a rare and threatened plant by the California Native Plant Society, will be trimmed (3) and removed (4) to accommodate this project on the parcel. Therefore, the project is inconsistent with Policy 2.3.3.A.2 and raises a substantial issue with respect to protection of ESHA in the form of maritime chaparral.

In conclusion, based on the evidence, the County's action is indeed in conflict with the LCP policies designed to protect ESHA, and therefore raise a substantial issue.



4. High Erosion Hazard Areas

A. Appellants' Contentions

The appellants contend in part that the project on appeal is inconsistent with the Certified LCP policies designed to reduce hazards for the following reasons:

- Determination regarding critical erosion shall be made prior to considering an application complete.
- Subdivisions must submit a soils analysis sufficient to determine what areas of the property are Critical or Non-Critical Erosion Areas.
- The project cannot be determined to be in compliance with Policy 2.5.3.5.a.

B. Local Coastal Program Provisions

The appellants cite the following Land Use Plan and Coastal Implementation Plan policies:

- *CIP Section 20.144.070.A.1 For all proposed development, a determination shall be made by the project planner as to which portions of the parcel are in Critical and Non-Critical Erosion Areas. The determination shall be made prior to the application being determined complete...*
- *CIP Section 20.144.070.A.3 If a project involves substantial development, such as a subdivision, or where the soil types or development location in relation to the soil types, cannot be accurately determined by the planner, the applicant shall be required to provide a soils analysis. The analysis shall be required and submitted prior to the application being determined complete. The analysis shall consist of a soils map prepared by a soils engineer which delineates the following information: contours, areas over 25% in slope, soil types, and soils with K-Factors exceeding 0.4. This information shall be used as the basis for the planner's determination of Critical and Non-Critical Erosion Areas.*
- *Policy 2.5.3.C.5.a Maximum permissible densities for the various areas of the plan are shown on the land use plan map and in Section 4.3.1 of the text and range from .10 acres per residence in the High Density Residential areas to 5 acres per residence in the Rural Residential areas. These densities are maximum that may be approved under ideal conditions where all resource considerations of the plan can be fully met. In order to minimize erosion and consequent sedimentation of Elkhorn and Moro Cojo Sloughs, reductions in maximum permissible densities shall be made as follows:*
 - a. *In areas designated for Rural and Low Density Residential development:*
 - Densities shall be reduced as necessary in order to site all development in Non-Critical Erosion Areas and to maintain cumulative development within the LDT for the subwatershed.



-Existing parcels containing no land suitable for development within the Non-Critical Erosion classification shall be limited to a single residence or to the existing development on the parcel or if there is none, a single residence. Division of the parcel shall not be permitted that creates an additional vacant parcel(s) intended for development.

C. Local Government Action

The County, in Finding #8, finds the project consistent with CIP Section 20.144.070 (Exhibit E, Page 8), which includes the water resources development standards. The evidence for this finding states that the parcel is located in Subwatershed No. 29, a Watershed Restoration Area, and further states that the project has been conditioned to control site drainage and erosion. This condition of approval is intended to control erosion resulting from construction of the subsequent single-family dwellings.

Finding #11(Exhibit E, Page 9) states that the request to develop on slopes greater than 25% is consistent with CIP Section 20.144.070.E.2.a because "no other alternative exists which would allow development to occur on slopes of less than 25%". Evidence for this finding points to a slope analysis map prepared by Goetz Land Surveyors showing all access points to the property from Paradise Rd. on slopes greater than 25%.

D. Substantial Issue Analysis and Conclusion

The Initial Study and Soils report describe the project area as having steep slopes covered with highly erodible soils, composed primarily of Aromas sands and colluvium. The combination of this soil type and the steep slopes creates a high erosion hazard potential in many areas of the North County planning area, particularly when vegetation is removed or disturbed. Coupled with the parcel's hazardous soil conditions, is the project's proximity to Elkhorn Slough. Located roughly 2 miles from the project location, is one of the largest and most productive wetlands systems on the central coast. Because of the documented water shortage, and the threat of sedimentation to surface water quality, the LCP contains policies to direct development to Non-Critical Erosion Areas.

The project is inconsistent with CIP Section 20.144.070.A.1, which requires a determination of Critical Erosion Areas prior to the application being deemed complete, because no such determination was made. Additionally, this project is inconsistent with CIP Section 20.144.070.A.3, which specifically states that applicants are required to submit a soils analysis for subdivisions in the North County planning area. A slope analysis map was prepared by Goetz Land Surveyors for the site, however, this map is not sufficient to determine what portions of the property are in Critical Erosion Areas because it does not delineate contours, areas over 25% slopes, soil types, and soils with K-Factors in excess of 0.4, as required by 20.144.070.A.3.

This determination is critical to establish compliance with LUP Policy 2.5.3.C.5.a, which requires densities of Low Density Residential areas to be reduced as necessary to site all development in Non-Critical Erosion Areas. This policy further limits parcels with no land suitable for development within the Non-Critical Erosion classification to a single residence or to the existing development on the parcel, and prohibits division of a parcel that creates an additional vacant parcel in the Critical Erosion Area.



Therefore this project is inconsistent with CIP Sections 20.144.070.A.1 and 20.144.070.A.3 because areas of Critical versus Non-Critical Erosion were not delineated properly to determine compliance with Policy 2.5.3.C.5.a, and the Commission finds that a substantial issue is raised.

Based on the Critical Erosion Areas post cert map (Exhibit H), which is not of a sufficient scale to determine accurately, at least a portion of the property appears to be located within a Critical Erosion Area. Although the project was reviewed and approved without a proper determination of Critical Erosion Areas, if such areas are determined to exist on the property, the property should then be evaluated to determine if subdivision of the lot complies with Policy 2.5.3.C.5.a. Therefore, because of the project's inconsistency with CIP Sections 20.144.070.A.1 and 20.144.070.A.3, and the likelihood that it does contain Critical Erosion Areas, this project rises to the level of substantial issue with respect to Critical Erosion Areas.

Given the potential for this project to include or be located entirely within a Critical Erosion Area, a more in-depth review of its erosion hazard potential is needed to evaluate the project's consistency with Policy 2.5.3.C.5.a. A better, site-specific map clearly delineating Critical Erosion Areas should be produced, as well as being addressed in a soils evaluation report. If such a review concludes that the parcel is entirely within or contains Critical Erosion Areas, the LCP requires the consideration of additional policies designed to protect the resource. Therefore, the Commission finds that the appeal raises a substantial issue with respect to protection of water quality and reduction of geologic hazards.

C. Substantial Issue Analysis- Conclusion

In conclusion, the appeal raises a substantial issue in terms of compliance with the LCP, procedurally with respect to the current zoning and re-zoning without an LCP amendment, and substantively, with respect to water availability, environmentally sensitive habitat, and erosion issues. The development approved by Monterey County, Board of Supervisors Resolution #02-252, does not conform to LCP policies designed to limit development to those areas able to support it, and policies to protect water availability and quality, environmentally sensitive resources, and to prevent hazards from erosion of the project site as required by the Monterey County Certified Local Coastal Program.

D. De Novo Coastal Permit Findings

The applicant proposes to remove a protective "B-7" overlay from a 17.03-acre property to allow for the subdivision of the parcel into 6 parcels, grading an access road, water facilities (5 individual wells), development on slopes greater than 25%, and removal of 68 coast live oaks. After the subdivision and related development has taken place, the protective "B-7" overlay will be replaced with a more restrictive "B-6" overlay, which prohibits further subdivision of the property. 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 the referenced findings show, the proposed project is inconsistent with the current zoning classification. The property is currently zoned Low Density Residential (LDR)-B-7(CZ)" and the "B-7" overlay prohibits subdivisions. Properties able to demonstrate that they have met minimum requirements with respect to water supply, drainage, sewage disposal, parcel size and design, and traffic circulation for the parcel may be reclassified to the basic zoning district, in this case Low Density Residential, that does permit subdivision. Setting aside the issue of meeting the minimum requirements with respect to the above limiting factors, Section 20.94.042 limits zoning changes that the County can undertake without certification by the California Coastal Commission. The County's action of removing the "B-7" overlay from this property to facilitate a subdivision and subsequently placing a different "B" overlay on the property is clearly inconsistent with this Section, which limits such unilateral reclassifications to adding any "B" overlay zoning designation for the explicit purpose of preserving or enhancing coastal resources. As the removal of the "B-7" overlay is necessary to subdivide the property, and subdivisions in general are not considered to result in the preservation or enhancement of coastal resources, and the County findings offer no support to this requirement, this project is inconsistent with the LCP and should be denied as presented and conditioned.

Additionally, even if the requisite LCP amendment was applied for to allow rezoning of this parcel, the allowable density of the subdivision must be in compliance with CIP Section 20.144.140.B.3.d.1, which requires density to be based on an evaluation of site conditions and cumulative impacts. As identified in the above findings, the approval of a 6-lot subdivision is inconsistent with this requirement because the density exceeds available water supply, it will have adverse impacts on ESHA, and because it will likely contribute to degradation of water quality through development in Critical Erosion Areas.

Second, the above findings show that the project is located in an area of severe groundwater overdraft, saltwater intrusion, and pollution from nitrates. The findings establish that no site-specific hydrology report was prepared for the project, as required by CIP Section 20.144.070.D.1, to prove that the project has an adequate, sustainable long-term water supply. Additionally, the project consists of a low priority land use for development in an area with a limited water supply, conflicting with Policy 4.3.5.4. Given that the project is a low priority for development and located in an area with a limited water supply, that the region has proven groundwater overdraft and potential shortages, and that no hydrology report has been submitted to prove that the new potential residences will have an adequate long-term water supply, this project is inconsistent with the LCP and must be denied.

Third, the above findings also show that the project area contains a substantial amount of maritime chaparral, considered to be ESHA by the LCP. The applicant proposes a non-resource dependent (residential) development in ESHA, and has not avoided and minimized damage to the chaparral areas. Nor does the project provide for the maximum amount of protection of maritime chaparral on site through the use of conservation easements. Therefore, this development is inconsistent with LCP policies 2.3.2.1, 2.3.2.2, 2.3.2.3, 2.3.2.4 and 2.3.3.A.2 which respectively require development in ESHA to be resource dependent; land adjacent to ESHA to be compatible with its long term maintenance and to not establish a precedent for continued land development; subdivisions to be allowed only where they do not impact ESHA; require development to be clustered to prevent habitat impacts, and to site and design development to protect the maximum amount of maritime chaparral on site. Thus, because of the



project's inconsistencies with LCP policies designed to protect ESHA, the project must be denied as proposed and conditioned.

Additionally, the project is inconsistent with three other LCP policies designed to protect ESHA that were not cited by the appellants. Key Policy 2.3.1 requires protection, maintenance and enhancement and restoration of environmentally sensitive habitat areas. The proposed project does not protect all ESHA on site, and includes removal of maritime chaparral for development envelopes. In fact, the project has been conditioned (Exhibit E, Condition #9, Page 14) to "assure that except for approved structures and appurtenant uses (roads, driveways and septic systems)" development is not located within the maritime chaparral habitat, directly establishing that approved development on site will remove ESHA. Similarly, Policy 2.3.2.8 requires permitted development that is consistent with all other resource protection policies to minimize vegetation removal and land disturbance to the minimum amount necessary for structural improvements. This project is inconsistent because even if it were consistent with all other resource protection policies, the project has not been designed and sited to minimize the removal of indigenous vegetation, such as maritime chaparral and coast live oaks. Furthermore, the project is inconsistent with Policy 2.3.2.6 because it does not include the protection of ESHA through a deed restriction or conservation easement. Therefore, because this project does not protect ESHA, it is not consistent with all other resource protection policies nor minimize vegetation removal, and it does not include a conservation easement over all ESHA on site, it is also inconsistent with LCP ESHA protection policies and thus must be denied as presented.

1. High Erosion Hazard Areas

The above findings show that although a Critical Erosion Area determination has not been made by a soils engineer, the property does appear to be located within a Critical Erosion Area based on a Commission post-certification map of such areas. Additionally, because the project site is located within a Watershed Restoration Area, CIP Section 20.144.070.F.1 applies and requires the project to meet policies designed to direct development away from Critical Erosion Areas. Because of the hazardous nature of the Critical Erosion Area, certain development restrictions are detailed by the LCP.

A. Local Coastal Program Provisions

The appellants raised the issue of high erosion hazard with respect to this project, and contended that the determination of whether or not the project is in a Critical Erosion Area was not made. However, not all applicable policies were raised in the appeal, and the following policies are also relevant to this project:

- *Policy 2.5.3.C.2.a In order to ensure the appropriate siting and density for new development, and to monitor and control the amount of land disturbance in relation to the LDT for each subwatershed, all new development in the watershed of Elkhorn and Moro Cojo Sloughs, including the conversion of land to commercial cultivated uses, shall be regulated by permit and shall be consistent with the policies that follow. The permit application shall contain a full description of the physical features of the parcel, with supporting maps delineating areas of the parcel having 0-10 percent slope, 10-25 percent slope and areas in excess of 25*



percent slope. The Critical and Non-Critical Erosion Areas within the parcel shall be indicated. Vegetated areas shall be clearly marked and hydrologic features shall be shown. Projected land disturbance for the project shall be tabulated according to the procedures set forth in Appendix A of this plan. (Appendix A includes all technical data).

- **Policy 2.5.3.C.3.a** Where the parcel under consideration contains land in both Critical and Non-Critical Erosion categories, all new development, including roads, shall be sited on Non-Critical Erosion lands.
- **CIP Section 20.144.070.F.1** Each development proposal determined to be within a Watershed Restoration Area, either at the time the application is reviewed or at the time the LDT Evaluation is completed, will be subject to the "General Development Standards: of Section 20.144.070.E as well as "Watershed Restoration Area Development Standards" (Emphasis added).
- **CIP Section 20.144.070.E.2** Development may be located on Critical Erosion Areas only under the following circumstances: a) There are no alternatives to development on slopes in excess of 25%, or the proposed development is preferable as it better conforms to other resource protection standards of this ordinance, such as by reducing grading, tree removal, or impacts to an environmentally sensitive habitat... b) The proposed development is located in a "HDR" (High Density Residential), "MDR" (Medium Density Residential), "LI" (Light Industrial), or "HI" (Heavy Industrial) zoning district, upon approval of an Erosion Control Plan prepared according to the requirements of Section 20.144.070.C.
- **CIP Section 20.144.070.E.4** Structural development shall be clustered on the portions of the parcel with soils of the lowest erosion hazard potential...
- **CIP Section 20.144.070.E.7** New development shall be required to minimize removal of existing vegetative cover and natural vegetation on the parcel. The project shall be modified for siting, location and grading where such modifications will result in less vegetation removal...
- **CIP Section 20.144.070.E.8** Where development is proposed on parcels containing land in Critical and Non-critical Erosion Areas, all land in the Critical Erosion Areas shall be placed in Conservation Easement as a condition of project approval to be completed prior to issuance of building or grading permits...
- **CIP Section 20.144.070.E.11** Development shall not be permitted if it has been determined, through preparation of a hydrologic report, or other resource information, that:
 - a) the development will have adverse impacts to local agricultural water supplies, such as degrading water quantity or quality; and,
 - b) there are no project alternatives and/or mitigation measures available that will reduce the development's water use to a level at which it will not exceed or adversely impact the safe, long-term yield of the local aquifer.

As such, each hydrologic report shall be reviewed by the Flood Control District and



Health Department, pursuant to Section 20.144.070.D.4. Department review shall include an on-going monitoring of cumulative impacts of development on groundwater resources through review of hydrologic reports previously prepared for other development projects in the area. (Ref. Policy 2.5.2.3)

- *CIP Section 20.144.070.E.19 The densities specified by any particular zoning district are maximum allowable densities that may be approved where all resource protection policies of the North County Land Use Plan and standards of this ordinance can be fully met. A parcel's maximum allowable density, as provided by zoning, shall be reduced as follows:*

a) In "RDR" (Rural Density Residential) and "LDR" (Low Density Residential) zoning districts:

1) Densities shall be reduced as necessary in order to site all development in Non-Critical Erosion Areas and to maintain cumulative development within the Land Disturbance Target for the subwatershed.

2) Existing parcels containing no land suitable for development within Non-Critical Erosion Areas shall be limited to a single residence or to the existing development on the parcel, or if there is neither, a single residence. Division of such parcels shall not be permitted if the subdivision will create an additional vacant parcel(s) upon which building could take place.

B. Issue Analysis and Conclusion

As stated in Finding #4 above, the project is located both within an area of highly erodible soils, exacerbated by removal or disturbance of vegetation, and within a Watershed Restoration Area. As such, the project is required by CIP Section 20.144.070.F.1 to be subject to the General Development Standards of CIP Section 20.144.070.E- which include subsections E.1 through E.19, and regulate development in areas located within Critical Erosion Areas. Although the County did not adequately evaluate this project application for completeness as required by CIP Sections 20.144.070.A.1 and A.3 (to determine if the parcel is located within a Critical Erosion Area), it is of no great consequence because the project is located within a Watershed Restoration Area, and the Critical Erosion Area policies still apply to the project as stipulated by CIP Section 20.144.070.F.1.

Because of these inconsistencies with the LCP, required 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 the many conditions that would require substantial redesign and review by Commission staff through the condition compliance review process.

Alternatives

The only feasible alternatives to subdividing this property into 6 lots are to not allow subdivision of the lot or to allow a smaller subdivision based on a proper cumulative impacts assessment. The lot already contains a 1,072 square foot single-family home, a 1,200 sf shed, a 300 sf detached garage, and an additional 160 sf storage unit; continued use of the existing house is a viable economic use that avoids



additional impacts to water supply, ESHA, and water quality consistent with LCP requirements. Although not used for farming, because the parcel contains an existing house and outbuildings the owner of this parcel already has an established economic use of the property, thus takings provisions do not apply. A proposal including a smaller number of lots may be another alternative to this project based on an adequate assessment of water supply, impacts to ESHA and density based on the parcel location within and subject to Critical Erosion Area policies. The density of the project would have to be calculated based on such evaluations, and the project would have to be designed to completely avoid impacts to ESHA and to protect all habitat through a deed restriction or conservation easement, as required by the LCP.

Conclusion

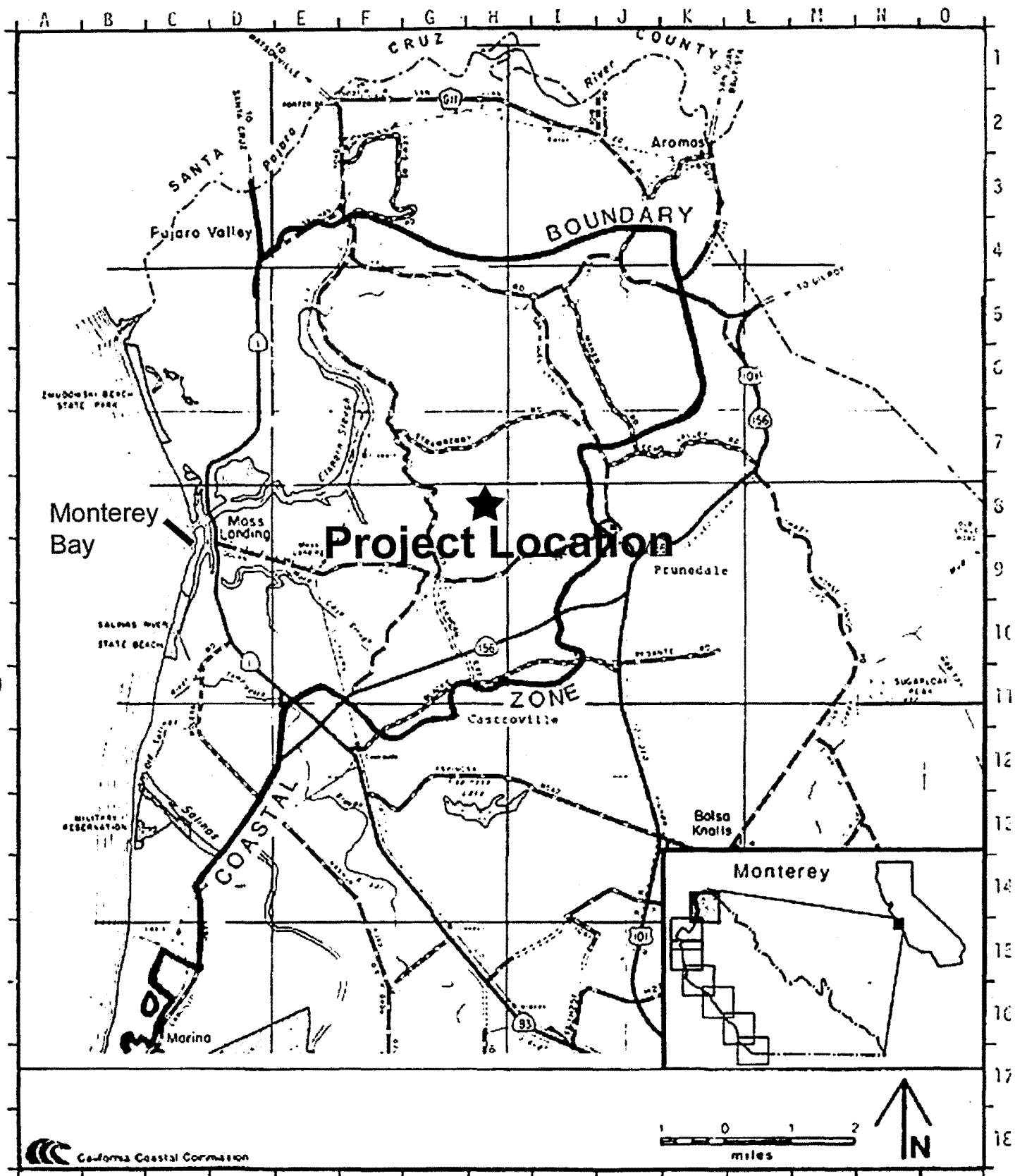
This analysis has revealed numerous fundamental inconsistencies with Monterey County LCP. The project as presented does not conform to the current zoning of the property, as it requires an LCP amendment that was not properly obtained. It is also inconsistent with LCP policies designed to protect water supply in the region, or those requiring the protection and maintenance of Environmentally Sensitive Habitat areas and the protection of water quality through a reduction in erosion. Therefore, because the proposed subdivision project is not consistent with the parcel's current zoning, it allows non-resource dependent development in ESHA, will increase water demand and has no proven long-term water source, and has not considered the policies regulating development in Critical Erosion Areas, 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.





★ Star denotes project location.

Exhibit A
Regional Location Map
Gorman/Tanglewood
Subdivision
A-3-MCO-02-077



EXHIBIT 4



APPLICANT: TANGLEWOOD SUBD./GORMAN

APN: 129-096-029-000

FILE#PC96036

300' LIMIT: 
2,500' LIMIT: 

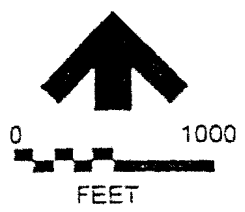
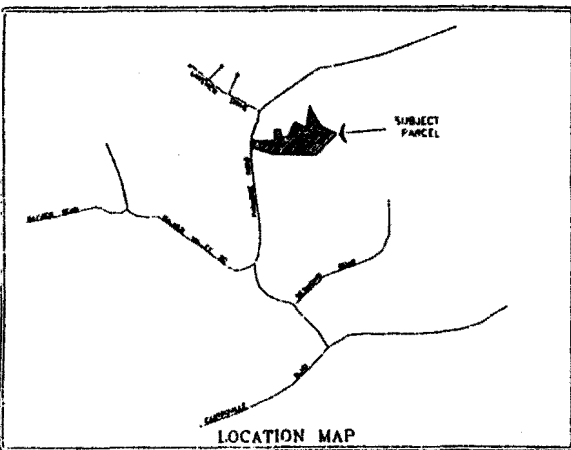


EXHIBIT NO. B

APPLICATION NO.

A-3-MCO-02-077

page 2 of 2

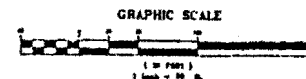


SOILS REPORT
SOILS SURVEYS, INC.
103 CHURCH STREET
SALINAS, CA 93901
757-2172

BIOLOGY REPORT
ED MERCURIO
847 WILSON STREET
SALINAS, CA 93901
424-3487

ARCHAEOLOGICAL REPORT
ARCHAEOLOGICAL CONSULTING, INC.
P.O. BOX 3377
SALINAS, CA 93912
422-4912

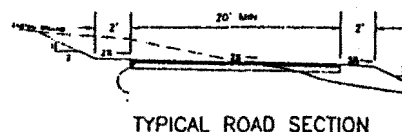
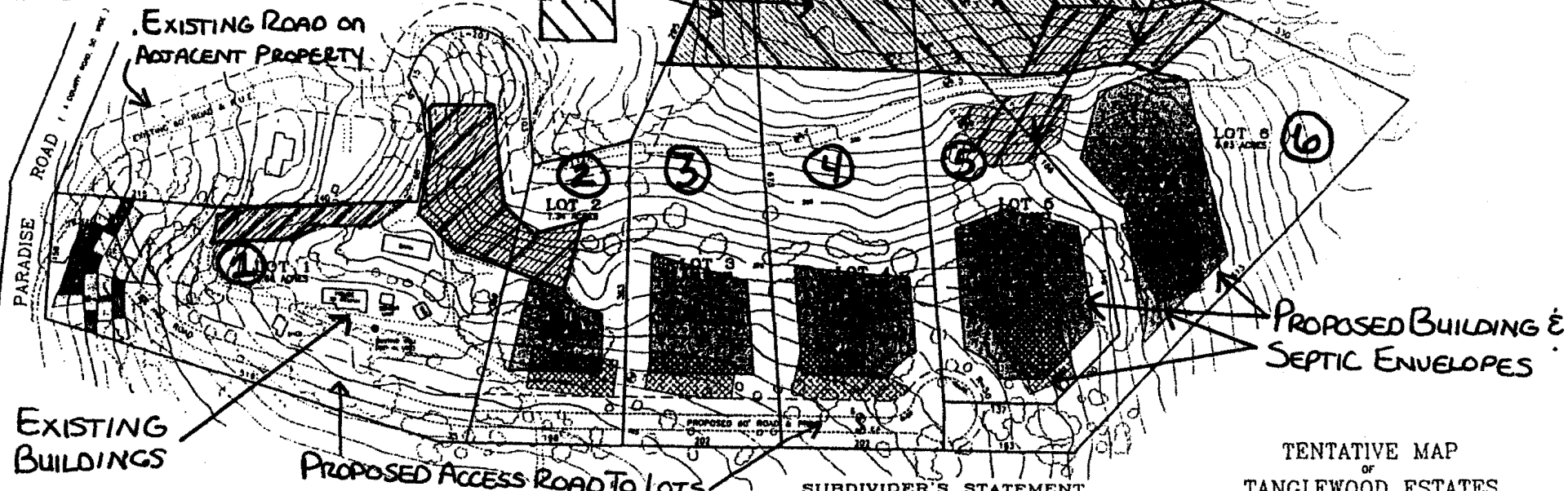
GEOLOGY REPORT
ROGERS & JOHNSON & ASSOCIATES
1729 SCARBOROUGH AVENUE
SAN JUAN, CA 95082
423-1288



EXISTING SCENIC
EASEMENTS



PROPOSED
SCENIC
EASEMENT



SUBDIVIDER'S STATEMENT

- 1) PROPOSED DEVELOPMENT: LOTS FOR SALE
- 2) ZONING: LDR B-7
- 3) WATER: TANGLEWOOD NO. 28 MUTUAL WATER SYSTEM
- 4) SEWAGE DISPOSAL: INDIVIDUAL SEPTIC SYSTEMS
- 5) TREE PLANTING: NONE PROPOSED
- 6) EROSION CONTROL: THE PROVISIONS OF CHAPTER 18.12 OF THE MONTEREY COUNTY CODE SHALL BE COMPLIED WITH.

- AREA OF EXISTING SCENIC EASEMENT PER 14 PARCEL MAPS 113
- AREA OF PROPOSED NEW SCENIC EASEMENT
- PROPOSED SEPTIC DRAINFIELD AREA

TENTATIVE MAP OF TANGLEWOOD ESTATES

A PRIVATE ROAD SUBDIVISION
OF PARCEL 1, AS SHOWN ON MAP FILED IN VOLUME
14 OF PARCEL MAPS, AT PAGE 118, IN RANCHO BOLGA
NUEVA Y MORA COJO, MONTEREY COUNTY, CALIFORNIA

PREPARED FOR
DOROTHY GORMAN

17561 HERNA CANYON ROAD #12 SALINAS, CALIFORNIA 93907
MAP 128-096-029
MAY 12, 1998
REVISED MAY 9, 2001

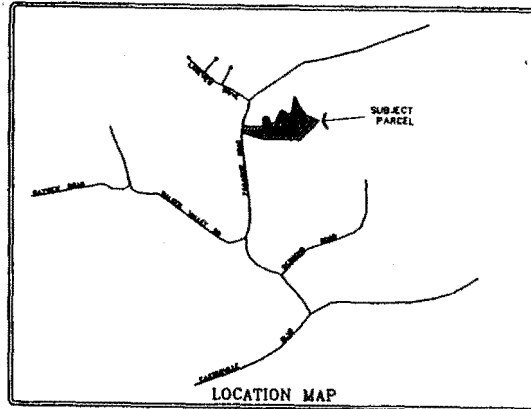
GLS GLETTZ LAND SURVEYORS
101 ALAMO STREET, 2ND FLOOR
SALINAS, CALIFORNIA 93901

A-3-MCO-02-077
Gorman Subdivision Appeal
Proposed Subdivision Map

Exhibit C
pg. 1 of 1

TANGLEWOOD ESTATES (PC 96036) SITE PLAN

EXHIBIT 2

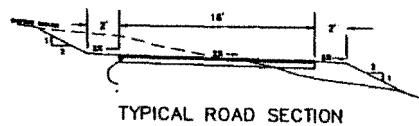
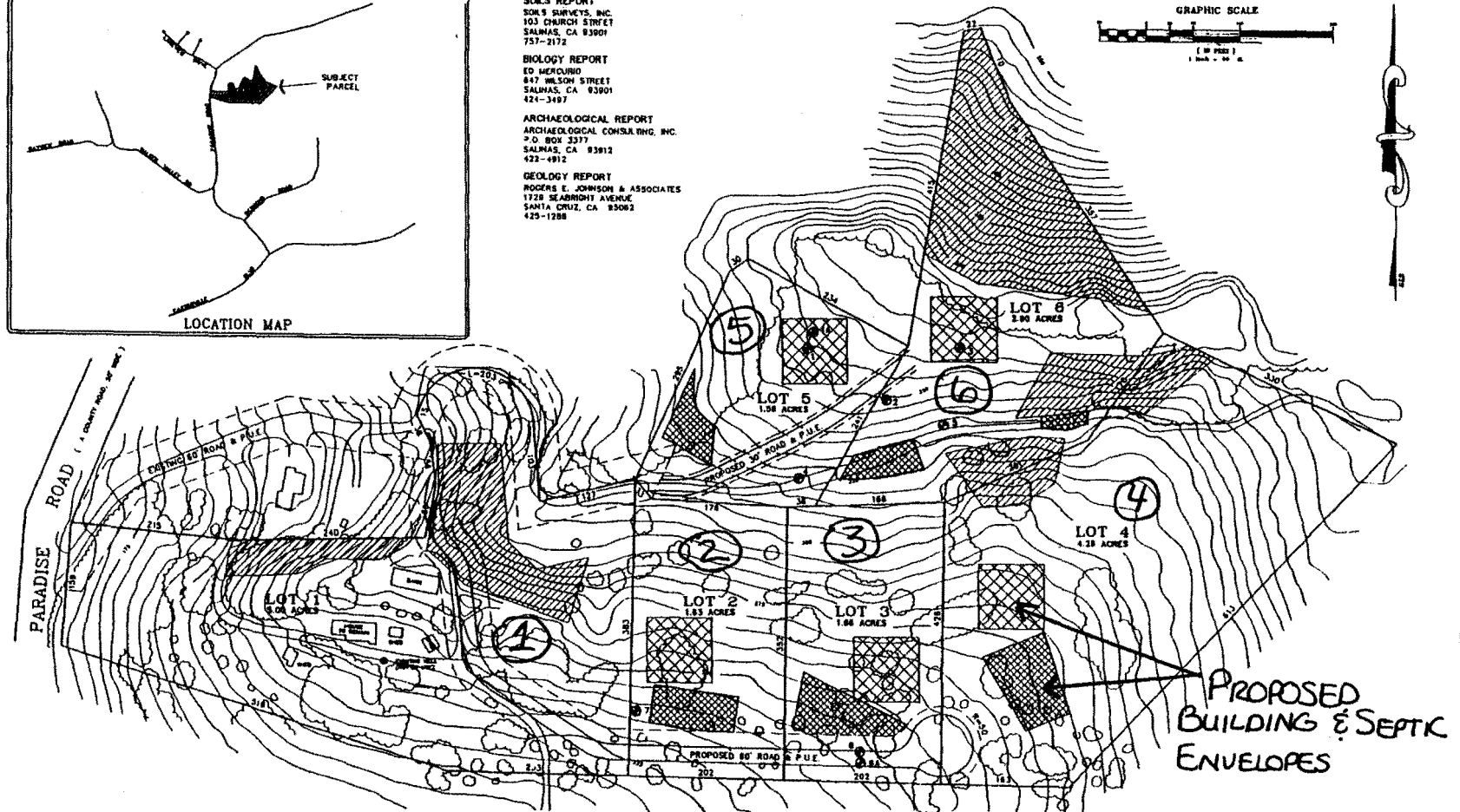


SOILS REPORT
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BIOLOGY REPORT
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422-4912

GEOLOGY REPORT
RODERS E. JOHNSON & ASSOCIATES
1720 SEABOARD AVENUE
SANTA CRUZ, CA 95062
425-1288



SUBDIVIDER'S STATEMENT

- 1) PROPOSED DEVELOPMENT: LOTS FOR SALE
 - 2) ZONING: LDR B-7
 - 3) WATER: TANGLEWOOD NO. 28 MUTUAL WATER SYSTEM
 - 4) SEWAGE DISPOSAL: INDIVIDUAL SEPTIC SYSTEMS
 - 5) TREE PLANTING: NONE PROPOSED
 - 6) EROSION CONTROL: THE PROVISIONS OF CHAPTER 18.12 OF THE MONTEREY COUNTY CODE SHALL BE COMPLIED WITH.
- AREA OF EXISTING SCENIC EASEMENT PER 14 PARCEL MAPS 118
- PROPOSED BUILDING SITE
- PROPOSED SEPTIC DRAINFIELD

TENTATIVE MAP OF TANGLEWOOD ESTATES

A PRIVATE ROAD SUBDIVISION
OF PARCEL 1, AS SHOWN ON MAP FILED IN VOLUME
14 OF PARCEL MAPS, AT PAGE 118, IN RANCHO BOLSA
NUEVA Y MORO COJO, MONTEREY COUNTY, CALIFORNIA

DOROTHY GORMAN

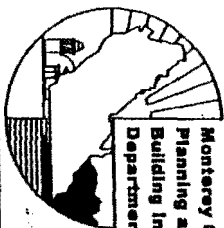
17581 VICTA CANYON ROAD #23 SALINAS, CALIFORNIA 93907
APH 128-096-029 JOB NO. 27-96
MAY 13, 1996 SCALE: 1"=66'

GLE ORTE LAND SURVEYORS
401 NORTH 3RD ST. #4-414
SALINAS, CALIFORNIA 93901

A-3-MCO-02-077
Gorman Subdivision Appeal

ORIGINAL SUBDIVISION MAP

Exhibit D
pg. 1 of 1



MONTEREY COUNTY

PLANNING AND BUILDING INSPECTION DEPARTMENT

☐ 240 CHURCH STREET, SALINAS, CALIFORNIA 93901 PLANNING: (831) 755-5025 BUILDING: (831) 755-5027 FAX: (831) 755-5487
MAILING ADDRESS: P.O. BOX 1208, SALINAS, CALIFORNIA 93902

☒ COASTAL OFFICE, 2620 1st Avenue, MARINA, CALIFORNIA 93953 PLANNING: (831) 883-7500 BUILDING: (831) 883-7501 FAX: (831) 384-3261



FINAL LOCAL
ACTION NOTICE

RECEIVED

August 23, 2002

Via Certified Mail

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

REFERENCE # 3-MCO-02-436
APPEAL PERIOD 8/28-9/11/02

AUG 27 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Attn: Rick Hyman

Subject: Final Local Action Notice, Tanglewood Subdivision (PC96036, Gorman)

Dear Mr. Hyman:

Please find enclosed the final Board of Supervisors resolution for the Tanglewood Subdivision (PC96036). The project was approved by action of the Board of Supervisors on June 4, 2002. The approved project consisted of a Combined Development Permit (Gorman/PC96036) consisting of a Coastal Development Permit for a standard subdivision tentative map to allow division of a 17.03-acre parcel into six parcels; Coastal Development permit for grading and water system facilities, and removal of 28 coast live oaks; Waiver of policy prohibiting development on slopes greater than 25 percent; Rezone from "LDR-B-7(CZ)" to "LDR-B-6(CZ)." The property is located on the east side of Paradise Rd near Lake View Dr, (Assessor's Parcel Number 129-096-029-000), North County Land Use Plan.

Should you have any questions, please feel free to call me at (831) 883-7518.

Sincerely,

Mike Novo
Planning and Building Services Manager

A-3-MCO-02-077
Gorman Subdivision Appeal

MONTEREY COUNTY
FINAL RESOLUTION

Exhibit E
pg. 1 of 24

RECEIVED

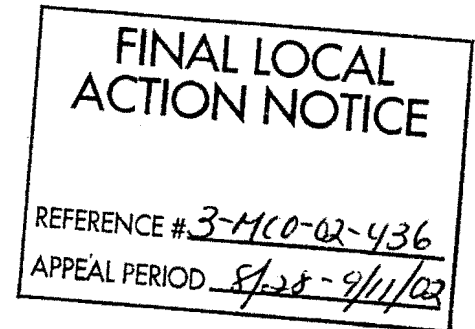
AUG 27 2002

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

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Resolution No. 02-252

Adopt a Mitigated Negative Declaration and Mitigation)
Monitoring Plan and approve a Combined Development)
Permit (Gorman/PC96036) consisting of a Standard)
Subdivision Tentative Map to allow division of a 17.03-acre)
parcel into six parcels; Coastal Development Permit for)
grading and water system facilities; Waiver of policy)
prohibiting development on slopes greater than 25 percent;)
Removal of 28 coast live oaks; and Rezone from "LDR-B-)
7(CZ)" to "LDR-B-6(CZ)." The property is located on the)
east side of Paradise Road near Lake View Drive,)
(Assessor's Parcel Number 129-096-029) in the North)
County Land Use Plan area (Coastal Zone))
)



In the matter of the application of PC 96036 (Gorman/Tanglewood)

WHEREAS: The Monterey County Board of Supervisors pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit for Dorothy Gorman on Paradise Road (Assessor's Parcel Number 129-096-029), North County Land Use Plan area, Coastal Zone

WHEREAS: Said proposal includes:

- 1 Adoption of a Mitigated Negative Declaration and Mitigation Monitoring Plan, and
- 2 Approval of a Standard Subdivision Tentative Map to allow division of a 17.03-acre parcel into six parcels; Coastal Development Permit for grading and water system facilities; Waiver of policy prohibiting development on slopes greater than 25 percent; Removal of 28 coast live oaks, and
- 3 Reclassification from a "LDR-B-7(CZ)" to "LDR-B-6(CZ)" zoning classification.

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

1. FINDING: The project consists of a Combined Development Permit (Gorman/PC96036) for a standard subdivision tentative map to allow division of a 17.03-acre parcel into six parcels; a mitigated negative declaration; Coastal Development Permit for grading and water system facilities; Waiver of policy prohibiting development on slopes greater than 25 percent; and Rezone from "LDR-B-7(CZ)" to "LDR-B-6(CZ)". The property is located on the east side of Paradise Road near Lake View Drive,

A-3-MCO-02-077
Gorman Subdivision Appeal

Exhibit E
pg. 2 of 24

(Assessor's Parcel Number 129-096-029) in the North County Land Use Plan area.

The property is designated LDR/2.5-10 acres/unit in the North County Land Use Plan. The parcel is zoned "LDR/B-7(CZ)". The project, as described in the application and attachments, and as conditioned, conforms to the plans, policies, requirements and standards of the North County Land Use Plan and the development standards and zoning regulations contained in the certified Coastal Implementation Plan, specifically Chapter 20.144 - "Regulations for Development in the North County Land Use Plan Area," and the development standards contained within Chapter 20.14 ("LDR" District) and 20.42 ("B" Districts) in the Monterey County Zoning Ordinance (Title 20). The applicant has demonstrated the requirements of Section 20.42.030.G.3 to allow reclassification from "B-7" to "B-6" combined zoning district, and that reclassification to a "B-6" zoning classification will preserve and enhance coastal resources by precluding further subdivision of the property and by permanently protecting, through scenic and conservation easement, the habitat values on the site.

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

- 1) The County General Plan, Local Coastal Program, and certified North County Land Use Plan;
- 2) Title 20 zoning regulations for the "LDR" District (Chapter 20.14);
- 3) Title 20 zoning regulations for the "B-7" District; (Section 20.42);
- 4) The certified North County Coastal Implementation Plan (Part 2) (Chapter 20.144), with approval of the waiver to allow development in areas with slopes exceeding 25 percent and approval of the rezoning, the project will be consistent with the plans and regulations

EVIDENCE: The project site is physically suitable for the proposed use as described in the project file. The proposed development and revised map of May 9, 2001, has been reviewed by the Monterey County Planning and Building Inspection Department, the Water Resources Agency, the Public Works Department, the Environmental Health Department, the Parks and Recreation Department, and the North County Fire Protection District. There has been no indication from these agencies that the site is not suitable for the proposed development. Where appropriate, each agency has recommended conditions for project approval.

EVIDENCE: The site for the subdivision, as proposed in the tentative map, is physically suitable for the proposed density of development, as permitted in the North County Land Use Plan which designates this parcel as "Low Density Residential, 2.5-10 Acres per Unit." The proposed project will result in a gross density of 2.83 acres per unit.

- EVIDENCE: Recommendation for approval of (4-2-1-1) by the North County Land Use Advisory Committee, August 20, 20001;
- EVIDENCE: The on-site inspection by the planning staff on September 24 and 25, 2000, to verify that the proposed project complies with the North County Local Coastal Program.
- EVIDENCE: Necessary public facilities are available to the project site. Utilities, such as phone, gas, electricity, and cable are accessible via Paradise Road via the existing utility right-of-way, and can be provided to the project site.
- EVIDENCE: Staff report and administrative record contained in Project File No. PC96036.
- EVIDENCE: The applicant has demonstrated adequate water supply, drainage, sewage disposal, parcel size and design, and traffic circulation. Reference above and finding and evidence numbers 2, 4, 6, 8, 9, 10, 12, and 15.

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 #PC96036) 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 "D" 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 240 Church Street, Room 116, Salinas 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

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Gorman Subdivision Appeal

Exhibit E
pg. 4 of 24

filed with the County Clerk on June 29, 1999. 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) A geotechnical and percolation investigation report prepared by Soil Surveys, dated May 10, 1996, including updates/supplemental reports.
- 2) A cultural resources analysis report prepared by Archaeological Consulting, dated May 11, 1996.
- 3) A biological survey report prepared by Ed Mercurio, dated May 1996, and updates/supplemental reports including May 15, 2001, letter report.
- 4) Letter of response by Ed Mercurio, dated April 9, 2000, to California Department of Fish and Game letter (dated July 21, 1999) on contents of the Initial Study (SCH#99071016).
- 5) A geologic investigation report prepared by Rodgers Johnson and Associates, dated May 9, 1996.

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.

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: For purposes of the Fish and Game Code, the project will have a potential for changes to habitat resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations. The project as mitigated, will cause an impact to plant life resources and loss of potential habitat.

EVIDENCE: *Monterey County Coastal Implementation Plan (Part 2) - Regulations for Development in the North County Land Use Plan Area.* Policies include: 20.144.040.B.1, 20.144.040.B.2, and 20.144.040.B.8.

EVIDENCE: The applicant shall pay the Environmental Document Fee, pursuant to Fish and Game Code Section 735.5.

EVIDENCE: Initial Study and Negative Declaration contained in Project File No. PC96036.

4. FINDING: The project, as revised, and conditioned with mitigation measures, is consistent with North County Land Use Plan Environmentally Sensitive Habitat (ESH) resource protection policies including, without limitation, the following::

- 2.3.2.2 - Land uses adjacent to locations of environmentally sensitive habitat shall be compatible with the long-term maintenance of the resources. New land uses shall be considered compatible only where they incorporate all site planning and design features needed to prevent habitat impacts upon habitat values and where they do not establish a precedent for continued land development which, on a cumulative basis, could degrade the resources.
- 2.3.2.3 - New development adjacent to locations of environmentally sensitive habitats shall be compatible with the long-term maintenance of the resource. New subdivisions shall be approved only where significant impacts to environmentally sensitive habitats from development of proposed parcels will not occur.
- 2.3.2.4 - On parcels adjacent to sensitive habitats, or containing sensitive habitats as part of their acreage, development shall be clustered to prevent habitat impacts.
- 2.3.2.6 - The County shall ensure the protection of ESH through deed restrictions or dedications of permanent conservation easements;
- 2.3.2.8 - Where development is permitted in or adjacent to environmentally sensitive habitat areas (consistent with all other resource protection policies), the County, through the development review process, shall restrict the removal of indigenous vegetation and land disturbance (grading, excavation, paving, etc.) to the minimum amount necessary for structural improvements.

2.3.3.A.2 - Where new residential development is proposed in chaparral areas, the development shall be sited and designed to protect the maximum amount of maritime chaparral. All chaparral on land exceeding 25 percent slope should be left undisturbed to prevent potential erosion impacts as well as to protect the habitat itself.

EVIDENCE: The biological survey report prepared in May 1996, letter dated July 21, 1999 and supplemental report of May 15, 2001 prepared by Mr. Edward Mercurio, Biological Consultant. The survey and report documented that a number of plant communities exist on the site, including the environmentally sensitive habitat maritime chaparral. Four plant Species of Special Concern also exist on the site and are typically associated with this environmentally sensitive habitat. They include Pajaro manzanita (list 1B of California Native Plant Society's Inventory of Rare and Endangered Vascular Plant (CNPS), Monterey manzanita (list 1B of CNPS), Monterey ceanothus (list 4 of CNPS), and small-leaved lomatium (list 2 of the CNPS. In addition, two wildlife Species of Special Concern also exist on the site and are typically associated with this environmentally sensitive habitat. They include the Monterey dusky-footed woodrat and the California badger. The following plant communities also were identified on the property: coast live oak forest, coast live oak woodland, central coastal scrub, and non-native grassland. Eucalyptus were also planted years ago as a source of firewood and are highly invasive and exceedingly prone to fire. The biological expert concluded the project, as redesigned and mitigated, complies with all applicable LCP policies.

EVIDENCE: All protected habitat shall be restricted as scenic or conservation easement area to protect maritime chaparral.

EVIDENCE: To protect the maximum amount of maritime chaparral the project has been redesigned to reduce grading and vegetation removal and cluster the building sites on the property. The project has also been conditioned to require the removal of invasive vegetation, including Eucalyptus trees and pampas grass, in accordance with a habitat management and restoration plan prepared by a qualified biologist.

EVIDENCE: Revegetation in existing and recommended scenic easement areas shall use native plants of local origin only.

EVIDENCE: No invasive plant species shall be planted on any lot or within the scenic easements.

EVIDENCE: Section 21.144.040.C.1.b of the Coastal Implementation Plan provides mechanisms for development within or adjacent to chaparral habitat when such development has minimized impacts to the habitat. The redesigned map minimized potential impacts to the chaparral habitat.

EVIDENCE: Initial Study, Negative Declaration and Mitigation Monitoring Program contained in Project File No. PC96036.

5. FINDING: The proposed project is consistent with the visual resource policies of the local coastal program and will have no significant impact on the public viewshed. The proposed project was evaluated in terms of the impact upon the public viewshed:
- a) The project does not involve ridgeline development; and
 - b) The project is not located in the public viewshed as defined in Section 20.144.030 of the North County Coastal Implementation Plan.
- EVIDENCE: On-site inspection by the project planner on September 24 and 25, 2000, pursuant to Section 20.144.030.A.1 of the North County Coastal Implementation Plan and visual inspection of project site from Paradise Road and Castroville Boulevard.
- EVIDENCE: Subdivision does not create potential ridgeline development parcels nor is it located in the public viewshed.
6. FINDING: The proposed project is consistent with Section 20.144.140.B.3.a, of the Monterey County Coastal Implementation Plan. This Section establishes a 50 percent build-out figure, which is permitted as the first phase of new development in the North County Land Use Planning Area in an effort to limit groundwater use to the safe yield level.
- EVIDENCE: This project represents lots 825 through 829 out of a maximum of 1,351 new lots or units (excluding one existing single-family dwelling on the lot of record) allowed to be approved since July 1987, in the North County Land Use Planning Area.
7. FINDING: The recommended conditions regarding Inclusionary Housing, recreation requirements, and underground utilities have been applied to ensure that the health, safety, and welfare is preserved and protected.
- EVIDENCE: Section 19.12.010 of the Monterey County Coastal Subdivision Ordinance (Recreation Ordinance).
- EVIDENCE: Section 20.144.030.B.9 (underground utilities) of the Monterey County Coastal Implementation Plan and Section 19.10.095 of the Monterey County Coastal Subdivision Ordinance.
8. FINDING: The project is consistent with Section 20.144.070 of the Coastal Implementation Plan dealing with Water Resources.
- EVIDENCE: The parcel is located in North County Land Use Plan Subwatershed No. 29 which is a Watershed Restoration Area. The project has been conditioned to control site drainage and erosion as a result of future construction of a single family dwelling on each lot. As conditioned, project related impacts to water resources are less than significant and cumulative impacts are less than cumulatively considerable.
- EVIDENCE: Coastal Implementation Plan, Part 6, Appendix 2A. and Section 20.144.070 of the Coastal Implementation Plan.

EVIDENCE: Application materials, technical reports, and site plans contained in project file PC96036 including the Initial Study, mitigated Negative Declaration, and mitigation monitoring program.

9. FINDING: There presently exists in the North Monterey County area a serious overdraft in the aquifers, together with seawater intrusion problems in the North County Coastal Zone and nitrate pollution problems throughout the area. The North County Land Use Plan, Coastal Implementation Plan, and North County Area Plan recognize the existence of these problems and direct that studies be made to determine the safe-yield of the North Monterey County aquifers and that procedures thereafter be adopted to manage development in the area so as to minimize adverse effects on the aquifers and preserve them as viable sources of water for human consumption.

EVIDENCE: Ordinance #4005 of the County of Monterey adds Chapter 18.51 to the Monterey County Code to establish a Water Impact Fee for development in the North Monterey County Area to assist in financing a study and management plans relating to the safe yield of the North Monterey County aquifers.

10. FINDING: The proposed six-lot subdivision will not adversely impact traffic conditions in North County.

EVIDENCE: The Public Works Department reviewed the project and did not indicate that adverse traffic impacts will result from the development.

EVIDENCE: The Public Works Department has conditioned the project to pay the proportionate share of the cost of improving impacted intersections in the area.

EVIDENCE: Application materials and technical reports contained in Project File No. PC96036.

11. FINDING: The request for the proposed development to be located in excess of 25% percent slope is consistent with Section 20.144.070.E.2.a of the North County Coastal Land Use Plan since no other alternative exists which would allow development to occur on slopes of less than 25% percent and the proposed road design is preferable as it better conforms to other resource protection standards of the Local Coastal Plan.

EVIDENCE: Slope analysis map prepared by Goetz Land Surveyors which shows all access points to the property from Paradise Road on slopes over 25% percent.

EVIDENCE: The area of the road over 25% slope is approximately 80 feet which is a minimal amount compared to the originally proposed map. Grading is reduced by the access road alignment.

EVIDENCE: A geotechnical and percolation investigation report prepared by Soil Surveys, dated May 10, 1996.

EVIDENCE: Staff report and administrative record contained in Project File No. PC96036.

12. FINDING: The establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental or injurious to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood, property and improvements 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 Planning and Building Inspection Department, North County Fire Protection District, Environmental Health Division, Public Works Department, Parks Department, Water Resources Agency, and the North County Land Use Advisory Committee. These departments, agencies and/or committees 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. In addition, the mitigated negative declaration prepared for the proposed project identifies mitigations to reduce all potential impacts to a less than significant level.
13. FINDING: The subject property is in compliance with all rules and regulations pertaining to use of the property, that no violations exist on the property and that all zoning abatement costs, if any, have been paid.
- EVIDENCE: Staff verification of the Monterey County Planning Building Inspection Department's records indicate that no violations exist on the subject property.
14. FINDING: That in approving the final map, the decision-making body has balanced the housing needs of the County against the public service needs of its residents and available fiscal and environmental resources.
- EVIDENCE: The applicant will be required to comply with the Inclusionary Housing Ordinance as a condition of approval.
15. FINDING: That none of the findings found in Section 19.03.025.G of the Coastal Subdivision Ordinance can be made.
- EVIDENCE: Section 19.03.025.G requires that the subdivision be denied if any one of the findings are made. Planning staff has analyzed the project against the findings for denial outlined in this section. The map and its design and improvements are consistent with the applicable Land Use Plan. No specific plan has been prepared for this area. The site has been determined to be physically suitable for the type and density of development. The design and improvements are not likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause serious public health problems as demonstrated in the Mitigated Negative Declaration adopted for this project. The design and improvements will not conflict with easements for access through or use

of property within the proposed subdivision. Planning staff reviewed the Title Report and applicable recorded documents to identify all easements and ensure that the project does not conflict with existing easements.

EVIDENCE: The property provides for adequate building sites as evidenced by the application materials submitted for the site. Parcels 2 - 6 will have recorded building and septic envelopes which provide for adequate septic disposal and protects native vegetation.

EVIDENCE: The application, plans, and support materials, including;

1. A geotechnical and percolation investigation report prepared by Soil Surveys, dated May 10, 1996, and updates/supplemental reports.
2. A cultural resources analysis report prepared by Archaeological Consulting, dated May 11, 1996.
3. A biological survey report prepared by Ed Mercurio, dated May 1996, and updates/supplemental reports including May 15, 2001, letter report.
4. Letter of response by Ed Mercurio, dated April 9, 2000, to California Department of Fish and Game letter (dated July 21, 1999) on contents of the Initial Study (SCH#99071016).
5. A geologic investigation report prepared by Rodgers Johnson and Associates, dated May 9, 1996 submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development. The report(s) concluded the proposed development is suitable for the site, subject to recommendations for construction.

EVIDENCE:

1. The on-site inspection of the parcel by the project planner.
2. Maps, application plans, and initial study contained in the project file.
3. Project is in seismic hazard zone IV (moderately high) found in the resource maps of the North County Land Use Plan. A geologic investigation report was prepared for the property by Rodgers Johnson and Associates, dated May 9, 1996.
4. Project is in a high fire hazard zone as found in the resource maps of the North County Land Use Plan. The Tentative map has been reviewed and appropriate conditions of approval have been required by the North County Fire Protection District.

16. FINDING: The project is appealable to the California Coastal Commission.

EVIDENCE: Section 20.86.080 of the Monterey County Coastal Implementation Plan part 1) and Section 19.01.050 of the Monterey County Coastal Zone Subdivision Ordinance (Title 19).

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors does hereby approve the Gorman Combined Development Permit (PC 96036) subject to the following conditions:

1. The subject Combined Development Permit (Gorman/PC96036) consists of a standard subdivision tentative map to allow division of a 17.03-acre parcel into six parcels; a mitigated negative declaration; Coastal Development permit for grading and water system facilities; Waiver of policy prohibiting development on slopes greater than 25 percent; Rezone from "LDR-B-7 (CZ)" to "LDR-B-6 (CZ)". The property is located on the east side of Paradise Road near Lake View Drive, (Assessor's Parcel Number 129-096-029) in the North County Land Use Plan area.

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)**

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. Proof of recordation of this indemnification agreement shall be furnished to the Director of Planning and Building Inspection prior to recordation of the Final Map or issuance of grading permits. **(Planning and Building Inspection Department)**

Prior to issuance of grading permits and/or recordation of the Final Map:

3. The applicant shall have a habitat management and restoration plan prepared by a qualified biologist. Said plan shall include a Forest Management Plan component and be reviewed and approved by the Director of Planning and Building Inspection prior to issuance of grading and/or building permits. All maritime chaparral habitat and tree removal on the parcel must be in accordance with said plan. Said plan shall address native landscaping, use of chemical herbicides, fencing, domestic livestock and pets, off-road vehicle use, removal of species of special concern, fire protection clearance, tree replacement in accordance with Title 20.144.050.C.5, eradication of invasive species, revegetation, and monitoring. **(Planning and Building Inspection)(mitigation measures 8d, 8e and 8f)**
4. A notice shall be recorded with the Monterey County Recorder which states: "A Habitat Management and Restoration Plan has been prepared for this parcel by _____, dated _____ and is on record in the Monterey County Planning and Building Inspection Department File No. PC96036 (Library File # _____). All development must be in accordance with the Habitat Management and Restoration Plan, as approved by the Director of Planning and Building Inspection." **(Planning and Building Inspection)**
5. A notice shall be recorded with the Monterey County Recorder which states: "A Biological Survey Report has been prepared for this parcel by Ed Mercurio, Biological Consultant, dated May 1996 and May 15, 2001, and is on record in the Monterey County Planning and Building Inspection Department File No. PC96036 (Library File # 26-07-162). All development must be in accordance with the biological report, as approved by the Director of Planning and Building Inspection." **(Planning and Building Inspection)**
6. A notice shall be recorded with the Monterey County Recorder which states: "A Geotechnical and Percolation Report has been prepared for this parcel by Soil Surveys, Inc., dated May 10, 1996 and is on record in the Monterey County Planning and Building Inspection Department File No. PC96036 (Library File # 24-07-147). All development must be in accordance with the geotechnical report, as approved by the Director of Planning and Building Inspection." **(Planning and Building Inspection)**
7. A notice shall be recorded with the Monterey County Recorder which states: "A Geologic Investigation Report has been prepared for this parcel by Rogers Johnson and Associates, dated May 9, 1996 and is on record in the Monterey County Planning and Building Inspection Department File No. PC96036 (Library File # 14-03-232). All development must be in accordance with the geologic report, as approved by the Director of Planning and Building Inspection." **(Planning and Building Inspection)(mitigation measure 5a)**
8. A notice shall be recorded with the Monterey County Recorder which states: "An Archaeological Survey Report has been prepared for this parcel by Archaeological Consulting, dated May 11, 1996 and is on record in the Monterey County Planning and Building Inspection Department File No. PC96036 (Library File # 14-03-232). All development must be in accordance with the archaeological report, as approved by the Director of Planning and Building Inspection." **(Planning and Building Inspection)(mitigation measure 5a)**

Building Inspection Department File No. PC96036 (Library File # 04-09-138). All development must be in accordance with the Archeological report, as approved by the Director of Planning and Building Inspection." This notice shall be recorded prior to or concurrent with the recordation of the Final Map. **(Planning and Building Inspection)**

9. The applicant shall submit a final map that shows building envelope locations for five new single-family buildings, whereby said building and septic envelopes are located subject to the revised tentative map of May 9, 2001. This will assure that except for approved structures and appurtenant uses (roads, driveways and septic systems) development shall not be located within the maritime chaparral habitat and on slopes greater than 25 percent. **(Planning and Building Inspection) (mitigation measures 8a and 8b)**
10. To conform with the requirements of the North County Land Use Plan pertaining to environmentally sensitive habitat and slopes greater than 25 percent, a scenic or conservation easement shall be granted to the County of Monterey on all such areas of the property outside existing roads, approved building envelopes, septic envelopes, utilities, water facilities, infrastructure, roads, and future driveways leading to parcels 2 thru 6. The easement shall be submitted to, approved by the Director of Planning and Building Inspection Department, and processed to the County Board of Supervisors for final approval. **(Planning and Building Inspection) (mitigation measure 8b)**
11. The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Board of Supervisors for Assessor's Parcel Number 129-096-029-000 on _____, 2002. The permit was granted subject to 78 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)**
12. The applicant shall pay the appropriate financial contribution in accordance with Ordinance 3496/4005, adopted by the Board of Supervisors to implement an area-wide hydrological study to address groundwater overdraft and water resources in the project area. The fees shall be paid prior to the filing of the final map. **(Planning and Building Inspection) (mitigation measure 22a)**
13. Applicant shall comply with Monterey County Inclusionary Housing Ordinance in effect at the time application was deemed complete by the Planning & Building Inspection Department by the payment of appropriate in lieu fees prior to recordation of Final Map or issuance of Building Permit. **(Housing)**
14. 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 within five days of project approval, prior to 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 use, or the issuance of building 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)**

15. Retained trees which are located close to the construction site shall be protected from inadvertent damage by construction equipment through wrapping of trunks with protective materials, bridging, or tunneling under major roots where exposed in foundation or utility trenches, and other measures appropriate to protect the well-being of the retained trees. Said protection shall be demonstrated prior to issuance of grading and/or building permits subject to the approval of the Director of Planning and Building Inspection. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection Department)**
16. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
17. The applicant shall provide to the Water Resources Agency a water balance analysis describing the pre-development and post-development water use on the property. Any proposed increase in water shall require the identification and implementation of mitigation measures, if feasible, by the applicant. **(Planning and Building Inspection)(mitigation measure 7e)**
18. A note shall be placed on the final map or a separate sheet to be recorded with the final map indicating that "Underground utilities are required in this subdivision in accordance with Chapter 19.10.095, Title 19 of the Monterey County Code." Such facilities shall be installed or bonded prior to filing the (parcel or final) map. The note shall be located in a conspicuous manner subject to the approval of the Director of Public Works. **(Planning and Building Inspection; Public Works)**
19. **The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map, which incorporates the following;**

Drainage control from improved surfaces such as walkways, patios, roofs and driveways shall be collected in impermeable gutters or pipes and carried to the natural drainages. At no time shall any concentrated discharge be allowed to spill directly onto the ground adjacent to the proposed developments. Any water landing on paved areas should not be allowed to flow towards future structures so that water does not pond against foundations. **(Planning and Building Inspection)(mitigation measure 5c)**

Natural drainage shall be routed around proposed development and in a way that it does not

impact downslope development, in accordance with plans by a registered civil engineer or architect. **(Planning and Building Inspection)(mitigation measure 7a)**

Certification by a registered civil engineer that any stormwater retention facility proposed to be constructed is built according to the approved plan. Such certification shall be provide to the County Water Resources Agency prior to final inspection but in no case later than October 15th of the year of occupancy of any new home on the property. **(Planning and Building Inspection)(mitigation measure 7b)**

All future property owners shall submit engineered plans for the surface drainage and sub-surface drainage improvements for review and approval of the Director of Environmental Health. In addition, the applicant shall comply with all required local, state and federal permits. **(Planning and Building Inspection)(mitigation measure 7c)**

The front yards of all homes shall be landscaped at the time of construction of future dwellings. Low water use or drought tolerant plants shall be used together with water efficient irrigation systems. **(Planning and Building Inspection)(mitigation measure 7d)**

No land clearing or grading shall occur on the subject parcel between October 15 and April 15, unless written authorization is provided by the Director of Planning and Building Inspection. Any such authorization shall be limited to the provisions of Title 20.144.070.E.5 of the North County Coastal Implementation Plan.**(Planning and Building Inspection)**

20. The approved development shall incorporate the recommendations of the Geotechnical Soils-Foundation prepared by Soil Surveys and the Geological Report prepared by Rogers Johnson and Associates, and any subsequent updates required, which reflect the final subdivision, as reviewed by the Building Inspection division of the Monterey County Planning and Building Inspection Department. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**
21. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of Planning and Building Inspection. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**
22. Prior to grading and construction, the location and size of the water tank (or tanks) shall be reviewed and approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**

23. If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (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. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)(mitigation measure 21a)**
24. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches. **(North County Fire Prevention District)**
25. No roadway turn shall have a horizontal inside radius of less than 50 feet. A roadway turn radius of 50 to 100 feet is required to have an additional 4 feet of roadway surface. A roadway turn radius of 100 to 200 feet is required to have an additional 2 feet of roadway surface. **(North County Fire Prevention District)**
26. The length of vertical curves in roadways, exclusive of gutters, ditches, and drainage structures designed to hold or divert water, shall not be less than 100 feet. **(North County Fire Prevention District)**
27. The maximum length of a dead-end road, including all dead-end roads accessed from that dead-end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:
1. Parcels designated in the Area or Implementation Plan for 0 to .99 acres: 800 feet.
 2. Parcels designated in the Area or Implementation Plan for 1 to 4.99 acres: 1320 feet.
 3. Parcels designated in the Area or Implementation Plan for 5 to 19.99 acres: 2640.
 4. Parcels designated in the Area or Implementation Plan zoned for 20 acres or larger: 5280 feet. **(North County Fire Prevention District)**
28. Size of letters, numbers and symbols for street and road signs shall be a minimum 4 inch letter height, 1/2 inch stroke, and shall be a color that clearly contrasts with the background color of the sign. All numerals shall be Arabic. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(North County Fire Prevention District)**
29. Street and road signs shall be visible and legible from both directions of vehicle travel for a distance of at least 100 feet. **(North County Fire Prevention District)**

30. Height of street and road signs shall be uniform county wide, and meet the visibility and legibility standards of this chapter. **(North County Fire Prevention District)**
31. Newly constructed or approved public and private roads and streets shall be identified in accordance with provisions of Monterey County Ordinance No. 1241. All signs shall be mounted and oriented in a uniform manner. This section does not require any entity to rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering. **(North County Fire Prevention District)**
32. Signs required under this section identifying intersecting roads, streets and private lanes shall be placed at the intersection of those roads, streets and/or private lanes. **(North County Fire Prevention District)**
33. Road, street and private signs required by this article shall be installed prior to final acceptance of road improvements by the County of Monterey. **(North County Fire Prevention District)**
34. The Subdivider shall submit three prints of the approved tentative map to each of the following utility companies: Pacific Gas & Electric Company and Pacific Bell. Utility companies shall submit their recommendations, if any, to the Director of Public Works for all required easements. **(Public Works)**
35. That a drainage report be submitted for all areas contributing to natural drainage channels originating in or running through the subdivision subject to the approval of the Water Resources Agency and Public Works Department. **(Public Works)**
36. That all natural drainage channels be designated on the final map by easements labeled "Natural Drainage Easements." **(Public Works)**
37. Where cut or fills at property line exceed five feet, driveways shall be rough graded in when streets are rough graded, and positive drainage and erosion control provided. **(Public Works)**
38. All roads within this subdivision will be private roads. **(Public Works)**
39. All proposed road names must be approved by County Communications. **(Public Works)**
40. That a grading permit be obtained from the Building Department, if required. **(Public Works) (mitigation measure 5d)**
41. That all graded areas of the street right of way be planted and maintained as required by the County Surveyor to control erosion. The area planted shall include all shoulder areas and all cut and fill slopes. A report and plan prepared by a qualified person, consistent

with the Native Plant requirements of the North County Coastal Implementation Plan, shall be submitted to the satisfaction of the County Surveyor and the Planning and Building Inspection Department and include the following:

- a) That the cut and fill slopes be stabilized.
- b) Specific method of treatment and type of planting, by area, for each soil type and slope required to satisfy item a.
- c) Type and amount of maintenance required to satisfy item "a".

(Public Works, Planning and Building Inspection Department)

- 42. Soils engineering report will be required before recording final map. **(Public Works)**
- 43. That cut slopes not exceed 2 to 1 except as specifically approved in concurrence with the erosion control report, and as shown on the erosion control plan. Slope rounding shall be a minimum of 10' by 10' to include replacement of topsoil. **(Public Works)(mitigation measure 5b)**
- 44. If required, install and maintain a stop sign at the main subdivision entrance at Paradise Road. **(Public Works)**
- 45. That a Homeowners' or other Association be formed for road and drainage maintenance. **(Public Works)**
- 46. That the interior roads be constructed in accordance to the typical sections shown on the tentative map. This shall include improving the sight distance at Paradise Road at the main entrance. **(Public Works)**
- 47. Dedicate to County 30 feet from centerline of Paradise Road. **(Public Works)**
- 48. Pay a traffic impact fee in the amount of \$3,573.17 per unit at the time of filing of the Final Map. This fee shall be adjusted annually (March 1) in accordance with the ENR Construction Cost Index until paid. **(Public Works) (Public Works) (mitigation measure 22b)**
- 49. All new utilities shall be placed underground for subdivision improvements and for future construction of single family dwellings. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Public Works)**
- 50. Comply with the recreation requirements contained in Section 19.12.010 of the Subdivision Ordinance (Title 19, Monterey County Code) **(Parks Department)**
- 51. Obtain an amended water system permit from the Division of Environmental Health. **(Environmental Health)**

52. Design the water system improvements to meet the standards as found in Title 22 of the California Code of Regulations and as found in the Residential Subdivision Water Supply Standards. Submit engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing (or bonding) the improvements. **(Environmental Health)**
53. Design the water improvements to meet fire flow standards as required and approved by the local fire protection agency. Submit evidence to the Division of Environmental Health that the proposed water system improvements have been approved by the local fire protection agency prior to installation (bonding) or filing of the final map. **(Environmental Health)**
54. The developer shall install or bond the water system improvements to and within the subdivision and any appurtenances needed prior to filing the final map. The water improvements shall only be installed or bonded after the engineered designs have been approved by both the Fire Department and the Division of Environmental Health **(Environmental Health)**
55. The owner shall destroy the existing well on Lot 1 if abandoned according to the standards found in State of California Bulletin 74-90 and Chapter 15.08 of the Monterey County Code. Prior to destruction, a permit for the destruction of the well shall be obtained by a licensed well contractor from the Division of Environmental Health. The well shall not be considered abandoned if satisfactory evidence is provided that the well(s) are functional, are used on a regular basis, and does not act as a conduit for contamination of groundwater. **(Environmental Health)**
56. Prior to recordation of Final Map, submit a draft final map indicating the proposed well lot(s), water distribution, and access easements for the water system to the Director of Environmental Health for review and approval prior to filing the final map. **(Environmental Health)**
57. Prior to recordation of Final Map, submit a draft Final Map that includes a well lot easement for a future alternative/reserve well site for the water system. The design and location of the lot shall be subject to the review and approval of the Director of Environmental Health. Once approved, the alternative well lot shall appear as part of the Final Map. **(Environmental Health)**
58. Prior to recordation of Final Map, submit plans for surface and sub-surface drainage improvements for review and approval to the Director of Environmental Health to determine any potential septic system impacts. All improvements shall comply with the regulations found in Chapter 15.20 Monterey County Code and Prohibitions of the Basin Plan, RWQCB. **(Environmental Health)**
59. Submit a draft final map indicating proposed septic envelopes for all parcels to the Division of Environmental Health for review and approval prior to filing the final map. Once approved, the septic envelopes shall appear as part of the filing map. **(Environmental Health)**
60. Prior to obtaining grading permits for subdivision improvements and/or individual residences, fencing shall be installed and maintained during construction in areas adjacent to construction or building sites **(Environmental Health)** extent and boundaries of the area of

scenic or conservation easement to remain under the supervision of a qualified professional biologist under the auspices of the Monterey County Planning and Building Inspection Department. Four-foot fencing shall be fastened to "t"-post stakes placed at appropriate intervals. Signage shall be installed to clearly designate sensitive habitat boundaries. The sign shall state: *Area beyond fence is maritime chaparral wildlife habitat located in Monterey County scenic easement(or conservation easement, whichever applies) - DO NOT DISTURB*. No grading shall occur within a three-foot setback of the sensitive habitat area. Said fencing shall be reviewed and approved by the consulting biologist and the County Planning and Building Inspection Department. **(Planning and Building Inspection)**

61. The subdivider shall prepare landscaping plans that mitigates all driveway cuts. The subdivider shall submit the plans to the Director of Planning and Building Inspection for approval. The subdivider shall install or bond the landscaping in the same manner as the subdivision improvements, at the time of recordation of the final map. **(Planning and Building Inspection)**
62. Prior to recordation of the Final Map, the applicant shall record a deed restriction stating that the owner of the property at the time contribution is called for by the County agrees to make a one-time financial contribution to the County at a rate of \$500 per acre of land disturbance caused by the project. Amount of land disturbance shall be as calculated according to the Land Disturbance Target Evaluation required as per Section 20.144.070 B. The required contribution shall be paid upon the County's request at such time that the Board of Supervisors implements a Watershed Restoration Program for the affected sub watershed. **(Planning and Building Inspection Department)**
63. Prior to obtaining grading permits, prepare a stormwater pollution prevention plan (SWPP) in compliance with the NPDES general construction activity stormwater discharge permit and submit it to the Regional Water Quality Control Board (RWQCB) for review and approval. Evidence of RWQCB approval of the SWPPP shall be provided to the Director of Planning and Building Inspection prior to the filing of the Final Map. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**
64. Care will be taken to remove as few oak trees as possible and to avoid impacts to landmark oak trees (24-inches or greater in diameter at breast height). Care will be taken during construction to prevent damage to roots of trees or compaction of soil under their driplines. Oaks removed that are six inches or more in diameter when measured two feet above the ground will be replaced on a 2:1 basis. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)(mitigation measure 8c).**
65. Landscaping plans within development envelopes shall emphasize preservation of the natural character of the communities present. Individual trees and larger shrubs originally present on the land will be integrated into landscape plans wherever possible. Care will be taken to preserve their health by avoiding the following within the plant's driplines: filling

or paving, compaction of soils or watering above that amount provided by natural rainfall. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**

66. If fuel reduction should become necessary, it should be developed with the aid of a plant and wildlife biologist so as to best maintain or improve habitat value. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**
67. The applicant shall enter into a Mitigation Monitoring Agreement with the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
68. Drainage improvements shall be constructed in accordance with plans by a registered civil engineer addressing on-site and off-site impacts, and the design of stormwater detention/sediment facilities. **(Water Resources Agency)**
69. Prior to the submission of the final tentative map to the office of the County Surveyor for checking, Detention and Retention ponds shall be approved by the County Water Resources Agency **(Water Resources Agency)**
70. Prior to conveyance of any lots in the subdivision, developer shall have the sole responsibility for the care, maintenance, and repair of road and drainage improvements installed as a condition of approval of the subdivision. Upon each conveyance of each lot in the subdivision, developer shall be jointly obligated with the succeeding owners to perform such obligation pro rated on the basis of the remaining number of lots still owned by the developer. Developer's obligation shall cease upon the conveyance of the last lot in the subdivision. An agreement to this effect, running with the land, shall be recorded between developer and the County of Monterey prior to recordation of the tentative or Final Map. **(Water Resources Agency)**

Ongoing Conditions:

51. 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 record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**
52. No grading, structures, roads (except for driveways or as approved in accordance with this permit or in the recorded subdivision map), animal grazing, vegetation removal (except in accordance with a County approved restoration plan), or other activities may take place outside of the building envelopes for the Gorman subdivision. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**
53. The Subdivider shall pay for all maintenance and operation of private roads, fire hydrants, and storm drainage from time of installation until acceptance of the improvements for the

subdivision by the Board of Supervisors as completed in accordance with the agreement, and until a homeowners' association or other agency with legal authorization to collect fees sufficient to support the services is formed to assume responsibility for the services. **(Public Works)**

54. No horses, animals or other livestock, or domestic animals such as cats and dogs be allowed in the scenic or conservation easement area. **(Planning and Building Inspection)**

55. 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.

The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Water Resources Agency; Planning and Building Inspection)**

56. The use of native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval. A list of appropriate native plant species identified in Attachment #2 and #3 in the North County Implementation Plan Development Regulations is available in brochure form (*Suggested Native Species Landscaping List - North County Coastal Zone*) from the Planning and Building Inspection Department. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**.

57. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**

58. Future single family residences on the new lots will be subject to review and appropriate permit approval by the Monterey County Planning and Building Inspection Department. The applicant shall record a notice to run with the land on all parcels created through this subdivision and place a note on the final map or a separate sheet to be recorded with the final map indicating this restriction. **(Planning and Building Inspection)**

PASSED AND ADOPTED on this 4th day of June, 2002, upon motion of Supervisor Pennycook, seconded by Supervisor Johnsen, by the following vote, to-wit:

AYES: SUPERVISORS ARMENTA, PENNYCOOK, CALCAGNO, JOHNSEN and POTTER

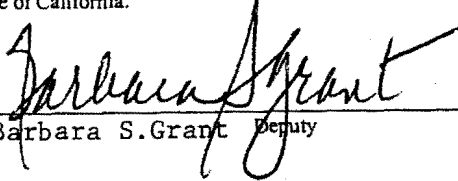
NOES: NONE

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 June 4, 2002.

Dated: 6/10/02

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

By 
Barbara S. Grant Deputy

CALIFORNIA COASTAL COMMISSION

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

**COMMISSION NOTIFICATION OF APPEAL**

DATE: September 12, 2002

TO: Mike Novo, Supervising Planner
County of Monterey, Planning Department
2620 First Avenue
Marina, CA 93933

FROM: Diane Landry, Acting District Manager

RE: **Commission Appeal No. A-3-MCO-02-077**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: PC96036

Applicant(s): Dorothy Gorman

Description: Allow minor land division of a 17.03 acre parcel into six parcels; grading and water system facilities; allow development on slopes greater than 25%; and removal of 28 Coast Live oaks

Location: Paradise Road (east side of Paradise Rd. near Lake View Drive), North Monterey County (Monterey County) (APN(s) 129-096-029)

Local Decision: Approved w/ Conditions

Appellant(s): California Coastal Commission, Attn: Commissioner Sara J. Wan; Commissioner John Woolley

Date Appeal Filed: 9/11/2002

The Commission appeal number assigned to this appeal is A-3-MCO-02-077. The Commission hearing date has been tentatively set for October 8-11, 2002 in Eureka. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of Monterey's consideration of this coastal development permit must be delivered to the Central Coast Area office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Stephanie Matraw at the Central Coast Area office.

Attachment A
Reasons For Appeal of Dorothy Gorman/Tanglewood Estates
Subdivision Permit PC96036

The Monterey County Board of Supervisors approval of a coastal development permit application for the subdivision of a 17.03-acre parcel into six parcels is inconsistent with the Monterey County LCP for the following reasons:

1. The approved subdivision is inconsistent with the zoning. The parcel is currently zoned "LDR-B-7 (CZ)". The "B-7" overlay limits density on the affected parcel to its existing density, which is one single-family home per 17.03 acres. CIP Section 20.42.030.G.1 describes the "B-7" overlay:

"The lots as shown on the recorded Final Map or Parcel Map may not be further subdivided unless the lots are first reclassified from the "B-7" district."

Because the County cannot remove the "B-7" overlay from this lot without an LCP amendment, the proposed subdivision is inconsistent with the current zoning.

Even if such an LCP amendment was applied for and certified by the Coastal Commission, the allowable density of the subdivision must be based on an evaluation of site conditions and cumulative impacts as required by CIP Section 20.144.140.B.3.d.1. As identified in the following reasons for appeal, the approval of a 6-lot subdivision is inconsistent with this requirement because the density exceeds available water supply and it will have adverse impacts on ESHA.

2. There is inadequate water to accommodate the subdivision. The project is located within the North County Hydrological Study Area, known to have a shortage of groundwater, and was approved without the hydrology report required by CIP 20.144.070.D.1. LUP General Policy 4.3.5.4 states that where there is limited water, uses such as "coastal dependent agriculture, recreation, commercial and industrial uses shall have priority over residential and other non-coastal-dependent uses." Thus, subdivisions are the lowest development priority for the North County planning area. The subdivision is inconsistent with these LCP policies because of the lack of groundwater and the absence of a hydrological analysis.

3. The development is inconsistent with LCP ESHA protection requirements. The project site, including each of the proposed lots, contains maritime chaparral, which is considered environmentally sensitive habitat area (ESHA). The North County Land Use Plan (LUP) Policy 2.3.2.1 states that all development within environmentally sensitive habitat areas shall be limited to resource dependent uses, such as nature education. LUP Policy 2.3.2.2 states that development adjacent to ESHA "shall be compatible with the long-term maintenance of the resource", and that new land uses must incorporate site planning and design features to prevent habitat impacts and "not establish a precedent for continued land development which, on a cumulative basis, could degrade the resource."

In addition, LUP Policy 2.3.2.3 specifically prohibits new subdivisions that could result in significant impacts to ESHA, while 2.3.2.4 requires clustering of development to prevent habitat impacts. LUP Policy 2.3.3.A.2 defines known threats to maritime chaparral as residential and

agricultural development, and requires new residential development to be sited to protect the maximum amount of chaparral. This policy goes on to recommend that all chaparral on slopes in excess of 25% be left undisturbed to prevent both erosion and impacts to the habitat.

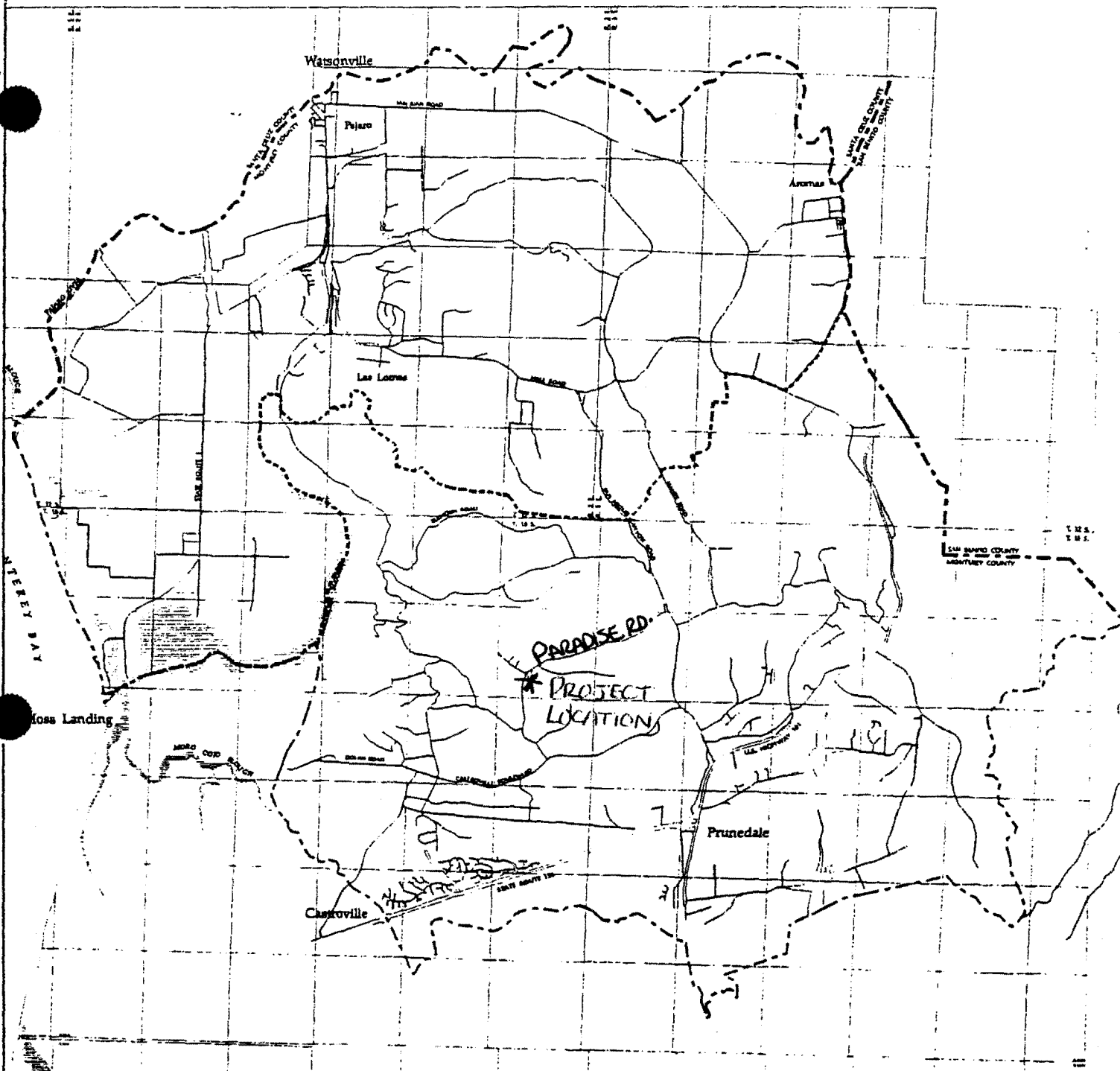
The approved subdivision is inconsistent with these LCP policies because it will result in non-resource dependent development within ESHA; it will result in the loss and fragmentation of ESHA and thereby jeopardize its long-term viability; it is not clustered to avoid impacts to ESHA and it does not protect all areas of the site through a deed restriction or conservation easement.

4. The development is inconsistent with LCP erosion policies regarding density for new development. Because of the documented water shortage in the North County area, the LCP contains policies to direct development to Non-Critical Erosion Areas. CIP Section 20.144.070.A.1 states that a determination shall be made regarding which areas of parcels proposed for development are in Critical and Non-Critical Erosion Areas, and that such determination shall be made prior to the application being determined to be complete. Section 20.144.070.A.3 requires applicants for substantial development (i.e. subdivisions) to submit a soils analysis sufficient to determine which areas of the parcel are Critical or Non-Critical Erosion Areas. This determination is important to determine compliance with LUP Policy 2.5.3.C.5.a, which states in part:

"In areas designated for Rural and Low Density Residential development:

- Densities shall be reduced as necessary in order to site all development in Non-Critical Erosion Areas and to maintain cumulative development within the LDT for the subwatershed.*
- Existing parcels containing no land suitable for development within the Non-Critical Erosion classification shall be limited to a single residence or to the existing development on the parcel or if there is none, a single residence. Division of the parcel shall not be permitted that creates an additional vacant parcel(s) intended for development."*

The approved subdivision appears to be inconsistent with these LCP policies because the amount of Non-Critical Erosion Area of the parcel has not been determined, nor does the soils report contain adequate information to determine this, and if the parcel contains Critical Erosion Areas, the proposed parcels may lie in those areas and thus be inconsistent with the LCP.



STUDY AREA BOUNDARIES

North Monterey County Hydrogeologic Study

Figure 1



- Study Area
- Study Area Boundary
- County Line
- PWMA Boundaries
- Township and Range Grid



EXHIBIT NO. G

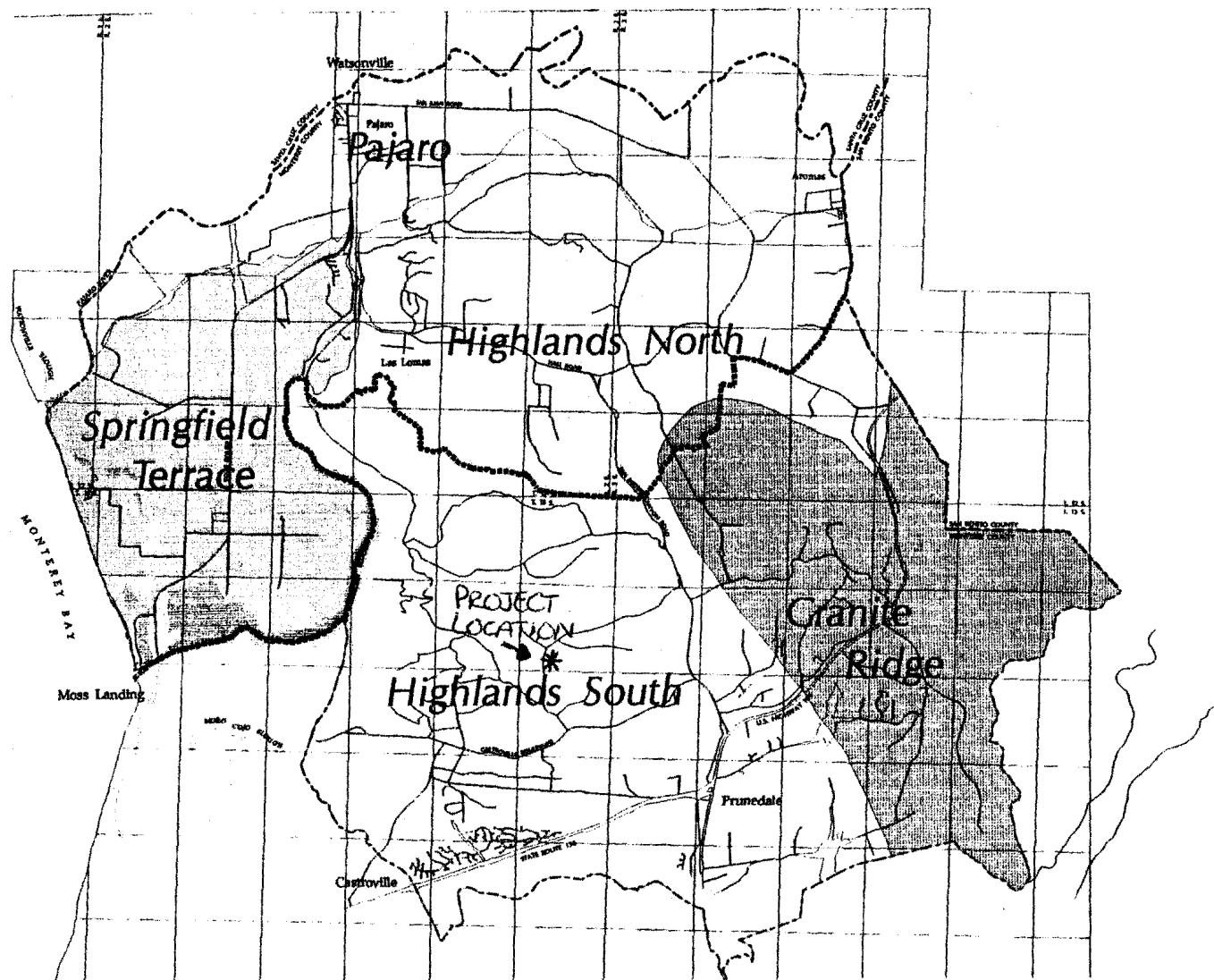
APPLICATION NO.

A-3-mco-02-071

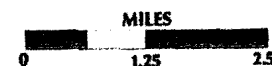
page 1 of 2

Figure 10

**NORTH COUNTY
STUDY AREA
REVISED SUBAREAS**

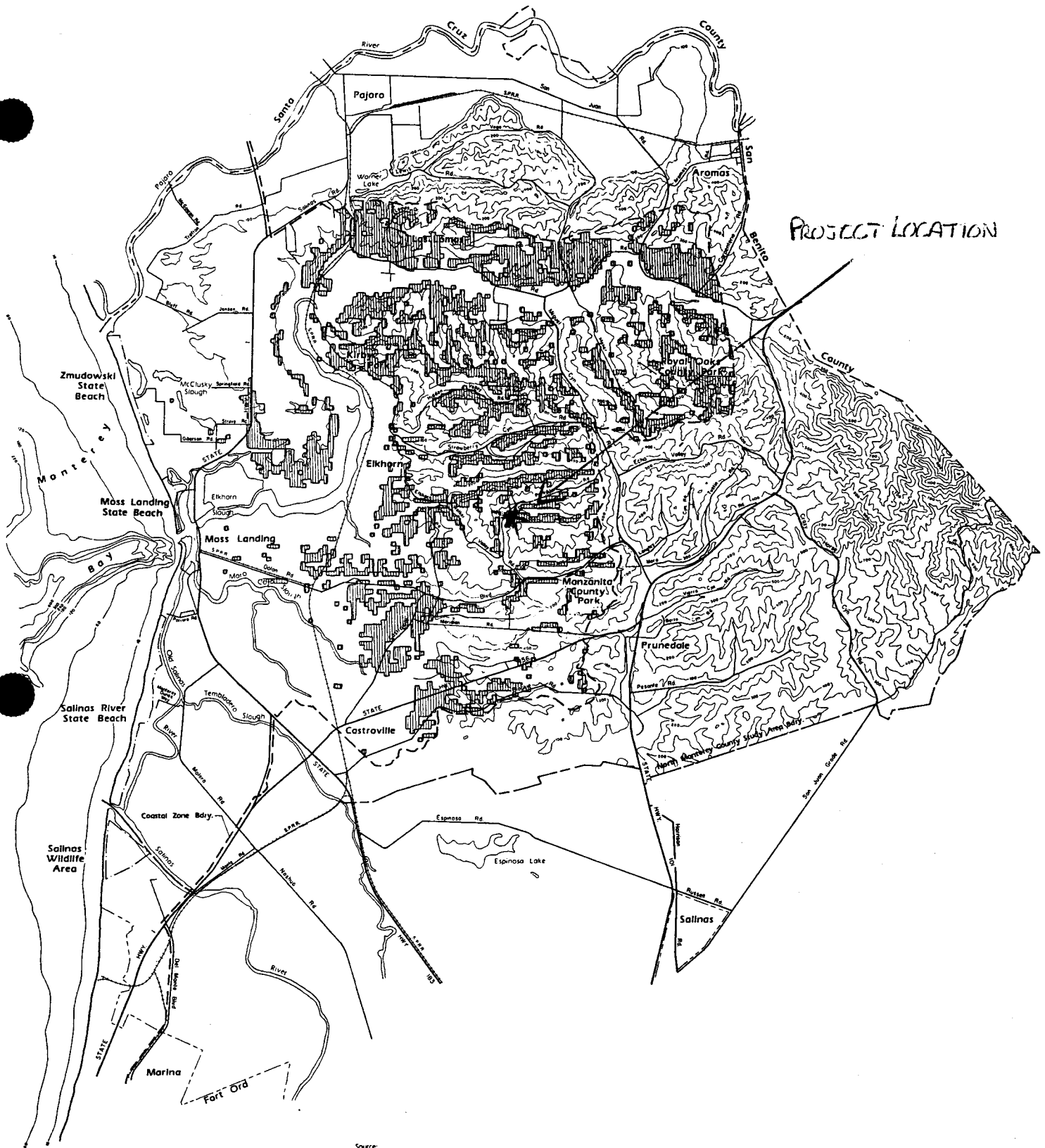


- Pajaro
- Springfield Terrace
- Granite Ridge
- Highlands North
- Highlands South
- PVWMA Boundaries
- Study Area Boundary
- County Line
- Township and Range Grid



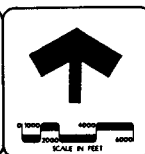
Sources: MCWRA, Fugro
North Monterey County Hydrogeologic Study






Source:
USGS 7.5 minute quads, May 1979

NORTH COUNTY GENERAL PLAN
LOCAL COASTAL PROGRAM
CRITICAL EROSION AREAS



 Areas Subject to Erosion
SOURCE:
ELKHORN SLOUGH WATERSHED STUDY,
UNIVERSITY OF CALIFORNIA, BERKELEY,
OCTOBER, 1980

