

CALIFORNIA COASTAL COMMISSION

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COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-01-101, Del Monte Beach Re-Subdivision

Applicant.....B & K Monterey; City of Monterey; Monterey Peninsula Regional Park District

Project location.....South end of the Del Monte Beach Tract #2 Subdivision, Monterey, Monterey County

Project description1) Re-subdivision and merger of 48 existing legal lots of record into 11 legal lots of record (Del Monte Shores) and 2 open space lots between Beach Way, Dunecrest Avenue, U.S. Navy property, and Monterey Bay and rezoning from R-1-6-D-1 to R-1-5-D-1 and "O"; 2) Re-subdivision and merger of 12 existing legal lots of record into 3 legal lots of record (Dunecrest Villas) and one open space parcel between Dunecrest Avenue, Dunecrest Lane, Del Monte Avenue, and U.S. Navy property, and rezoning from R-1-6-D-1 to R-1-5-D-1 and "O" and from C-2-D-2 to "O;" Infrastructure improvements including road improvements, sewer, water, and utility services; public access improvements; dune restoration and maintenance; design and lot development standards.

Local approval.....City Council 7/17/01

File documents.....Coastal Act; City of Monterey Major Subdivision Files (99-370 and 99-371); Environmental Impact Report (SCH#1999101137); Del Monte Beach Re-Subdivision City Council Findings; Del Monte Beach Local Coastal Program Land Use Plan; Coastal Development Permit Files P-79-34, 3-89-250 and 3-93-62 (Sewald); P-79-338 and 3-93-63 (Boyden); 3-96-81 (Miller); 3-99-010 (Kass); Geotechnical Investigation for Del Monte Beach PUD (Reynolds Associates, June 1998); Geotechnical Investigation for Del Monte Beach Residential Lot Program (Reynolds Associates, February 1999); Liquefaction Analysis (Reynolds Associates, February 2000); Preliminary Geotechnical Study for Del Monte Beach Resubdivision EIR (Haro, Kasunich, and Associates, April 2000)

Staff recommendation ...Approval with Conditions



**California Coastal Commission
April, 2002 Meeting in Santa Barbara**

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Summary: The proposed project would re-subdivide portions of the existing Del Monte Beach Tract #2 Subdivision on two separate dune sites: the north site (Del Monte Shores) and the south site (Dunecrest Villas). A total of 60 parcels would be re-subdivided into 14 developable parcels, with the remaining parcels merged and preserved as open space/habitat areas. All infrastructure improvements (e.g., water and sewer service, road improvements) would be installed to provide the required services for the future development of each parcel.

The City of Monterey does not have a certified LCP. Therefore, a coastal development permit for the project must be obtained from the Coastal Commission and the proposal is subject to the policies of Chapter 3 of the Coastal Act.

The proposed re-subdivision is located within the Monterey Bay dune system. These dunes are considered environmentally sensitive habitat areas (ESHA) because they include plant or animal life or their habitats, which are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. The project would result in direct and indirect impacts to known occurrences of listed and other special status plant species (sand gilia, Monterey spineflower, and coast wallflower) from development on the Del Monte Shores and Dunecrest Villas sites. The project and the cumulative impacts to special status species are considered significant and unavoidable. Furthermore, portions of the project sites provide suitable habitat for the snowy plover, Smith's blue butterfly, and the black legless lizard, although none of these species were observed on either project site.

Although non-resource dependent development in ESHA is not consistent with the policies of Chapter 3 of the Coastal Act, some development of the site must be allowed in order to avoid a taking of the property without just compensation, as provided under Coastal Act Section 30010.

Because the proposed project would consolidate development and open space areas within this tract to maximize sensitive habitat protection consistent with private property rights, staff recommends that the Commission **approve** the proposed re-subdivision subject to a number of conditions in order to maximize consistency with the Chapter 3 policies of the Coastal Act. These conditions include the following requirements:

- Placement of a conservation deed restriction on all open space/habitat areas;
- Acknowledgement that this permit, and construction of the permitted development, shall not interfere with any prescriptive or public trust rights that may exist on the property;
- Submittal of a dune restoration and enhancement plan;
- Submittal of a public access plan for the open space/habitat areas and a public access enforcement plan that describes specific measures to control and minimize potential negative impacts to the dunes from indiscriminate public access;
- Identification and utilization of a sand disposal site within the Del Monte Beach dunes system approved by the City of Monterey, the project botanist, and the Executive Director of the Coastal Commission;
- Compliance with geotechnical recommendations;
- Conformance with the requirements of the California Department of Fish & Game and the U.S. Fish & Wildlife Service, and;



- Implementation of specific measures to minimize construction impacts on rare dune plants and animals.

As conditioned by this permit, the project will be consistent with Coastal Act Section 30010 and will adequately mitigate for unavoidable impacts to environmentally sensitive habitat. The project is also consistent with Coastal Act policies regarding public access, visual resources, public services, hazards, and archaeological resources.

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I. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number 3-01-101 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, is consistent with the requirements of the California Coastal Act of 1976 (Coastal Act). Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

II. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.



3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B.Special Conditions

1. **Final Project Maps. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants shall submit two sets of the final maps of the Del Monte Shores and Dunecrest Villas sites for the Executive Director's review and approval. The final maps shall demarcate all approved development, including the parcel boundaries, building envelopes, grading lines, storm drainage discharge systems, retaining walls, sewer system components, utilities, road improvements, open space/habitat restoration areas, boardwalks.
2. **Open Space Deed Restriction.** No development, as defined in section 30106 of the Coastal Act, shall occur in Parcel B of the Del Monte Shores site or in Parcel A of the Dunecrest Villas site (as shown in Exhibits 5 & 6) except for the development approved by this permit to include removal of nonnative vegetation, planting of native vegetation, and placement of appropriate fencing designed to avoid substantial impairment of public views, facilitate continued movement of sand and native wildlife, and allow substantially unimpaired penetration of light, wind, and rain. In addition to the developments described above, development in Parcel A of the Del Monte Shores site may include construction and maintenance of boardwalks and other minor development needed to accommodate public access, as approved in the Access Management Plan required by Special Condition #10.

CONCURRENT WITH THE RECORDATION OF THE FINAL MAP, the City of Monterey shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of the open space/habitat areas in the Del Monte Shores and Dunecrest Villas sites. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. **Restoration and Enhancement Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants' botanist shall submit a plan for the dune restoration and enhancement component of the project to the Executive Director for review and approval. The plan also shall be submitted to the California Department of Fish & Game and the U.S. Fish & Wildlife Service for review and comment. Any recommendations contained in these comments shall be incorporated into the final plan to the greatest degree feasible. The plan shall identify the types of invasive or nonnative plants that will be removed and the method of removal, as well as the types of native vegetation that will be planted within the open space/habitat areas and the maintenance/monitoring provisions that will be implemented to ensure their long-term survival. If pesticides will be used as part of the restoration and

enhancement efforts, the plan shall include specific guidelines for the use of such materials that avoids adverse impacts to existing habitat areas. The plan shall also include a fencing component that describes the type of fencing that will be used to protect the areas designated as Parcel A public open space/habitat area in Dunecrest Villas and Parcel B in Del Monte Shores. All fencing shall be designed to avoid any substantial impairment of public views and to facilitate continued penetration of light, wind, and rain. Submittal of the final plan for Executive Director review and approval shall be accompanied by copies of all comments received, and any approvals or authorizations that may be required by these agencies for implementation of the restoration and enhancement plan. The project botanist shall submit a monitoring report yearly for three years from the onset of construction and once every five years after, unless an alternate term is approved by the Executive Director. The City shall maintain and monitor the open space/habitat areas for the life of the project.

4. **Construction Fencing. PRIOR TO COMMENCEMENT OF CONSTRUCTION,** the permittees shall submit a plan for temporary exclusionary fencing to protect sensitive dune areas from disturbance during construction. The exact placement of the temporary exclusionary fencing shall be identified on site by the project botanist. Evidence of inspection of the installed construction fence location by the project botanist shall be submitted to the Executive Director **PRIOR TO COMMENCEMENT OF CONSTRUCTION.** Vehicle parking, storage or disposal of materials, shall not be allowed within the exclusionary fences. Fences shall be installed prior to the start of construction and shall remain in place and in good condition until construction is completed. Fences shall be at least 4 feet high and secured by metal T-posts, spaced no more than 8 feet apart. Either mesh field fence or snowdrift fence, or comparable barrier, shall be used.
5. **Environmental Monitoring During Construction.** The permittees shall employ an environmental monitor to ensure compliance with all mitigation requirements during the construction phase. The project's consulting botanist (Thomas Moss or other consultant approved by the Executive Director and the City of Monterey's Community Development Director) shall monitor grading activities on a daily basis and all other construction activities on a weekly basis until project completion to assure compliance with the mitigation measures adopted by the City and by this permit. Evidence of compliance with this condition by the project monitor shall be submitted to the Executive Director each month while construction is proceeding and upon completion of construction. In the event of non-compliance with the adopted mitigation measures, the Executive Director shall be notified immediately. The environmental consultant shall make recommendations, if necessary, for compliance with the adopted mitigation measures. These recommendations shall be carried out immediately to protect the natural habitat areas of the site.
6. **Biological Mitigation. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, AND ON A DAILY BASIS PRIOR TO THE COMPLETION OF GRADING,** a qualified biologist with the appropriate permit from CDFG shall conduct a survey for the black legless lizard in the construction area using raking, coverboards, or other biologically acceptable methods. Surveys should be done in the mornings and evenings, when black legless lizards are most likely to be found. If found, the lizards should be captured and immediately placed into containers with moist paper towels, and released in similar habitat on undisturbed portions of the site at the same depth in the soil as when found. Evidence of compliance with this condition shall be prepared by the qualified biologist and submitted for confirmation by the Executive



Director **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION AND AT THE CONCLUSION OF GRADING ACTIVITIES.**

7. **Conformance with California Department of Fish & Game and U.S. Fish & Wildlife Service Requirements.** **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the permittees shall submit to the Executive Director for review evidence that the permittees have met the requirements of Section 2081 of the CDFG code and/or Section 10A(1)(B) of the Federal Endangered Species Act or evidence that permitting pursuant to the State and Federal Endangered Species Acts is not necessary.
8. **Sand Disposal Plan.** **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the permittees shall consult with the project botanist to determine appropriate sand disposal sites within the Del Monte Beach dunes for excavated sand due to grading. Disposal of the sand shall be done in such a way as to mimic natural dune formations, as specified by the project botanist. Excavated sand shall be retained within the Del Monte Beach dunes to the maximum extent feasible; sand that may not feasibly be disposed of within the Del Monte Beach dunes shall be disposed of within the greater Monterey Bay dune system. The disposal sites and proposed method of sand disposal shall be subject to the review and approval of the City of Monterey, the project botanist, and the Executive Director.
9. **Public Rights.** **BY ACCEPTANCE OF THIS PERMIT, THE APPLICANTS** acknowledge, on behalf of themselves and their successors in interest, that issuance of the permit shall not constitute a waiver of any public rights that may exist on the property. The applicants also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.
10. **Public Access Management Plan.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicants shall prepare and submit two sets of public access improvement plans for the Executive Director's review and approval. These plans will include boardwalk design and location, park improvements such as benches and trash receptacles, interpretative displays/signs, and a fencing plan for Del Monte Shores Parcel "B" and Dunecrest Villas Parcel "A." The plans will also include a public access management plan that addresses the potential for monitored public access (e.g., native plant tours or research access) in Del Monte Shores Parcel "B" and Dunecrest Villas Parcel "A." The Management Plan shall also include specific measures to control and minimize negative impacts to the dunes and sensitive resource values from potential overuse by the public. The plan shall state the entity (e.g., the City, the Monterey Peninsula Regional Parks District and/or a private security firm) responsible for implementation of public access regulations (e.g., no access off the boardwalks, no dogs off leash), the dates and times when enforcement personnel will be on patrol in the open space/habitat areas (with specific attention to summer holiday periods such as July 4th, and Friday and Saturday nights). The plan should detail the implementation measures needed to protect the sensitive dune areas from indiscriminate access.
11. **Drainage Plan.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicants shall submit a Drainage Plan to the Executive Director for review and approval. The plan shall provide for the installation of an engineered filtration mechanism specifically designed to remove vehicular contaminants and other urban runoff pollutants more efficiently

than a standard silt and grease trap. All runoff from Del Monte Shores and Dunecrest Villas shall be directed through the engineered filtration mechanism prior to discharge into percolation facilities or storm drain system. **Runoff shall not be directed into open space/habitat areas.** The Drainage Plan shall account for the following:

- (a) The drainage system shall be designed to filter and/or treat (i.e., a physical and/or chemical reduction of pollutants achieved through active filtration) the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event prior to its discharge to the percolation facilities. The drainage system and its individual components (such as drop inlets and filtration mechanisms) shall be sized according to the specifications identified in the California Storm Water Best Management Practice Municipal Handbook (California Storm Water Management Task Force, March 1993);
- (b) All drainage system elements shall be permanently operated and maintained. At a minimum all storm drain inlets, traps/separators, and filters shall be inspected and cleaned prior to the onset of the storm season, no later than October 15th of each year.
- (c) It is the Permittees' responsibility to maintain the drainage system in a structurally sound manner and in its approved state according to the specifications of the manufacturer.

12. Sewer System. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicants shall submit a sewer system plan to the Executive Director for review and approval (this plan may be part of the Final Maps as described in Special Condition #1). All sewer lines/components shall be placed in developed areas of the re-subdivision and not in open space/habitat areas.

13. Compliance With Geotechnical Recommendations. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the Permittees shall submit to the Executive Director written evidence of compliance with the recommendations contained in the 1998, 1999, and 2000 geotechnical reports prepared by Reynolds Associates.

14. Incorporation of City's Conditions of Approval and Design and Lot Development Standards. The Conditions of Approval and Design and Lot Development Standards adopted by the City of Monterey for this project are attached as Exhibits 7 & 8 to this permit (except for condition #12 regarding noise); these conditions and design/development standards are hereby incorporated as conditions of this permit. Any revision or amendment of these adopted conditions and design/development standards shall not be effective until reviewed by the Executive Director for determination of materiality, and if found material, approved by the Commission as an amendment to this coastal development permit. Any conflicts between the City's conditions incorporated herein and special conditions 1-13 of this permit shall be resolved in favor of special conditions 1-13 as determined by the Executive Director.



III. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The proposed re-subdivision is located on the southern end of the Monterey Bay within the City of Monterey (see Exhibit 1). The site is bounded by Del Monte Beach and the Pacific Ocean to the north, U.S. Navy property to the west, Beach Way to the east, and Del Monte Boulevard to the south (see Exhibit 2). The proposed project covers 6.6 acres of dune habitat and encompasses 60 vacant lots (38 privately owned and 22 publicly owned) in the northern and southern portions of Del Monte Beach Tract #2 (see Exhibits 3 & 4 for current configuration of lots). A strip of existing residences on Dunecrest Avenue divides the north and south portions of the project site.

The project sites consist of undeveloped sand dunes with sporadic dune vegetation cover. The sand dunes in the area range from 15 to 70 feet above sea level. An existing ridge of dunes extends from near Dunecrest Lane to the northwest. Existing land uses near the project area consist of one- and two-story single-family residences, ranging in age from new to over 40 years old.

2. Project Description

The proposed project would re-subdivide portions of the existing Del Monte Beach Tract #2 Subdivision on two separate sites (see Exhibit 2): the north site (Del Monte Shores) and the south site (Dunecrest Villas). All infrastructure improvements (e.g., water and sewer service, road improvements) would be installed to provide the required services for the future development of the individual parcels. Areas not designated for development would be preserved as open space/habitat areas. Public access would also be provided through a boardwalk system.

The City has approved tentative maps for the Del Monte Shores and Dunecrest Villas sites (see Exhibits 5 & 6). These maps delineate the individual parcels and the allowable building envelopes and elevations. The City has also approved design and lot development standards for future development of the re-subdivision (see Exhibit 7). The current proposal, however, does not include development of any of the parcels. Future development of each parcel will require a separate City and coastal development permit, and will need to comply with the above-stated standards approved by the City, as well as the Coastal Act or standards of a certified LCP (the City does not have a certified LCP)

The City has conditioned its approval to require preparation of a dune restoration and management plan to mitigate, restore, and manage the proposed open space and habitat areas (see Exhibit 8, pp. 1-2). The plan would be reviewed and approved by a qualified biologist and would identify procedures and standards for restoration, maintenance, and monitoring of dune habitats. The plan would also identify construction-related measures to be implemented before and after construction.

The current project is for the re-subdivision of 60 existing parcels (38 private and 22 public) into 14 developable parcels and 3 public parcels, but is not for individual development of residences on any of the parcels. The City, however, has conditioned its tentative map approval to address the eventual development of the 14 parcels. The City's conditions address biotic resources, water quality, and a

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variety of other issues. Thus, although the current permit is for the re-subdivision only and the associated grading and infrastructure improvements, the mitigation measures for the future development of these 14 parcels are discussed in this staff report. Eventual development of the 14 parcels will require coastal development permits, either from the City or the Coastal Commission, depending on whether the City's LCP, including the Del Monte Beach Land Use Plan and the City's Implementation Plan, are certified at the time actual development of the parcels is proposed. However, it is not possible to address the re-subdivision without discussing the eventual development that will take place on these 14 parcels. Thus, this staff report must address the biotic issues, water quality issues, etc., that will arise once the re-subdivided parcels are developed.

a. Del Monte Shores

The Del Monte Shores portion of the project would occupy 5.07 acres of undeveloped beachfront land and consist of the re-subdivision of 26 privately-owned and 22 publicly-owned (by the City of Monterey and/or the Monterey Peninsula Regional Parks District) 3,600 square foot lots of record into 11 new privately held 5,000 square foot parcels and 2 public open space/habitat parcels. Future residential development on the 11 new lots would be limited in size to approximately 2,700 square feet with a maximum ceiling height of 16 feet above floor level. The total surface area occupied by the 11 lots would equal 1.26 acres with 0.38 acres designated to the public road right-of-way. The remaining 3.43 acres (67.7% of the total) would be dedicated to public open space/habitat areas. The northernmost parcel dedicated to open space (Parcel A) would occupy 2.72 acres. Further south, Parcel B open space would occupy 0.71 acres. Elevated boardwalks on Parcel A would provide public access to the beach. Parcel B contains highly sensitive dune habitat and would be fenced off. See Exhibit 3 for configuration of the existing subdivision and Exhibit 5 for the proposed reconfiguration.

Major grading (14,300 cubic yards of cut, 1,700 cubic yards of fill) would be required to develop the Del Monte Shores site (see Exhibit 5 for grading lines). Much of this grading is proposed to lower lots to minimize obstruction of views from nearby homes. Development of Del Monte Shores would also require the construction of retaining walls to lower finished floor elevations. A nine to ten foot retaining wall is proposed along the rear property lines of lots 11 and 12, and along the east side of lot 12. In addition, a two to three foot retaining wall is proposed along the south side of Spray Avenue between lots 8 and 9. Also, a four-foot retaining wall is proposed for the southeast corner of lot 8 and a seven-foot retaining wall is proposed for the southwest corner of lot 8. An 11-foot retaining wall will be placed at the southeast corner of lot 12, which will taper down to 2 to 3 feet at the northeast corner of lot 12. There will be a three-to-six-foot-tall retaining wall extending down Spray Avenue from the northeast corner of lot 12 to the intersection of Beach Way and Spray Avenue.

The Del Monte Shores site is designated for low-density residential use in the (uncertified) Del Monte Beach Local Coastal Program Land Use Plan. This site would be rezoned from single family residential (R-1-6-D) to R-1-5-D-1 (residential) and O (open space). Although the R-1-6-D zoning implies that the existing lots are 6,000 square feet in size, in fact they are 3,600 square feet in size. Under the new R-1-5-D-1 zoning, the developable lots would be 5,000 square feet in size.

b. Dunecrest Villas

The Dunecrest Villas portion of the project would occupy 1.53 acres of rear dune habitat south of Dunecrest Lane and consists of the re-subdivision of 12 existing private lots (six of which are 3,600 square foot lots and six of which are between 5,000 and 6,000 square feet in size) into 3 new 5,000 square foot lots. Future residential development on the 3 new lots would be limited in size to



approximately 2,700 square feet with a maximum ceiling height of 16 feet above floor level. The total surface area occupied by the 3 lots would equal 0.34 acres with 0.07 acres designated to the Parcel "B" common area, which would provide access to the three homes. The remaining 1.12 acres (73.2% of the total area) would be dedicated to Parcel "A" public open space/habitat area. See Exhibit 4 for configuration of the existing subdivision and Exhibit 6 for the proposed reconfiguration.

The Dunecrest Villas site is zoned R-1-6-D near Dunecrest Lane, while the lower portion of the site closest to Del Monte Avenue has the commercial zoning of C-2-D-2. This site would be rezoned from R-1-6-D-1 to R-1-5-D-1 (residential) and O (open space), and from C-2-D-2 (commercial) to O (open space).

Development of the Dunecrest Villas site would require approximately 1,290 cubic yards of grading and 130 cubic yards of fill. A retaining wall, ranging in height from less than 1 foot to approximately 8 feet, will be constructed along the common area that provides access to the three parcels.

3. Project Background

The Del Monte Beach subdivision was created in 1918. The eastern two-thirds of the subdivision (Tract #1) is substantially developed. The perimeter of Tract #2 along Sea Foam and Dunecrest Avenue has also been developed. Limited development has occurred in the western third (Tract #2) of the subdivision since 1918 (see Exhibit 2), which includes the project site.

In 1976 the Coastal Commission denied proposed road and utility improves to Tract #2, finding that there was a potential for impacts to the dunes and that the preservation and stabilization of the remaining coastal dunes were of critical concern in the Coastal Act. During the late 1970's the State identified the project site for acquisition in order to expand beach parkland in the area; however, this proposal was abandoned due to lack of funding and unsuitability of the site for a State recreation area. The City later explored possible California Coastal Conservancy programs that might be used to acquire the property. These programs required willing sellers, but the City found that the majority of property owners were not interested in selling. In 1996 the City commissioned the Del Monte Beach Tract #2 Planning Study to identify and evaluate alternative development scenarios to determine if a development pattern other than the existing 3,600 square foot lot development would be preferable. The City Council's preferred alternative from the study was defined as seventeen 6,000 square foot lots between Dunecrest Avenue and the Monterey Bay.

The Del Monte Beach LUP (although not certified) acknowledges public opinion that open space use of the vacant lots within the project site is the most suitable land use option for the Tract #2 area. The LUP recognizes that the habitat within the existing sand dunes found on the project site is part of the rapidly diminishing sand dune ecosystem along the California coast. However, the City Council has taken the position that while open space is the most desirable land use for this area, realistic funding sources are limited. The City has previously purchased the front block of 22 lots closest to the Bay (not part of this re-subdivision). In addition, the City has purchased a total of 12 ½ lots and the Regional Parks District has purchased a total of 9 ½ lots in the Del Monte Shores area.

In 1998 the City, the Monterey Peninsula Regional Park District, and private property owners signed a pre-development agreement to cooperatively pursue a re-subdivision into 10-13 lots in the vacant area on the bay side of Dunecrest and an 8-unit Planned Unit Development on the inland side of Dunecrest (subsequently changed to three new 5,000 square foot lots, zoned single-family residential). The objectives of the re-subdivision included preservation of habitat and contiguous areas of open space, and

public access to coastal resources. An Environmental Impact Report (EIR) was prepared on the re-subdivision. The EIR was reviewed by the City of Monterey, the Monterey Peninsula Regional Park District Board, the Architectural Review Committee and Planning Commission. On 7/17/01 the re-subdivision went before the City Council. The City Council certified the EIR and approved the re-subdivision with the removal of lot 1 to protect habitat. Thus the proposed re-subdivision consists of eleven 5,000 square foot lots in Del Monte Shores (numbered 2-12 on the vesting tentative map – see Exhibit 5) and three 5,000 square foot lots in Dunecrest Villas (see Exhibit 6).

4. Standard of Review/Basis of Decision

The City of Monterey does not have a certified LCP. Thus, the standard of review is conformance with the policies of the California Coastal Act. These policies include Section 30240, which prohibits any significant disruption of environmentally sensitive habitat areas, and bans those uses that are not dependent on such resources.

In this case, the entire dune area of the proposed re-subdivision (Del Monte Shores and Dunecrest Villas) is environmentally sensitive coastal dune habitat (see finding B(1) below for details). Accordingly, because the proposed re-subdivision is being undertaken to facilitate future development of single-family residences (which is not a resource-dependent use) and will result in significant habitat disruption, the proposed residential re-subdivision cannot be found consistent with Section 30240. Therefore, absent other considerations, this project would have to be recommended for denial.

However, Coastal Act Section 30010 states:

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

The Coastal Commission is not organized or authorized to compensate landowners denied reasonable economic use of their otherwise developable residential property. Therefore, to preclude claim of takings and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act Section 30010, this permit allows for the re-subdivision of lots in the Tract #2 area of Del Monte to provide a reasonable economic use of this property. This determination is based on the Commission's finding in B(1)(b) of this staff report, below, that the privately-owned parcels were purchased with the expectation of residential use, that such expectation is reasonable, that the investment was substantial, and that the proposed development is commensurate with such investment-backed expectations for the site.

B. Coastal Development Permit Determination

1. Environmentally Sensitive Habitat

The Del Monte Beach Tract #2 property lies within the Monterey Bay dune system, which is defined as environmentally sensitive habitat. Coastal Act Sections 30240(a) and 30240(b) specifically call for the



protection of environmentally sensitive habitat areas and state:

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

Section 30240(b): Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

a. Description of Sensitive Habitat

As stated above, the Del Monte Beach Tract #2 property lies within the Monterey Bay dune system. This dune system begins at the Salinas River and extends to the Monterey Harbor and is characterized by plant and animal species adapted to a maritime-influenced, sandy environment. This dune system crosses several governmental jurisdictions: Monterey County, the City of Marina, California State Parks, the former Fort Ord property, City of Sand City, City of Seaside, the City of Monterey, and the U.S. Naval Postgraduate School. The Coastal Zone boundary through this region primarily follows Highway 1, which is also generally the first public road paralleling the sea. The remnant high dunes inland of Highway 1 have suffered severe excavation impacts and are frequently already developed; those along the shoreline are largely undeveloped. Potential coastal dune development throughout the region is a significant issue.

The Del Monte Beach Tract #2 site lies within a geographical area known for its occurrence of plant and animal species native and restricted to the Monterey Bay dune system, including those listed as endangered or threatened under Federal and/or State regulations. Sensitive habitats are defined by local, State, or Federal agencies as those habitats that support special status species, provide important habitat values for wildlife, represent areas of unusual or regionally restricted habitat types, and/or provide high biological diversity.

Residential development and recreational use have affected the dune landforms within the greater Del Monte Beach area. All substantial undeveloped areas within this strand of high dunes represent environmentally sensitive habitat, in various stages of disruption or recovery. Because the dune habitat ecosystem is a rapidly diminishing resource and is so easily disturbed, it is an acknowledged environmentally sensitive area. To properly recover and preserve viable dune habitat requires large contiguous tracts of dune for the establishment of a diverse native dune habitat.

Both the Del Monte Shores and Dunecrest Villas project sites support three sensitive plant communities: central dune scrub, bare sand, and coast live oak tree groves. The central dune scrub and bare sand dunes are communities designated as high priority in the California Department of Fish and Game (CDFG) Inventory. These three plant communities also are recognized as sensitive in the City of Monterey's Del Monte Beach Land Use Plan (not certified).

Another reason that these dunes meet the Coastal Act definition of environmentally sensitive habitat is that they support a number of rare plant and animal species. A number of native plants known to occur on the project sites are either already listed, or are considered a species of special concern by the U.S. Fish & Wildlife Service (USF&WS) including: 1) Sand gilia (*Gilia tenuiflora ssp. arenaria*), which is federally listed as an endangered species, is state listed as threatened, and is considered rare by the

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California Native Plant Society (CNPS); 2) Coast wallflower (*Erysimum ammophilum*), which is considered a species of special concern by USF&WS, is considered of limited distribution by CNPS, but is not state listed; 3) Monterey spineflower (*Chorizanthe pungens* var. *pungens*), which is federally listed as a threatened species and is considered rare by CNPS and CDFG, but is not state listed; and 4) Monterey Paintbrush (*Castilleja latifolia*), which is considered a species of special concern by USF&WS and is considered of limited distribution by CNPS, but is not state listed.

The biotic assessment in the EIR for the project focused on special status plant species that are officially listed by the State and/or Federal government or are on CNPS list 1B. In general, the locations of the main populations of special status plant species are fairly consistent from year to year. The number of plants in the main populations may fluctuate from year to year depending on environmental variables. Small populations of plants may appear in a location one year and be absent from that location the following year. The occurrence of special status plant species on the sites has been well documented in the 1999 Botanical Survey Report (T. Moss, 1999). These surveys, as well as previous reports and field data maps for the project sites have documented the occurrence of four special status plant species: Monterey spineflower, sand gilia, coast wallflower, and Monterey paintbrush. Sand gilia inhabits approximately 0.34 acre on the Dunecrest Villas project site, including areas proposed for residential development. The Del Monte Shores site supports several colonies of Monterey paintbrush, encompassing approximately 0.03 acre. These colonies occurred in areas now proposed for open space/habitat preservation. Monterey spineflower inhabits approximately 0.4 acre on the Dunecrest Villas project site and approximately 0.6 acre on the Del Monte Shores project site, including areas proposed for residential development. Coast wallflower occurs in areas proposed for residential development (Dunecrest Villas, approximately 0.01 acre of habitat impacted) as well as in areas proposed for open space/habitat preservation. Proposed residential construction at Del Monte Shores would occur immediately adjacent to the one known colony on that site. See Exhibit 9 for the Del Monte Shores biotic map and Exhibit 10 for the Dunecrest Villas biotic map.

The surveys also documented the occurrence of dune buckwheat, a host plant for the Smith's blue butterfly (*Euphilotes enoptes smithi*). Smith's blue butterfly is federally listed as endangered, and is known only from Monterey County. The project sites were surveyed for Smith's blue butterfly, but no individual butterflies had been observed as of the date of the DEIR (July 2000). The DEIR states that Smith's blue butterflies were observed during surveys on the adjacent Navy-owned property to the west and south of the proposed project. In this case, the dune buckwheat is located on the Del Monte Shores site in the proposed Parcel "A" open space/habitat area (see Exhibit 9).

The western snowy plover is federally listed as a threatened species and is a California species of special concern. These birds forage along the shoreline and nest in the foredunes. The plovers are known to nest upcoast in Marina, and the State Department of Parks and Recreation has erected exclosures around the nests to prevent trampling of the eggs. U.S. Fish & Wildlife Service staff has documented nesting by snowy plovers in recent years along Del Monte Beach, south of the Monterey Beach Hotel, and north of the Ocean Harbor House condominiums. Flocks of wintering plovers have been observed on the beach in the vicinity of the project site. Therefore, as these threatened birds have been found in the Monterey Bay dune system, and the Del Monte Beach area contains the type of habitat favored by the Snowy Plover, it is expected that the Del Monte Beach Tract #2 area will provide additional breeding habitat as the species recovers.

The black legless lizard is a California species of special concern that inhabits coastal dunes in Monterey County between the Salinas and Carmel Rivers. This lizard burrows into loose sand under plants



including bush lupine, mock heather, and mock aster. According to the DEIR, surveys for the black legless lizard were conducted in 1992 and 1993, but no lizards were found. Lizards have been documented on properties adjacent to the project sites in 1996 and 1999. The Del Monte Shores site contains approximately 0.6 acres of suitable habitat areas for the black legless lizard, a small portion of which would be affected by residential development. The Dunecrest Villas area contains approximately 0.4 acres of suitable habitat for the black legless lizard, of which less than 0.2 acres is located within areas proposed for development.

The EIR found that the project would result in direct and indirect impacts to known occurrences of listed and other special status plant species from development on the Del Monte Shores and Dunecrest Villas sites, and that the project and the cumulative impacts to special status species are considered significant and unavoidable. The City adopted a statement of overriding considerations regarding the impacts on biotic resources (see Exhibit 11, pg. 3). The City conditioned its approval to require the owners of the parcels to establish an assessment district to provide funding to the City for the maintenance and operation of the open space/habitat areas. The City is also requiring the development of a dune habitat, mitigation, restoration, and management plan, subject to review and approval of the City in consultation with the City, the California Coastal Commission, CDFG, and USF&WS (see Exhibit 8, pg. 1).

Overall, the project sites currently support several rare plant species and represent potential habitat for several animal species, including the black legless lizard and the endangered Smith's blue butterfly. Both the Del Monte Shores and Dunecrest Villas project sites support sensitive plant communities, but also support areas dominated by ruderal vegetation. However, the parcels proposed for development are part of the natural dune formation and it is clearly evident from the restoration success at the adjacent U.S. Naval Postgraduate School dunes that the Del Monte Beach Tract #2 dunes retain important potential natural habitat values. In the context of the natural resources of the area, the parcels slated for development could be an important component of an area-wide dune restoration program (including a public access/recreation impact management plan).

b. Implementing Sections 30010 and 30240 of the Coastal Act

As described above, the entire area of the Del Monte Shores and Dunecrest Villas project sites is environmentally sensitive dune habitat. The proposed development as submitted includes eleven building sites for single-family dwellings in Del Monte Shores and three building sites for single-family dwellings in Dunecrest Villas, with associated infrastructure improvements. This project will require grading of approximately 14,300 cubic yards of material in Del Monte Shores and approximately 1,290 cubic yards of material in Dunecrest Villas. The proposed project will result in a permanent loss of approximately 1.64 acres of environmentally sensitive habitat in the Del Monte Shores site and approximately 0.41 acres in the Dunecrest Villas site.

None of these development activities are dependent on a location within the sensitive resource area. In addition, this development and its associated activities, individually and collectively, will result in a significant disruption of the environmentally sensitive dune area on site. Therefore, this project cannot be found consistent with Coastal Act Section 30240.

Coastal Act Section 30240, however, must be applied in the context of other Coastal Act requirements, particularly Section 30010. This section provides that the policies of the Coastal Act "shall not be construed as authorizing the commission . . . to exercise [its] power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just

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compensation." Thus, if strict construction of the restrictions in Section 30240 would cause a taking of property the section must not be so applied and instead must be implemented in a manner that will avoid this result.

Recent court decisions demonstrate that to answer the question whether implementation of a given regulation to a specific project will cause a taking requires an ad hoc factual inquiry into several factors. Specifically, the courts have consistently indicated that this inquiry must include consideration of the economic impact that application of a regulation would have on the property. A land use regulation or decision may cause a taking if it denies an owner all economically viable use of his or her land. (*Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S. Ct. 2886; also see *Keystone Bituminous Coal Assn. v. DeBenedictis* (1987) 480 U.S. 470, 495, citing *Agins v. Tiburon* (1980) 447 U.S. 255, 260.) Another factor that must be considered is the extent to which a regulation or regulatory decision "interferes with reasonable investment backed expectations." (*Keystone Bituminous Coal Assn. v. DeBenedictis*, supra, 480 U.S. 470, 495, citing *Kaiser Aetna v. United States* (1979) 444 U.S. 164, 175.)

In addition, in order to avoid allegations of a taking, certain types of mitigation measures, such as exactions requiring the dedication of a fee interest in property, must be "roughly proportional" to the impact remediated. (*Dolan v. City of Tigard* (1994) 114 S. Ct. 2309.)

Other factors that may be reviewed in conducting a takings analysis include whether the land use regulation substantially advances a legitimate state interest. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825.) This is not a significant consideration in analyzing this permit application because the state's interest in protecting environmentally sensitive habitats is well recognized.

Finally, in still other individual cases it may be necessary to consider whether the property proposed for development by the applicant is subject to existing limitations on the owner's title, such as prescriptive rights, that might preclude the applied for use, or that the proposed use would be a nuisance. The question as to whether the Del Monte Shores portion of the development is subject to prescriptive rights will be dealt with below in a subsequent discussion of public access and recreation issues. Furthermore, development of the parcels with housing in the configuration proposed by the City would not constitute a nuisance.

In this situation, the Del Monte Beach Tract #2 was initially subdivided into very small (3,600 sq. ft.) parcels for residential purposes. Currently, there are 22 publicly held parcels and 26 privately held parcels in the Del Monte Shores portion of the project. There are 12 privately held parcels in the Dunecrest Villas portion of the project. The proposed project calls for the merging of the 26 privately-held 3,600 square foot parcels in Del Monte Shores into eleven 5,000 square foot parcels (the publicly held parcels will convert to habitat areas/open space), and the merging of 12 privately-held Dunecrest Villas parcels (of varying sizes) into three 5,000 square foot parcels. The private applicants (Kass & Bram) submitted adequate financial information to demonstrate that they have a sufficient real property interest in the privately-held properties to allow the proposed re-subdivision. Staff has determined that Kass & Bram bought the properties over a period of years, starting in the 1970s, for which they paid fair market value. During the periods when Kass & Bram purchased the parcels, these parcels and other parcels in the Tract #2 subdivision were designated in the General Plan and zoned for single-family residential use. The General Plan and zoning designations have not changed over the years since Kass & Bram bought their first properties in Tract #2. Thus, over the years that the parcels were purchased, Kass & Bram, upon determining the zoning of Tract #2 and the developed nature of Tract #1, could have legitimately assumed that development of single-family homes on these lots was a reasonable



expectation. Continued development within the Tract #2 subdivision over the intervening years lends further credence to that expectation. Therefore, in view of the other residential uses in the immediate vicinity of the privately-held parcels and the fact that the re-subdivision will greatly reduce the number of developable lots, the Commission finds that the proposed residential use is a reasonable economic use, and also that the resource dependent uses allowed by Coastal Act Section 30240 would not provide an economic use.

In view of the findings that (1) none of the resource dependent uses provided for in Section 30240 would provide an economic use, (2) residential use of the property would provide an economic use and (3) Kass & Bram had a reasonable investment backed expectation that such use would be allowed on the property, the Commission further finds that denial of a residential use, based on the inconsistency of this use with Section 30240 could constitute a taking. Therefore, consistent with Coastal Act Section 30010 and the Constitutions of California and the United States, the Commission determines that full implementation of Section 30240 to prevent residential use of the subject property is not authorized in this case.

Having reached this conclusion, however, the Commission also finds that Section 30010 only instructs the Commission to construe the policies of the Coastal Act, including Section 30240, in a manner that will avoid a taking of property. It does not authorize the Commission to otherwise suspend the operation of or ignore these policies in acting on permit applications.

Moreover, while Kass & Bram may have reasonably anticipated that residential use of the subject properties might be allowed, the Coastal Act and recent Coastal Commission actions on similarly situated lots in the Del Monte Beach Tract No. 2 (Boyden, Bram, Sewald, Archer, Archer/Nichols, and Gamble) provided notice that such residential use would be contingent on the implementation of measures necessary to minimize the impacts of development on environmentally sensitive habitat. Thus, the Commission must still comply with the requirements of Section 30240 by protecting against the significant disruption of habitat values at the sites, and avoiding impacts that would degrade these values, to the extent that this can be done consistent with the direction to avoid a taking of property. Mitigations must also be generally proportionate to the adverse impacts caused by development of residences and associated infrastructure.

c. Project History

The City of Monterey has a long history of grappling with development issues in the Del Monte Beach Tract #2 subdivision (see below in Public Access Section for a complete discussion of this issue). The City and the Monterey Peninsula Regional Parks District have worked together for many years to purchase as many properties as possible in the dune area seaward of Sea Foam Avenue with the intent of merging these parcels into open space/habitat areas, with strong encouragement from the Commission to do so. The current configuration of 11 parcels in the Del Monte Shores portion of the project and 3 parcels in the Dunecrest Villas portion of the project is the culmination of years of work between the three Applicants: the City, the Monterey Peninsula Regional Parks District, and Kass & Bram, as well as the involvement of concerned residents of Monterey and especially residents of Del Monte Beach Tracts #1 and #2. Commission staff must evaluate the City-approved project with this complex history in mind.

d. Del Monte Shores

This portion of the proposed project consists of the merger of 26 privately held parcels into eleven 5,000

square foot parcels, with the remaining 22 privately held parcels being merged into open space/habitat areas. An economic analysis was prepared in 1998 to determine the financial impact of two alternative development plans for the Del Monte Beach subdivision (see Exhibit 12). The purpose of the study was to establish the economic equivalency of small lots (3,600 square feet) without water and large lots (5,000 square feet) with and without water. Based on the results of the economic analysis, the City determined that the overall density of the Del Monte Shores portion of the project should be set at 10 to 13 large lots, with the reservation of water from the City's water reserve. In a recent discussion with David Strong, the financial analyst who performed the economic analysis, he stated that although land prices in Monterey have increased since 1998, the costs incurred by Kass & Bram over the intervening years, including taxes and all the costs associated with the planning of this project, have been substantial. Furthermore, construction costs for roads and other infrastructure have also gone up significantly. Thus, in Mr. Strong's professional opinion, a further reduction in developable lot number at this time would probably be economically infeasible for Kass & Bram.

Originally the Del Monte Shores proposal included 12 lots (see Exhibit 13). Lot 1 was located in a heavy concentration of rare and endangered plants and was the focus of much discussion at the Planning Commission. Several of the key neighborhood representatives indicated their support for the proposed re-subdivision, as long as lot 1 was eliminated. The Planning Commission recommended removal of lot 1 to the City Council. The City's Condition of Approval #18 provides for the removal of Lot #1, provided that the City and/or the Parks District purchase two other lots in the subdivision (for every 1.7 lots purchased by a public entity, Kass & Bram agreed to eliminate one lot). Since the elimination of Lot #1, the City and the Parks District have decided not to acquire additional vacant lots in Del Monte Beach Tract #2. Kass & Bram have stated, through their representatives, that they are unwilling to further reduce the size of the project unless other privately held lots are purchased by the City or Parks District. Kass & Bram's representatives have clearly stated that if additional lots were removed, they would abandon the project.

Del Monte Shores Lot Configuration

As stated above, the Del Monte Shores project area is characterized by plant and animal species adapted to a marine-influenced, sandy environment. The project site lies within a geographic area known for the occurrence of plant and animal species native and restricted to the Monterey Bay dune system, including those listed as endangered or threatened under Federal and/or State regulations and those that are species of special concern. The proposed configuration of the 11 parcel Del Monte Shores re-subdivision has been designed to avoid areas of especially sensitive dune plant habitats including the Parcel B habitat, which is the highest quality habitat in the Del Monte Shores site (see Exhibit 9).

The EIR states that grading for the Del Monte Shores project would require the removal or alteration of approximately 54% of the dune scrub habitat on the site, as well as bare sand habitat (the EIR analysis, however, was based on a 12-parcel re-subdivision, which has since been reduced to 11 parcels; thus a small reduction in this impact is expected). Development of the 11 parcels will impact hundreds of individual Monterey spineflower plants. According to the EIR, development of lot 8 (see Exhibit 9) would also indirectly impact spineflower plants from inadvertent impact on colonies during construction, changes in site drainage, increased shade from nearby structures, and human and domestic animal disturbances. In addition, a colony of coast wallflower is located directly adjacent to lot 8. Although these plants would not be directly affected by development, they could be indirectly impacted by the project due to increased urbanization and the resulting fragmentation of habitat.

Commission staff has concerns about the location of lot 8 for a variety of reasons, including those stated



in the paragraph above. Development of a residence on lot 8 will decrease the contiguous open space between existing habitat on the adjacent Navy property and the high-quality habitat of Parcel B. Parcel B will then be effectively hemmed in by residential development on all sides except for a small portion on its southern side. This hemming in will lead to a reduction in wind and sand flow that may negatively impact the continued existence of Parcel B as Monterey spineflower habitat. The project's botanist, Tom Moss, has stated that, in his opinion, development of lot 8 would have a negligible effect on the movement of pollen between the populations of Monterey spineflower to the east and west of lot 8 (see Exhibit 14). Mr. Moss also states that Parcel B would be of sufficient width to allow dispersal of other sensitive plant and animal species into Parcel B. Mr. Moss states that in general, he has never supported the location of lot 8 because it is not clustered with the other lots. However, he does not feel there is a sound biological justification for relocating or removing lot 8 (see Exhibit 15). The Commission's staff biologist, however, feels that relocation of lot 8 would provide more contiguous open space and connectivity between Parcel B and the habitat on the adjacent Navy property and would also provide fewer edge effects to surrounding habitat from development. In general, experts in the field of ecology state that habitat in contiguous and interconnected blocks creates a better probability for persistence of the habitat and associated species than does fragmented or isolated habitat.¹ In this case, Commission staff is concerned that lots 6, 7, and 8 would reduce wind and sand flow to Parcel B such that the long-term viability of the Parcel B habitat may be negatively impacted. Because of these concerns, Commission staff analyzed the proposed re-subdivision map to determine if there were opportunities to relocate these three lots. Staff concluded that there was the possibility for relocation of two lots that might provide more benefit to habitat, all things being equal. Staff considered relocating lot 7 (to provide for more wind and sand flow to enhance Parcel B) and lot 8 to an open area along Beach Way (see Exhibit 16). These two lots would be placed perpendicular to the existing development along Beach Way.

Relocation of lots 7 and 8 also would allow for continued public access use along the boundary of Del Monte Shores and the Navy property (see Exhibit 16). Currently, there is foot traffic from the Recreation Trail located along Del Monte Avenue, through the unfenced Navy property, and down this corridor to the Beach. Neighbors living along Dunecrest Avenue also use this corridor. Staff considered the possibility of adding a boardwalk through this area to facilitate access and protect dune habitat.

The City of Monterey, however, strongly objects to the proposed relocation of lots 7 and 8 (See Exhibit 17 for the City's letter). City staff state that relocation to this area conflicts with Commission guidance given to the City in the early 1990s regarding preservation of open space in the first block of seaward lots as possible. In addition, the City is concerned that development of these lots would wall off the public open space along Beach Way between Tide Avenue and Sea Foam Avenue from the neighborhood and the general public and would eliminate the public access boardwalk that is proposed for this open area (as shown in Exhibit 5). There are ten public parking spaces immediately across from this open area. Also, the City feels that the public access corridor that would be available adjacent to the Navy property would not be highly used. The City also states that development of lots 4, 5, and 6 will also block the prevailing wind flow to Parcel B and that Commission staff is inconsistent in not recommending relocation of these lots. Finally, the City states that development of lots perpendicular to existing development along Beach Way would impact a population of Monterey spineflower in this area and effectively hem in important spineflower habitat to the south of these lots (see Exhibit 9).

¹ See, for example, *Saving Natures' Legacy*. Reed Noss and Allen Cooperrider. 1994. Island Press. Covelo, CA

The City raises some valid concerns regarding Commission staff's suggestion to move lots 7 and 8 to Beach Way. In past years the Commission did encourage the City to acquire the first block of lots that lie between Sea Foam and Tide Avenue. The City and the Regional Parks District have expended considerable monies over the years to acquire many of these lots. However, construction of the Sewald house at 2 Beach Way was approved by the City and the Coastal Commission after all attempts to buy this property failed (see Exhibit 5). Thus, there is a single residence in the first block of lots between Tide Avenue and Sea Foam Avenue. Relocation of two lots to behind the Sewald residence, in a perpendicular configuration compared to existing development, would allow for contiguous open space of Parcel B with the Navy property and would allow for public access through the corridor adjacent to the Navy property. Although the City states that this access would not be well used, Commission staff observed a trail through this area and was informed that people walk from the Recreation Trail or from Dunecrest Avenue through the open Navy property and then down through this corridor to the beach. The City, however, rightly states that the Navy could fence off this section of its property at any time, which would effectively remove access through this corridor. Not having access in this area would also avoid increased impacts to habitat in this area.

Relocation of the two lots in the manner indicated above, however, could potentially impact the second most important spineflower habitat area on the Del Monte Shores site, located just south of the proposed area for relocation (see Exhibit 9). Although some modest grading will be done in a portion of this area to allow for the placement of one of the boardwalks, the remainder of the area will be undisturbed and the graded area will be restored. The relocation of the two lots in a perpendicular manner, however, would partially hem in this habitat area, possibly causing negative impacts to this population of Monterey spineflower. This is the same problem staff was trying to avoid (to Parcel B) by relocating the lots.

Staff then considered the option of moving only lot 8 to Beach Way, in a configuration similar to the existing development along that street (i.e., not perpendicular). This would open up Parcel B to the adjacent Navy property and would reduce inadvertent impacts to spineflower and coast wallflower from future development of lot 8. Wind flow to Parcel B, however, would be blocked by development of lots 6 and 7. Also, Parcel B would continue to have development on three sides. Thus, it is not clear that moving lot 8 only would have any substantial benefit to the habitat of Parcel B. Also, the City is strongly opposed to relocating any lots to along Beach Way, for the reasons stated above. Given the years of work that the City, the Regional Parks District, Kass & Bram, and neighborhood groups have undertaken to reach this point, Commission staff realizes that the benefits of moving any lots are likely outweighed by the concerns of the above entities and the careful balance of the City-approved plan. More generally, the existing lot configuration would be much more detrimental if developed with residences than would the proposed plan. Currently, approximately 54% of the area within Del Monte Shores is in private ownership, with 46% in public ownership. Under the current proposal, approximately 68% of Del Monte Shores would be preserved as open space/habitat areas, with 32% in private ownership. Furthermore, the proposed configuration clusters all the privately held parcels inland of Sea Foam Avenue (see Exhibit 5). In the current configuration, privately held parcels are interspersed throughout the Del Monte shores site (see Exhibit 8, pg. 8). Thus staff is recommending that the Del Monte Shores configuration of lots be approved as submitted.

e. Dunecrest Villas

This portion of the proposed project consists of the merger of 12 privately held parcels into three 5,000 square foot parcels (see Exhibits 4 & 6). Development of these parcels would impact coast wallflower,



Monterey spineflower, and sand gilia. Suitable habitat for the black legless lizard is also found at this site, a small portion of which would be impacted by development of the parcels. Approximately 73% of the total Dunecrest Villas site would be preserved as open space/habitat area.

In this case, all three parcels are clustered together at the north end of the site. The only possible way that the parcels could be moved so that less habitat is impacted would be to move them slightly to the east into the Dunecrest Lane public right-of-way, as has been suggested by some local residents. This, however, would move the parcels out of the project site boundary into the public right-of-way, with little gain in habitat protection. Thus, Commission staff recommends approval of the Dunecrest Villas parcel configuration as submitted.

f. Conclusion

The Del Monte Shores and Dunecrest Villas project sites are environmentally sensitive habitat areas within the meaning of Section 30240 of the Coastal Act. This section of the Act requires that such habitat areas be protected against significant disruption or degradation. Strict application of this section is not authorized in this situation, however, because to do so would cause a taking of property in violation of Section 30010 of the Coastal Act, as well as the California and United States Constitutions. Therefore, the Applicants may be permitted to re-subdivide the 60 parcels into 14 developable parcels, subject to Special Conditions that will reduce or mitigate the impact on dune habitat to the maximum extent feasible. Appropriate conditions in this case include the submission of final plans prior to issuance of the CDP and placing a conservation deed restriction on the open space/habitat areas, as required by Special Conditions #1 and #2 of this permit. Appropriate mitigation for the impact to approximately 2 acres of dune habitat in Del Monte Shores and Dunecrest Villas includes the preservation of open space/habitat areas and restoration and long-term maintenance of these areas. Thus, special Condition #3 requires the applicants' botanist to submit a plan for the dune restoration and enhancement component of the project. Special Conditions #4 and #5 require the development of a construction fencing plan and biological monitoring daily during grading and weekly during other aspects of construction.

To address the potential taking of the black legless lizard, a species of special concern, Special Condition #6 requires the Dunecrest Villas project site to be surveyed for these lizards by an appropriate biologist prior to the commencement of construction, and on a daily basis until grading is completed. If found, the lizards must be captured and immediately placed into containers with moist paper towels, and released in similar habitat on undisturbed portions of the site at the same depth in the soil as when found.

Special Condition #7 requires that the Applicants consult with and acquire the appropriate permits, if any, from CDFG and USF&WS.

Finally, in order to protect the unique sands of the Monterey Dunes, on which sensitive native habitats depend, as well as to prevent spoils disposal from adversely impacting other sensitive habitat areas, Special Condition #8 requires the identification of a disposal site for excavated sand within the Del Monte Beach area (if feasible), as well as a disposal method, subject to the review and approval of the City of Monterey, the project botanist, and the Executive Director. As so conditioned, the project will be consistent with the habitat preservation policies of the Coastal Act.

2. Public Access

a. Applicable Public Access Policies

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road. Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a): Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30213: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

...

Section 30220: Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

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

Section 30223: Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30240(b) also protects parks and recreation areas and states:

Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

b. Background

The Commission has had a long history of grappling with the issue of public access in the Del Monte Beach Tract #2. An excerpt from the findings adopted by the Commission for a 1992 LUP submittal for



this area describes the most recent position on this subject. (This LUP was not, however, certified.) The Commission found that the seven and one-half acre Del Monte Beach Tract #2, which includes the Del Monte Shores site (but not the Dunecrest Villas site), has been subject to public use for many years. In order to finally resolve the question of the extent of potential prescriptive rights² existing in this area, the LUP modifications adopted by the Commission required the City to prepare such a study. Adopted Modification No. 14 reads:

14. Modify Policy IV.B.3.8. pertaining to development in the Del Monte Beach subdivision Tract #2 to add requirements to determine the public's right of access prior to approval of developments as follows:

8. All vacant lots in the Del Monte Beach subdivision, west of Beach Way and north of Del Monte Avenue shall be designated for residential land use under R-1-6-D-1 zone standards. Through opportunity buying, open space preservation of the front row of 21 lots shall be pursued, with the front row of 11 lots as first priority, and the second row of 10 lots as a second priority. Unless funds for open space acquisition are in escrow, all lots referenced in this policy shall remain developable under the R-1-6-D-1 zone designation or any other zone district that accommodates the results of the "prescriptive rights" studies referenced below.

The City shall undertake a "prescriptive rights" study for the Del Monte Beach Tract #2. The study shall be designed and carried out consistent with current standards for such studies, i.e., the "prescriptive rights handbook" prepared by the Office of the Attorney General. Upon completion, the study shall be presented to the Planning Commission and City Council for action which may include amendments to the certified LUP or LCP as appropriate.

Prior to completion of the study and certification of any appropriate amendments or as an alternative to the preparation of a study, the City shall require that applicants proposing development in Del Monte Beach Tract #2 demonstrate that the project is consistent with Chapter 3 policies including Section 30211 which provides that development shall not interfere with the public's right of access to the sea where acquired through use, and if potential rights do exist, they are preserved through adjustment of the site plan or other appropriate means. The methodology used for the individual studies undertaken by applicants shall be the same as outlined for the area-wide study.

If prescriptive rights are determined on all or a portion of the study area, alternative planning for the area may be accomplished by a cluster development, transfer of development program, or other acceptable means as determined in the implementation portion of the Local Coastal Program.

While the Commission approved the LUP in 1992 with this modification, the City did not accept these modifications within the six-month time limit; therefore, certification of the resubmitted LUP did not occur. Thus, the Commission must review this application for conformance with the Coastal Act and without the benefit of a prescriptive rights study.

² Prescriptive rights may only be determined by a court decision on the issue. To date, no court cases have been brought to make this determination in this area.

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As detailed in previous Commission actions in this area (Sewald P-79-34, 3-89-250 and A-134-79; Boyden P-79-338 and A-19-80, Del Monte Beach LUP approvals in 1984 and 1992), the Commission has found that the undeveloped portion of the Del Monte Beach Tract #2 area has been historically used by the public and therefore may be subject to implied dedication. Based upon this evidence and the fact that the planning process (LCP) had yet to be completed, the Commission initially denied requests for residential construction in this area (Sewald A-134-79, and Boyden A-19-80; later approved as 3-93-62 and 3-93-63, respectively).

Coastal Commission adoption of the LUP resubmitted in 1992 also included findings which included the previous evidence collected regarding historic public use, including fifteen letters from the 1979 Sewald file stating that the authors had used and had seen many people using the Sewald lot for picnicking, sunbathing, hiking, dog-walking, kite flying, and nature study. The period of public use was as early as 1922 with most of the use occurring from 1958 to 1979 (1979 is the date that the letters were written). As evidence that the public use continued to be substantial, Mr. Sewald applied for a permit to fence his vacant property in 1990 (3-89-250). Among the reasons cited by the applicant as to why the fence was needed included that "people have driven on to his property", he "has found people letting their animals loose on the property", and, the "No Trespassing signs have been torn down by drunken beachgoers." The Commission denied the fence permit, substantially for the same reasons that the earlier residential development had been denied, most significantly the presence of historic public use.

By 1994, however, no new evidence on prescriptive rights had been forthcoming. In the absence of additional, more conclusive proof of such public rights, the Commission determined it was no longer in a position to further deny the Seawald and Boyden applications for residences.

While the Commission notes that testimony related to past projects in the Del Monte Dunes Tract No. 2 indicates there has been general public recreational use in this area over the last 40 years, including possible use of the Del Monte Shores site, there is still not sufficient evidence to conclusively support a finding that the area may be subject to prescriptive rights. Although additional evidence of public use of the area, including petitions and photographs, was given at the Commission's October 1996 hearing relevant to the permit for construction of the nearby residence at 23 Spray Avenue, this information was determined to be insufficient to establish potential prescriptive rights. Furthermore, no entity or individual has stepped forward to perform the detailed study and, if appropriate, litigate this matter. Thus, the Commission is not in a position to find that there is sufficient evidence in this case to justify a denial of the applicants' proposal based on the conclusion that the Del Monte Shores site is subject to prescriptive rights.

A more recent approval of a residential development in Tract #2 at 14 Dunecrest Avenue (3-99-010) concluded that evidence for prescriptive rights on the subject parcel was indeterminate. Therefore, lacking the necessary information, the Commission was unable to find unequivocally that the property had been dedicated entirely or partly for public use. Section 30211 of the Coastal Act, however, requires that Commission actions on shorefront projects shall ensure that new development does not interfere with public rights of access acquired through use, but not necessarily formally determined by a court. Thus the conditions of permit 3-99-010 clarify that the Commission in granting its approval did not intend any waiver of any public access rights that may exist on the #14 Dunecrest Avenue site.



c. Current Proposal

Approximately 68% of the Del Monte Shores site will go into public ownership and will consist of two public open space/habitat areas: Parcel "A" and Parcel "B" (see Exhibit 5). Boardwalks have been proposed on Parcel "A" to provide public access to the beach with two accesses from Beach Way and a single access from Spray Avenue. These boardwalks will direct public access through the dunes consistent with protection of the surrounding dune habitat.

Approximately 73% of the Dunecrest Villas site will go into public ownership and will consist of one public open space/habitat area (Parcel "A" – see Exhibit 6). Both Parcel "A" in Dunecrest Villas and Parcel "B" in the Del Monte Shores are especially fragile dune plant habitat areas and will be fenced to limit public access and provide habitat protection.

d. Conclusion

There is a long documented history of public use throughout the undeveloped area of the Del Monte Shores portion of Tract #2, confirmed by previous Commission action. While the Commission has consistently deferred to the City's LCP process to complete the detailed analysis needed to determine whether litigation on the issue might be warranted, the City has declined to conduct a prescriptive rights study. Accordingly, although copious, the evidence for prescriptive rights on the Del Monte Shores site is indeterminate. The proposed re-subdivision provides more certainty regarding public access but does not resolve or negate any public prescriptive rights that may have been established prior to public ownership. Given this unresolved issue of prescriptive rights, Special Condition #9 of this permit clarifies that the Commission in granting this approval does not intend any waiver of any public access rights that may exist on the Del Monte Shores site.

The City conditioned its approval to provide that Parcels "A" and "B" of the Del Monte Shores site and Parcel "A" of the Dunecrest Villas site shall be dedicated to the City and that the City shall be responsible for maintenance and operation of these parcels (see Exhibit 8, Condition #2). This condition also requires the owners of the private lots in these subdivisions to establish an assessment district to guarantee an appropriate level of funding for the City to maintain the open space/habitat areas. City condition of approval #2 also requires the owners to prepare and submit a plan to the City's Parks and Recreation Commission for review and approval of improvements to the open space areas. The City's conditions are incorporated into this permit as stated in Special Condition #14.

Special Condition #10 of this permit requires that the Applicants prepare and submit plans regarding improvements to the Open Space/Habitat Areas including boardwalks, benches, and interpretive displays/signs, to the Executive Director prior to issuance of the permit, as well as a plan to allow for limited public access (e.g., native plant tours or research access) to Del Monte Shores parcel "B" and Dunecrest Villas Parcel "A." This condition also requires a description of the specific measures that will be used to control and minimize potential impacts to the dunes from potential overuse by the public. As conditioned, public access impacts are mitigated to the extent feasible at this time, and the project is consistent with the public access requirements of the Coastal Act.

3. Visual Resources

a. Applicable Coastal Act Policies

Coastal Act Section 30251 requires that development be sited and designed to protect views to and along the ocean and scenic coastal areas, and states:

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

b. Analysis

The project is located within the regional viewshed of the Monterey Bay, which is an area recognized statewide for its scenic visual character. The dominant natural elements of this viewshed are Monterey Bay, Monterey Harbor, and the wooded ridge along the southern part of the Monterey Peninsula.

At this time both the Del Monte Shores and the Dunecrest Villas sites are vacant and consist of sand dunes and vegetation. As seen in Exhibit 2, the Pacific Ocean, Del Monte Beach, and the Del Monte dunes dominate the visual landscape. Existing residential development in the adjacent neighborhood creates a prominent architectural skyline in the area.

The Monterey Recreational Trail is located along Del Monte Boulevard and is designated as a proposed scenic corridor in the City's uncertified Del Monte Beach Land Use Plan. The Dunecrest Villas site is visible from the Monterey Recreational Trail. Neither project site is visible from the Highway 1 scenic corridor. The sites are generally visible from the shoreline, albeit against a backdrop of existing residential development.

Coastal Act Policy 30251 is intended to protect public views and does not provide for private view preservation. The proposed homes in the Del Monte Dunes portion of the project would be set back from the beach by over 200 feet. Thus, most dune foreground views would remain undisturbed. The EIR found that homes in the Del Monte Shores portion of the project would appear to be contiguous with the existing residential neighborhood as seen from public viewpoints at the beach and near Tide Avenue (see Exhibit 2).

The Dunecrest Villas site is located behind Tract #2 and would not affect public views toward the ocean. Development of the Dunecrest Villas would affect existing views along Del Monte Boulevard and the Monterey Recreation trail (see Exhibit 2). The EIR found that the visual impacts from Del Monte Boulevard and the recreation trail to be less than significant because the Villas would represent an extension of the existing neighborhood and would not affect unique or scenic visual resources.

The re-subdivision of 60 existing lots to 14 clustered lots represents a major decrease in density with an associated decrease in future impacts on public views, particularly in the Del Monte Shores portion of the project which decreases the number of lots from 48 to 11 and pulls the lots back away from the beach and clusters them near existing residential development. Furthermore, the Dunecrest Villas site reduces the number of lots from 12 to 3, with a corresponding decrease in visual impacts. Also, the City conditioned its approval to require design and development standards for both project sites (see Exhibit 7). These standards are incorporated within this permit subject to Special Condition #14. Specific



standards include limiting future residential development to a single story with a floor-to-roof height of 16 feet, limiting building site coverage (building coverage plus impervious surface coverage) to 64% of the square footage of the parcel, and defining horizontal and vertical building envelopes. Also, residential fencing must be at least 50% open, which will lessen any blockage of views of the scenic dunescape. In addition, any future development of individual homes must undergo review by the Architectural Review Committee (see Exhibit 8, Condition #8).

As submitted, the adopted design and development standards for the future residences are consistent with the residential development in the almost fully built out Del Monte Beach Tract #1 to the east. The buildings would also be consistent with the existing residences in Tract # 2. Also, the reduction from 60 developable lots to 14 developable will decrease impacts to public views. Given all the above, the proposed re-subdivision is consistent with the scenic resource policies of the Coastal Act.

4. Public Services

a. Applicable Coastal Act Policies

Coastal Act Section 30250 states, in part:

New residential. . . development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. . .

Coastal Act Section 30254 states, in part:

...Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water

flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

b. Water Supply

The Monterey Peninsula Water Management District (MPWMD) allocates water to all of the municipalities on the Monterey Peninsula. The actual water purveyor is the California American Water Company (Cal Am). Each municipality allocates its share of the water to various categories of development, such as residential, commercial, industrial, etc. As of February 25, 2000, 0.116 acre-feet of water was available in the City allocation for new residential construction. This figure, however, does not include the 2.57 acre-feet per year the City previously allocated for this project.

The original project described in the EIR included 12 single-family residences in Del Monte Shores and 8 townhouses in Dunecrest Villas. The water requirements for the re-subdivision were based on this number of dwellings and exceeded the 2.57 acre-feet reserved by the City for this re-subdivision. Since publication of the EIR, the project has been reduced in scope to a total of 14 single-family residences.

On 7/17/01 the City Council approved the re-subdivision with a specific water condition (see Exhibit 8, Condition #13). The calculated water requirements in this condition were based on 12 lots in the Del Monte Shores portion of the project and 3 single-family residences in the Dunecrest Villas site. Condition #13 called for the City to provide non-potable water for landscaping requirements of the project. The City Council then eliminated Lot #1 in Del Monte Shores, which further reduced the amount of water necessary to support the project. Condition #13 also requires that water demand for the project be reduced through the installation of ultra-low flow fixtures. Also, on 2/02/02 the City Council approved specific development standards for the Del Monte Shores and Dunecrest Villas that include requiring landscaping plants to be drought tolerant species adaptable to the shoreline and sand dune environment (see Exhibit 7, pg. 4).

City staff recently met with staff of the Monterey Peninsula Water Management District (MPWMD) regarding water requirements for this re-subdivision. MPWMD staff indicated that the approved 14 total units (11 in Del Monte Shores and 3 in Dunecrest Villas) will require 2.415 acre-feet of water per year. This figure includes the landscaping requirement. A letter from the MPWMD concurs that the 2.57 acre-feet of water per year that the City has allocated to the project will be adequate (see Exhibit 18).

The City has allocated 2.57 acre-feet/year of water for development of the re-subdivision. The estimated amount of water necessary to serve the re-subdivision at build-out is 2.42 acre-feet/year, within the 2.57 acre-feet allocated. The City will require the installation of ultra low-flow fixtures and landscaping with native drought-tolerant dune plants. Given all the above, the proposed re-subdivision is consistent with Coastal Act Section 30250 regarding water supply.

c. Drainage and Water Quality

Coastal Act Section 30230 protects the biological productivity of coastal waters. Coastal Act Section 30231 calls for protection of coastal waters by minimizing adverse effects of wastewater discharges and entrainment and by controlling runoff.

In 2000 the State adopted new policies for protecting water quality. Specifically, post-construction BMPs (best management practices) should be designed to treat, infiltrate, and filter storm water runoff



from each storm event, prior to discharge. Selected BMPs designed to achieve this requirement should be effective at removing or mitigating pollutants such as oil, grease, hydrocarbons, heavy metals, and particulates.

The project area is located within the Monterey Bay Dune complex. Drainage from the Del Monte Shores site would flow generally toward the ocean. On the Dunecrest Villas site, drainage generally flows from north to south. Storm drainage is directed to percolation areas on both site plans.

Eventual development of the re-subdivisions would add impervious surfaces such as roads, driveways, patios, and roofs. Thus the proposed development could increase storm runoff from properties. The EIR found that development of the re-subdivisions would create new impervious surfaces on the sites, which would increase storm runoff flows, which would result in a significant impact if drainage were not adequately contained. The EIR also found that the project could adversely impact the quality of surface runoff by introducing additional urban pollutants into the area and generating erosion during construction activities. The EIR defines a number of mitigation measures that would reduce the drainage impacts to a less-than-significant level. The City is requiring these mitigation measures as conditions of approval for the re-subdivision to counteract the effects that construction and development will have on drainage (see Exhibit 8, Condition #10). These mitigation measures include designing the final drainage system, including all percolation and retention areas, to accommodate the increase of flows from development of the 14 parcels, requiring that all percolation areas be sited to avoid special status species, requiring the owners to implement best management practices in accordance with the National Pollutant Discharge Elimination System (NPDES) and requiring the owners to prepare and implement a Stormwater Pollution Prevention Plan in accordance with NPDES regulations. These conditions, however, do not specify the filtration and/or treatment of runoff before it enters the percolation facility. Also, the submitted plans show storm discharge directed into percolation pits in open space/habitat areas. Increased water flow into these areas could be detrimental to dune plants. Therefore, Special Condition #11 requires that prior to issuance of the coastal development permit, the Applicants shall submit a drainage plan for review and approval. This plan must include devices that filter and/or treat runoff prior to entering the percolation facilities or storm drain system. This permit is also conditioned for maintenance of the filtering/treating system based on the manufacturer's recommendations as well as at least once in the fall before the start of the rainy season. Finally, the drainage plan must direct flow away from open space/habitat areas. As conditioned, the proposed re-subdivision is consistent with Coastal Act Sections 30230 and 30231 regarding maintenance of water quality.

d. Sewer System

The local sewage collection system is under the jurisdiction of the City's Public Works Department. The treatment and disposal of wastewater is the responsibility of the Monterey Regional Water Pollution Control Agency. Local collection lines serve existing development in the Del Monte Beach subdivision. New sanitary lines to the re-subdivided parcels would connect with the existing sanitary sewer system.

Eventual development of the 14 parcels will increase sewage generation by approximately 3,500 gallons per day (based on a generation rate of 250 gallons per day). According to the EIR, this increase in wastewater generation is not anticipated to result in a significant sanitary sewer impact. Also, the existing wastewater treatment facilities are adequate to handle and properly treat additional wastewater flow generated by the project. The City conditioned its approval to require submission of plans for review and approval of all public improvements, including sewers (see Exhibit 8, Conditions 4 & 5). In

Dunecrest Villas, a lift station is shown adjacent to the paved common area. Sewage will be directed from this pump station to the existing sewer line along Dunecrest Avenue. In Del Monte Shores, however, the preliminary plans show a utility easement crossing through the public open space/habitat area of Parcel A (see Exhibit 5). Installation and maintenance of this utility easement could cause substantial disturbance to the environmentally sensitive habitat of Parcel A. Therefore, Special Condition #12 requires that all sewer lines/systems be directed to developed areas of the re-subdivision and away from open space/habitat areas. With this modification, the proposed re-subdivision is consistent with Coastal Act Section 30250 regarding adequate sewer capacity.

e. Traffic and Circulation

The existing Del Monte Beach neighborhood is accessed via Casa Verde Way. Roberts Avenue, Beach Way, Surf Way, Dunecrest Avenue, and Spray Avenue are the main access streets to the Del Monte Shores and Dunecrest Villas sites. Del Monte Avenue is the main thoroughfare in the project area and intersects with Casa Verde Way just south of the project site. Sloat Avenue and Camino Aguajito are two nearby intersections that intersect with Del Monte Avenue. Please see Exhibit 19 for local roadway network.

Traffic study data in the EIR were based on 12 single-family residences in Del Monte Shores and 8 townhomes in Dunecrest Villas. The project's trip generation was estimated at 15 additional trips for the peak hour on Saturdays and 16 additional trips for the peak hour on weekdays. The project has since been reduced in scope to 11 single-family residences in Del Monte Shores and 3 single-family residences in Dunecrest Villas. Thus, the number of additional trips generated by the project would likely be lower than the above estimates.

The traffic impacts to the local and regional transportation system are described in terms of changes in average daily traffic and level of service (LOS). The City has identified LOS D as the minimum acceptable operating condition for intersections. The EIR found that the proposed project, although relatively small, would add trips to the Del Monte/Sloat Avenue intersection, which is currently operating at LOS E. To mitigate for this impact, the EIR called for the project to contribute its fair share to the cost of planned improvements on Del Monte Avenue between Sloat Avenue and Camino El Estero. The City will contribute the fair share for these improvements (see Exhibit 11, 3F).

Access to the proposed project sites is restricted to Casa Verde Way, which serves the entire Del Monte Beach neighborhood. The one-way access inbound is via Surf Way and outbound via Roberts Avenue. Both lanes merge into Casa Verde Way. Increased density of land uses could exacerbate the problem of quick access to and from the neighborhood, resulting in increased response times. The EIR states that the greatest concern to the fire department is adequate fire access. The current tentative map reflects changes recommended by the fire department concerning access, including the design of the hammerhead turnaround at the western terminus of Spray Avenue. The City also conditioned its approval to require compliance with the requirements of the fire department (see Exhibit 8, Condition 7).

Given that the Applicants have addressed the access concerns of the local fire department and given that the City will contribute the fair share cost for to improvements to the Del Monte Avenue/Sloat Avenue intersection, the proposed re-subdivision is consistent with Coastal Act Section 30250 regarding adequate public services.



5. Hazards

Section 30253 of the Coastal Act states:

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

a. Geologic Hazards

The project area is located within the Monterey Bay Dune Complex, which extends from the Salinas River to the Monterey Harbor and inland as far as six miles. Deposits in the dunes are Flandrian dunes, which refers to the geologic time period of $\pm 15,000$ years ago when the sea level was rising due to glacial melting. Dunes that are stripped of their natural vegetation present a hazard of wind erosion, leading to dune migration. Applicable policies in the (non-certified) Del Monte Beach Land Use Plan require site specific geology/erosion studies; a development setback sufficient to prevent damage from both the expected 100-year shoreline erosion rate; and preservation of sand dunes wherever feasible.

A number of geotechnical reviews (Geotechnical Investigation for Del Monte Beach PUD (Reynolds Associates, June 1998); Geotechnical Investigation for Del Monte Beach Residential Lot Program (Reynolds Associates, February 1999); Liquefaction Analysis (Reynolds Associates, February 2000); Preliminary Geotechnical Study for Del Monte Beach Resubdivision EIR (Haro, Kasunich, and Associates, April 2000) were performed to determine if the Del Monte Shores and Dunecrest Villas sites are suitable for construction. Specific hazards evaluated included the potential for liquefaction, coastal erosion, and wave runup. The reports concluded that the potential for liquefaction to occur and cause damage on the subject sites is low.

The April 2000 geotechnical report states that gradual and episodic erosion of the beach/dune system is expected to continue during the life of the Del Monte Shores portion of the project. The development of Del Monte Shores, however, would have a high degree of protection from coastal erosion processes because of the greater than 200 feet of open space between the beach and residences closest to the shore. Therefore, it is not anticipated that coastal erosion processes would affect the Del Monte Shores residences during the project's design life of 50 years. Dunecrest Villas is not located directly along the coast and would not be affected by coastal erosion.

The Del Monte Shores site is exposed to the Pacific Ocean, which borders the site to the north. During severe coastal storms, large surf will run up the seaward dune face. As above, the April 2000 geotechnical review determined that, because of the greater than 200-foot setback from the beach, wave runup would not affect the proposed residences on the Del Monte Shores site during a 50-year design life. The Dunecrest Villas are not exposed to the Pacific Ocean and will not be exposed to wave runup.

The April 2000 report states that the Del Monte Shores and Dunecrest Villas sites are suitable for residential construction, provided that the recommendations in the Reynolds Associates 1998 geotechnical report are followed in the design and construction phases of the project. Special Condition #13 requires compliance with the recommendations contained in Reynolds Associates report. With this condition, the proposed re-subdivision is consistent with Section 30253 of the Coastal Act regarding geologic hazards.

b. Other Hazards

The proposed re-subdivision falls within the sphere of influence of the Airport Land Use Commission. Therefore, the City of Monterey was required to refer the project to the ALUC for their recommendation. The City did so and the ALUC made a recommendation to require the owners to record an avigation easement over the property in favor of the Monterey Peninsula Airport District. The City conditioned its approval to provide such an avigation easement (see Exhibit 8, Condition #17). Thus, this aspect of the proposed re-subdivision is consistent with the hazard policies of the Coastal Act.

6. Archaeological Resources

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The City has conditioned the project to address any archaeological finds during construction (see Exhibit 8, condition #11). Thus, this aspect of the proposed re-subdivision is consistent with the Coastal Act Section 30244 regarding the protection of archaeological resources.

IV. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of 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 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal and public comments received, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicants by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.



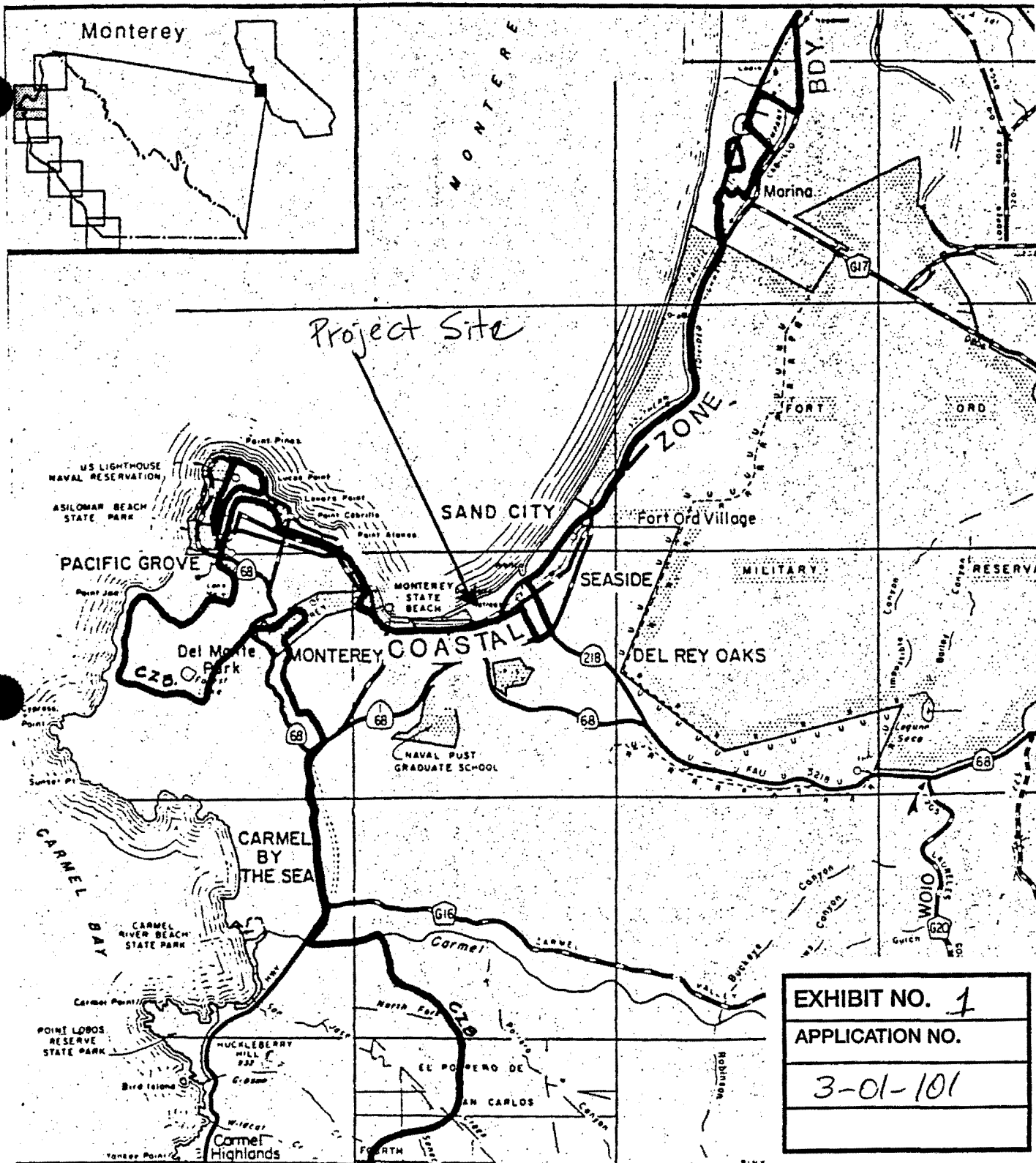


EXHIBIT NO. 1
APPLICATION NO.
3-01-101



Parcel "A"

Forest

Parcel "B"

Del Monte Shores

Parcel "A"
Space/
Area

EXHIBIT NO. 2

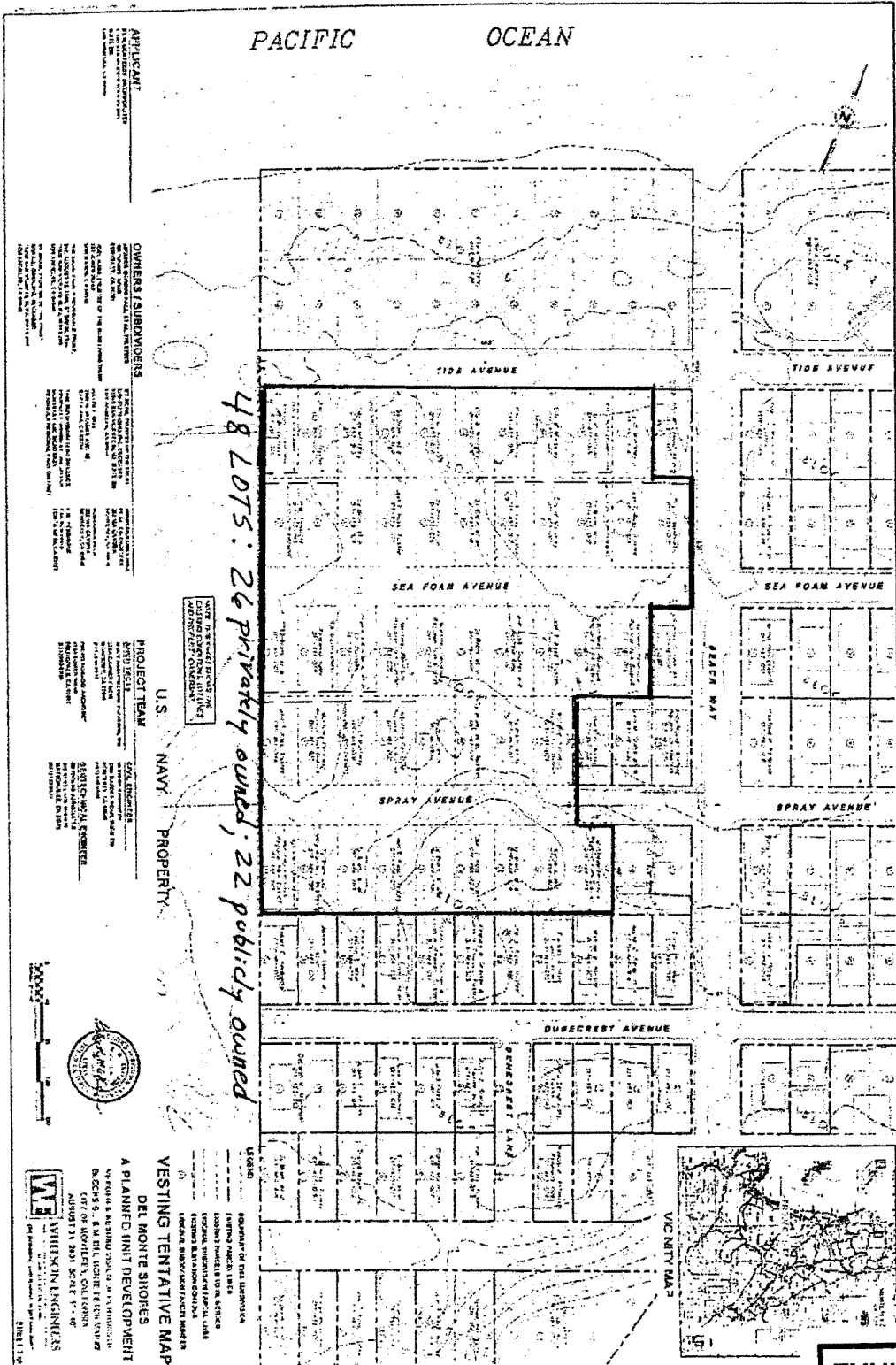
APPLICATION NO.

3-01-101

PACIFIC OCEAN

Del MONTE SHORES

48 LOTS: 26 privately owned, 22 publicly owned

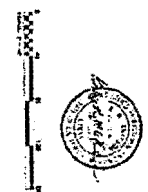


APPLICANT:
 DEL MONTE SHORES
 11500 DEL MONTE SHORES DRIVE
 SAN DIEGO, CALIFORNIA 92121

OWNERS / SUBDIVIDERS:
 DEL MONTE SHORES
 11500 DEL MONTE SHORES DRIVE
 SAN DIEGO, CALIFORNIA 92121

PROJECT TEAM:
 ARCHITECT: [Faint text]
 ENGINEER: [Faint text]
 ENVIRONMENTAL ENGINEER: [Faint text]

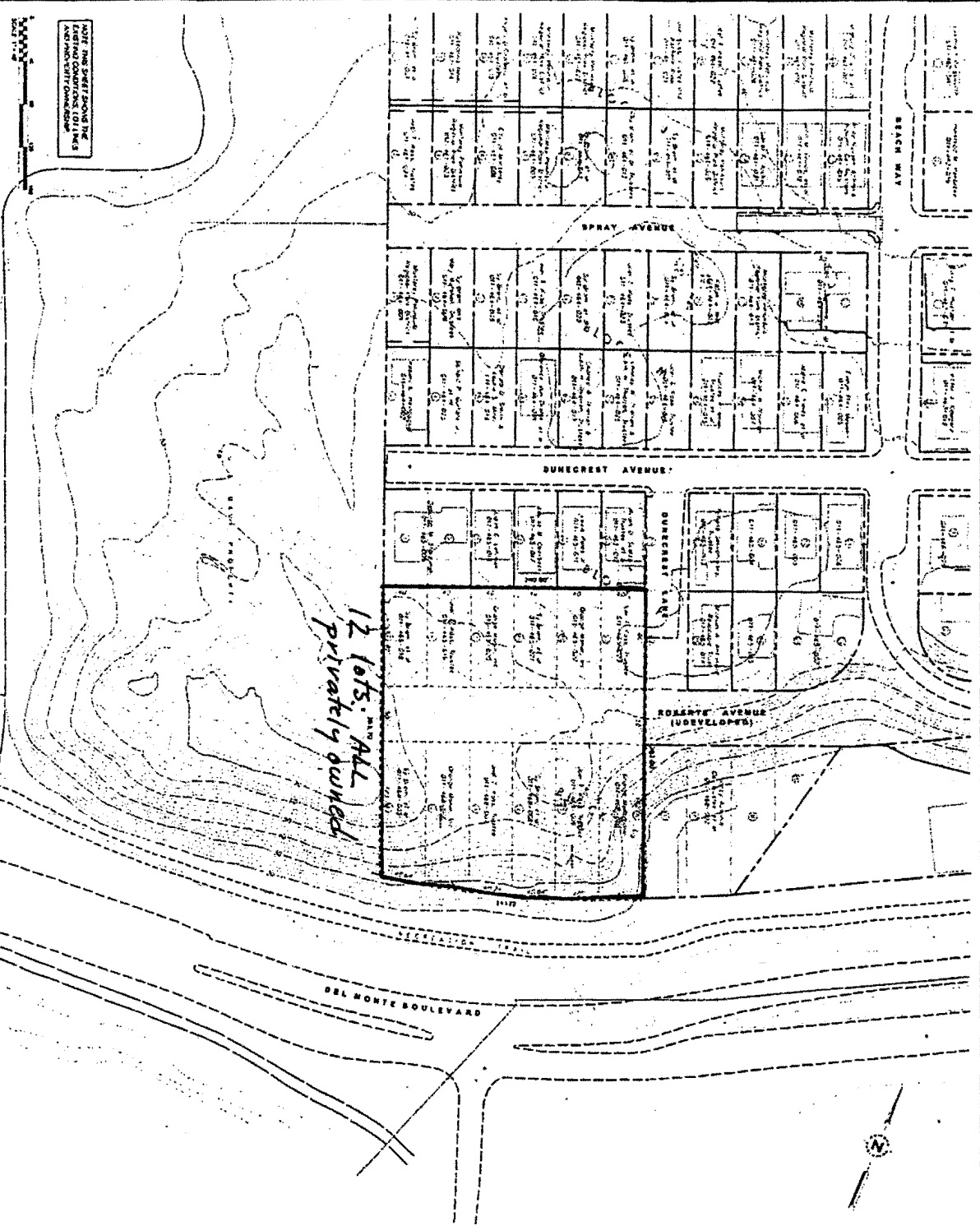
U.S. NAVY PROPERTY



LEGEND:
 [Symbol] PROPERTY OF DEL MONTE SHORES
 [Symbol] U.S. NAVY PROPERTY
 [Symbol] [Faint text]

EXHIBIT NO. 3
 APPLICATION NO.
 3-01-101

DUNECREST VILLAS



NOTE: THE SHEET SHOWS THE EXISTING CONDITIONS OF THE LOTS AND DOES NOT SHOW THE PROPOSED DEVELOPMENT.

12 lots. ALL privately owned

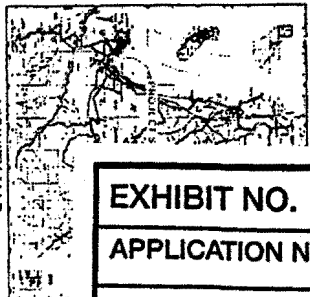


EXHIBIT NO. 4
APPLICATION NO.
3-01-101

LEGEND

- BOUNDARY OF THIS SUBDIVISION
- EXISTING PROJECT
- EXISTING LOT LINES
- EXISTING ELEVATION CONTOUR
- PROPOSED ELEVATION CONTOUR
- PROPOSED LOT LINES
- PROPOSED ELEVATION CONTOUR
- PROPOSED ELEVATION CONTOUR
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PROJECT TEAM

OWNER / SUBOWNER
 THE LAND TRUST OF CALIFORNIA
 1000 CALIFORNIA STREET
 SAN FRANCISCO, CALIFORNIA 94108
 (415) 774-2000

OWNER / SUBOWNER
 THE LAND TRUST OF CALIFORNIA
 1000 CALIFORNIA STREET
 SAN FRANCISCO, CALIFORNIA 94108
 (415) 774-2000

APPLICANT

APPLICANT
 THE LAND TRUST OF CALIFORNIA
 1000 CALIFORNIA STREET
 SAN FRANCISCO, CALIFORNIA 94108
 (415) 774-2000



REVISED
VESTING TENTATIVE MAP
DUNECREST VILLAS
 A PLANNED UNIT DEVELOPMENT
 MEMBER 3 RE-SUBDIVISION OF PORTIONS OF
 BLOCKS P & S, DEL MONTE BEACH MAP # 2
 CITY OF MONTEREY, CALIFORNIA
 AUGUST 21, 2001 SCALE: 1" = 40'

WHITSON ENGINEERS
 1000 CALIFORNIA STREET
 SAN FRANCISCO, CALIFORNIA 94108
 (415) 774-2000

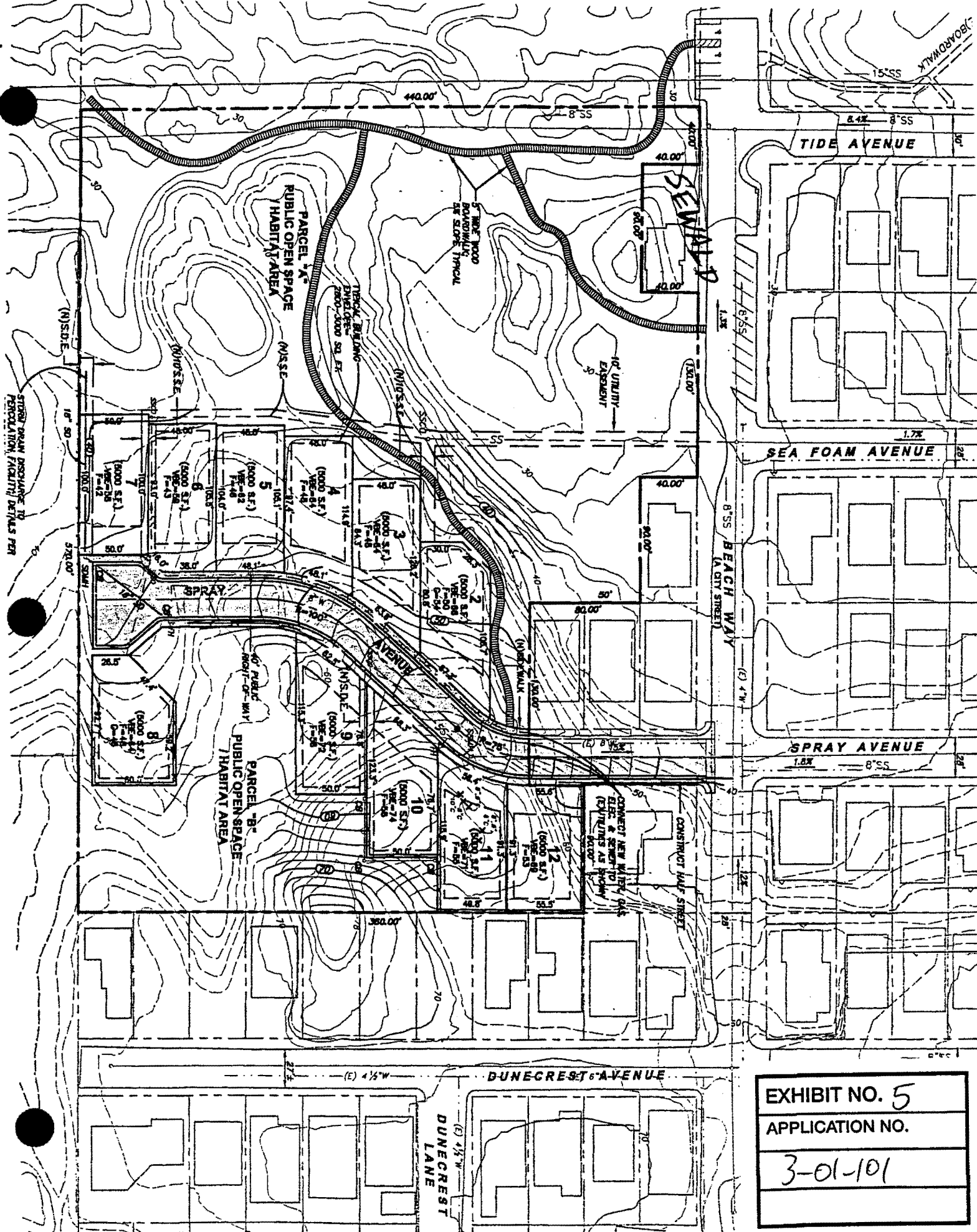


EXHIBIT NO. 5
APPLICATION NO.
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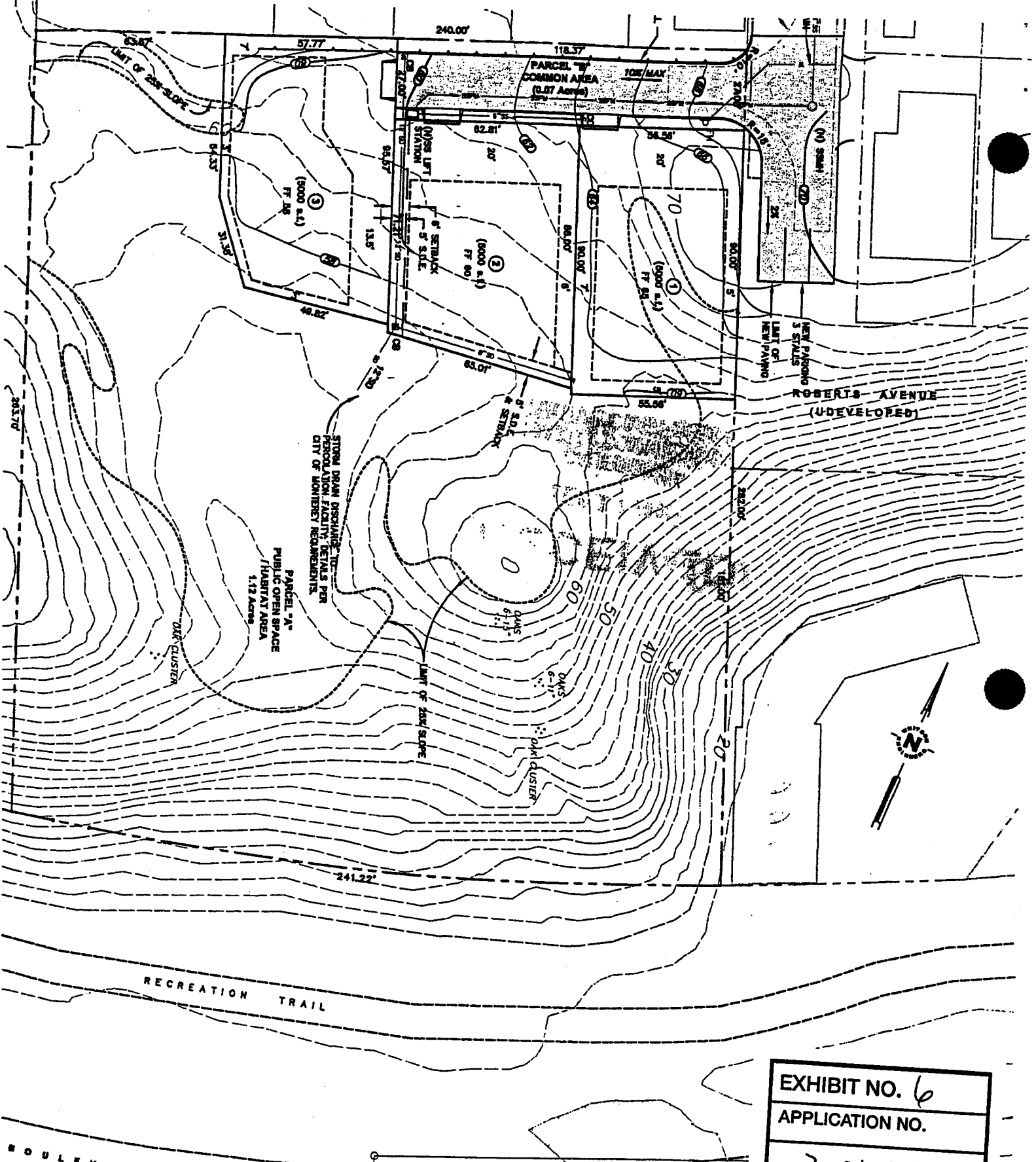
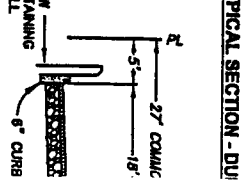
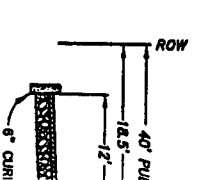


EXHIBIT NO. 6
 APPLICATION NO.
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LEGEND

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NEW RETAINING WALL
 5' CURB
 27' CONC.
 18' CURB

SUBDIVISION N
 EXISTING ZONING: SINGLE THORO
 PROPOSED LAND USE: SM
 OPI

EROSION CONTROL: SHALL BE MONTEREY EROSION CONTR. AND IN ACCORDANCE WITH A WATER SUPPLY, CALIFORNIA SEWAQE DISPOSAL CITY OF I

PROJECT DATA
 TOTAL PROJECT AREA
 AREA GREATER THAN 20% B.
 NET AREA

LOTS 1-3 AREA
 PARCEL "A" - COMMON AREA

OPEN SPACES
 PARCEL "A" - OPEN SPACE
 4.0% TOTAL AREA

RECEIVED

January 2, 2002
City Council Approved

JAN 31 2002

**Design and Lot Development Standards for
Del Monte Shores and Del Monte Villas -
re-subdivided portions of Del Monte Beach Tract 2
Monterey, California**

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. LOT SIZE AND COVERAGE

- a. **Lot size.** Lots shall be 5,000 square feet as shown on the Final Map.
- b. **Coverage.** The maximum allowable Building Coverage shall be 54% and the maximum allowable Building Site Coverage (Building Coverage plus impervious surface coverage) shall be 64%.
- c. **Floor Area Ratio.** The maximum allowable Floor Area Ratio (FAR) shall be 44%.

2. VIEW SHARING

- a. **View sharing.** The design priority in Del Monte Beach is view sharing. To this end, each lot in Del Monte Shores and Del Monte Villas zoning areas have a pre-established three dimensional building envelope which is composed of a horizontal building envelope and a vertical building envelope. The pre-established three dimensional building envelope has previously been determined by the City of Monterey through a public review process to provide for view sharing. If a proposed residence fits within the horizontal and vertical building envelope for that lot, then that residence complies with view sharing.

3. BUILDING ENVELOPES

- a. **Building envelopes.** Each lot shall have a horizontal building envelope and a vertical building envelope as depicted on the Final Map. Figures 1a and 1b.
- b. **Horizontal building envelope.** The horizontal building envelope is described on the Final Map as an outline within the lot dimensioned from the lot lines as setbacks. The setbacks are unique to each lot, but in no case are they less than 20 feet in the front yard, and 5 feet for the rear and side yards except in lot 3 of the Del Monte Villas project. Figures 1a and 1b.
- c. **Buildings must be within the horizontal building envelope.** No part of the building shall extend beyond the horizontal building envelope, including roof eaves, trim, bay windows, projecting windows, window boxes, chimneys, enclosed decks and hot tubs. Non-building elements, such as fences, ground level decks, planters, patio or decks without railings and steps, which are not a part of the building, may be constructed outside the horizontal building envelope. Trash areas with solid screening no greater than 4 feet 6 inches tall and outside the front setback may be constructed outside the horizontal building envelope.

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- d. **Vertical building envelope.** The vertical building envelope elevation depicted on the Final Map for each lot represents an elevation above sea level (as referenced from a survey monument in or near the street and shown on the Final Map). The vertical building envelope elevation defines a horizontal plane in space which is the maximum height allowable for the residence on that lot. Figures 1a and 1b.
- e. **Buildings must be under the vertical building envelope elevation.** No part of the building roof or roof parapet may be built above the vertical building envelope elevation. Skylights, skylight trim, railings, dormers, parapets, parapet trim, flag poles, antennas, banners, ventilators and similar building elements are considered part of the roof and may not penetrate the vertical building envelope.
- f. **Demonstrating compliance with building envelopes.** It is the applicant's responsibility to demonstrate that a proposed residence fits within the prescribed horizontal and vertical building envelope for that lot. At the Concept Design level this compliance must be indicated on the Concept Design drawings. A licensed surveyor must certify that the building has been built below the vertical building envelope elevation as shown on the Final Map for that lot before an occupancy permit is issued.
- g. **Further building height limitations.** To assure modulations and variations in height, no more than 60 percent of the surface of a flat roof is permitted to exceed a height three feet (3') below the vertical building envelope. Figure 2.

4. SINGLE STORY BUILDING LIMIT

- a. **Single story definition.** Buildings are limited to one story above grade. A single story building is defined as one in which a vertical section through any portion of the structure in no case has two habitable floors one above the other. A loft or mezzanine within another room would constitute two levels and thus not allowed. Garages are permitted under a habitable floor provided they conform to paragraph 4c. A stair connecting the main floor with an under building garage or uninhabitable storage area is permitted and does not constitute a second floor. Figure 3
- b. **Floor levels.** The vertical building envelope elevation has been set for each lot to allow for a floor to roof height of approximately 16 feet. While the maximum height of the roof of the structure is set, there is flexibility with the placement of the floor levels of the house and the garage. Split level designs or designs with a change in floor levels are desirable as they encourage some portions of the roof to be below the maximum vertical limit allowed, which in turn tends to improve view sharing. Figures 4 and 5.
- c. **Understory.** Understory is defined as the vertical distance between the floor and the finish grade on the downhill side of a lot. The maximum understory is limited to three feet in the Del Monte Villas project and three feet in the Del Montes Shores Project. Under floor garages are exempt from this rule. Figure 6.

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5. BASEMENTS

- a. **Basement definition.** No habitable or potentially habitable basements are allowed. Non-habitable storage areas of less than 200 square feet are allowed provided the ceiling of the non-habitable space is no higher than 7'-0" and is less than 1'-0" above finish grade. Garages used solely for auto storage and stairwells from garages are acceptable basement uses provided there are no provisions for windows or doors other than garage door into the space and the ceiling of the space is no greater than 8' - 0".

6. ROOF TOP DECKS

- a. **Roof top deck definition.** Full roof top decks are not allowed. Roof top decks which are incorporated into the roof plane and less than 10% of the roof area in plan are allowed provided that no part of any parapet, railing, door or hatch exceeds the vertical building envelope or, as acting as a roof element, exceed the limitations set forth in article 3-g).

7. MODULATED SURFACES

- a. **Modulated surfaces.** In order to be compatible with the scale of existing residences in the neighborhood, buildings must present a modulated appearance on all four sides. Since no building elements are allowed to project outside the Horizontal Building Envelope, this required modulation must be achieved by recessing some building elements and surfaces inside the building envelope. A design which maximizes the floor area in such a way that building walls are pushed out to the limits of the building envelope and result in a plain, unmodulated box designs will not be allowed. Figure 7.

8. FENCES, GUARDRAILS AND RETAINING WALLS

- a. **Habitat fencing.** A fencing plan to protect habitat and the privacy of private lots bordering on habitat areas shall be submitted as a part of the Concept Design review. This plan will address the location, extent, height, style, material, color and signage, of any fencing or barriers for the open space and habitat areas of the projects required by the conditions of approval.
- b. **Residential fences.** Fences up to 4 feet high are permitted within the front yard. Fences up to six feet high are permitted to provide neighbor privacy in side yards that are adjacent to a building site. Each residence must include a fenced trash yard. No private gates are permitted to open into habitat areas. Fences must be in character with other fencing in the neighborhood. Fences must be at least 50% open due to the potential to act as sand barriers. Open wood fencing such as picket fencing and open grape stake fencing is permitted. Wire field fencing, combined with wood elements such as wooden posts and/or wooden top rail is permitted in accordance with approved habitat fencing.
- c. Fences may not be built on top of retaining walls which are over 2 feet 6 inches high. Guardrails, not to exceed 3 feet in height, and at least 50% open may be built on top of retaining walls exceeding 2 feet 6 inches in height. Guardrails shall be of all steel construction or of similar construction as outlined for fences in article 8-b.

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- d. **Retaining walls.** Retaining walls must be constructed of either decorative formed concrete or decorative concrete block or be finished with plaster or stone veneer. Flat faced unfinished or painted concrete block is not allowed.

9. MATERIALS AND COLORS

- a. **Finish materials and colors.** Materials and colors shall be compatible with the materials and colors found in the surrounding environment of the adjacent homes. Low intensity, soft and muted colors are preferred over bright primary colors. Bright trim colors should be used sparingly. The recommended materials are stucco, wood siding, or a combination of the two. Recommended roof materials include asphalt shingle roofing, clay or concrete tile and tar and gravel.
- b. **Lighting.** Exterior lighting shall be minimal and limited to down lighting only.

10. LANDSCAPING

- a. **Plant materials.** Landscaping plant materials shall all be drought tolerant species adaptable to the shoreline and sand dune environment. Non-native and invasive plants are not allowed. Plant materials shall be predominantly low so as not to impair views from neighboring lots. Trees, except in special circumstances, shall not be allowed due to potential view impairment.
- b. **Patios and paths.** Patios and paths are encouraged to be constructed of pervious materials such as brick, pavers, decomposed granite, and spaced wood decking.

11. SPECIAL DESIGN REVIEW PROCESS

- a. **Appealable and non-appealable issues of the ARC review procedure.** The Architectural Review Committee review procedure for the individual homes in the Del Monte Shores and the Del Monte Villas shall follow a customized review procedure in which issues regarding the height, bulk, mass and view impact will have been pre-approved at the Concept level as a part of the overall project approval. As such, issues dealing with the height, bulk, mass and view impact will not be allowed to be appealed. Issues regarding building style, i.e. colors, finish materials, fences, landscaping and other non-mass issues will be allowed to be appealed.
- b. **Building height survey required.** Before an occupancy permit is issued, the applicant will be expected to document conformity to the vertical building envelope height requirements as described in article 3-f. Documentation shall be provided by a licensed civil engineer or a licensed surveyor.

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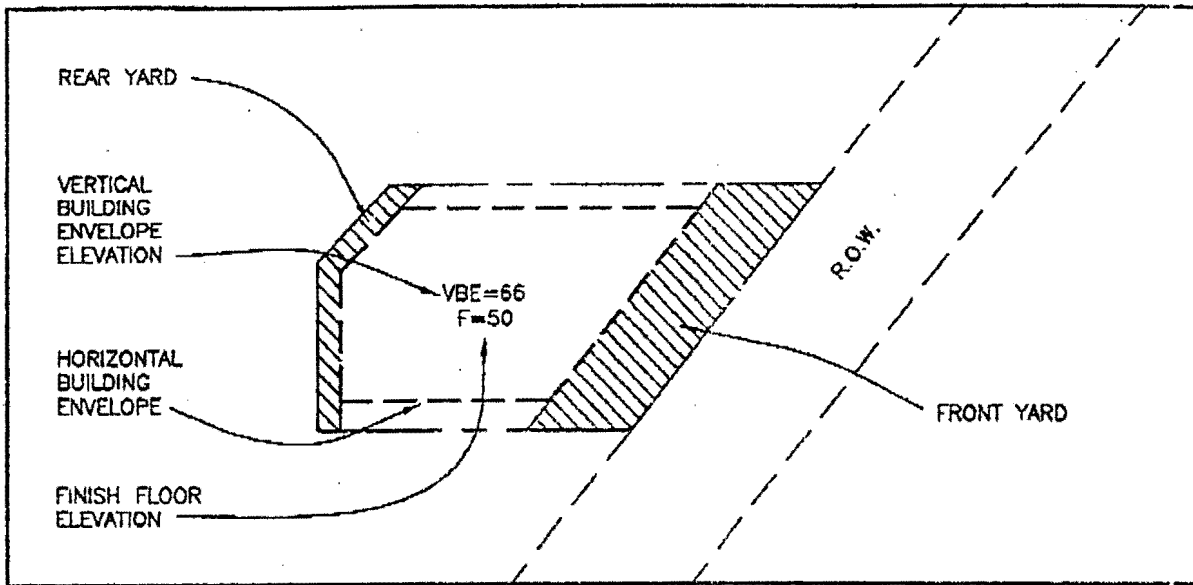


FIG. 1A BUILDING ENVELOPES

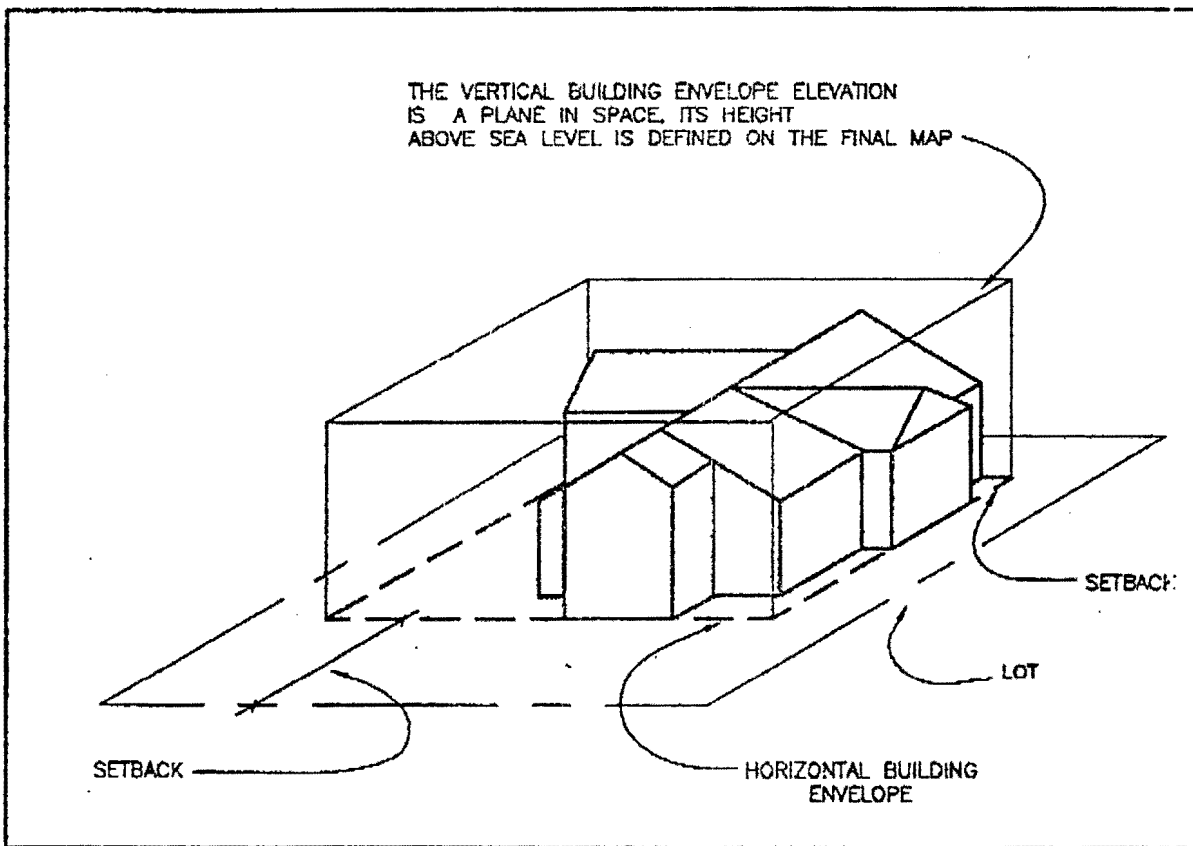


FIG. 1B BUILDING E

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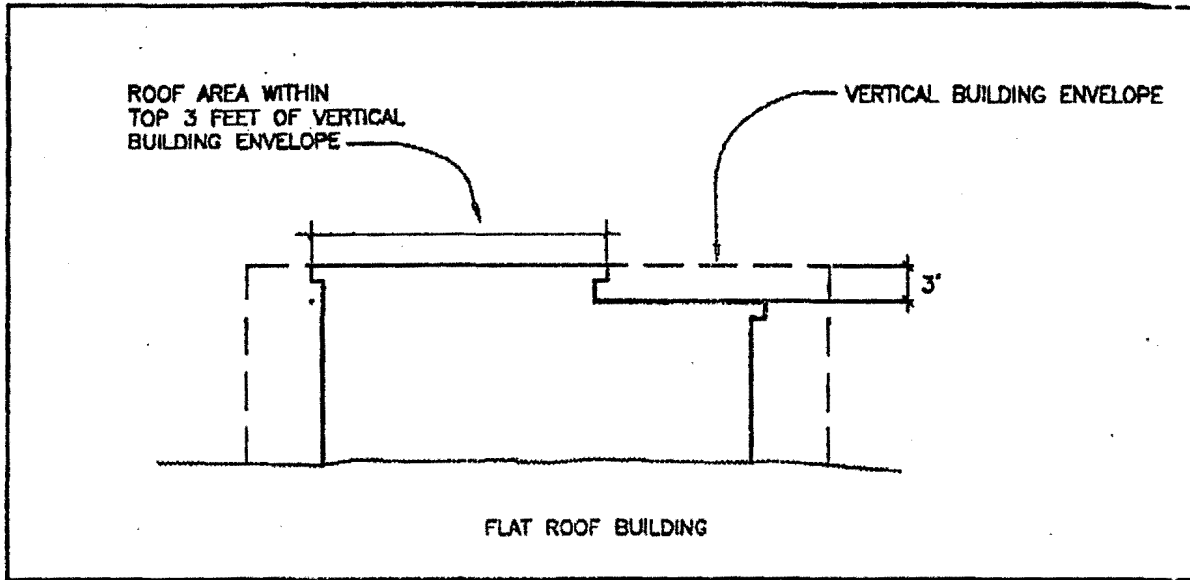


FIG. 2 FURTHER BUILDING HEIGHT LIMITATIONS

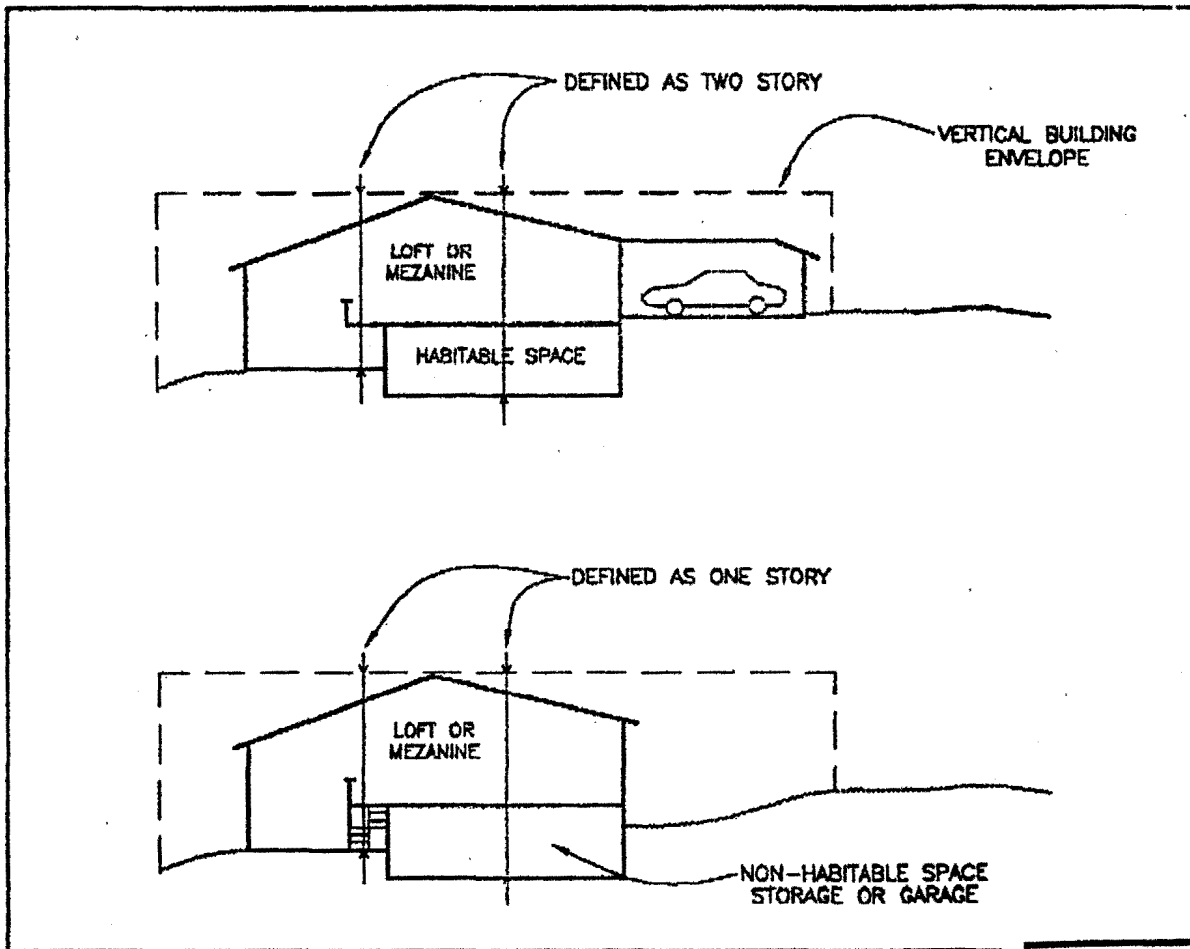


FIG. 3 ONE AND TWO STO

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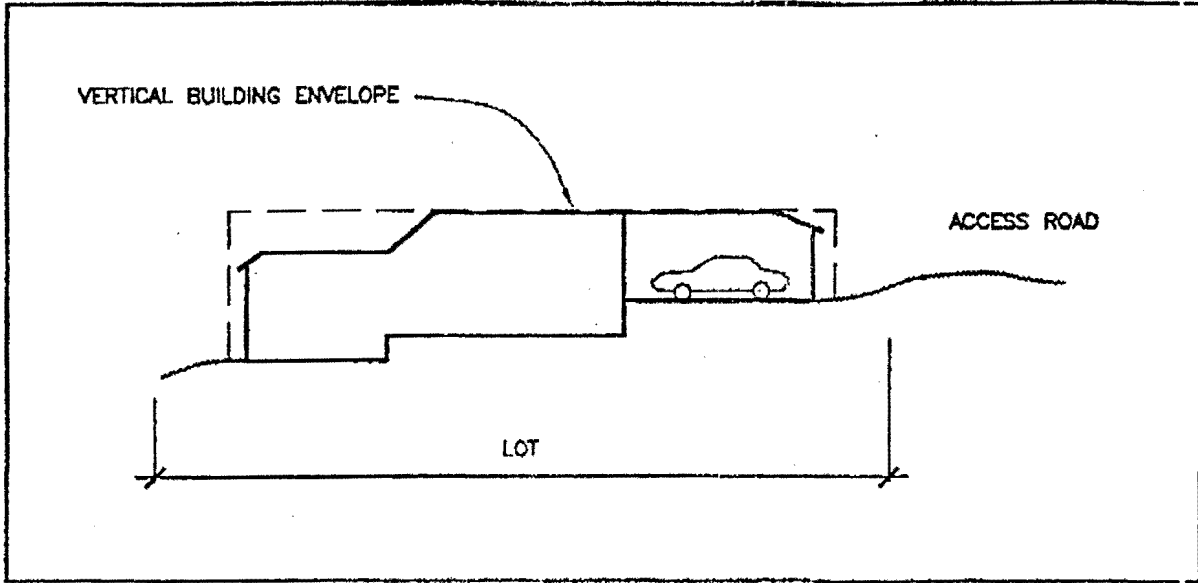


FIG. 4 DOWN-HILL LOT SPLIT LEVEL EXAMPLE

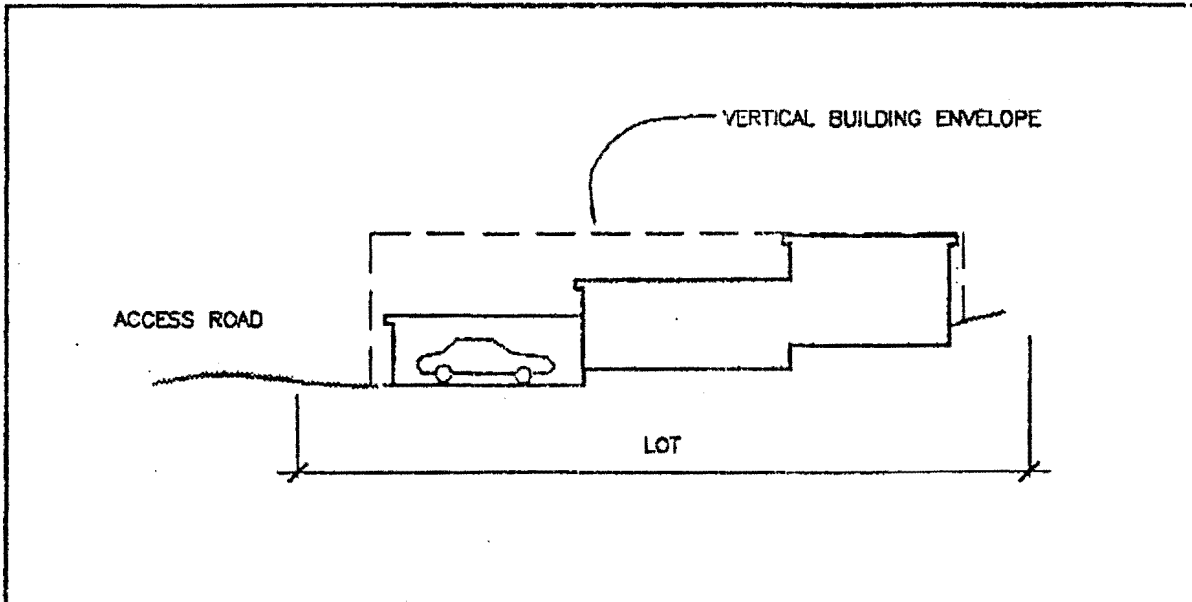


FIG. 5 UPHILL LOT SPLIT LEVEL EXAMPLE

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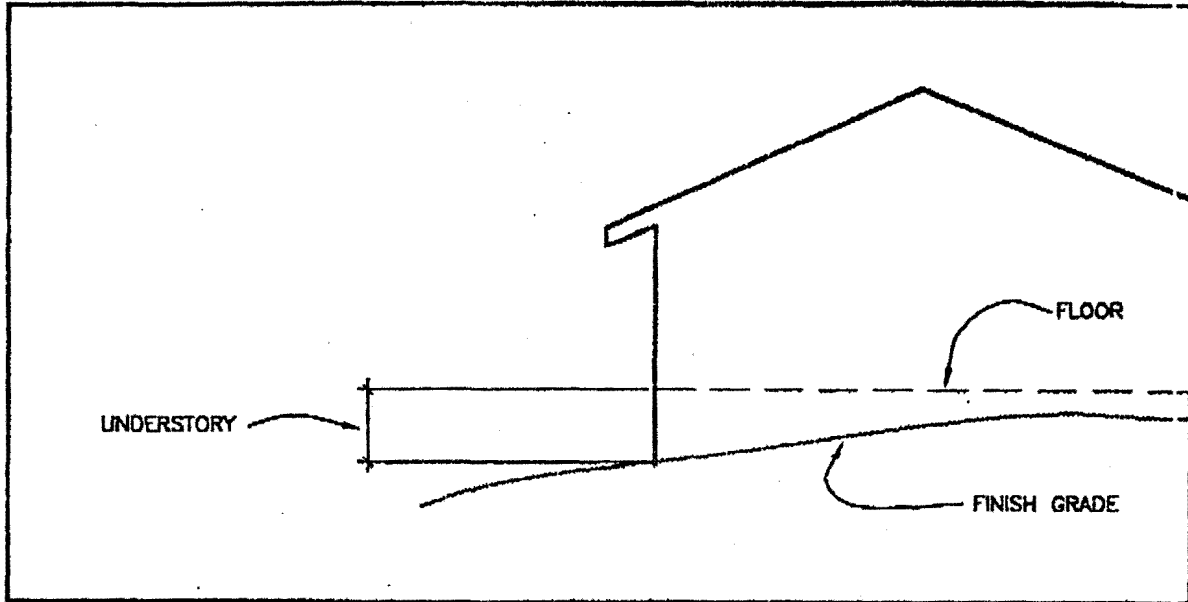


FIG. 6 UNDERSTORY

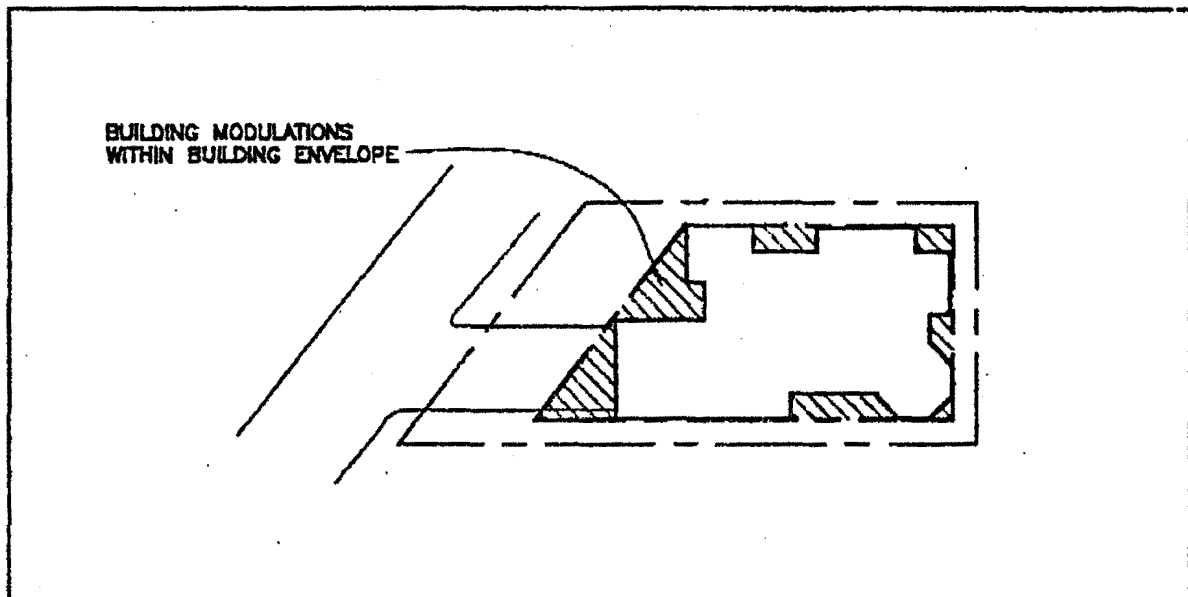


FIG. 7 MODULATED SURFACES

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3-01-101
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CITY COUNCIL
JULY 17, 2001
APPROVED

DEL MONTE BEACH TRACT #2
VESTING TENTATIVE MAP
CONDITIONS OF APPROVAL

1. TENTATIVE MAP APPROVAL: A plan for 11 single family lots is approved in Del Monte Shores. The December 1, 1999 Tentative Map shall be changed to reflect the 11 Lot plan prior to submittal to California Coastal Commission. A plan for 3 single family lots on the Dunecrest Villas site is approved as shown on Tentative Map dated April 9, 2001.
2. OPEN SPACE/HABITAT AREAS: Parcel A of the Dunecrest Villas subdivision and Parcels A and B of the Del Monte Shores subdivision shall be dedicated to the CITY and the CITY assume ownership and maintenance responsibilities of these parcels.
 - a The OWNERS shall establish an assessment district incorporating all of the parcels that will establish sufficient assessments to guarantee an appropriate level of funding for the CITY to maintain and operate the Open Space/Habitat Areas of Del Monte Shores Parcel B Open Space/Habitat Area and Dunecrest Villas Parcel A Open Space/Habitat Area.
 - b Prior to approval of Final Map, the OWNERS shall prepare and submit a plan to Parks and Recreation Commission for review and approval of any improvements to the Open Space/Habitat Areas including park improvements, boardwalks, fences and storm drainage facilities
3. BIOTIC RESOURCES: The OWNERS shall:
 - a Develop and implement a Dune Habitat Mitigation, Restoration and Management Plan prepared by a qualified biologist, subject to review and approval by the City of Monterey in consultation with California Coastal Commission, California Department of Fish and Game and United States Fish and Wildlife Service.
 - b Provide compensatory mitigation for impacts to special status species and sensitive habitats.
 - c Establish Open Space/Habitat areas as partial compensation for impacts to special status species and sensitive habitats.
 - d If required, secure CDFG 2081 permit for Dunecrest Villas for take of sand gillia and Monterey spineflower.
 - e Consult with USFWS regarding appropriate permitting and mitigation for potential impacts to Smith's blue butterfly.
 - f The Dune Mitigation, Restoration and Management Plan shall be reviewed by a qualified wildlife biologist and entomologist for potential impacts to Smith's blue butterfly and western snow plover.
 - g Consult with the USFWS regarding appropriate permitting and mitigation for potential impacts to the western snowy plover.

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- h During construction of Dunecrest Villas, avoid impacts to nesting raptors in the oak tree groves, if deemed present by a qualified biologist, through avoidance and project scheduling.
- i Prior to approval of Final Map, the OWNERS shall submit a fencing plan to Architectural Review Committee for review and approval. The style of materials and location shall be reviewed and approved by ARC. No gates shall be permitted into Open Space/Habitat Areas.

4. PUBLIC WORKS DEPARTMENT REQUIREMENTS FOR DEL MONTE SHORES: The OWNERS shall comply with the requirements of the Public Works Department, including:

- a Submit Covenants, Conditions and Restrictions to the City Attorney and Department of Public Works for review and approval with the Final Map submittal. Approval of the Final Map shall be contingent on the approval of the Covenants, Conditions and Restrictions.
- b Submit for review and approval plans, specifications and construction cost estimates for all public improvements including but not limited to: streets, curb, gutter and sidewalks, retaining walls, sewers, storm drains, street lighting, boardwalks, habitat restoration plans, offsite improvements. OWNERS shall construct these improvements within one year of filing of the final map unless extended.
- c OWNERS shall pay particular attention to design of northerly sewer within Parcel A, to provide access to sewer line for maintenance.
- d OWNERS shall grant Public Utility Easements for any existing improvements in the former Sea Foam Avenue, Tide Avenue and Spray Avenue Rights Of Way.
- e Before filing the Final Map, the OWNERS shall enter into an agreement with the CITY which provides for financial security and construction of improvements in Common Area including but not limited to:
 - 1) Storm Drain
 - 2) Irrigation, planting and landscaping
 - 3) Pavement
 - 4) Lighting
 - 5) Water service
 - 6) Survey Monuments
 - 7) Habitat Restoration and board walks
 - 8) Sewers
- f Maintenance of storm drainage, gas, electric, phone, cable television and percolation facilities to be located in Public Open Space/Habitat Area Parcels A and B of Del Monte Shores will remain the responsibility of the OWNERS.
- g The OWNERS shall reimburse the City of Monterey for all required inspections.
- h Timing of Completion: Public improvements shall be completed within one year of filing of Final Map, unless extended.

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5. PUBLIC WORKS DEPARTMENT REQUIREMENTS FOR DUNECREST VILLAS: The OWNERS shall comply with the requirements of the Public Works Department, including:

- a Submit Covenants, Conditions and Restrictions to the City Attorney and Department of Public Works for review and approval with the Final Map submittal. Approval of the Final Map shall be contingent on the approval of the Covenants, Conditions and Restrictions.
- b Covenants, Conditions and Restrictions are to address but not be limited to the following items:
 - 1) Maintenance of 12' private driveway serving Lots 1,2 and 3.
 - 2) Private sewer, lift station and force main.
- c Submit for review and approval plans, specifications and construction cost estimates for all public improvements including but not limited to: streets, curb, gutter and sidewalks, retaining walls, sewers, storm drains, street lighting, boardwalks, habitat restoration plans, offsite improvements per Vesting Tentative Map dated April 9, 2001. OWNERS shall construct these improvements within one year of filing of the final map unless an extension is mutually agreed to by the CITY and OWNERS.
- d The OWNERS shall provide for maintenance of the private sewer lift station and the sewer force main.
- e Before filing the Final Map, the OWNERS shall enter into an agreement with the CITY which provides for financial security and construction of improvements and offsite improvements in Dunecrest Lane, including but not limited to:
 - 1) Sewer lift station
 - 2) Sewer force main
 - 3) Storm Drain
 - 4) Irrigation, planting and landscaping
 - 5) Pavement
 - 6) Lighting
 - 7) Water service
 - 8) Survey Monuments
- f Maintenance of storm drainage and percolation facilities to be located in the Public Open Space/Habitat Area Parcel A of Dunecrest Villas will remain the responsibility of the OWNERS.
- g The OWNERS shall reimburse the City of Monterey for all required inspections
- h Timing of Completion: Public improvements shall be completed within one year of filing of Final Map unless an extension is mutually agreed to by the CITY and OWNERS.

6. UTILITIES: All utilities shall be underground except as otherwise approved by the Planning Commission.

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7. FIRE DEPARTMENT REQUIREMENTS: OWNERS shall comply with the requirements of the Fire Department.
8. ARCHITECTURAL REVIEW FOR DEL MONTE SHORES and DUNECREST VILLAS: The OWNERS shall comply with the requirements of the Architectural Review Committee, including:
- a Prior to recording Final Map, the OWNERS shall establish and record a bench mark elevation that shall be used to confirm conformance to floor elevations and roof heights for future homes.
 - b No portion of the structure, including but not limited to garages, under story, basements, walls, roofs, roof eaves, skylights, dormers, bay windows, mechanical equipment, decks, porches or chimneys may extend outside the prescribed maximum building envelopes for future homes.
 - c The OWNERS shall be required to develop a detailed set of design guidelines for the future homes prior to City Council approval of the Tentative Map. The guidelines shall establish the building limits for what may be accepted inside the maximum building envelope. The guidelines shall be reviewed and approved by the ARC prior to Coastal Commission approval of the Tentative Maps. The guidelines shall:
 - 1) Define and illustrate what will be allowed and what is not allowed including modulation within the envelope.
 - 2) Clearly indicate that no projections through the top or side of the envelope are allowed.
 - 3) Define and illustrate what will be accepted as a single story, as a basement, as a "stepped-floor," as a deck, retaining walls and fences.
 - 4) Identify and illustrate typical design models for the uphill lots and the downhill lots.
 - 5) Clearly identify and illustrate what will be accepted for exterior materials, colors, retaining walls, yard fences and private landscape.
 - d The review procedure for the individual homes in Del Monte Shores shall follow a customized ARC review procedure to avoid Environmental Impact Reports and numerous appeals. Approval of the project with clearly defined building envelopes will establish the maximum allowed bulk and mass and shall constitute Concept approval. The ARC review of future homes will concentrate on building style, materials and finishes, details, colors, fences and private landscape as identified in the design guidelines. Applications that conform to the envelope and approved by the ARC will not be allowed to be appealed for view impact, bulk and mass.
 - e Lower Del Monte Shores lots #10, 11 and 12 three feet to pad elevations 58 (Lot #10), 55 (Lot #11) and 53 (Lot #12) as shown on Del Monte Shores Mitigated Plan Design - 2 (Rev 4-05-01). Corrections shall be made on the Final Map for Planning Department review and approval."
9. GRADING: The OWNERS shall prepare and submit a grading plan to the Building Department for review and approval. The grading plan shall:
- a Include the grading recommendations for design and construction contained in Appendix C of the Del Monte Beach Resubdivision Environmental Impact Report.

Exhibit 8
3-01-101
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- b Design and implement a temporary erosion control plan during construction activities, subject to the review and approval of the Public Works Department.
 - c The outer limit of grading shall be temporarily fenced during construction to ensure that all grading occurs within designated areas.
 - d Fill slope construction shall be avoided on existing slopes of 6:1 or steeper to reduce the need for base keyways.
 - e Runoff collection systems shall be designed to avoid the migration of water below foundations, slabs or pavements to avoid differential movement.
 - f Upon completion of grading, all exposed soil shall be immediately re-vegetated in accordance with approved dune restoration planting plans to restore the dune surface and prevent wind/storm water erosion.
 - g After earthwork operations have been completed and the soil engineer has finished monitoring the work, no further earthwork shall be conducted without the direct observation and approval of a geotechnical engineer.
 - h Surface runoff from home sites and improvements shall be appropriately controlled and collected in storm drainage and retention facilities.
10. DRAINAGE AND WATER QUALITY: The OWNERS shall submit a drainage and water quality plan to the Public Works Department for review and approval. The plan shall:
- a Direct surface drainage away from the structural foundations by providing at least a two per cent gradient.
 - b Convey runoff from roof gutters away from the downspouts by solid pipe and discharge into the storm drain system or percolation pits located a minimum of 10 feet from the home sites.
 - c Design the final drainage system, including all percolation and retention areas to accommodate the increase in flows from the project, subject to review and approval by the City.
 - d All percolation areas shall be sited to avoid identified special status species on site and on the U.S. Naval Postgraduate School.
 - e Runoff collection systems shall be designed to avoid the migration of water below foundations, slabs or pavements to avoid differential movement.
 - f The OWNERS shall obtain the applicable state permits under the National Pollutant Discharge Elimination System (NPDES), as required by the State Water Resources Control Board, prior to commencement of grading. The OWNERS shall implement best management practices (BMPs) in accordance with the NPDES permit.
 - g The OWNERS shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) in accordance with NPDES regulations. The SWPPP shall be subject to review and approval by the Public Works Department and RWQCB.

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11. ARCHAEOLOGY: The OWNERS shall:

- a Halt work within 50 meters (150 feet) of a find if archaeological resources or human remains are accidentally discovered during construction until it can be evaluated by a qualified professional archaeologist.
- b If human remains are discovered, the County Coroner shall be notified. The Coroner shall determine whether the remains are Native American. If the Coroner determines that the remains are not subject to his/her authority, the Coroner shall notify the Native American Heritage Commission to identify any descendants of the deceased Native American.
- c If it is determined that the archaeological find is significant, a mitigation program shall be prepared in conformance with the protocol set forth in Appendix K of the CEQA Guidelines. A final report will be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of the resources, any testing, other recovered information and conclusions.

12. NOISE: The OWNERS shall:

- a Prepare an acoustical analysis prior to issuance of a building permit and appropriate design measures incorporated into the design of residences to reduce interior noise levels at the project site to 45 dBA in accordance with the UBC standards and Title 24, Part 2 of the California Administrative Code for interior noise levels. Interior acoustical attenuation can be accomplished with standard design measures, including airtight construction, force air ventilation and installation of sound rated windows.
- b Construction activities shall be restricted to the hours of 7:00AM to 6:00PM, Monday through Saturday in accordance with City requirements.
- c All internal combustion engines for construction equipment, such as air compressors and portable power generators shall be located as far as practical from sensitive receptors and shall use acoustical shielding where feasible.

13. WATER: The CITY will provide the project a maximum of 2.57 acre feet of potable water from the CITY's allocation from the Monterey Peninsula Water Management District. If acceptable to the Water Management District, each single family residential unit will be limited to a maximum of .13 acre feet of potable water, which will result in a total of 1.95 acre feet. The CITY will also provide a non-potable water supply for the landscape requirements of the project as specified by the Monterey Peninsula Water Management District. Ultra low flow fixtures shall be installed to reduce project water usage. Any surplus potable water shall be returned to the CITY.

14. BUILDING DIVISION REQUIREMENTS: The OWNERS shall comply with the requirements of the Building Division.

15. CORRECTIONS TO TENTATIVE MAP: All required changes to the tentative map shall be made prior to submittal to the California Coastal Commission.

16. EXPIRATION: Within two years after approval of this tentative map by the City Council, the subdivision shall be surveyed and a final map filed with the City Engineer. If the final map is not filed within this period of time or within an approved additional period of time, the map is void.

Exhibit 6

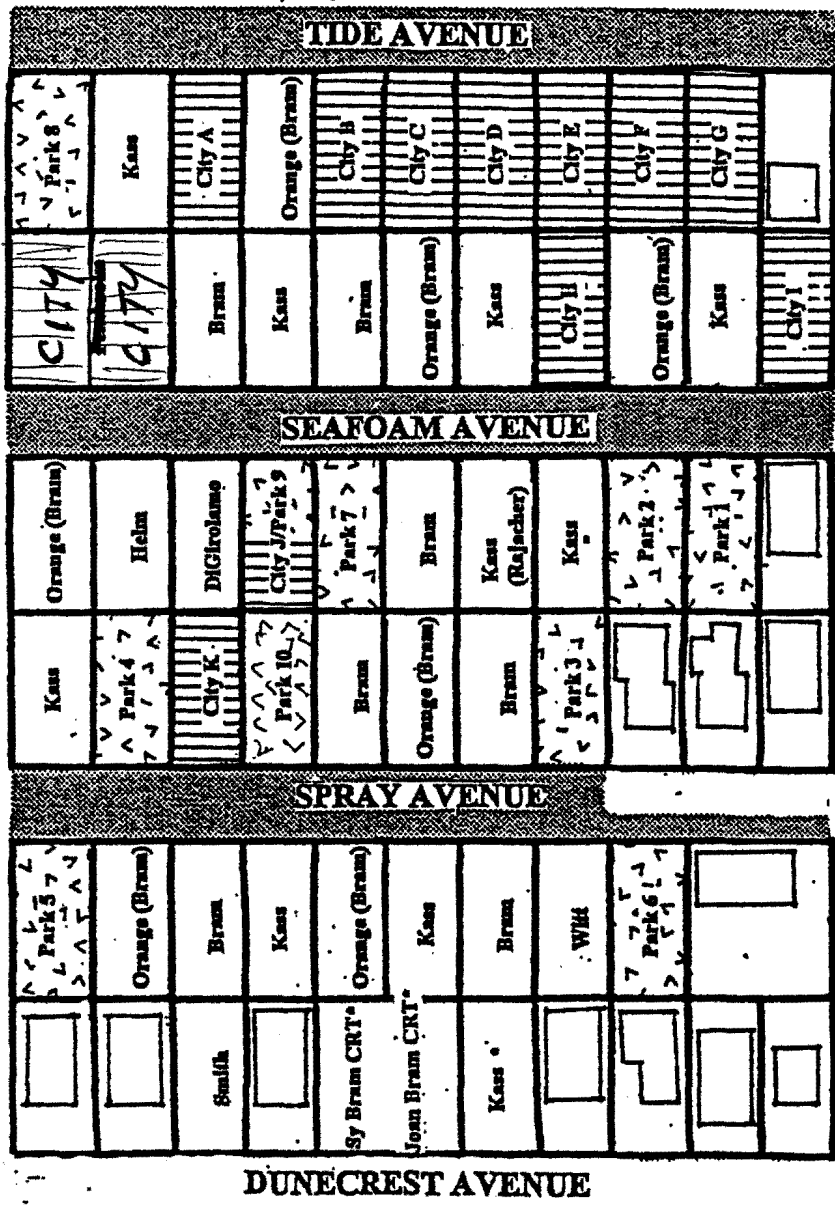
3-01-101
pg. 6 of 8



17. AVIGATION EASEMENTS: Prior to recordation of Final Map, OWNERS shall record an avigation easement over the property in favor of Monterey Peninsula Airport District. The form of the easement shall be the standard Monterey Peninsula Airport District form. The easement shall also require future residences to incorporate pre-approved sound insulation to reduce interior noise levels to 45 dBA or lower.

18. LOT 1: Provided ownership of the H.M. Pembroke lots (Lots 2 & 4, Block G, Map 2 of Del Monte Beach Subdivision filed for record June 2, 1918) is transferred to the City of Monterey for public Open Space/Habitat Area within 60 days, OWNERS shall modify the Vesting Tentative Map to eliminate Del Monte Shores Lot #1 and dedicate that area to public Open Space/Habitat Area.


EXHIBIT NO. 8
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3-01-101
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DEL MONTE BEACH PARCEL OWNERSHIP MAP



 Vacant
 City 10 1/2 lots
 Acquired as of
 December, 1998

- \$48,000
- \$53,000
- \$53,000
- \$53,000
- \$53,000
- \$53,000
- \$48,000
- \$37,000
- \$192,500
- \$23,500**
- \$135,000
- \$749,000

 Park District 9 1/2
 Lots acquired as of
 September, 1999

- \$53,000
- \$38,000
- \$33,000
- \$33,000
- \$33,000
- \$38,000
- \$35,000
- \$3,000
- \$23,500
- \$47,000
- \$386,500

The double asterick represents 50% City and 50% Park District ownership.

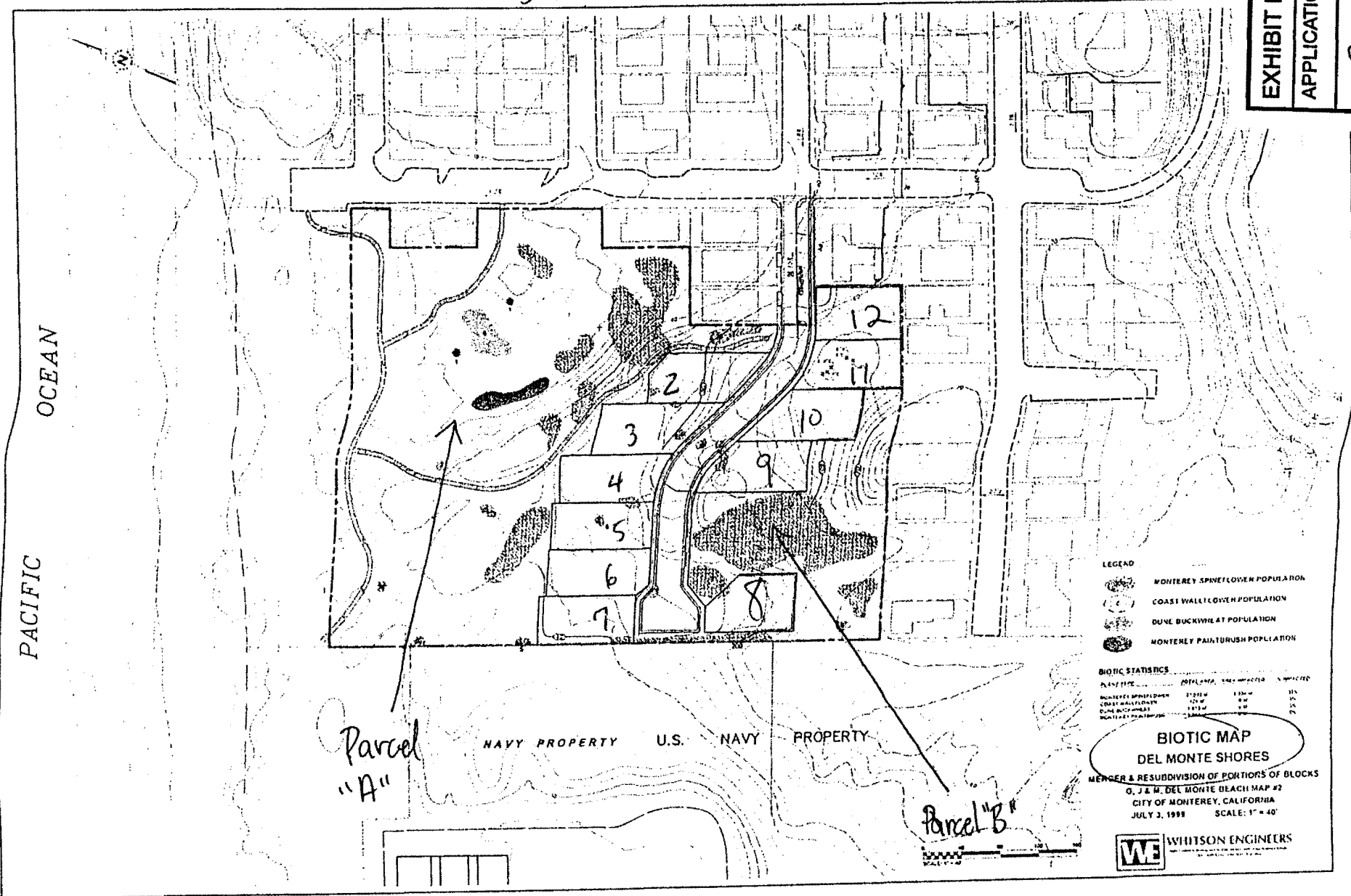
 Unimproved Streets/Right of Way

* City Approved Development

EXHIBIT NO. 8
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3-01-101
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DEL MONTE SHORES

EXHIBIT NO. 9
 APPLICATION NO.
 3-01-101



- LEGEND
- MONTEREY SPINEFLOWER POPULATION
 - COAST WALL CLOVER POPULATION
 - DUNE BUCKWHEAT POPULATION
 - MONTEREY PAINTBRUSH POPULATION

BIOTIC STATISTICS

PLANT SPECIES	TOTAL AREA	PERCENTAGE	NUMBER OF SPECIES
MONTEREY SPINEFLOWER	1,000 sq ft	10%	15
COAST WALL CLOVER	1,000 sq ft	10%	15
DUNE BUCKWHEAT	1,000 sq ft	10%	15
MONTEREY PAINTBRUSH	1,000 sq ft	10%	15

BIOTIC MAP
DEL MONTE SHORES
 MENDER & RESUBDIVISION OF PORTIONS OF BLOCKS
 O, J & M, DEL MONTE BEACH MAP #2
 CITY OF MONTEREY, CALIFORNIA
 JULY 3, 1998 SCALE: 1" = 40'



DUNE CREST VILLAGES

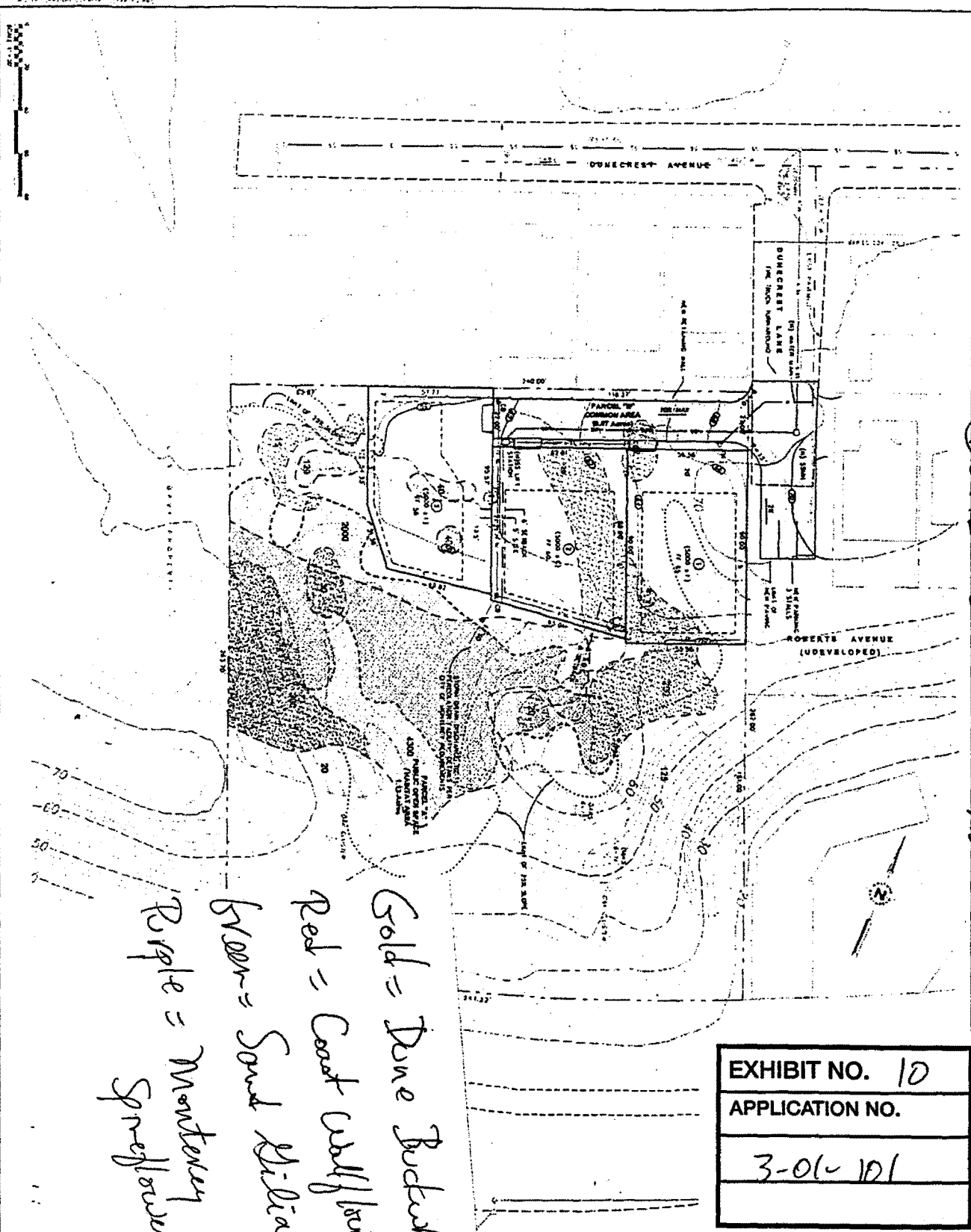
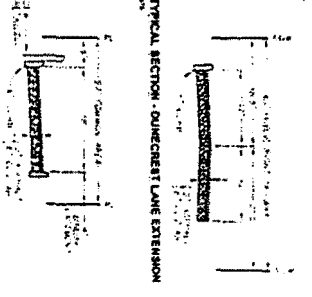


EXHIBIT NO. 10
 APPLICATION NO.
 3-01-101

Gold = Dune Buckshot
Red = Coast Cell tower
Green = Sand dunes
Purple = Monterey Sphagnum

LEGEND

(Symbol)	SUBJECT PROPERTY
(Symbol)	NEW PARCEL LINE
(Symbol)	EXISTING FLOOD ELEVATION
(Symbol)	FINISH GRADE ELEVATION
(Symbol)	NEW RETAINING WALL
(Symbol)	EXISTING RETAINING WALL
(Symbol)	PROPOSED SEWER SYSTEM
(Symbol)	EXISTING SEWER SYSTEM
(Symbol)	NEW SANITARY SEWER LINE
(Symbol)	EXISTING SANITARY SEWER LINE
(Symbol)	NEW WATER MAIN
(Symbol)	EXISTING WATER MAIN



WJE
 WILSON JOHNSON ENGINEERS
 2001 SCALE: 1" = 20'

REVISIONS
 1. TENTATIVE MAP
 2. UNIT DEVELOPMENT

CE SUMMARY
 1.11.02
 1.11.02
 1.11.02

DATA
 1.11.02
 1.11.02
 1.11.02

CE SUMMARY
 1.11.02
 1.11.02
 1.11.02

REVISIONS
 1. TENTATIVE MAP
 2. UNIT DEVELOPMENT

SUBDIVISION OF PORTIONS OF
 S. DEL MONTE BEACH MAP 22
 MONTEREY, CALIFORNIA
 2001 SCALE: 1" = 20'

WILSON JOHNSON ENGINEERS
 2001 SCALE: 1" = 20'

REVISIONS
 1. TENTATIVE MAP
 2. UNIT DEVELOPMENT

DEL MONTE BEACH
RESUBDIVISION
CITY COUNCIL
FINDINGS

• ENVIRONMENTAL IMPACT REPORT

1. Preparation of the EIR. The Environmental Impact Report (EIR) was prepared in compliance with the California Environmental Quality Act (CEQA) Statutes and Guidelines and City of Monterey Resolution No. 95-121 Resolution to Establish Objectives, Rules, Regulations and Procedures for the Evaluation of the Environmental Impact of Projects within the City of Monterey, as required by the California Environmental Quality Act. The City Council has received information from numerous sources, has reviewed and considered all of the information presented to it, including the advice of its staff and independent review and analysis by EIR consultants, and exercised its own independent judgment in reaching a decision in this matter, both with respect to the Project and the adoption of the EIR. The findings contain herein reflect the City Council's independent judgment and are supported by the evidence set forth in the record.

2. Composition of the EIR. A Draft Environmental Impact Report was completed June 16, 2000 and circulated for public review for 90 days ending September 20, 2000. On August 22, 2000, the City of Monterey Planning Commission held a public hearing to receive comments on the Draft Environmental Impact Report. Oral comments received at the August 22, 2000 Planning Commission public hearing and 22 letters of comment were responded to in the First Amendment To The Draft Environmental Impact Report for the Del Monte Beach Re-Subdivision dated February 2001 which together with the Draft Environmental Impact Report constitute the Final Environmental Impact Report.

3. Mitigation of Significant Impacts Identified in the EIR. The Draft Environmental Impact Report identifies the potentially significant impacts set forth below. Mitigations have been imposed that substantially lessen or reduce to insignificance, the potentially significant impacts except Habitats. These mitigations include revisions to the Project and the appropriate Conditions of Approval, as set forth below.

A. Geology and Soil Impacts: Grading on the Project would alter the topography of the site and dunes would be exposed to erosion from wind and increased surface run-off. Conditions of Approval 9 and 10 for design, grading and construction and those mitigations set forth in the Mitigation Monitoring Chart at 4.2 will mitigate these topography impacts and erosion to a level of nonsignificance.

B. Drainage and Water Quality Impacts: The Project could create new surfaces that would increase storm runoff flows and could adversely impact the quality of surface run-off. The Drainage and Water Quality Plan required in Condition of Approval 10 and the mitigations set forth in 4.3 of the Mitigation Monitoring Chart, including the preparation of Stormwater Pollution Prevention Plan and obtaining NPDES permits will mitigate these impacts to a level of nonsignificance.

C. Impact on Cultural Resources: A Cultural Resource study was performed. The only impact is the possible discovery of a buried cultural resource. Mitigations for this possibility, as set forth in Condition of Approval 11 and 4.4 of the Mitigation Monitoring Chart, will mitigate this possible impact to a level of nonsignificance.

D. Impacts on Biotic Resources: The Project impacts on dune habitat. Central dune scrub and bare sand vegetative communities would be removed. There may be direct or indirect impacts to special status plant species as well as the black legless lizard, western snowy plover and Smith's blue butterfly. However, studies performed have shown that there are no black legless lizards on the site. Nesting raptors could be disturbed during construction. A Dune Habitat Mitigation, Restoration and Management Plan prepared by a qualified biologist, is required from the Applicant. As set forth below, these impacts can be mitigated to a level of nonsignificance by Conditions of Approval 2 and 3 and mitigations found at 4.5 of the Mitigation Monitoring Chart, except for the impact on the special status plant species, which will be discussed below in Finding 4.

Mitigations of Impacts on Biotic Resources in Del Monte Shores

- a. Habitat impact will be mitigated because Condition of Approval 2 requires that Open Space Habitat areas will be dedicated to the City of Monterey. The City will establish preserves and will maintain the open spaces & habitat. An assessment district will be established requiring Del Monte Shores residents to finance the maintenance.
- b. Lot 2 will be relocated between the existing Archer lot and Lot 3 to mitigate Monterey Spineflower, other habitat impacts and private view impacts.
- c. Lot 1 will be acquired to mitigate Monterey Spineflower, other habitat impacts and private view impacts.
- d. Habitat impacts will be mitigated because Condition #3 requires preparation of a Dune Habitat Mitigation, Restoration and Management Plan.

Mitigations of Impacts on Biotic Resources in Dunecrest Villas

- a. Three 5,000 square foot single family lots will replace the eight unit townhouse project to mitigate habitat, private view, traffic, parking and water impacts.
- b. Habitat impact will be mitigated because the footprint of the three single family lots will be 600 square feet less than the townhouse project.
- c. Condition #2 requires that Open Space/Habitat areas will be dedicated to the City who will be responsible for maintaining the open space/habitat. An assessment district will be established requiring the Del Monte Villas residents to finance the maintenance.
- d. Habitat impact will be mitigated because Condition #3 requires preparation of a Dune Habitat Mitigation, Restoration and Management Plan.

E. Visual Impacts: The density of the Project has been substantially reduced, with less impact on views. Subdivision design consists of 14 large single family residential lots with a minimum lot size of 5,000 square feet. A customized design review procedure shall be established for the Large Lot Subdivision. Maximum building height shall be one story and 16 feet as established in site specific ARC Review Guidelines, Land Use Plan Amendments and by deed restrictions. No portion of the structure as defined in the design guidelines shall extend outside the maximum building envelope. The Project does not fully comply with the City Viewsharing Policy as there is a greater than 50% view obstruction occurring at existing homes located at D2, C1, C2 and C3. Private view impact will be mitigated because additional grading will occur to lower the building envelopes three feet on Lots 10, 11, & 12 and pitched roofs to reduce view obstruction. Additional mitigations are set forth in 4.6 of the Mitigation Monitoring Chart. As set forth in the 1996 Visual Analysis and the EIR and evident from personal observation of the story poled site, any development on these lots would reduce views. Although there remains some view obstruction, the current design of the Project presents the best alternative for reducing view obstructions. As such, visual impacts are mitigated to a level of nonsignificance.

F. Traffic Impacts: The project adds 22 trips to the Del Monte/Sloat intersection during the PM peak hour which is 1.5% of the critical westbound approach. The City of Monterey and Monterey Peninsula Regional Park District have purchased 18 of the 48 existing lots and the owners have voluntarily reduced the project density to 15 lots. Traffic impact to the intersection is mitigated to less than significance because: 1) this is a minor contribution of traffic to the intersection and 2) the City will contribute the fair share cost of the 22 trips on the intersection. Additionally, as part of the Project's approval the City agreed to assist with the purchase of "Lot 1" and to accept dedication of the "Pembroke lots" to open space. This will further reduce the density and resulting traffic impacts.

G. Air Quality Impacts: The short term impacts on the air quality caused by construction are not considered significant by the Monterey Bay Unified Air Pollution Control District. A construction dust abatement program, Condition of Approval 9 and the mitigation measures set forth in 4.8 of the Mitigation Monitoring Chart will mitigate impacts to less than significance.

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H. Noise Impacts: Interior noise levels can be mitigated to a level of nonsignificance through design and construction noise can be mitigated to a level of nonsignificance through restriction of hours of construction and equipment used. This is incorporated in Condition of Approval 12 and 4.9 of the Mitigation Monitoring Chart.

I. Water Impacts: The water demand for the Project shall be reduced through the installation of ultra-low flow fixtures and appliances. City has reserved 1.69 acre-feet of water from the City Water Reserve to Del Monte Shores 12 Lots and 0.88 acre-feet of water from the City Water Reserve for Dunecrest Villas three lot subdivision. The City will provide a non-potable water supply via a City truck only during establishment of project landscaping as specified by the Monterey Peninsula Water Management District. (Condition of Approval 13). The density of the Project was further reduced to 14 lots by the purchase of "Lot 1" through the Project approval process which will reduce water demands for the Project. Accordingly, it is clear that sufficient water has been reserved for the Project and this was adequately addressed in the EIR. The Applicant firmly expressed at hearing that the water reserved for the Project will be sufficient for the Project. In the unlikely event that water supply is not adequate, Applicant may not commence construction unless additional water is secured for the Project or appropriate documentation that allocated water is adequate to serve projected demand is secured.

4. Overriding Considerations: With the exception of biotic resources, all of the significant environmental impacts identified by the EIR have been addressed through mitigation and specific findings to be adopted by the City Council pursuant to CEQA Guidelines Section 15091. Impacts to biotic resources on the project site, including the removal of Sand Gilia, Monterey Spineflower and Coast Wallflower are unavoidable however, the proposed conditions and mitigations substantially lessen the impact to an acceptable level. The lots have been reconfigured and reduced so that biotic resources are preserved to the extent possible. As reconfigured, Lot 8 development does not impact a substantial amount of biotic resources. Lot 1 does contain substantial biotic resources but it will be purchased by the City and/or Parks District in order to avoid the biologically significant impacts. City Council in assessing City wide land acquisition priorities has determined that it will not acquire any additional vacant lots in Del Monte Beach Tract #2. Significant open space and habitat area have been dedicated to the City by the Applicant as part of this project (See Development Agreement). Further, the Project has been reduced from 48 single family lots to 14 (total) single family lots. The voluntary reduction is the best alternative as Government Code Section 65589.5 does not allow the City Council to condition the project upon development of the project at a lower density unless there is an adverse impact upon public health and safety. The minimal removal of Sand Gilia, Monterey Spineflower and Coast Wallflower on Lots 8, if any, does not constitute an adverse impact upon public health and safety. Accordingly, based on the economical, legal and social benefits set forth above, a statement of overriding consideration is appropriate pursuant to CEQA Guidelines Section 15093.

5. Acceptance of Mitigations. The above stated mitigation measures have been accepted by the Project's sponsor. A mitigation monitoring program has been adopted for all mitigation conditions and accepted by the Project's sponsor.

6. Recirculation of EIR. Changes to the Project have been made which avoid or mitigate environmental impacts identified in the EIR. The EIR was fundamentally and basically adequate. Meaningful public review and comment was provided prior to and during the EIR preparation and circulation periods. That comment resulted in project changes that avoided and reduced identified environmental impacts. These changes include lowering the maximum height on Lots 10, 11 & 12 by three feet; reshaping Lot 8; replacing eight proposed townhouse units with three proposed single-family lots and the purchase of Lot 1 for open space. The public has had the opportunity to discuss these changes during the public review process as the changes were presented and discussed in detail at the Planning Commission level and then the public had a second opportunity for discussion at the City Council level. The addition of this new information does not require recirculation of the EIR because significant new information was not added to the EIR after public review. That is, the Project was reduced and changes to the Project result in less impacts and fundamentally do not show new significant environmental impacts. There are less views impacts, less impacts on spineflower habitat and a reduction in the amount of water needed for the Project. Accordingly, there is a less than substantial increase in the severity of environmental impacts that would result from the project changes. Further the project proponent accepts the project changes as feasible alternatives. Therefore, the City Council specifically finds that re-circulation of the EIR is not legally necessary.

7. Fish and Game Findings. With the adopted mitigations, the project has a minimal effect on fish and wildlife, under the provisions of section 711.4 of the California Fish and Game Code.

- AMENDMENTS TO THE DEL MONTE BEACH LAND USE PLAN

Exhibit 11
3-01-10
pp 3 of 5

1. The Del Monte Beach Local Coastal Program Land Use Plan was adopted by the Monterey City Council on July 21, 1992.

2. The Land Use Plan indicated that the City should initiate negotiations with the property owners of the front 11 vacant lots and as a second priority the acquisition of the next row of 10 lots through opportunity buying. The City and Monterey Park District have subsequently acquired 20 vacant lots for public use.

3. The Land Use Plan indicated that the vacant lots north of Roberts Avenue right of way and west of Beach Way shall be designated for low density residential and the vacant lots south of Roberts Avenue be designated for medium density residential subject to environmentally sensitive habitat policies. Lots south of Roberts are currently zoned for single family residential and commercial land use. The proposed project as revised converts 43 substandard lots to a total of 15 standard large lot, single family residences on the Del Monte Shores and Dunecrest Villas sites which comply with the direction for low density residential land use.

4. Amendments to the Land Use Plan have been incorporated into the proposed project and rezoning in compliance with the amended Land Use Plan are being processed concurrently with this resubdivision.

5. The amendments to the Land Use Plan, Rezoning and resubdivision of Del Monte Beach Tract #2 comply with and implement the California Coastal Act.

• **AMENDMENTS TO THE ZONING MAP**

1. The rezoning of Tract #2 to R-1-5-D-1 (Single Family Residential) and "O" (Open Space) is consistent with and implements the City of Monterey General Plan designation for the property of Residential - Low Density (2 to 8 Dwellings/Acre) and the Del Monte Beach Local Coastal Program Land Use Plan as amended.

2. The rezoning of Tract #2 to R-1-5-D-1 (Single Family Residential) and "O" (Open Space) is consistent with the purposes of the City of Monterey Zoning Ordinance.

3. The City of Monterey Zoning Map has been amended consistent with the notice and hearing provisions of Article 26 (Amendments) of the City of Monterey Zoning Ordinance.

4. The rezoning will not be detrimental to the public health, safety or welfare of persons residing in the Del Monte Beach neighborhood or working in the East Del Monte area and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City of Monterey.

• **VESTING TENTATIVE MAPS**

1. The Vesting Tentative Maps have been filed, processed and approved consistent with the City of Monterey Subdivision Ordinance.

2. The site is adequate in size and shape to accommodate the subdivision as proposed.

3. The site relates to Del Monte Avenue, Casa Verde Avenue, Beach Way, Dunecrest Avenue and Dunecrest Lane which are properly designed to carry the type and quantity of traffic generated by this use.

4. The City Council has determined that mitigations of impacts from the project are required and these mitigations are set forth in the conditions of approval for the use. The Conditions are necessary to protect the health, safety and general welfare of the public.

• **COMPLIANCE WITH GENERAL AND SPECIFIC PLAN**

1. The Project complies with the General Plan and the Del Monte Beach Land Use Plan.

2. The Development Agreement complies with the General Plan and the Del Monte Beach Land Use Plan.

• **AFFORDABLE HOUSING**

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3-01-101
pg 4 of 5

1. The City Council has considered the effect of this Project on the housing needs of the region and has balanced these needs against public service needs of its residents and available fiscal and environmental resources and has determined that 0 units of affordable housing shall be required. The basis for this finding is that the density of the project has been significantly reduced: forty eight lots have been reduced to a 14 lot development and the eight unit townhouse project that was proposed has been reduced to 3 single-family lots. The Applicant has dedicated Parcel A and Parcel B to the City for Open Space and the City and Park District have agreed to assist in the purchase of Lot 1 to be dedicated to Open Space use. The need to preserve environmentally sensitive property as open space outbalances the need to obtain affordable housing in this instance. Accordingly, compliance with the City's affordable housing ordinance is waived.

• **PRESCRIPTIVE RIGHTS**

1. The California Coastal Commission certified the City of Monterey's Del Monte Beach LUP on June 14, 1984 and added a requirement that the City undertake a "prescriptive rights" study to determine the public's right of access under Coastal Act Section 30211 prior to approval development of the Tract 2 vacant lots.

That requirement has been resolved through this alternative program of the City of Monterey, Monterey Peninsula Regional Park District and private property owners cooperatively and voluntarily resubdividing and reducing the lots from 43 to 15 lots and providing 4.3 acres of habitat/open space and the conversion of the entire front two blocks of vacant lots to public access to the sea. This successful public/private partnership complies with the California Coastal Act and implements the City of Monterey Local Coastal Program.

• **ADDITIONAL FINDINGS FOR DEVELOPMENT AGREEMENT**

1. The Development Agreement is consistent with the all City of Monterey requirements pertaining to development agreements, the City Code of the City of Monterey, and the State Subdivision Map Act.

2. The Development Agreement will not be detrimental to the health, safety and general welfare; and will not adversely affect the orderly development of property or the preservation of property values.

EXHIBIT NO.	11
APPLICATION NO.	
	3-01-101
	pg 5 of 5

CITY OF

AGENDA ITEM

RECEIVED

MAY 04 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

TO: City Manager

FROM: Community Development Director

DATE: May 1, 1998

SUBJECT: Policy Direction on Del Monte Beach Planning Study
 a. Review Economic Analysis
 b. Subdivision Density
 c. Request for Water Allocation

RECOMMENDATION

1. Review the David Strong Economic Analysis.
2. Set a density of 10 to 13 large lots for the area between Dunecrest Avenue and the Bay.
3. Reserve 1.69 Acre Feet (AF) of water from the City Water Reserve to the large lots and 0.88 AF of water for an eight unit Planned Unit Development (PUD) for a total 2.57 AF subject to a development agreement between the City and Kass/Bram.
4. Authorize staff along with the Park District to continue to acquire small individually owned lots.
5. Provide direction on whether one of the eight units in the Planned Unit Development should be for affordable housing and whether additional water (0.13 AF) should be reserved for 14 Dunecrest Avenue in return for this affordable unit.

POLICY IMPLICATIONS

The reduction in density will resolve many of the environmental and view issues associated with development in Del Monte Beach. This reduction will only occur if water is reserved for this development.

FISCAL IMPLICATIONS

The City has expended \$2,700 for preparation of the Economic Study. The Environmental Impact Report (EIR) cost is undetermined at this time.

There are currently \$286,500 remaining to acquire individually owned small lots. The Neighborhood Improvement Committee is recommending that an additional \$200,000 be budgeted in Fiscal Year 1998-99 to augment that funding. The Park District has \$100,000 available for acquisition. The total amount of acquisition funding is potentially \$586,000.

ALTERNATIVES CONSIDERED

1. Terminate the study which would result in 30 single family houses on 3,600 square foot lots under the existing subdivision.

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pg 1 of 16

2. Reserve a different amount of water for the proposed large lot subdivision.

DISCUSSION

On January 6, 1998, the City Council directed staff to complete an Economic Study on the vacant lots in Del Monte Beach between Dunecrest Avenue and the Bay (see attached minutes.) The purpose of the study was to establish the economic equivalency of small lots (3,600 square feet) without water and large lots (5,000 square feet) with and without water. Staff retained David Strong and Associates to complete the study.

DENSITY

Table 4 in the attached Economic Study establishes that, in 1998, 30 small lots are equivalent to 17.9 (assume 18) large lots. Based on the Economic Study and a comparison of actual lots sold with and without water permits, the overall density can be further reduced if the water is reserved for development. Of the 30 small lots, 22 are currently owned by Kass/Bram and eight are owned by private parties other than Kass/Bram.

The following is a breakdown of the proposed density:

KASS/BRAM OWNED LOTS:

22 small lots = 13 large lots
22 small lots = 10 large lots (with reserved water)

INDIVIDUALLY OWNED LOTS

8 small lots = 4.7 large lots
8 small lots = 3 large lots (with water)

TOTAL LOTS

22 Kass/Bram lots + 8 Individual lots = 18 lots (without water)
22 Kass/Bram lots + 8 Individual lots = 13 lots (with water)

The reservation of water thus allows the density to be reduced from 30 existing small lots to 13 large lots. If the eight individually owned small lots can be purchased using public funds, the 13 large lots can be further reduced by three lots resulting in a ten lot subdivision.

← Kass/Bram indicate they will accept 10 to 13 large lots as long as the City reserves water for the large lot development as well as their proposed PUD on Roberts Avenue. (Note: Kass/Bram have formally submitted for a nine townhouse development on the existing 12 lots behind Dunecrest Avenue.) The Joyce Stevens/Neighborhood Plan, previously presented to the City Council, proposed 13 lots. Both the neighborhood representatives and Kass/Bram support the 10 to 13 large lot density. Staff recommends the Council give policy direction that a density range of 10 to 13 large lots be used for preparation of a Vesting Tentative Map and Environmental Impact Report.

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resubdivision design or precise location of the 10 to 13 large lots not an issue at this time. Staff, the neighborhood representatives, Kass/Bram and the Coastal Commission staff will analyze the lot location once Council policy direction is given and prior to submittal of a Vesting Tentative Map.

WATER

The City Water Reserve category contained 8.911 AF as of April 20, 1998. Kass/Bram has been working with the Water Management District to reduce the water demand for the future houses on the large lots and eliminate the need for potable water usage on landscaping. Assuming that Kass/Bram uses nonpotable water (potentially from City sources), the requirement for water per lot could be reduced from 0.3 to 0.13 AF per lot resulting in a demand of 1.69 AF for the 13 large lots. Staff recommends that the Council reserve 1.69 AF of water for the 13 large lots. This reservation of water results in the reduction of 30 existing small lots to a maximum of 13 large lots.

Kass/Bram are also requesting water for their proposed nine unit PUD off Dunecrest Lane. Kass/Bram indicate that, if the City Council will also reserve water for the PUD, they will reduce its density to eight units. At 0.11 AF/unit, again assuming no potable water is used for landscaping, an eight unit PUD will require 0.88 AF of water.

Staff recommends that Council allocate 0.88 AF of water for an eight unit PUD as long as there is a clear understanding that this density may be further reduced as a result of issues that come up through the environmental process. There has been no detailed review by staff of the design or the impacts of this PUD.

AFFORDABLE HOUSING

The affordable housing requirement on this project is a complex and unique issue. This requirement is for housing projects of ten units or more. In this case, there is proposed a resubdivision of 30 small lots into 10 to 13 large lots and a resubdivision of 12 small lots into nine townhouses.

The City Attorney has determined that this proposal incurs the affordable housing requirement. Anthony Lombardo, Attorney for Kass/Bram, disagrees. We will analyze this issue in more detail and report back at Tuesday's meeting.

Kass/Bram have indicated they will meet a 15 percent affordable housing requirement (one unit) in the eight unit PUD if water is allocated to the lot owned by Kass at 14 Dunecrest Avenue now in process. Staff requests that the Council provide direction on this matter.

Therefore the maximum amount of water reserved could be 1.69 AF for large lots plus 0.88 AF for the PUD equaling 2.57 AF plus 0.13 AF for 14 Dunecrest for a total of 2.70 AF.

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PROCESS

Following the Council's policy direction, Kass/Bram will prepare a Vesting Tentative Map for the 10 to 13 large lot resubdivision working with staff, the neighborhood representatives and the Coastal Commission staff to precisely locate the large lots. Once the Vesting Tentative Map is completed, the City will be responsible for preparing an Environmental Impact Report on the Vesting Tentative Map.

The Vesting Tentative Map and Environmental Impact Report will ultimately be submitted to the Planning Commission and City Council along with results of efforts to acquire the eight individually owned small lots. Depending on the outcome of lot acquisition, the Council would:

1. Approve a ten lot subdivision if all individually owned lots are acquired.
2. Approve a 11, 12 or 13 lot subdivision depending on the actual number of lots acquired.

It should be noted that, if any one or more of the individual lot owners insist on building on their current lot, the City Council and Park District will have to entertain the possibility of condemnation or this resubdivision effort will fail.

SUMMARY

With the use of water as an incentive, the proposed density of 10 to 13 large lots could resolve many environmental as well as view issues. It could result in a substantial area of the dunes adjacent to the Bay as open space. The major property owners, key neighborhood representatives, the Park District and City staff all agree with this approach. For your information, Gary Tate of the Regional Park District has been extremely instrumental in bringing about this consensus.

Therefore, staff recommends that the City Council:

1. Review the David Strong Economic Study;
2. Set a density of 10 to 13 large lots for the area between Dunecrest Avenue and the Bay;
3. Reserve 1.3 AF of water from the City Water Reserve to the large lots and 0.88 AF of water for an eight unit PUD for a total 2.57 AF subject to a development agreement between the City and Kass/Bram;
4. Authorize staff along with the Park District to continue to acquire small individually owned lots; and
5. Provide direction on whether one of the eight units in the Planned Unit Development should be for affordable housing and whether additional water (0.13 AF) should be reserved for 1 Avenue in return for this affordable unit.

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NOTE: The calculations
have been taken using
30 (not 25) small lots. Use
charts only on pages 11-14.
The text & will be correct
using 30 small lots.

DEL MONTE BEACH TRACT #2

SUPPLEMENTAL REPORT

FINANCIAL ANALYSIS OF LANDOWNERS' LARGE LOT PLAN AND DELAYED BUILD-OUT OF SMALL LOTS

March 30, 1998
REVIEW DRAFT

Prepared for the City of Monterey

By
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A. INTRODUCTION & SUMMARY

Background: This report supplements the financial analysis included within the Del Monte Beach Tract #2 Planning Study, dated November 1996, prepared by EMC Planning Group, Inc.

During the presentation of that report, the landowners proposed to submit their own plan for the area. This supplemental report evaluates the large lot plan as submitted by the landowners. The landowners' plan has slightly different numbers of lots and street area which are reflected in these new estimates. All other assumptions are the same as the large lot configuration in the original report.

In addition, at the City's request, this supplemental report assesses the value of the existing 28-lot plan assuming a delay in water permit availability. If water permits cannot be issued for several years, this would be a financial disincentive compared to a plan which received immediate approval with water permits.

Key Findings:

- The total net value (sales value less costs) of the build-out of residences on the remaining 28 approved small lots is estimated at \$4.45 million, if all could be built this year.
- The value of that same 28-lot build-out delayed by four years, until 2002, would be \$3.87 million (in 1998 value).
- If lack of water availability caused a 10 year delay, the net value of the 28 lots in 1998 dollars would drop to \$3.13 million.
- The landowners' larger lot plan, with 19 lots, has an estimated net value, if built in 1998, of \$5.09 million.
- It would take 16.6 large lots to equal the \$4.45 million net value of the existing approved plan if either option were built in 1998. In other words, 1.7 small lots equal the same value as one large lot.
- If build-out of the small lot plan were delayed by four years, it would take 14.4 large lots built this year to equal the same value (\$3.87 million). In that case, 1.9 small lots would equal one large lot.
- If build-out of the small lots were delayed by ten years, the same net value (\$3.13 million) would be achieved by building only 11.7 large lots this year. In this case, each 2.4 small lots would equal the value of one large lot.

This analysis indicates a trade-off: fewer large lots built now would give the landowners the same net return as the 28 small lots built some time in the future.

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B. EXISTING ALLOWED DEVELOPMENT

Based on the most recent lot configuration, the number of remaining buildable lots in the current, approved small-lot development would be 28. Table 1 estimates the sale value and costs associated with this development, with average sales values of \$525,000 per unit for the 15 Seafoam lots and \$500,000 per unit for the 13 Spray lots and average costs of about \$354,000 for all lots. The total net lot value (unit sales values less costs) for all 28 lots is thus estimated at \$4,452,000.

That estimate, however, is in current 1998 dollar value, assuming construction begins this year. At present, the City has a very small amount of water (2.4 acre feet) remaining in its allocation for residential development. Once the allocation is consumed, future water would be delayed until new water supplies are developed. The time frame for new water development is speculative, probably from two to ten years, possibly even longer.

Table 2 evaluates the financial impact of delayed start-of-construction on the 28 allowed small lots. The gradual loss of net value from the development occurs because increased sales revenue and cost (estimated to inflate at the average rate of the Consumer Price Index, or 2.78% annually) are more than offset by deflation of current dollar values, estimated at the current interest rate of 6.25% annually. In other words, if you had \$4.45 million to invest right now, bearing 6.25% interest, it would be worth a good deal more with each year. If you don't get the \$4.45 million (or somewhat more) to invest until later, it is equivalent to a smaller net value in 1998.

As shown in Table 2, if the 28-lot development could be built in 1998, the net value would be \$4.45 million in current dollar value. If the lots could not be built until the year 2008 (10 years from now), the current dollar value of that construction would shrink to \$3.13 million. A middle range possibility of being able to attain water permits for construction to proceed four years from now, in 2002, would yield a current dollar value of \$3.87 million.

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C. LARGE LOT ALTERNATIVE

Table 3 summarizes the current dollar financial outcome of the landowners' alternative plan proposing 19 large lots for the site. In this alternative, with an average sales value of \$750,000 per unit and average costs at \$482,000 per unit, the entire 19-lot development would yield an estimated net value totaling \$5.09 million in 1998 dollar value.

At the City's instruction, Strong Associates has estimated the number of large lots needed to maintain the same economic value to the land as the current plot plan. At today's value (if construction of either alternative began in 1998) that would be 17 large lots instead of 19 lots. (To be precise, it would be 16.6 lots, which would equal the \$4.45 million value of the 28 small-lot project.)

The landowners still face the uncertainty of water permit availability. As noted above, water permits could be delayed anywhere from 2 to 10 years, or perhaps more, until the current water shortage is resolved. If the City were able to initiate water permit applications for the landowners, however, permits could be available immediately.

Table 4 compares the 1998 net value of the 28-small lot plan being built some time in the future with the large lot plan, with fewer lots, built in 1998. As shown, if the 28 lots could not be built until 2002, the same value (\$3.87 million) would be achieved by 14.4 large lots built now. If build-out of the 28 small lots were delayed up to 10 years, the same value (\$3.13 million) would be achieved by building only 11.7 large lots now.

This analysis indicates a trade-off: the landowners could obtain a return on the land equivalent to the current 28-lot project built four years from now (that is a net value of \$3.87 million in 1998) by instead building 14 or 15 large lots now. By expediting this limited number of water permits, the City would eliminate the landowners' uncertainty, while essentially guaranteeing the same economic return of the existing lots under a four-year delay for water permits.

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**TABLE 1 - Small Lot Existing Zoning Alternative
Existing Allowed Development - 2 Story SFR units
Sale, Cost and Lot Value**

	Seafoam	Spray	Total
Sale Value per Unit	\$525,000	\$500,000	\$14,375,000
Cost per Unit			
Pre-Development (1)	\$18,472	\$18,472	\$517,216
Street/infrastructure (2)	\$13,200	\$15,231	\$396,000
Development (3)	\$181,280	\$181,280	\$5,075,840
Fees (4)	\$8,700	\$8,700	\$243,600
Finance (5)	\$28,148	\$30,239	\$815,318
Profit (20% of sale value)	\$105,000	\$100,000	\$2,875,000
Total Cost	\$354,800	\$353,921	\$9,922,974
Lot Value (per lot)			
Sale Value less Cost	\$170,200	\$146,079	\$4,452,026
Total (all lots)			
Number of Parcels	15	13	28
Total Lot Value	\$2,553,005	\$1,899,021	<u>\$4,452,026</u>

(1) Pre-Development cost per unit	Cost	Total	
Planning - City, Coastal Commission	\$5,000		
Legal - 20 hrs @\$150 per hr	\$3,000		
Environmental Impact Statement	\$7,000		
Arch. review @1.5% of develop cost	\$2,472		
Engineering-maps,utilities, retainage	\$1,000	\$18,472	
(2) Street/infrastructure costs per unit	Seafoam	Spray	Total
Street Length	440	440	
Cost per street	\$198,000	\$198,000	
Number of parcels	15	13	28
Cost per parcel	\$13,200	\$15,231	
Street cost @ \$450 per linear foot: 1X27'street; 2X4' sidewalks; 2X2.4' rolled curbs, 40' width			
Cost includes retaining walls, utilities, storm drain, water, and sewer lines, and fire hydrants			
(3) Development cost per unit	Cost	Total	
Living area of 1,400 sq. ft. @ \$110/sf	\$154,000		
Garage area of 450 sq. ft. @ \$24/sf	\$10,800		
Architect drawings, const. services @10%	\$16,480	\$181,280	
(4) Fees/hook-up per unit			
Water	\$2,500		
Sewer	\$2,500		
PG & E	\$1,000		
File fees, plan check, inspection	\$2,700	\$8,700	
(5) Finance Cost per unit - 18 month period	Seafoam	Spray	
Predevelopment/street/infrastructure - 6mo	\$1,705	\$1,814	
Construction loan: 1.5% - 6 months	\$12,626	\$13,498	
Carry loan to sale: 1% - 6 months	\$13,817	\$14,926	
Total Finance Cost	\$28,148	\$30,239	

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**TABLE 2 - Current (1998) Value of "Existing Use"
Built in Future Years**

Number	Years	< Inflate - Then Dollars, CPI % rate (1) >		Deflate (2)	
		Revenues	Costs	Net to Land	Value
0	1998	\$14,375,000	\$9,922,974	\$4,452,026	\$4,452,026
1	1999	\$14,774,976	\$10,199,075	\$4,575,901	\$4,297,649
2	2000	\$15,186,080	\$10,482,858	\$4,703,223	\$4,148,626
3	2001	\$15,608,624	\$10,774,537	\$4,834,087	\$4,004,770
4	2002	\$16,042,924	\$11,074,332	\$4,968,593	\$3,865,902
5	2003	\$16,489,309	\$11,382,468	\$5,106,841	\$3,731,849
6	2004	\$16,948,114	\$11,699,178	\$5,248,935	\$3,602,445
7	2005	\$17,419,685	\$12,024,701	\$5,394,984	\$3,477,528
8	2006	\$17,904,377	\$12,359,281	\$5,545,096	\$3,356,943
9	2007	\$18,402,555	\$12,703,170	\$5,699,385	\$3,240,539
10	2008	\$18,914,595	\$13,056,628	\$5,857,967	\$3,128,171

(1) Inflation Rate

Year	1984=100	2.78% CPI - 3 year average % increase
1996	156.9	2.95%
1995	152.4	2.83%
1994	148.2	2.56%
1993	144.5	
Average for 3 years		2.78%

(2) Deflation Rate

Current Interest Rate **6.25%**

If developed in future years, inflate revenues and costs by CPI.
Then decrease to "Net Present Value" (current worth of future income)
by applying the current cost of borrowing money.

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BLE 3 - Large Lot Alternative
Large Lot Redesign - 1 Story SFR units
Sale, Cost and Lot Value

	Per Unit	< 19.0	- 17.0	Total Number of Units 16.6	- 12.0	>
Sale Value	\$750,000	\$14,250,000	\$12,750,000	\$12,456,574	\$9,000,000	
Cost						
Pre-Development (1)	\$11,516	\$218,804	\$195,772	\$191,267	\$138,192	
Street/infrastructure (2)	\$16,776	\$318,750	\$285,197	\$278,634	\$201,316	
Development (3)	\$257,840	\$4,898,960	\$4,383,280	\$4,282,404	\$3,094,080	
Fees (4)	\$8,700	\$165,300	\$147,900	\$144,496	\$104,400	
Finance (5)	\$37,115	\$705,183	\$630,953	\$616,432	\$445,379	
Profit (20% of sale value)	\$150,000	\$2,850,000	\$2,550,000	\$2,491,315	\$1,800,000	
Total Cost	\$481,947	\$9,156,997	\$8,193,102	\$8,004,548	\$5,783,366	
Lot Value						
Sale Value less Cost	\$268,053	\$5,093,003	\$4,556,898	\$4,452,026	\$3,216,634	

(1) Pre-Development cost per unit	Cost	Total	
Planning - City, Coastal Commission	\$3,000		
Legal - 10 hrs @\$150 per hr	\$1,500		
Environmental Impact Statement	\$2,500		
Arch. review @1.5% of develop cost	\$3,516		
Engineering-maps,utilities, retainage	\$1,000	\$11,516	
(2) Street/infrastructure costs per unit	Driveway (12')	Spray (40')	Total
Street Length	365	465	830
Cost per street	\$109,500	\$209,250	\$318,750
Number of parcels	19	19	19
Cost per parcel	\$5,763	\$11,013	\$16,776
Street cost @ \$450 per linear foot: 1X27' pavement; 2X4' sidewalks; 2X2.4' rolled curbs, 40' width			
Driveway cost @ \$300 per linear foot: 1X12' pavement; 1X4' sidewalks; include rolled curbs for a 13' width			
Cost includes retaining walls, utilities, storm drain, water, and sewer lines, and fire hydrants			
(3) Large parcel development cost per unit	Cost	Total	
Living area of 2,000 sq. ft. @ \$110/sf	\$220,000		
Garage area of 600 sq. ft. @ \$24/sf	\$14,400		
Architect drawings, const. services @10%	\$23,440	\$257,840	
(4) Fees/hook-up per unit	Per Unit	Total	
Water	\$2,500		
Sewer	\$2,500		
PG & E	\$1,000		
File fees, plan check, inspection	\$2,700	\$8,700	
(5) Finance Cost per unit - 18 month period	Per Unit	Total	
Predevelopment/street/infrastructure - 6mo	\$1,523		
Construction loan: 1.5% - 6 months	\$16,653		
Carry loan to sale: 1% - 6 months	\$18,939		
Total Finance Cost		\$37,115	

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**TABLE 4 - Comparison of 1998 Value:
Small Lots with Future Construction Vs. Large Lots Built Now**

< Small Lot Plan >	<Large Lot Equivalent(2)>	Dollars Net	Number of small lots that
Years	Year	to Land (1)	it takes to equal 1 large lot
1998	1998	\$4,452,026	1.7
1999	1998	\$4,297,649	1.7
2000	1998	\$4,148,626	1.8
2001	1998	\$4,004,770	1.9
2002	1998	\$3,865,902	1.9
2003	1998	\$3,731,849	2.0
2004	1998	\$3,602,445	2.1
2005	1998	\$3,477,528	2.2
2006	1998	\$3,356,943	2.2
2007	1998	\$3,240,539	2.3
2008	1998	\$3,128,171	2.4

(1) See Table 2 - Net Income to Land

(2) Unit Count - 1998

	Revenues	Costs	Net to Land	Unit Count Large Lots
Table 3 - Large Lot	\$14,250,000	\$9,156,997	\$5,093,003	19.0
Table 1 - Existing Use	\$14,375,000	\$9,922,974	\$4,452,026	16.6

Profit of Net Land Value proves to the "Existing Use" amount.

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Bill, I added 1 lot to Seafoam and 1 lot to Spray. Draft run #2 4/15/98

TABLE 1 - Small Lot Existing Zoning Alternative
Existing Allowed Development - 2 Story SFR units
Sale, Cost and Lot Value

	Seafoam	Spray	Total
Sale Value per Unit	\$525,000	\$500,000	\$15,400,000
Cost per Unit			
Pre-Development (1)	\$18,472	\$18,472	\$554,160
Street/Infrastructure (2)	\$12,375	\$14,143	\$396,000
Development (3)	\$181,280	\$181,280	\$5,438,400
Fees (4)	\$8,700	\$8,700	\$261,000
Finance (5)	\$27,988	\$30,028	\$868,191
Profit (20% of sale value)	\$105,000	\$100,000	\$3,080,000
Total Cost	\$353,815	\$352,623	\$10,597,751
Lot Value (per lot)			
Sale Value less Cost	\$171,185	\$147,377	\$4,802,249
Total (all lots)			
Number of Parcels	16	14	30
Total Lot Value	\$2,738,965	\$2,063,284	\$4,802,249

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(1) Pre-Development cost per unit	Cost	Total	
Planning - City, Coastal Commission	\$5,000		
Legal - 20 hrs @\$150 per hr	\$3,000		
Environmental Impact Statement	\$7,000		
Arch. review @1.5% of develop cost	\$2,472		
Engineering-maps, utilities, retainage	\$1,000	\$18,472	
(2) Street/Infrastructure costs per unit	Seafoam	Spray	Total
Street Length	440	440	
Cost per street	\$198,000	\$198,000	
Number of parcels	16	14	30
Cost per parcel	\$12,375	\$14,143	
Street cost @ \$450 per linear foot: 1X27' street; 2X4' sidewalks; 2X2.4' rolled curbs, 40' width			
Cost includes retaining walls, utilities, storm drain, water, and sewer lines, and fire hydrants			
(3) Development cost per unit	Cost	Total	
Living area of 1,400 sq. ft. @ \$110/sf	\$154,000		
Garage area of 450 sq. ft. @ \$24/sf	\$10,800		
Architect drawings, const. services @10%	\$16,480	\$181,280	
(4) Fees/hook-up per unit			
Water	\$2,500		
Sewer	\$2,500		
PG & E	\$1,000		
File fees, plan check, inspection	\$2,700	\$8,700	
(5) Finance Cost per unit - 18 month period	Seafoam	Spray	
Predevelopment/street/infrastructure - 6mo	\$1,661	\$1,756	
Construction loan: 1.5% - 6 months	\$12,559	\$13,409	
Carry loan to sale: 1% - 6 months	\$13,768	\$14,863	
Total Finance Cost	\$27,988	\$30,028	

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**TABLE 2 - Current (1998) Value of "Existing Use"
 Built in Future Years**

Number	Years	< Inflate - Then Dollars, CPI % rate (1) >			Deflate (2) Value
		Revenues	Costs	Net to Land	
0	1998	\$15,400,000	\$10,597,751	\$4,802,249	\$4,802,249
1	1999	\$15,828,496	\$10,892,627	\$4,935,868	\$4,635,728
2	2000	\$16,268,914	\$11,195,708	\$5,073,206	\$4,474,981
3	2001	\$16,721,587	\$11,507,222	\$5,214,365	\$4,319,809
4	2002	\$17,186,855	\$11,827,403	\$5,359,451	\$4,170,017
5	2003	\$17,665,068	\$12,156,493	\$5,508,575	\$4,025,419
6	2004	\$18,156,588	\$12,494,740	\$5,661,848	\$3,885,835
7	2005	\$18,661,784	\$12,842,399	\$5,819,385	\$3,751,091
8	2006	\$19,181,037	\$13,199,731	\$5,981,306	\$3,621,020
9	2007	\$19,714,738	\$13,567,005	\$6,147,732	\$3,495,459
10	2008	\$20,263,288	\$13,944,499	\$6,318,789	\$3,374,252

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(1) Inflation Rate

2.78% CPI - 3 year average

Year	1984=100	% increase
1996	156.9	2.95%
1995	152.4	2.83%
1994	148.2	2.56%
1993	144.5	
Average for 3 years		2.78%

(2) Deflation Rate

Current Interest Rate **6.25%**

If developed in future years, inflate revenues and costs by CPI.
 Then decrease to "Net Present Value" (current worth of future income)
 by applying the current cost of borrowing money.

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Bill, I added 1 lot to Seafoam and 1 lot to Spray. Draft run #2 4/15/98

TABLE 3 - Large Lot Alternative

Large Lot Redesign - 1 Story SFR unit Bill, this run adds an additional Large Unit to this table
Sale, Cost and Lot Value

	Per Unit	Total Number of Units			
		< 19.0	18.0	17.9	> 17.0
Sale Value	\$750,000	\$14,250,000	\$13,500,000	\$13,436,482	\$12,750,000
Cost					
Pre-Development (1)	\$11,516	\$218,804	\$207,288	\$206,313	\$195,772
Street/infrastructure (2)	\$16,776	\$318,750	\$301,974	\$300,553	\$285,197
Development (3)	\$257,840	\$4,898,960	\$4,641,120	\$4,619,283	\$4,383,280
Fees (4)	\$8,700	\$165,300	\$156,600	\$155,863	\$147,900
Finance (5)	\$37,115	\$705,183	\$668,068	\$664,925	\$630,953
Profit (20% of sale value)	\$150,000	\$2,850,000	\$2,700,000	\$2,687,296	\$2,550,000
Total Cost	\$481,947	\$9,156,997	\$8,675,049	\$8,634,233	\$8,193,102
Lot Value					
Sale Value less Cost	\$268,053	\$5,093,003	\$4,824,951	\$4,802,249	\$4,556,898

	Cost	Total
(1) Pre-Development cost per unit		
Planning - City, Coastal Commission	\$3,000	
Legal - 10 hrs @\$150 per hr	\$1,500	
Environmental Impact Statement	\$2,500	
Arch. review @1.5% of develop cost	\$3,516	
Engineering-maps, utilities, retainage	\$1,000	\$11,516
(2) Street/infrastructure costs per unit		
Driveway (12')		
Spray (40')		
Total		
Street Length	365	465
Cost per street	\$109,500	\$209,250
Number of parcels	19	19
Cost per parcel	\$5,763	\$11,013
Total		\$16,776
Street cost @ \$450 per linear foot: 1X27' pavement; 2X4' sidewalks; 2X2.4' rolled curbs, 40' width		
Driveway cost @ \$300 per linear foot: 1X12' pavement; 1X4' sidewalks; include rolled curbs for a 13' width		
Cost includes retaining walls, utilities, storm drain, water, and sewer lines, and fire hydrants		
(3) Large parcel development cost per unit	Cost	Total
Living area of 2,000 sq. ft. @ \$110/sf	\$220,000	
Garage area of 600 sq. ft. @ \$24/sf	\$14,400	
Architect drawings, const. services @10%	\$23,440	\$257,840
(4) Fees/hook-up per unit	Per Unit	Total
Water	\$2,500	
Sewer	\$2,500	
PG & E	\$1,000	
File fees, plan check, inspection	\$2,700	\$8,700
(5) Finance Cost per unit - 18 month period	Per Unit	Total
Predevelopment/street/infrastructure - 6mo	\$1,523	
Construction loan: 1.5% - 6 months	\$16,653	
Carry loan to sale: 1% - 6 months	\$18,939	
Total Finance Cost		\$37,115

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Bill, I added 1 lot to Seafoam and 1 lot to Spray. Draft run #3 4/21/98

TABLE 4 - Comparison of 1998 Value:

Small Lots with Future Construction Vs. Large Lots Built Now

< Small Lot Plan >		<Large Lot Equivalent(2)>		Dollars Net	# of small	< - Per large lot - >		< - Per small lot - >	
Years	Units	Year	Unit Count	to Land (1)	lots to equal	\$ value	Difference	\$ value	Difference
					1 large lot		from 1998		from 1998
1998	30	1998	17.9	\$4,802,249	1.7	\$268,053	\$0	\$160,075	\$0
1999	30	1998	17.3	\$4,635,728	1.7	\$258,758	\$9,295	\$154,524	\$5,551
2000	30	1998	16.7	\$4,474,981	1.8	\$249,785	\$18,267	\$149,166	\$10,909
2001	30	1998	16.1	\$4,319,809	1.9	\$241,124	\$26,929	\$143,994	\$16,081
2002	30	1998	15.6	\$4,170,017	1.9	\$232,763	\$35,290	\$139,001	\$21,074
2003	30	1998	15.0	\$4,025,419	2.0	\$224,692	\$43,361	\$134,181	\$25,894
2004	30	1998	14.5	\$3,885,835	2.1	\$216,900	\$51,153	\$129,528	\$30,547
2005	30	1998	14.0	\$3,751,091	2.1	\$209,379	\$58,674	\$125,036	\$35,039
2006	30	1998	13.5	\$3,621,020	2.2	\$202,119	\$65,934	\$120,701	\$39,374
2007	30	1998	13.0	\$3,495,459	2.3	\$195,110	\$72,943	\$116,515	\$43,560
2008	30	1998	12.6	\$3,374,252	2.4	\$188,345	\$79,708	\$112,475	\$47,600

(1) See Table 2 - Net Income to Land

(2) Unit Count - 1998

	Revenues	Costs	Net to Land	Unit Count
				Large Lots
Table 3 - Large Lot	\$14,250,000	\$9,156,997	\$5,093,003	19.0
Table 1 - Existing Use	\$15,400,000	\$10,597,751	\$4,802,249	17.9

Profit of Net Land Value proves to the "Existing Use" amount.

Lot count based on profit of "Existing Use" Net Land Value.

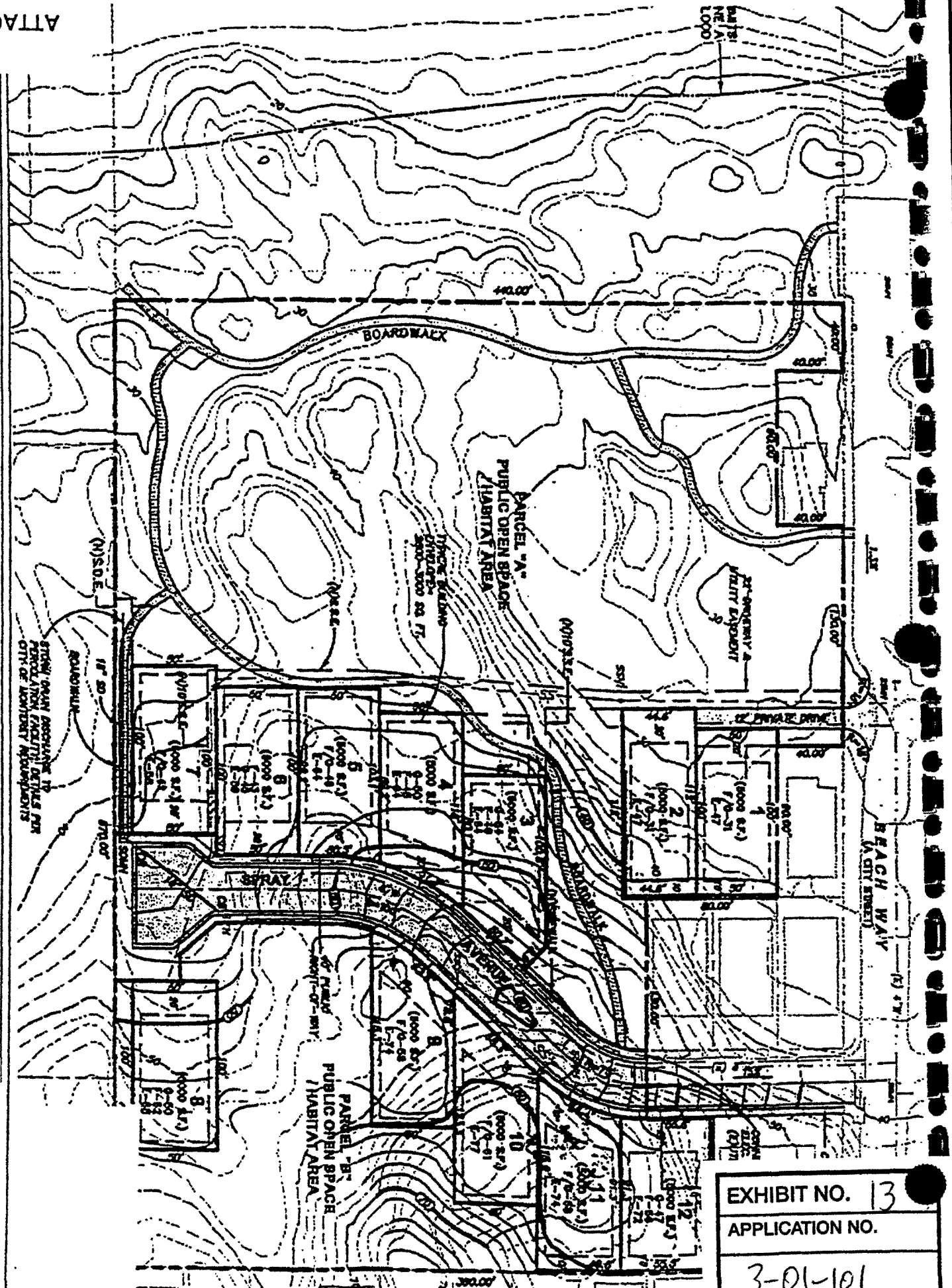
Bill. Note that Joel Cass informed me that a recent lot sales differences with and with out water was \$40,000 per lot.

The cost of labor to administer a water permit was not included in our cost estimates

1

EXHIBIT NO.	12
APPLICATION NO.	3-01-101
	pg 16 of 16

Fig 1



Del Monte Shores
Proposed Site Plan

THOMAS K. MOSS
Coastal Biologist

RECEIVED

FEB 08 2002

February 5, 2002

Susan Craig
California Coastal Commission
725 Front Street
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Del Monte Beach Resubdivision

Dear Susan:

I have been asked by the project applicants, Joel Kass and Sy Bram, to respond to your concern about the impact of Lot 8 on Monterey spineflower. Specifically, I understand that your concern is that Lot 8 may diminish the exchange of airborne pollen between populations of Monterey spineflower to the east and west of Lot 8. I think you are right in raising this issue: Does the existence of Lot 8 create a potential bottleneck for genetic conductivity and species dispersal?

The "habitat corridor" that would result between the property lines of Lot 8 and the next property to the south, 2 Dunecrest Avenue, would be 90 feet wide. This is quite substantial for the needs of Monterey spineflower, particularly if you consider that the plants in question are only a few inches wide and tall. I believe that the affect of Lot 8, if any, would be negligible on the movement of pollen between the populations of Monterey spineflower to the east and west of Lot 8. Furthermore, if populations of the other sensitive species that occur in the Del Monte Dunes, including dune gilia, coast wallflower, Smith's blue butterfly and black legless lizard, were to become established in the area east of Lot 8 (between Lots 8 and 9), the proposed habitat corridor would be adequate in width to allow dispersal of these species (and plant pollen) between the applicants' property and the Navy property to the west.

A few years ago, the Coastal Commission approved a major development in the nearby City of Marina called the Marina Dunes Resort Hotel. Habitat corridors were required as conditions of approval by the Coastal Commission. The language in your Staff Report (11/26/96) stated the following:

"To optimize chances for successful species movement, the back dune corridor along Dunes Drive shall join the adjacent Granite Rock site where "conserved habitat" exists and shall join the Marina Coast Water District site on the Vernal Pond 4 Dune Reserve. The corridor shall be a minimum of 100 feet wide."

508 Crocker Avenue
Pacific Grove, CA 93950

EXHIBIT NO.	14
APPLICATION NO.	3-01-101
	px 1082

This requirement was also reviewed by and received the consent of biologists from the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG).

The rear dune habitat corridor for the Marina Dunes Resort was designed to allow for dispersal of Smith's blue butterfly and black legless lizard. Clearly, the movement of both of these species would be far more physically constrained by the design and dimensions of the corridor than would the movement of pollen blowing in the wind. In the case of the Marina Dunes Resort, the habitat corridor was 560 feet long. In the proposed Del Monte Dunes Subdivision, the length of the habitat corridor (the width of the eastern property line of Lot 8) is only 60 feet. In comparison, the habitat corridor resulting from the existence of Lot 8 is far, far less restrictive on the dispersal of plant and animal species than the habitat corridor approved by the Coastal Commission and agreed to by the USFWS and CDFG for the Marina Dunes Resort.

I believe that the proposed location for Lot 8 will not have a deleterious affect on the movement of pollen between populations of Monterey spineflower to the east and west of Lot 8.

Sincerely,



Copies: Sy Bram
Joel Kass
Candy Ingram
Steve Chidester
Barry Bram
Anthony Lombardo
Fred Meurer
Bill Fell

EXHIBIT NO. 14
APPLICATION NO.
3-01-101
Pg. 2 of 2

THOMAS K. MOSS
Coastal Biologist

RECEIVED

March 11, 2002

MAR 13 2002

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060
Attn: Caitlin Bean

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: March 14 Meeting to Review Lot 8

Dear Caitlin,

I'm feeling a little apprehensive about the meeting you have scheduled this Thursday because of the letter (Memorandum) I recently received from you, stating that your intent is to meet on site "to discuss the preserve design for the Del Monte Beach Tract #2." From talking with you on the phone, I had understood that you were concerned specifically with the location of Lot 8 because of the alleged presence of a significant population of Monterey spineflower on the proposed lot. Despite my insistence that the plants do not exist where Joey Durrell-Canepa has reported them, you felt that by assembling a group of botanists on the site we could confirm the presence or absence of this elusive group of Monterey spineflowers, and thereby settle the Lot 8 question. I'm wondering now, based on your letter, if the intent of the meeting has shifted to a broader review of the entire subdivision proposal. That would be unfortunate and counterproductive.

I am also concerned about several inaccuracies in your letter which I believe create a somewhat false impression of both Lot 8 and the subdivision in general. A number of special plant species and one animal of special concern do occur in the subdivision. However, you are mistaken when you say that Seaside bird's beak, dune manzanita and Eastwood's ericameria "have been documented on the 2 properties." These species have not been identified anywhere in the Del Monte Beach Dunes. In fact, the nearest known occurrence of any of these species is possibly a mile or more away, near the Monterey airport. You also state that the Fish and Wildlife Service has documented snowy plovers in recent years along Del Monte Beach, south of the Monterey Beach Hotel and north of the Ocean Harbor House condominiums. That's true, but what is relevant is that the plovers are not nesting near the project site.

In general, I have never supported the location of Lot 8, and I've said this openly in a number of meetings. But, there is no sound biological justification for relocating or removing Lot 8. I hope that assembling a group of biologists on the site to review Lot 8 (and search for Joey's missing populations of Monterey spineflowers) contributes to resolving this particular issue.

Sincerely,

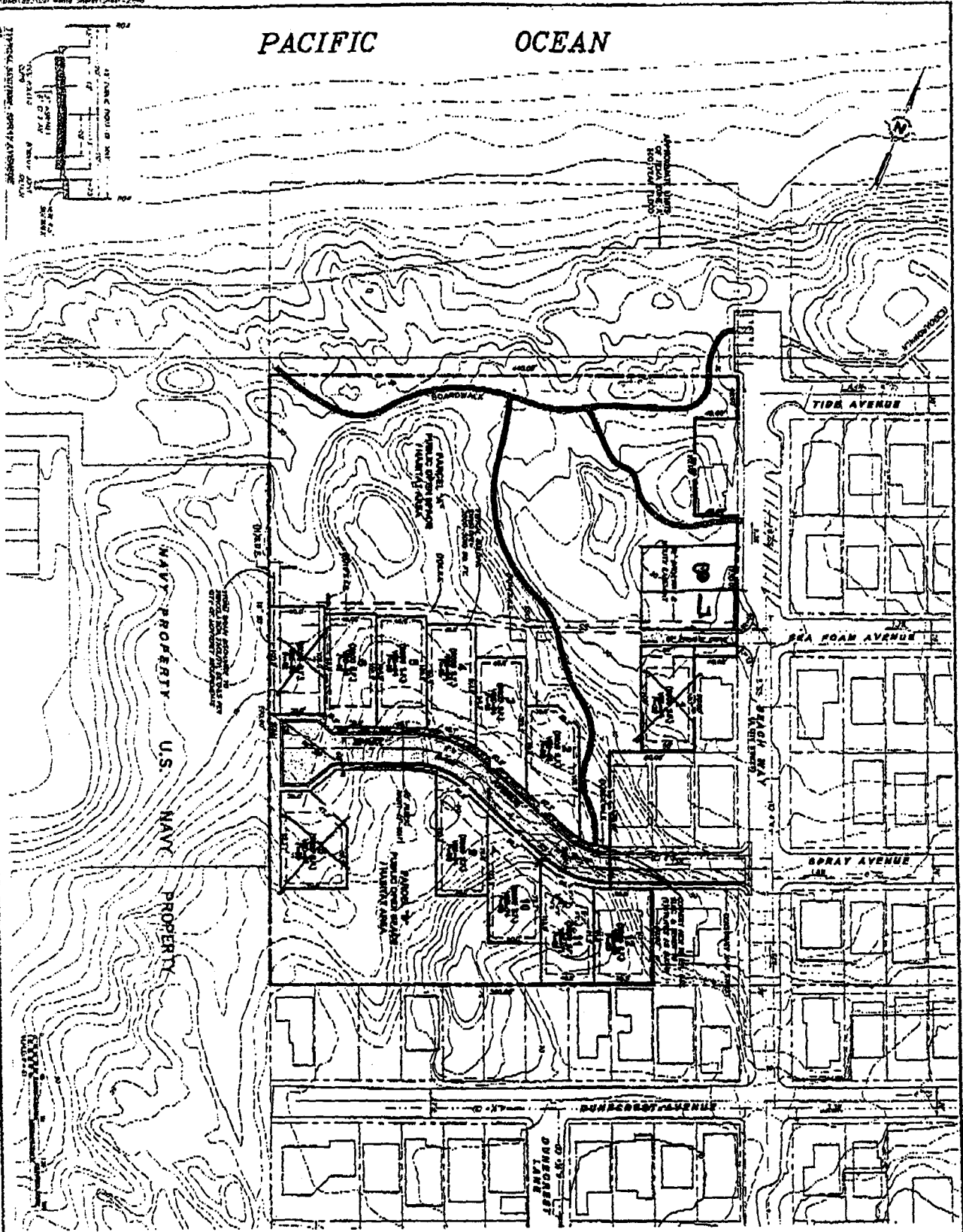


508 Crocker Avenue
Pacific Grove, CA 93950

EXHIBIT NO. 15
APPLICATION NO.
3-01-101

PACIFIC OCEAN

COASTAL STAFF ALTERATION A



LEGEND

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GENERAL NOTES

1. THIS MAP IS A TENTATIVE MAP AND IS NOT TO BE USED FOR CONVEYANCE OF INTERESTS IN REAL PROPERTY.

2. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT.

3. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT.

4. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT.

5. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT.

SUBDIVISION NOTES

1. THE SUBDIVISION MAP IS A TENTATIVE MAP AND IS NOT TO BE USED FOR CONVEYANCE OF INTERESTS IN REAL PROPERTY.

2. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT.

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5. THE CITY ENGINEER HAS REVIEWED THIS MAP AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT.

PROJECT DATA

1. PROJECT NO. 101-10-3

2. SHEET NO. 1 OF 2

3. DATE: 11/11/87

4. SCALE: 1" = 60'

5. CITY OF MONTICELLO, CALIFORNIA

6. PROJECT LOCATION: DEL MONTE SHORES

7. PROJECT OWNER: WHITSON ENGINEERS

8. PROJECT DESCRIPTION: VESTING TENTATIVE MAP



VESTING TENTATIVE MAP
DEL MONTE SHORES
PLANNED UNIT DEVELOPMENT
 MEMBERS & RESUBDIVISION OF PORTIONS OF
 ACRES 6.5 & 3.4 DEL MONTE BEACH MAP 28
 CITY OF MONTICELLO, CALIFORNIA
 JULY 11, 1987 SCALE: 1" = 60'
WHITSON ENGINEERS
 101-10-3
 SHEET 1 OF 2

EXHIBIT NO. 16
APPLICATION NO. 101-10-3

March 20, 2002

RECEIVED

MAR 20 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

Subject: Public Access and Habitat Issues in Del Monte Beach

Dear Charles,

You have asked the City to prepare a brief summary on why the City is opposed to relocating Lots 7 and 8 to Beach Way.

First, there has been a clear commitment and policy by the Coastal Commission, the City and the Regional Park District that the first block (i.e. the 21 lots from Sea Foam to Tide Avenue) shall remain open space for a variety of reasons. As a result of that commitment and policy initiated by the Coastal Commission, the City of Monterey and the Regional Park District has expended monies over the years to acquire lots to implement that objective. The Sewald construction at 2 Beach Way was permitted by the Coastal Commission and the City of Monterey only after all other attempts of opportunity buying of this property failed. Mr. Sewald refused to sell the property to the City and neither the City nor any other public agency was willing to condemn his property. The adjacent lot, 10 Beach Way, owned previously by Jim Boyden, also received permit approval from the Coastal Commission and the City of Monterey. Prior to Mr. Boyden starting construction, the City successfully negotiated acquiring this lot for open space at the sum of \$192,500.

The Coastal Commission was very concerned about the development at 10 Beach Way because of the "walling off" of public open space from the neighborhood and the public in general. If 10 Beach Way were developed, this would create a "wall" of single family houses along the west side of Beach Way that would extremely impact public access and public views to all of the open space in the first block. The elimination of development on 10 Beach Way results in a 150-foot wide area for coastal access to a habitat area owned by a public agency and immediately adjacent to the beach. Your draft proposal of relocating Lots 7 and 8 to this area would diminish this 150-foot wide area down to a maximum of 50 feet. This 150-foot wide area would provide visual access for people driving along Beach Way and also those driving along Sea Foam. It is immediately across the street from diagonal parking that provides the bulk of free parking for the public. In addition, development at 10 Beach Way would also impact Monterey Spineflower habitat in this part of the proposed subdivision.

EXHIBIT NO.	17
APPLICATION NO.	
	3-01-101
	DR 1053

Charles Lester
Coastal Commission
March 20, 2002
Page 2

The City has spent an incredible amount of time on this subdivision and had a final EIR certified. Based on the EIR, and public testimony, changes were made, including the eventual realignment of Lot 8 that would mitigate most of the habitat issues. Please note that this habitat area designated as Parcel B is at the end of Spray Avenue. There is no additional public parking provided in this area, only a turnaround for Fire safety vehicles. It is very unlikely that the general public will come to this area when there is a much more viable beach and habitat area at the foot of Beach Way. As an example, very few people park on Dunecrest Avenue and go into that habitat area. Basically Parcel B will be a passive habitat area surrounding by single family development with little use by the public. Staff can find no logical reason to relocate proposed Lots 7 and 8.

Joy Canepa and Debra Hillyard have brought up 3 reasons for relocating or removing lot 8: 1) Monterey Spineflower exists on lot 8; 2) Lot 8 will block transport of species between Parcel B Habitat area and the Navy habitat; and 3) Lot 8 (along with Lots 6 and 7) make Parcel B Habitat area botanically infeasible. As Tom Moss's March 11 letter (attached) to Caitlin Bean indicates, Joy Canepa has misidentified the species on Lot 8 in her report. No Spineflower exists on Lot 8.

City staff and Tom Moss have both questioned Lot 8 on its potential to block the habitat corridor between Parcel B Habitat area and Navy habitat. However, as Tom Moss's February 5 letter (attached) to Susan Craig indicates, the corridor with Lot 8 in place would be 90 feet wide and would be adequate to allow the transport of species between Parcel B and Navy habitat.

Deb Hillyard raised the question that Lot 8 makes Parcel B Habitat area botanically infeasible primarily due to the prevailing wind pattern. No evidence has been provided and there is no sound biological justification for this allegation. Tom Moss will testify to that effect. Besides, if that were true, Lots 4, 5 and 6 also block prevailing wind and would make Parcel B infeasible. Coastal Staff is inconsistent in not recommending those lots be relocated or removed. Moreover, if that were true, relocating lots 7 and 8 to Beach Way (which would remove existing Monterey Spineflower on those lots) would block prevailing wind to the significant habitat located beside the Lind residence and in front of the Archer and Grillos residences and make that habitat area botanically infeasible. So, coastal staff recommendation to relocate Lots 7 and 8 to Beach Way would cause new significant impacts to Monterey Spineflower and the habitat area they will block. Those impacts were not addressed in the project EIR.

I hope you would take our concerns into consideration. Please excuse the frustrations that have been expressed in our recent phone calls to you. This frustration is

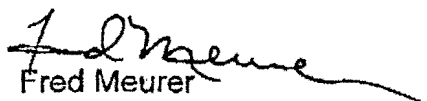
EXHIBIT NO.	17
APPLICATION NO.	
	3-01-101
	pg 2 of 3

Charles Lester
Coastal Commission
March 20, 2002
Page 3

due to the fact that the City of Monterey and the Regional Park District have worked long and hard on a viable solution for Del Monte Beach that would provide public access and habitat. A major part of our objective was to satisfy the Coastal Commission's stated objective to keep the first block as open space. This application was submitted in September 2001 and less than one week before the deadline (March 2002) of the final report, we are told of a possible major change which we have not seen documented in any written analysis.

The planning process to date has been an excellent example of good planning. We have crafted a public/private partnership between Kass/Bram, seven individual property owners, Monterey Peninsula Regional Park District, City of Monterey and to some degree the Del Monte Beach Neighborhood. That partnership is now endangered with the proposed relocation of Lots 7 and 8. I would urge you to look comprehensively at the resubdivision. Is the City approved resubdivision a good planning product in balancing land use goals, dune preservation, circulation, public safety, coastal public access, view preservation, economic return to the property owners and habitat preservation? For all of the planning partners above, the answer is yes. I hope you will agree.

Thank you for your consideration of the above comments. If you have any questions, do not hesitate to contact Bill Wojtkowski or Bill Fell or me at 646-3885.


Fred Meurer
City Manager

FM:BW:tl

Attachments: February 5, 2002 Letter from Thomas K. Moss
March 11, 2002 Letter from Thomas K. Moss

cc: Community Development Director Bill Wojtkowski
Chief of Planning Bill Fell
Monterey Regional Park District Joe Donofrio

EXHIBIT NO. 17
APPLICATION NO.
3-01-101
pg 3 of 3

RECEIVED

FEB 13 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA



**MONTEREY PENINSULA
WATER MANAGEMENT DISTRICT**

5 HARRIS COURT, BLDG. G
POST OFFICE BOX 85
MONTEREY, CA 93942-0085 • (831) 658-5601
FAX (831) 644-9558 • <http://www.mpwmd.dst.ca.us>

February 12, 2002

Ms. Susan Craig
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

Subject: Del Monte Beach Resubdivision in Monterey.

Dear Ms. Craig:

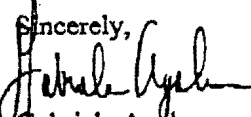
This letter responds to a request made by Mr. Pedro E. Rosado, architect on February 4, 2002. Mr. Rosado asked the District to verify the water use projections that will be applied to determine the credit and demand associated with the proposed Resubdivision of Tract 2, Del Monte Beach in Monterey:

Mr. Rosado's letter included a "memorandum for record" prepared by himself. I have enclosed a copy of the "memorandum for record" which describes the project and estimates water use for the project. The total projected water use for the project, including outdoor use is 2.415 acre-feet annually (14 residential units with two baths each). This projected demand is determined by using the District's Table I, *Residential Fixture Unit Count*, as shown in District Rule 24. Residential water demand is assessed based on the number of water-using fixtures and landscaping on the property.

According to the "memorandum for record" submitted by Mr. Rosado, the proposed use of the Del Monte Beach Resubdivision will include installation of water saving devices. To reduce the water use associated with the new Subdivision, the architect is proposing to install ultra-low water using model washing machines and dishwashers and ultra-low flush toilets with a 2-liter maximum flush in all the units. District staff concurs with the estimated water demand of 2.415 acre-feet annually based on the project description and information in the "memorandum for record" prepared by Mr. Rosado.

I hope this assists you with determining the water demand for the new project. The District will not make a final determination on the project until the final approvals and construction drawings are available. The City must agree that if a water permit is issued for this project based on water saving appliances and the appliances are not permanently maintained, the City of Monterey's allocation will be debited for the difference in water use and the property owner will be billed for the associated connection charges. To enforce this condition of the permit, the District reserves the right to conduct site inspections at any reasonable time. In addition, the property owner must agree to a deed restriction recorded on the property title that specifies the conditions of the water permit. The deed restriction must be recorded before the water permit is issued.

Please feel free to call me at 658-5601 if you would like to discuss this further.

Sincerely,

Gabriela Ayala
Conservation Representative

U:\demand\Work\Letters\General\Del M

EXHIBIT NO. 18
APPLICATION NO.
3-01-101
pg. 1 of 2

February 4, 2002

MEMORANDUM FOR RECORD

Subject: Revised Water Requirement For Del Monte Beach Resubdivision, Tract 2, including water for landscaping, is as follows:

Del Monte Shores & Dunecrest Villas:

Fixture Type	No. of fixtures	Fixture value	Fixture unit count
Wash basin:	3 (2 at M.B.)	1	2.0
Water Closet:	2	1.0 (microflush)	2.0
Standard bath:	1	2	2.0
Shower:	1	2	2.0
Kitchen sink:	1	1.5 (ultra lowflow)	1.5
Bar sink:	1	1	1.0
Washer	1	1.0 (ultra lowflow)	1.0
Subtotal:			11.5
Landscaping		+50%	5.75
Total (per lot)			17.25

Quantity required for 14 lots = $17.25 \times 14 \div 100 = \underline{2.42 \text{ acre feet}}$ (less than the City allocation of 2.57 acre feet).

Cc: B & K Monterey, Inc.

EXHIBIT NO. 18
APPLICATION NO.
3-01-101
PP. 2 of 2

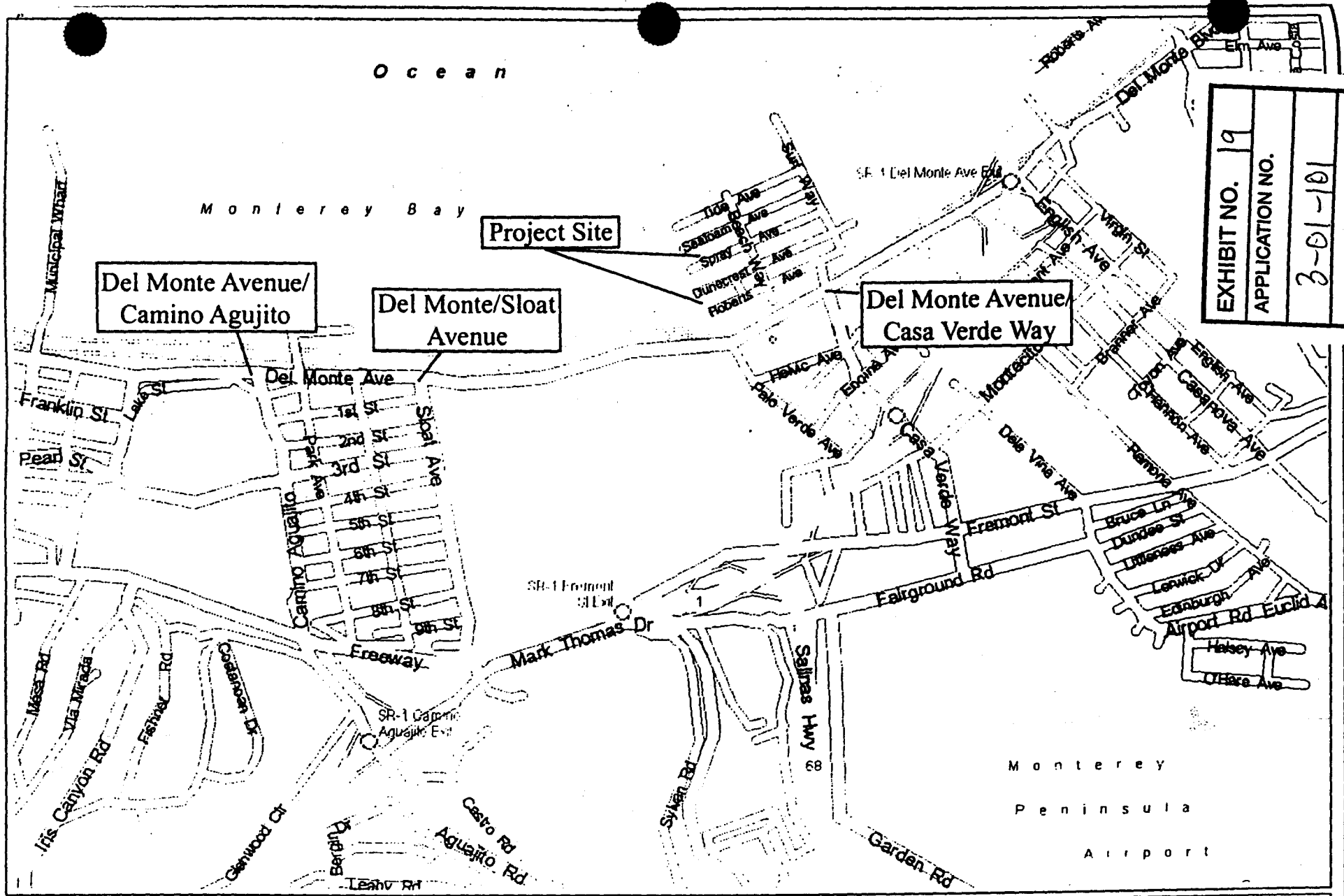


EXHIBIT NO.	19
APPLICATION NO.	3-01-101



Local Roadway Network

Figure 4.7-1

RECEIVED at
Commission Meeting
MAR 07 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

To: State of California Coastal Commission

Date: March 7, 2002

Re: Letter to Mr. Lee Otter, California Coastal Commission, June 22, 2001

Dear Commissioners,

The above referenced letter conveyed my enclosed paper (Observations: etc.) to Mr. Otter. The letter summarizes many of the flaws inherent in development of Del Monte Beach Tract #2 and presents alternatives for use of the land.

The letter and the paper are attached herein. I hope you find time to review them before making any decision on this development.

Thank you for your time and consideration of this matter.

Sincerely,



Alan Church
1251 Josselyn Canyon Road
Monterey, CA 93940

EXHIBIT NO. 20
APPLICATION NO.
3-01-101
Pg. 1 of 3

Alan W. Church
1251 Josselyn Canyon Road
Monterey, CA 93940

June 22, 2001

Mr. Joseph Donofrio
Monterey Peninsula Regional Park District
60 Garden Court, Suite 325
Monterey, CA 93940

Mr. Donofrio,

The development of Del Monte Shores (Del Monte Beach Tract#2 Re-Subdivision) will destroy 90-95% of the Monterey spineflower, all coast wallflower, irreparably harm the remaining habitat and preclude regeneration and restoration of these species.

My observations, enclosed, as to this future health of the habitat are based on a recent survey of these species by dune biologist Joey Dorrell-Canepa (included). This site is a rich ecosystem of unique plant and animal species best preserved in its entirety. If this is not possible, options are suggested to preserve 40% or 67% of it.

CA Parks Snowy Plover experts have appraised this site as excellent habitat. Although no nesting is present, the birds are returning to nearby areas to nest. Among its excellent features: the site is protected, largely untrammled, contains a large expanse of open sand required for nesting and has a gradual slope to the shoreline for feeding. The birds usually nest at a distance from the shore - ½ mile is not uncommon.

The native plants have provided some interesting comparisons over the past two years adapting to this mixed-use area and migrating through it. As discussed in my observations, Figure (3) seems to portend the future of this habitat if construction is to proceed - fragmentation, decline then extinction.

Instead, this could remain a flourishing community of plant and animal life in the dune environment. As a showcase area, within the city, it offers a tremendous resource for educating the public, especially children, as to this environmental interaction; and as a training/research area for State/Regional park personnel, MPC, CSUMB and U.S. Navy educators, native plant enthusiasts and Snowy Plover docents. Excellent habitat terrain within the city, away from beach users, is very rare.

The acquisition would be a natural infill, consolidation and completion of a dunes park. The U.S. Navy is supporting this goal considering the extensive restoration of their dunes habitat west of the site. This superb work, maintained by Bruce Cowan, shows a striking example of "before/after" restoration efforts. East of the site, the CAParks Beach Garden Project volunteers, lead by Joey Dorrell-Canepa, have restored the fore dune park area between Tide Avenue and the shore on the northwest side of Del Monte Beach. I highly recommend viewing the area before any decision is made.

Exhibit 20
3-01-101
Pg. 2 of 3

Acquiring this area for open space/habitat has been endorsed by seven of the thirteen Monterey Neighborhood Associations. The Monterey Neighborhood Improvement Coordinator, met April 23, 2001, Council Chambers, to allocate funds to neighborhood projects from the hotel occupancy tax collections. Seven of these associations voted to allocate a portion of their share of these funds, not to their own projects, but instead to acquire lots in this Del Monte Shores site for open space - a total of \$150,000. And over the past 10-15 years the Del Monte Beach Neighborhood Association (according to Judi Lehman, president) has voted each year to allocate a portion of their funds to acquire this site for habitat.

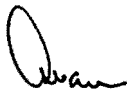
Mayor Albert has expressed interest in working with concerned agencies to acquire lots to preserve this habitat, most recently at the June 5, 2001, City Council meeting.

There is no shortage of volunteers to restore, maintain and convey appreciation for this park to the public. I've lead field trips to the site to get the opinion from our local experts on sensitive plant and animal life; worked with the DMB Neighborhood Association, CAParks, the Dunes Coalition, California Native Plant Society and have made presentations to the Monterey City Council and the Planning Commission during public comment periods to save this site. As a volunteer to the Beach Garden Project and Snowy Plover Guardians, I've seen the interest of the public. Volunteers come, not only from the greater Peninsula cities, but the Aptos/Watsonville and Salinas/Soledad regions, to restore and protect these plant and animal species, to educate the public and for personal enrichment in this environment. Many of these people think this site has already been set aside as parkland.

I hope you can work with local agencies to acquire the site. I think the public is behind this 100%. The time to act is now - our last chance. We know too well that a house built is a death knell to habitat; or to virtually ever regaining that habitat - except at 10-fold expense. Development of this site has been fought for twenty years. That indicates there is a huge undercurrent of sentiment to save it with perhaps allies waiting in the wings to step in and help. The City appears poised, more than ever, to work with everyone who steps forward.

Thank you for your attention. Please call, (831) 375-6138, if I can be of any assistance.

Sincerely,



Alan Church

EXHIBIT NO. 20
APPLICATION NO.
3-01-101
Pg. 3 of 3

Enclosed:

Observations: Destruction of Monterey spineflower (*Chorizanthe pugens* var. *pugens* and *Erysimum ammophilum*) habitat due to proposed development of Del Monte Shores (City of Monterey), site plan April 13, 2001.

Carl Larson, 120 Seafoam Avenue, Del Monte Beach, Monterey, CA 93940
831/649-1117

January 7, 2002

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

re: Del Monte Beach Tract 2 Resubdivision
City of Monterey

Dear Ms. Craig:

This resubdivision application offers an opportunity to view the Del Monte Beach neighborhood unplugged. That is, free of the short-sighted indifference to impact build-ups from the permit-by-permit accumulation of interactions among density, streets, parking, traffic flows, et al. The map is not the territory in this unique 1918-planned sub-standard neighborhood of complex comprehensive interactions.

My attached September 11, 2000 comment to the City of Monterey describes a set of the utterly unique Del Monte Beach neighborhood conditions. They are complex, comprehensive real time factors and when in random combinations-of-the-moment generate serious consequences for residents and others in the area. The proposed resubdivision creates a loading-on jeopardy not seriously addressed in the city procedure.

Loading this proposed resubdivision and its legally incompatible sprawl (see ALUC below) onto the already-impacted substandard neighborhood would be a classic example of the failure to acknowledge the reality of complex forces, so to speak.

In addition to the violation of the Airport Land Use Commission's (ALUC) Comprehensive Land Use Plan for Monterey Peninsula Airport environs, resubdivision development loading-on will compound the neighborhood's short term and long term shortcomings, both during and after construction.

Moreover, realistically the terrorism of September 11, 2001, the consequent commencement of World War III against terrorism, the project location under the airport flight path, the linking of the existing DMB substandard physical conditions to natural and manmade disasters in the attached September 11, 2000 comment, make it clear that this resubdivision residential development will put more people in harm's way.

Yours truly,

Carl Larson

cc September 11, 2000 Comment
November 22, 1999 Comment FYI

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APPLICATION NO.
3-01-101
pg 1 of 4

CARL LARSON, 120 Seafoam Avenue, Monterey, CA 93940

831/649-1117

September 11, 2000

Community Development Department
City of Monterey, CA
Attention: Bill Fell, Chief of Planning

Comments re: Draft Environmental Impact Report
DEL MONTE BEACH TRACT 2 - RE-SUBDIVISION

It is my perspective that the Draft Environmental Impact Report approaches its task as though Del Monte Beach Neighborhood (DMB) in general is like other or standard type city neighborhoods in most respects. I try to demonstrate that the predominantly unique DMB generates adverse environmental effects, and that the aggregate interconnectedness of the characteristics create adverse effects where standards and situations in more conventional neighborhoods indicate no adverse effect. If I'm right, then the DEIR did not adequately address the differing effects in DMB.

It's not a moment too soon for a reality check on the DMB special vulnerability to disasters due to the unique circumstances of soil, roads, isolation, location and other variables. DMB neighborhood is different. The map is not the territory. Disasters frequency is up. DMB is vulnerable. The DEIR thereby is incomplete.

Again, Monterey's Del Monte Beach residential neighborhood is different from other City of Monterey neighborhoods. Differences begin with its location in sand dunes, not clay, rock, decomposed granite, or other, but sand which dunes the Coastal Commission has designated to be Environmentally Sensitive Habitat. Tract 2 open space is all ESH containing endangered or threatened or listed flora and fauna in and near the project area. No other city neighborhood is remotely similar.

Its location includes a city beach park and a California coastal access point designation, both inviting non-resident visitors and users. No other city neighborhood is remotely similar.

Its location is a part of the long sweep of the Monterey Bay Dunes System, westerly adjacent to the Navy School dunes which recently were resored in a \$200,000 project, and easterly adjacent to the California State Parks dunes also under restoration. No other city neighborhood is remotely similar.

Its a viewshed for beach users, for boating users, for the nearest road users, and for aircraft users, the first three having priority under the California Coastal Act. No other city neighborhood is remotely similar.

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PR 2 of 4

September 11, 2000

Accordingly, limitations and characteristics of the closed traffic system---single entrance/exit intersection, one-way-in and one-way-out narrow roads with crowded 90 degree curves at the blufftop, blind intersections, and three dead-end streets (one with this project)--- and these varying variables---the continuing loading-on of resident and transient vehicles, 2-sides parking that narrows the streets or chicanes and angle parking that also slow traffic, high demand for street parking space, increasing transient traffic, growing vehicular size, especially careful attention required of drivers of trucks, emergency vehicles and huge moving vans through the blufftop curves as well as throughout the area, parked trucks and moving vans intruding into the narrow street right-of-ways---any or all of which can provide spontaneous urban-type fuel and increase the intensity of one or more simultaneous or sequential disasters.

Use of the forest fire simile is intended to illustrate how the variables can fuel a DMB disaster.

Factor into those variables the public city beach park and the designation of a state coastal access point for added traffic trips and intermittent big events that attract visitors, cars, parking demand and congestion.

Factor in, also, to the variables these which swell the DMB population such as major event days like warm sunshine, especially balmy beach weather, afternoons and evening Fourth of July city fire-works, the construction vehicles assortment, huge moving vans and surges of residential visitors, plus doubling-up occupancy and the accompanying vehicles. [^] the

When you mix all those variables with Del Monte Beach vulnerability to natural disasters---earthquake, aircraft in distress, fire and the prevailing Bay winds across the dunes, maybe high wind or storm--- and also factor in seasons, timing and possibly more than one disaster at the same time, especially the latter, there is good cause for stronger DEIR analysis along these lines.

Steadily rising disaster consciousness is in the realistic disaster drills conducted by the airport district, medical community, cities, et al. More relevant to DMB is City of Monterey's Neighborhood Emergency Response Training program which is approaching 300 NERT graduates in order to be prepared for disasters. This is not occurring in a vacuum. It now is a fact of life.

Although I completed the NERT course this past summer, disaster potential is no stranger. In hearings I've often referred to the ALUC comprehensive land use plan that states that residential development in the open dunes area is incompatible with the LUP for safety and noise reasons. The aircraft noise violation is satisfied in new construction insulation and by the long running airport district insulation program for existing houses. There remains the outside noise factor, especially for babies and children. Safety goes unheeded.

Exhibit 21
3-01-101
pp. 3 & 4

Carl Larson, P.O.B. 2259, Monterey, CA 93942-2259
Residence: 120 Seafoam Avenue, Del Monte Beach

831/649-1117

November 22, 1999

Planning Commission
City of Monterey, CA

re: EIR Scoping, Tract II, Del Monte Beach

Dear Commissioners:

The economic value of Del Monte Beach Tract II sand dunes includes use as an ecotourism asset for the tourist industry; an ecotourism value for the city and industry 'customers', the visitor-tourist; a park for residents and visitors alike/open to all; also, a commercial value for residential development and government tax revenue; and, of course, land as a long term holding investment.

The No-Project alternative would combine the values of all but the residential development alternative. Inherent in all valuations and therefore a factor in each use is the irreplaceable, or depletion, factor, significant in both positive and negative effects.

Also, often neglected but of an operative value is the multi-faceted nature of the 'taking' status in each alternative use. There is the ever-present private property right of compensation if the owner is deprived of the use of the property for that permitted by zoning.

However, equally important are such 'taking' factors as the ultimate loss of habitat for rare and endangered species; the loss of prescriptive rights by the public; loss of the natural characteristics of sand dunes through their displacement by covering over with development; and in addition to loss of habitat is the loss of the ecotourism effect (the visitor experience) which is the fundamental value of the natural ambiance to the tourism industry.

Therein are both the positive and negative effects. Positive in the values of use, and negative in the values of loss. Where formerly the conventional practice was to recognize only the property right 'taking' value in development, the significance of the aggregated values grew throughout the past decade.

As the practices of environmental accounting, environmental economics, and their social values were increasingly integrated into environmental considerations public awareness and acceptance of these realities in their lives followed.

Incorporation of these environmental, economic and social values and their interconnectedness, and of the irreplaceable, sensitive habitat coastal resource and its impacts into the EIR would seem to be essential in order to enable commissioners, councilmembers and the public to make informed decisions, a primary purpose of the California Environmental Quality Act.

Carl Larson 3-01-10/1
pg 4 of 4

RECEIVED

CITY OF MONTEREY
PLANNING COMMISSION

Exhibit 21

March 20, 2002

RECEIVED

Lee Otter
California Coastal Commission
725 Front Suite 300
Santa Cruz, Ca

MAR 20 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Development Plan for Del Monte Beach

Dear Mr Otter,

I am astounded to learn that the Coastal Commission staff is considering changing the development plan that was so many years in the making and is a hard fought compromise agreed to by the City of Monterey, the Monterey Parks District, the Del Monte Beach Neighborhood Association, various environmental activists and others. I recall that you were in attendance as the Coastal Commission representative at many meetings where this plan was hammered out and there was no mention by you at that time of the Commission's concerns about the placement of Lots 7 and 8 during the planning process. Now at the last minute the Commission is considering changes that torpedo the efforts of all the above parties.

I have been involved with Del Monte Beach development issues for over 30 years. I know you have been as well. I am very surprised that you have not shared your knowledge of the Commission's stated concerns for the preservation of the first 22 lots as open space for access and for recreational use. Surely you remember the Commission's concerns about the prescriptive rights that have been documented there. I hope I haven't been mistaken in believing that the Coastal Commission is consistent in its actions.

Our justice system is based on a deep respect for precedence in order to prevent social chaos. I hope the Coastal Commission's precedents can also be relied upon. Please share your knowledge of this history with your staff.

Very truly yours,

Velma Hollingsworth
Velma Hollingsworth

EXHIBIT NO. 22
APPLICATION NO.
3-01-101