

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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F14a**RECORD PACKET COPY**

Appeal Filed: 10/10/01
49 Day Waiver: 10/25/01
Staff: SAM- SC

Previous Coastal Commission Actions & Dates
De novo hearing opened and continued: 01/09/02
Project approved with conditions: 05/09/02

Revised Findings
Revised findings staff report prepared: 06/20/02
Revised findings hearing date: 07/12/02

REVISED STAFF REPORT: REVISED FINDINGS FOR COASTAL DEVELOPMENT PERMIT

Local government:Monterey County

Local Decision:Resolution 01-052, Approved with conditions, Local Permit Number
PLN000400

Appeal NumberA-3-MCO-01-100

Applicant.....Boutique Hotel Group

Appellants:.....Commissioners Sara Wan and Patricia McCoy

Project location.....Carmel River Inn, Highway 1 at Oliver Road, Mission Fields (APN 009-563-
005), Carmel Area of Monterey County (see Exhibits A, B and C).

Project descriptionConstruction of a well for landscaping irrigation purposes at the Carmel River
Inn (After the Fact).

File documents.....County coastal permit file PLN000400; Monterey County Local Coastal
Program, including *Carmel Area Land Use Plan* and *Monterey County
Coastal Implementation Plan* (Title 20 of County Code).

Commission ActionApproved with Conditions.

Date of ActionMay 9, 2002

Commissioners on prevailing side: Burke, Dettloff, Hart, Kruer, McClain-Hill, McCoy, Potter,
Reilly, Woolley and Wan.

Staff recommendation ...Adopt Revised Findings

Staff Note: The Coastal Commission approved this proposed project after public hearing at their May 2002 meeting in Santa Rosa by a vote of 10-1. In the course of that approval, the Commission modified



**California Coastal Commission
July 2002 Meeting in Huntington Beach**

Staff: SAM Approved by: C.F.R. 6/20/02

findings and added six conditions, and the final vote was predicated on the understanding that the project would be brought back before the commission for the adoption of revised findings that reflected the changes made by the Commission. All changes made to the May 2002 staff report (i.e., Commission modifications) are reflected herein and identified by footnotes as applicable. Staff made substantive changes to findings that were modified throughout. In addition, revisions to the Staff Recommendation (page 1), Conditions of Approval (pages 4-6), and CEQA findings (pages 15-16) were necessary to reflect the Commission’s directive given at the May 9, 2002 Commission meeting.

Synopsis of the Coastal Commission May 9, 2002 action: The Applicant’s proposed project raised concerns regarding consistency with the Monterey County LCP, intensification of water use and the potential for adverse impacts to endangered steelhead habitat caused by drawing down the aquifer. After public hearing, the Coastal Commission approved the amendments to conditions as proposed by the applicant, and then approved the proposal with the amended conditions.

Summary of Staff Recommendation: The staff recommends that the Commission adopt the following revised findings in support of the Commission’s action on May 9, 2002 approving with conditions the permit for a new well to provide water for irrigation at the Carmel River Inn, which is the subject of A-3-MCO-01-100.

Staff Recommendation on Revised Findings

The staff recommends that the Commission adopt the following revised findings in support of its approval with conditions of a coastal development permit for the proposed development on May 9, 2002.

Motion: “I move that the Commission adopt the revised findings in support of the Commission’s action on May 9, 2002 approving with conditions the development proposed under appeal number A-3-MCO-01-100 pursuant to the staff recommendation.

Staff Recommendation of Adoption: Staff recommends a YES vote. Passage of this motion will result in adoption of the following resolution, revised findings and conditions as set forth in this report. The motion requires majority vote of the members from the prevailing side present at the May 9, 2002 hearing, with at least three of the prevailing members voting. Commissioners eligible to vote on the revised findings are Commissioners Burke, Dettloff, Hart, Kruer, McClain-Hill, McCoy, Potter, Reilly, Woolley and Wan. If the motion fails, the revised findings are postponed to a later meeting.

Resolution: The Commission hereby adopts the findings and conditions set forth below for approval with conditions of a coastal development permit for the proposed development on the grounds that the findings support the Commission’s decision made on May 9, 2002 and accurately reflect reasons for it.

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I. Project Procedural History

The proposed project in front of the Commission was approved by the Monterey County Planning Commission on August 29, 2001. This local approval was appealed to the Coastal Commission by Commissioners Sara Wan and Patricia McCoy on October 10, 2001 and the applicant waived the 49-day hearing requirement on October 25, 2001. On January 9, 2002, the Coastal Commission opened the substantial issue hearing, and moved directly into the *de novo* hearing. The *de novo* hearing was continued until such time as staff could answer Commissioners’ questions regarding possible conditions of approval and potential benefit of the project. On May 9, 2002 in Santa Rosa, the Commission resumed the *de novo* hearing on the project and found the project, as conditioned, consistent with the Monterey County LCP. This staff report incorporates the analysis and the adopted *de novo* process since the May 9, 2002 public hearing.

II. Report Summary

As stated above, this appeal was filed on October 10, 2001; the applicant waived the 49-day hearing requirement on October 25, 2001 to allow more time to address the concerns raised by the appeal with Commission staff. At the January 2002 Meeting in Los Angeles, the Commission determined that a



substantial issue exists with respect to the grounds on which the appeal was filed, and went directly into a *de novo* hearing. The *de novo* hearing was continued to provide staff with the opportunity to obtain additional information pertaining to current and expected water usage on the site, and to draft some examples of potential conditions of approval that might be used for the project. After subsequent review, Staff recommended that the Commission deny the application for a coastal development permit for a nonpotable well for irrigation at the Carmel River Inn. Notwithstanding staff recommendation, at the May 9, 2002 public hearing, the Commission voted 10-1 to approve the project with conditions as modified by the applicant.

It is noted that the circumstances surrounding this project are unique, particularly because the property is zoned for visitor-serving commercial use, because the well will be used exclusively to provide non-potable irrigation water for landscaping, because it does not result in an intensification of water withdraw from the Carmel River Alluvial aquifer, and most importantly because it is not serving new development. Therefore the Commission's approval of this project is not a precedent regarding individual water wells in an area designated for urban services, as authorization of private wells for new development within this public service area may lead to cumulative impacts that could undermine Cal-Am's ability to provide adequate water supplies to existing service connections within the Monterey Peninsula Water Management District.

III. 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. **Well plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval two sets of well plans showing all proposed construction and connections to the new water well including new pipes, connections and hose bibs to be installed. The plans shall also illustrate all details of existing water system connections including existing hose bibs to be disconnected and demonstrate the complete separation between the existing Cal-Am system and the proposed private system.
2. **Landscape plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for the Executive Director's review and approval two sets of landscaping plans that shall demonstrate the use of drought-tolerant native plants. The Permittee shall not be required to remove or replace any trees, and shall have three years from the date of permit approval (May 9, 2002) to implement the landscaping plan.¹ The visitor cottages shall be allowed a 15-foot buffer which may remain landscaped with non-native species, these areas shall be clearly delineated on the a site map for the Executive Director's approval prior to approval of landscaping plans.

The plans shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials proposed for the developed site, the irrigation system, topography of the developed site, and all other landscape features; and
 - (b) A schedule for installation of plants; and
 - (c) A water budget outlining both short-term (establishment) needs of the landscaping and long-term (maintenance) needs. Neither long-term nor short-term requirements may exceed 2.5 acre-feet of water per water year (June 30-June 30).²
3. **Limitation of water withdrawals.** FOR THE LIFE OF THE PROJECT, the amount of water that may be withdrawn from the well shall be limited to the amount determined by the approved long-term landscaping water budget, which shall not exceed 2.5 acre-feet per year³. If, in any year, water use exceeds 2.5 acre-feet prior to the end of that year, the pumps will be turned off and the well will not be used until the commencement of the next "water year".

¹ Modification to Staff recommendation as made by the Commission at the May 9, 2002 hearing to include an exemption for existing trees: adds entire second sentence to Special Condition 2.

² Modification to Staff recommendation as made by the Commission at the May 9, 2002 hearing to modify the previously recommended requirement to limit water use restriction: sentence 2 of Special Condition 2 (c) replace "1.5 acre-feet" with "2.5 acre-feet".

³ Modification to Staff recommendation as made by the Commission at the May 9, 2002 hearing to modify the previously recommended requirement to limit water use restriction: sentences 1 and 2 of Special Condition 3 replace "1.5 acre-feet" with "2.5 acre-feet".



4. **Prohibition of future connections.** FOR THE LIFE OF THE PROJECT, the well shall not have any future connections to any other water system, nor shall the well be used for any purpose other than to provide water for landscaping of the lot as described in the approved landscaping plans.
5. **Monitoring requirements.** UPON COMPLETION OF THE PROJECT the Permittee shall monitor water use on the site and report the use figures for both the private landscape water system and the publicly supplied water (Cal-Am) to the Executive Director on an annual basis beginning three months after issuance of the permit for the life of the project^{4, 5}

Metering equipment shall be installed on the well and maintained in proper working order for the life of the project. Meter readings shall be made by a qualified person and reported to the Executive Director on an annual basis. Cal-Am water use shall be reported to the Executive Director on an annual basis by submission of quarterly water bills that indicate the amount of water used for each quarterly reporting period⁶.

6. **Condition Compliance.** WITHIN 60 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

The project is located in the Carmel Area of unincorporated Monterey County, and lies south of the City of Carmel and west of Highway One at the mouth of the Carmel Valley (See Exhibits A, B, and C). The 10.85-acre parcel lies west of Highway 1 along Oliver Road, and the southwest boundary of the site is adjacent to the Carmel River. A major commercial area is located to the east of the project area between Carmel Valley Road and Rio Road and the parcel is surrounded by residential development to the north and west. The Carmel Area Land Use Plan (LUP) regulates Land use and development in this area. As

⁴ Modification to Staff recommendation as made by the Commission at the May 9, 2002 hearing to modify the previously recommended requirement to submit Cal-Am bills on a quarterly basis: Sentence 1 of Special Condition 5 replace "quarterly" with "annual".

⁵ Modification to Staff recommendation as made by the Commission at the May 9, 2002 hearing to modify the previously recommended requirement to limit the amount of potable water that can be bought from Cal-Am to 2.1 acre-feet per year: Deletes entire last sentence of Condition #5.

⁶ Modification to Staff recommendation as made by the Commission at the May 9, 2002 hearing to modify the previously recommended requirement to submit Cal-Am bills on a quarterly basis: Paragraph 2 of Special Condition 5 replace "quarterly" reporting with "annual" reporting.



described in the LUP, the property is located in an urban area, where sewer, water, transit and fire protection services already exist (See Exhibit D, Map of Cal-Am Service Area).

Land to the south of the property is designated as wetlands and coastal strand, in the Carmel River bed and the immediate vicinity, and as agricultural preservation. Because the Carmel River is the defined boundary between rural and urban areas and uses, this area south of the Carmel River is designated for rural uses in the LUP.

The property is zoned Resource Conservation, Coastal Zone RC (CZ) and Visitor-Serving Commercial, Coastal Zone VSC (CZ), and is currently occupied by a motel that is comprised of a two-story main unit and numerous individual cottages in a wooded setting. Grass and various landscaping areas surround the cottages. The western end of the property is currently free of cottages, containing a large area planted with grass, and the balance in either dirt and leaf litter or weedy, herbaceous growth.

As approved by the County, the applicant proposes, after the fact, to construct a well on the northwest portion of the property to provide non-potable water for irrigation of 2.25 acres of landscaping, which is currently irrigated with public utility water provided by California-American Water Company (Cal-Am) (See Exhibit D). However, as discussed at the January 9, 2002 public hearing, the well was installed in September of 2001 without a coastal development permit. As summarized by the applicant, the reasons for drilling the well include reducing reliance on water sources provided by Cal-Am to the Carmel River Inn, and wanting to cut down on their water bills.

The proposed site for the well is approximately 230 feet north of the River and 1200 feet west of Highway 1, and will not be visible to the public (See Exhibit F). The well will be approximately 150 feet deep and is expected to produce roughly 2.5-acre feet of water per year. A well of this depth placed at such a distance from the river will most likely be pumping water from the Carmel Valley Alluvial aquifer, which is the underflow of the Carmel River (See Exhibit E).

B. Project Background

Status of Water on the Monterey Peninsula

Following the severe drought conditions in the late 1970's, voters approved the formation of the Monterey Peninsula Water Management District (MPWMD) to regulate water resources in the Monterey Peninsula. The MPWMD regulates the collection, storage, distribution and delivery of water within the 170-square mile area of the water management district, which stretches from Seaside in the north to Los Padres Dam in the south. All of the water used within the Monterey Peninsula Water Management District comes from the Carmel River, from wells in the Carmel Valley, and the Seaside Basin. The MPWMD allocates water from these sources to the various water companies and smaller local jurisdictions. The largest water distribution system is operated by the California-American Water Company, which provides water to nearly 95 percent of the 112,000 residents in the Monterey Peninsula Water Management District (See Exhibit D, Page 1).



For reporting year 2000 (7/1/99-6/30/00), roughly 97 percent of the water supplied by Cal-Am was produced within the Monterey Peninsula Water Resource System (MPWRS) area, which consists of the Carmel Valley Alluvial Aquifer and the Seaside Basin. The other 3 percent is supplied from private wells and water companies owned by Cal-Am outside of the MPWRS boundaries. Within the MPWMD reporting year 2000, 72 percent of the Cal-Am water supply (11,267.6 acre feet) came from wells in the Carmel Valley and direct Cal-Am diversions from below the San Clemente dam, while 26 percent (4,012.8 acre feet) comes from the Seaside aquifers. Because the State Water Resources Control Board says that the Carmel Valley Alluvial Aquifer flows in a known and defined channel, it cannot really be separated from water of the Carmel River (pers. comm. Tom Lindberg- MPWMD Hydrologist). The effect of this statement is that the bulk of Cal-Am's water diversions (72% for reporting year 2000) came from the Carmel River.

In 1995, the State Water Resources Control Board Order 95-10 reduced the amount of water Cal-Am could take from the Carmel River aquifer by 20 percent in the near-term and up to 75 percent in the long-term. The MPWMD requested relief through the courts, but the Monterey County Superior Court upheld the 20 percent reduction in water use specified by the order. Since that time, the County has been under strict conservation measures, and has focused its efforts on improving water conservation programs while working on other water supply augmentation proposals that will garner community support and help Cal-Am attain the goals established by the Order.

The MPWMD allocation program currently limits production by Cal-Am to 15,285-acre feet of water per year within the MPWMD boundaries (which includes 11,285 acre-feet from the Carmel Valley alluvial aquifer, and 4,000 acre-feet from the Seaside Basin). All of this water is already allocated to current users or proposed construction that has already been approved, and no additional water source is presently available to serve Cal-Am customers within the district. The Monterey County Water Resources Agency administers a water waiting list for Cal-Am water that may become available due to reduction in use from other sites, such as that alleged by the Carmel River Inn, or some future increase in supply.

Pursuant to MPWMD Ordinance 96, the MPWMD regulates small water distribution systems including single connection systems that serve only one lot. Ordinance 96 requires all persons to obtain a written permit from the MPWMD prior to establishing a water distribution system within the water management district. However, the permit requirement is exempted for wells located more than 1,000 feet outside of the Carmel Valley alluvial aquifer, more than 1,000 feet outside of the major tributaries to the Carmel River (i.e., Tularcitos, Hitchcock Canyon, Garzas, Robinson Canyon and Potrero Creeks), or for wells outside of the Seaside Coastal Basin areas. As shown on Exhibit E, the proposed location for the Carmel River Inn's well is within the boundaries of the Carmel Valley alluvial aquifer. Therefore, geographically, this project would not be exempt from the MPWMD Ordinance 96 well permit requirement. However, because the well was drilled, metered and inspected prior to October 16, 2001 (without a coastal development permit), the Monterey Peninsula Water Management District has determined that this project is exempt from the Ordinance 96 permit requirements.



A 1998 report on the estimated future water needed for buildable legal lots of record on vacant parcels within the Cal-Am service area states that approximately 923 acre-feet of water would be needed for new buildings as of January 1997 and remodels through the year 2006 (MPWMD 1999 Annual Report). The MPWMD has since been working on completing an update of this report, and while the 2001 update is not yet published, the agency has determined that approximately 1,400 acre-feet of water would be needed for the existing vacant legal lots of record on unimproved parcels within the MPWMD boundaries (Pers Comm Henrietta Stern, MPWMD). Additional water needed for unincorporated County areas with existing vacant legal lots of record that have some improvements on them (such as small sheds or other such structures) have not yet been calculated. However, it is expected that the total water requirement would be somewhat greater than 1,400 acre-feet.

Cal-Am and the MPWMD are currently searching for additional water supplies. Possible alternative strategies include implementation of groundwater injection (e.g., storage of excess water from the Carmel River in the Seaside Coastal Basin during winter months), desalinization or seawater, wastewater recycling (i.e., using reclaimed wastewater for irrigation purposes), and water conservation efforts that include retrofitting or replacing water-using appliances and fixtures and drought resistant landscaping.

C. Issue Analysis

1. Land Use & Development Issues

a. Local Coastal Program Provisions

Because of the Coastal Act requirement to provide different land use policies for the rural and urban portions of the Carmel Area, the County has included the following policy that defines the dividing line between these two types of low (rural) and high (urban) intensity land uses:

LUP Policy 4.4.2.1. The Carmel River shall be considered the dividing line between the urban and rural areas of the Monterey Peninsula. The river shall provide the natural boundary between urban and higher intensity uses to the north and rural, lower intensity uses to the south.

Other important LUP policies related to general urban/rural planning issues include:

LUP policy 4.4.3.D.4 states in part: "... All proposals must demonstrate consistency with the land use plan... and environmental... constraints..."

LUP policy 4.4.3.E.2 directs medium density residential development "...to existing residential areas where urban services- water, sewers, roads, public transit fire protection, etc.- are available..."



Additionally, Section 4.5 of the Carmel Area LUP describes Land Use Categories and notes the following:

"...the capabilities and constraints of the various areas of the Carmel area to support various types and densities of land uses are reflected in the land use map. Land uses have been designated based on an evaluation of existing uses, appropriate levels of use to protect coastal resources, and levels of development that can be accommodated by public works systems such as water supplies and coastal access roads."

Other important land use and development policies relevant to this project include:

LUP policy 3.2.2. *The County should reserve from its allocated water supply a sufficient quantity to accommodate coastal priority land uses proposed in this plan.*

LUP policy 3.2.3.1 states in part: *The County shall reserve adequate water supply from its fair share allotment of Cal-Am water as approved by the Monterey Peninsula Water Management District to supply expansion of existing and development of new visitor-serving facilities permitted by the plan. Water must be first assured for coastal-priority visitor-serving facilities before allowing any new residential development...In addition, 0.056 acre-feet/year of water is reserved for each visitor-serving unit permissible under this Plan.*

LUP policy 4.4.1 Key Policy *All future development within the Carmel coastal Segment must be clearly consistent with and subordinate to the foremost priority of protecting the area's scenic beauty and natural resource values.*

LUP policy 4.4.2.4 *Because there is limited suitable land or water to support new development and because the capacity of public facilities is limited, coastal-dependent recreation and visitor-serving uses shall have priority over residential and other non-coastal dependent uses.*

b. Land Use & Development Issue Analysis and Conclusion

Land Use Plan Policy 4.4.2.1 cited above clearly establishes the Carmel River as the dividing line between urban and rural areas of the Monterey Peninsula. This policy derives from one of the most fundamental principles of the Coastal Act, as well as modern urban and environmental planning: *the establishment and maintenance of stable urban/rural boundaries for the protection of sensitive resources and to provide for the rational planning of public services to support new urban development.*

In particular, the benefits of urban/rural boundaries include the prevention of urban sprawl, protection of agricultural land, efficient use of land, and the rational planning and construction of urban infrastructure (e.g., roads, utilities, and sanitation systems) to support urban intensities of land use. Urban-level intensity land uses are then directed to locate within urban areas, preserving rural lands for low intensity rural land uses. Certainly the services that are required to support urban uses (e.g., water supply and storage/conveyance/treatment systems, sewer connections, wastewater treatment plants, etc.) are greater



and different than those needed for rural land uses (e.g., small wells and individual septic systems). Coastal Act policy 30250 states this premise as follows:

Section 30250(a) New residential, commercial, or industrial development, except as otherwise provided in this division, 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....
[Emphasis added].

This policy provides that if an urban area lacks critical infrastructure - e.g., water, sewer, or road capacity - to support further urban development, then new development must be delayed until the capacity of the limited service can be increased, through a comprehensive urban planning process, in order to support it. It does not mean that new urban uses should proceed incrementally, using what are essentially rural-level services (e.g., private wells and septic systems). The proliferation of rural services within an urban area causes practical problems (e.g., wells run dry, lot sizes are too small to accommodate septic systems) and planning problems. Ultimately, incremental development without comprehensive planning may lead to serious environmental resource impacts such as groundwater overdraft, polluted groundwater, degraded riparian habitat, and so on. This basic environmental planning principle is recognized in the Carmel Area LUP overview of the need to protect coastal streams and watersheds from the cumulative impacts of incremental private water supply projects:

2.4.1 Overview The Carmel coasts' major streams are the Carmel River, San Jose Creek, Gibson Creek, Wildcat Creek, and Malpaso Creek. With the exception of the Carmel River, these streams are small, but all directly support riparian wildlife and plant communities. Because many of the streams are small, development of residences, agriculture, and public or private recreation and visitor-serving facilities can place excessive demands on the water available in some watersheds. When overuse is allowed, through unwise approvals of development or use applications, degradation of the natural environment results with loss of plant, wildlife, and fish habitats. Eventually, people dependent on the adequate supply of quality water will suffer too as private and community water systems fail. The drought of 1976-78 emphasized the critical need for a careful and conservative approach to planning and to recognize that drought year flows are the controlling factor for all human and natural uses (LUP, p.41).

The Project is in an Existing Developed Urban Area

As required by the Coastal Act, Local Coastal Plans must also include policies that address Coastal Act issues - such as the establishment of stable urban/rural boundaries and the policy to locate new urban development within urban areas that are able to accommodate additional development. The Carmel Area Land Use Plan is a classic example of how Coastal Act policies are translated into local policies. The LUP has primarily addressed this issue by specifically establishing both rural and urban portions of the land use planning area in Policy 4.4.2.1, within which lower and higher densities of development are appropriate.



The project that is the subject of this permit – the Carmel River Inn -- is located within the urban portion of the Carmel Area Plan. First, the LCP provides a general description of the existing developed areas of the Carmel Area, including Mission Fields, where the Inn is located:

Existing Developed Areas. The subdivided areas within the segment are concentrated primarily along the west side of Highway 1, except within Carmel Highlands, where the subdivided area lies also on the east side. It is the County's objective to promote the continued "infilling" of vacant parcels of record in all subdivided areas, namely, Carmel Woods, Hatton Fields, Carmel Point, Mission Fields, Mission Tract, Carmel Meadows, Carmel Highlands, and the Riviera. Existing recreational and visitor-serving facilities located within the residential communities are considered desirable uses and should be continued where potential or existing conflicts with the surrounding residential community can be adequately mitigated (LUP, p. 77).

Second, the fact of the Carmel River Inn's urban location for purposes of coastal land use planning on the Monterey Peninsula is directly noted in LUP Policy 4.4.3.D.1 which states that "[v]isitor-serving facilities are presently located in existing developed areas...". The LCP's concept of "existing developed areas," of course, is a direct reflection of Coastal Act Section 30250, which requires that new development be located in or in close proximity to "existing developed areas." Thus, the Monterey County LCP clearly acknowledges that existing visitor-serving facilities, like the Carmel River Inn, are located in areas understood to be already developed for purposes of coastal land use planning and resource protection.

New Development should be served by Public Services provided for the Urban Area

Ordinarily, the fact that a development is located in an existing developed urban area means that it should be supported by the public services that have been planned for and provided for the urban area. Indeed, the designation of urban areas and the associated provision of public services to the urban areas, which is built into the Monterey LCP, go hand-in-hand with the protection of sensitive coastal resources.

For example, water is an important coastal resource, especially within the Monterey Peninsula area where water supplies are severely limited. In order to protect water supplies and other various coastal resources within the unincorporated areas of Monterey County, the County has planned for specific land uses in specific areas. Again, as part of these planning efforts, the County has determined that higher-density development would be allowed in urban areas where multiple units per acre may be developed, and less intensive uses allowed in rural areas where development can be spread across fewer, larger parcels. Because of the high density of development planned in urban areas, the County has also planned for and provided the necessary urban services infrastructure such as water, sewer, public transit, fire protection, etc., rather than allow individual property owners to each develop their own utility systems. This is clearly recognized in the Carmel Area LUP's original description of urban water supply issues for the Monterey Peninsula:



3.2.1 Overview. With the exception of Carmel Riviera, the residential areas of the Carmel area have domestic water supplied by the California American Water Company (Cal-Am). This utility also serves the six cities and other unincorporated portions of the Monterey Peninsula area. At the present time, the principal sources of water are reservoirs on the Carmel River. When Cal-Am develops four new wells along the Carmel River east of Highway 1, it will then have an assured supply of 20,000 acre-feet per year. Water usage by the seven jurisdictions for 1979 is estimated at 14,000 acre-feet; of this approximately 5,000 acre-feet was consumed by the unincorporated portion. Under a "fair-share" water allocation system, the County will be allocated a specific proportion' of the total available supply to be used to serve growth in the unincorporated portions of the Cal-Am service area. A proposed wastewater reclamation project by the Carmel Sanitary District would make available an additional 900 acre feet of potable water now used for irrigation of golf courses. It has not yet been determined as to how this potential additional supply will be distributed within the unincorporated area. Coastal Act policies require that where public works facilities can accommodate only a limited amount of new development, coastal-dependent land uses, including recreation and visitor-serving uses, shall not be precluded by non-priority residential development (LUP, p. 68).

This overview statement highlights what has always been understood to be the case for provision of water supply in the urban areas of the Monterey Peninsula, namely, that the water for new development was planned for and provided through the Cal-Am publicly-regulated distribution system, and that rational planning and allocation was necessary to both protect sensitive resources such as the Carmel River, and to provide water to new development equitably. To be sure, the last part of this LUP overview discussion underscores the important Coastal Act requirement that when urban services are limited, that services must be reserved for priority uses such as visitor-serving development. Such reservations could not occur if services were not being provided through the comprehensively managed public services system. This requirement is more specifically found in Key Policy 3.2.2 and LUP Policies 3.2.3.1 and 4.4.2.4:

3.2.2. The County should reserve from its allocated water supply a sufficient quantity to accommodate coastal priority land uses proposed in this plan.

3.2.3.1 The County shall reserve adequate water supply from its fair share allotment of Cal-Am water as approved by the Monterey Peninsula Water Management District to supply expansion of existing and development of new visitor-serving facilities permitted by the plan. Water must be first assured for coastal-priority visitor-serving facilities before allowing any new residential development...In addition, 0.056 acre-feet/year of water is reserved for each visitor-serving unit permissible under this Plan.

4.4.2.4 Because there is limited suitable land or water to support new development and because the capacity of public facilities is limited, coastal-dependent recreation and visitor-serving uses shall have priority over residential and other non-coastal dependent uses.



Conclusion

There is no question, then, that the LUP contemplates that new urban development in general and new visitor-serving uses in particular located in an existing developed urban area should be provided with public water services through the Cal-Am system managed by the Monterey Peninsula Water District.⁷ However, the proposed private well that is the subject of this application will not be serving new development (i.e. an expansion of the Inn), and is restricted to nonpotable use for landscape irrigation. It is also limited to 2.5 acre-feet per year, supports an existing visitor-serving use, is immediately adjacent to the river so groundwater will not be significantly affected, and has received approval by the Monterey Peninsula Water Management District. Therefore, there is no significant concern with respect to the general LCP requirement that water in urban areas be supplied by a public system.

Public Water Supply Protects Coastal Resources through Comprehensive Planning

To reiterate, the purpose of clearly designated urban and rural areas is to provide for rational planning and the protection of coastal resources. The LCP therefore requires that development in urban areas, located within urban service areas, will use urban services. By so doing, the County is better able to manage development given the environmental constraints that prevail within specific planning areas. In this case, the County has a public management system in place for water service in the urban service area. As discussed previously in this report, because of environmental constraints on water withdrawals from the Carmel River, the MPWMD allocation program currently limits water production by Cal-Am. Generally, approval of a private water supply well within the urban service area would thereby undermine the public water management system by allowing incremental development to proceed prior to the comprehensive planning process necessary to develop additional water supplies.

In further support of this project, the water drawn from the well will be non-potable, and as conditioned will be limited in both quantity drawn and allowable use, so that it will be used exclusively for irrigation of landscaping and not to provide any means to establish water credits for new onsite or offsite development. Moreover, while the well itself is new, it will not be serving expanded development. Water drawn from the well will effectively be traded for the use of Cal-Am water, and thus withdrawals from the aquifer will not increase. Policies relevant to utility service for development in urban areas are therefore not directly applicable to the very unique circumstances of this proposal and thus it may be approved.

⁷ This is further recognized in the LUP discussion of important planning issues on-going in the Carmel Area:

A final issue to be resolved is the adequacy and capacity of water supplies, wastewater disposal facilities, and transportation facilities. The Coastal Act states that where remaining capacity of existing or planned public works facilities is limited, such capacity shall be reserved for coastal-dependent land uses such as agriculture and coastal recreation and shall not be precluded by residential development. This mandate has direct bearing on the potential for continued residential development and subdivision within the Carmel area. The capacity of existing water supplies and wastewater disposal facilities is limited, while Highway 1 is at or near capacity during peak use periods (LUP, p. 76).



D. Public Access and Recreation Findings

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of chapter 3 of the Coastal Act. The project is located seaward of the first public through road, which in this area is State Highway 1. Sections 30210-14 of the Coastal Act provide for maximizing public access to the coast. In accordance with other Coastal Act policies, Section 30223 requires that upland areas necessary to support coastal recreation uses shall be reserved for such uses where feasible. Section 30212 also requires that public access from the nearest public roadway to the shoreline be provided for all new development projects except where adequate access exists nearby.

The project does not affect any existing public access in the Carmel Area. The site is located approximately 4,500 feet from the coast near the Carmel River Bridge and is currently zoned for visitor-serving commercial uses. Additionally, adequate access to the beach and recreational opportunities exist in the Carmel area, such as Carmel Beach City Park and Stillwater Cove, which are located near the mouth of Pescadero Creek. Therefore, the project is consistent with public access and recreational policies of the Coastal Act.

E. Violation Finding

The proposed well that is the subject of this permit action has already been installed without benefit of a coastal development permit. Although development has taken place prior to Commission action on this permit appeal, consideration of the appealed action by the Commission has been based solely on the certified Local Coastal Program and the applicable policies of Chapter 3 of the Coastal Act. Commission action on this permit does not constitute a waiver of any legal action with regard to the violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit. With respect to Special Condition #6, which requires condition compliance within 60 days of Commission action on this permit, this condition addresses the need for timely compliance with permit conditions, and does not prejudice enforcement actions.

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



The County of Monterey circulated a Mitigated Negative Declaration for the development on July 17, 2001. The County of Monterey, acting as the lead agency for the environmental review of the new well, certified the Mitigated Negative Declaration on August 29, 2001.

As detailed in this staff report, the Commission has identified environmental impacts associated with the project, beyond those addressed in the certified Mitigated Negative Declaration. The Commission has therefore attached conditions to the approval of this amendment, which ensure that these impacts will be avoided or reduced to an insignificant level. With these conditions, the project will not have an adverse impact on the environment within the meaning of the California Environmental Quality Act.



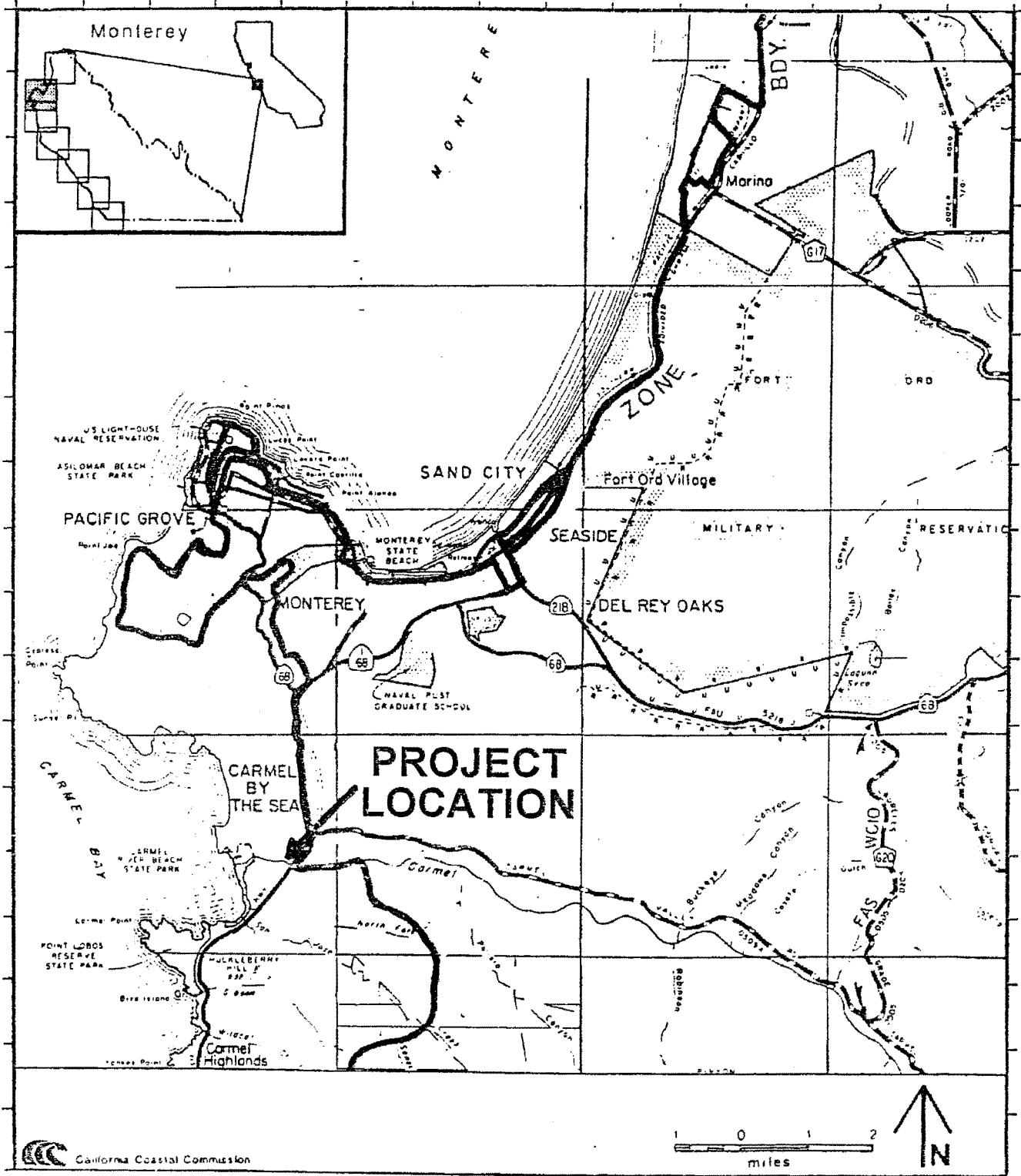


Exhibit A
Regional Location Map
A-3-MCO-01-100
Carmel River Inn Well

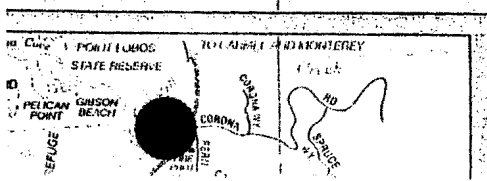
Pacific

Carmel

CARMEL-BY-THE-SEA

Bay

CONTINUATION OF STREETS SEE MAIN MAP AT RIGHT



THE PINNACLE

THE PINNACLE

NORTH POINT

TERMINAL ROCK

GR. POINT

RESERVE

ECOLOGICAL

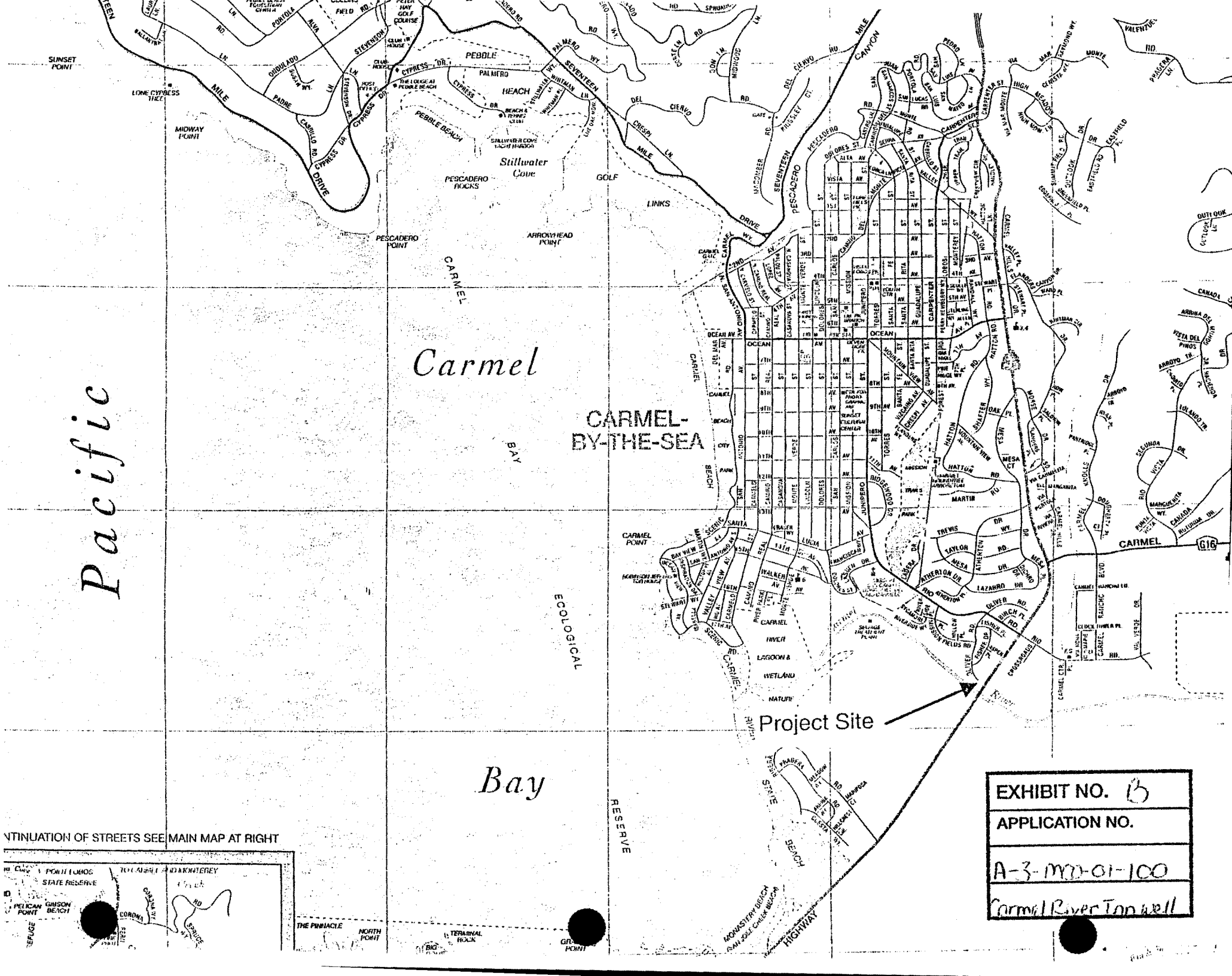
Project Site

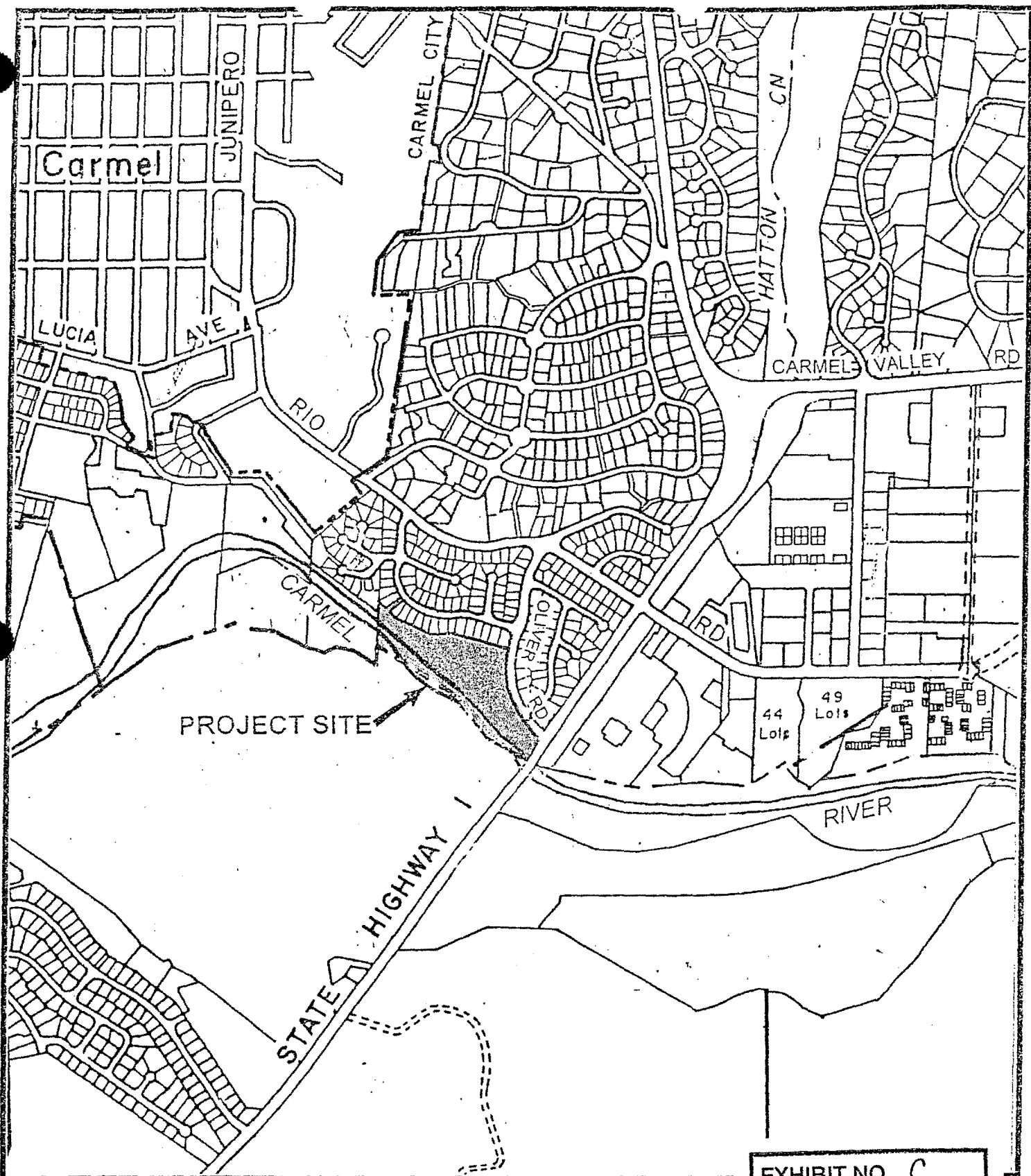
EXHIBIT NO. B

APPLICATION NO.

A-3-MD-01-100

Carmel River Topwell






APPLICANT: BOUTIQUE HOTEL COMPANY

APN: 009-563-005-000

FILE# 000400

300' LIMIT: 


2,500' LIMIT: 

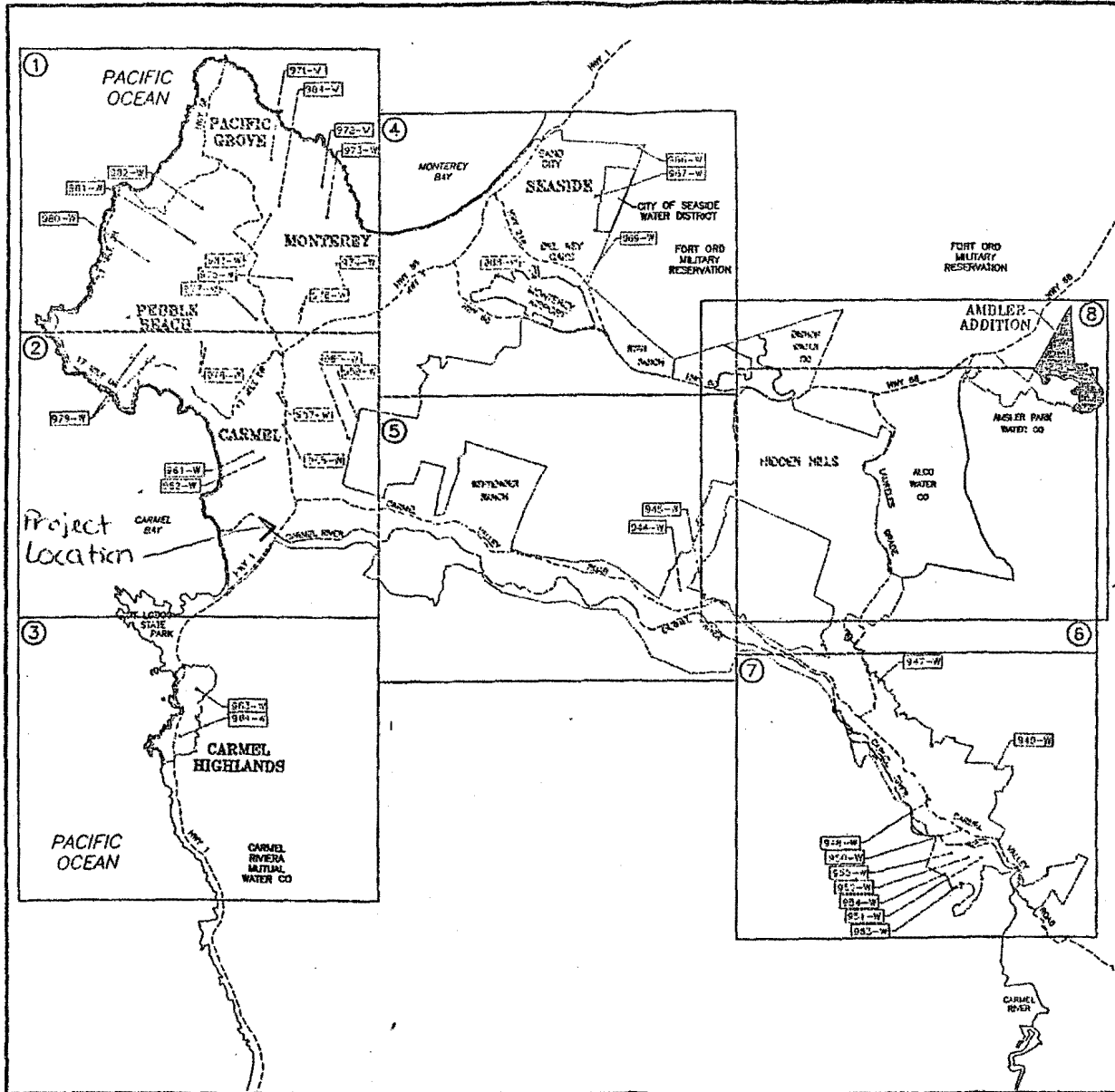


EXHIBIT NO. C

APPLICATION NO.

A-3-MCO-01-100

Carmel River Inn, LLC

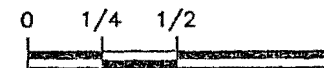


MONTEREY DIVISION
 SERVICE AREA INDEX MAP
 AMBLER ADDITION



Monterey Division
 50 Ragsdale Dr., Monterey, CA 93940

- EXISTING SERVICE AREA
- ADDITION TO SERVICE AREA
- DELETION FROM SERVICE AREA
- DETAILED SERVICE AREA MAPS
- G.O. 103 LOW PRESSURE AREAS
- SERVICE AREA BOUNDARY



Original Plot Scale 1"=1/2 Mi

Revised: 7-18-00

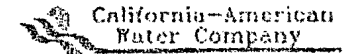
A-3-MCO-01-100
 Carmel River Inn Well

Exhibit D
 1 of 2









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 ADVICE LETTER NO. 545 D.P. STEPHENSON DATE FILED AUG 14 2000
 NAME EFFECTIVE SEP 22 2000
 DECISION NO. DIRECTOR - RATES & REVENUES RESOLUTION NO.
 TITLE

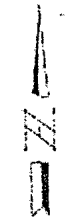
MONTEREY DIVISION
SERVICE AREA
DETAIL MAP 2

CARMEL



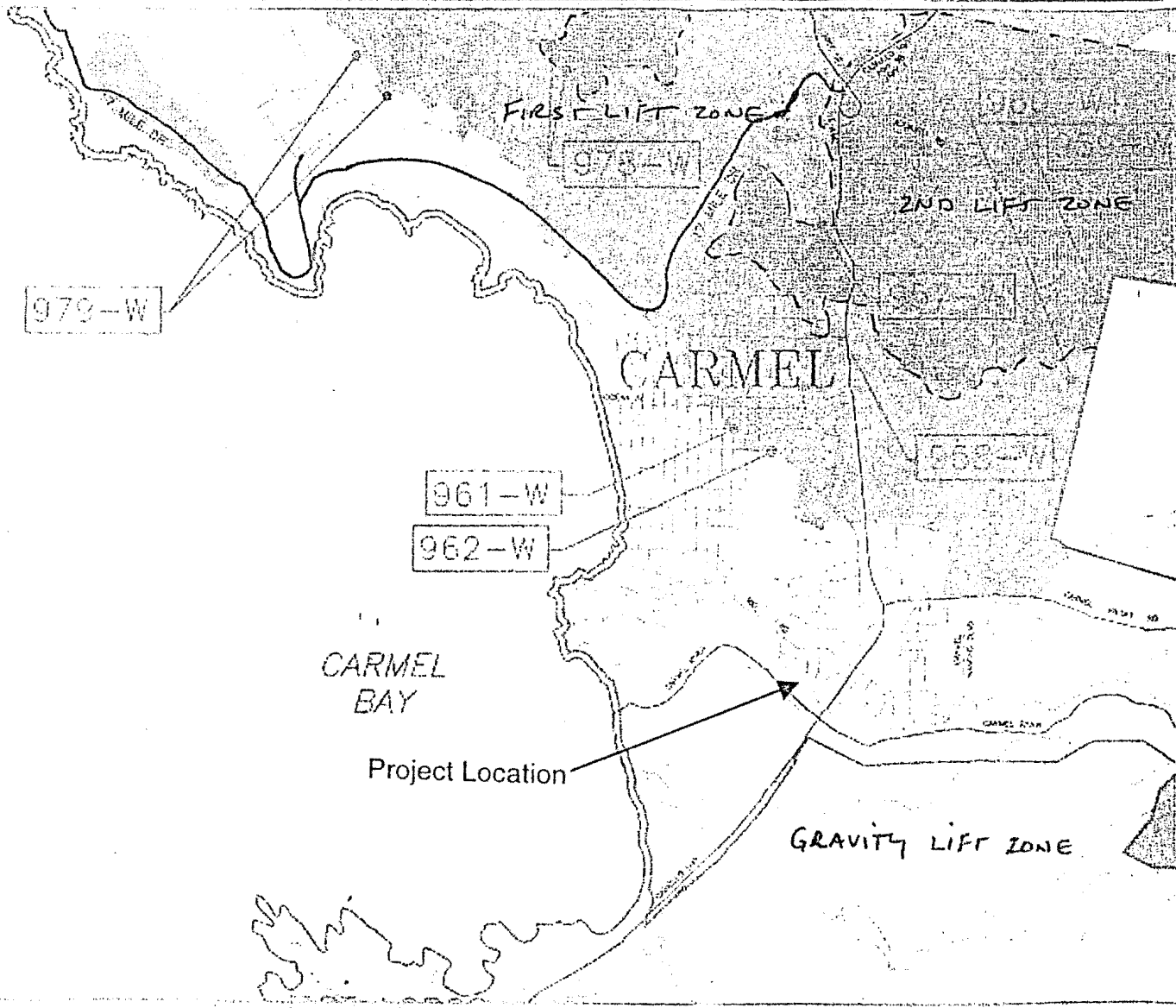
Monterey Division
50 Mogsdale Dr.
Monterey, CA 93940

- GRAVITY LIFT 
- FIRST LIFT ZONE 
- SECOND LIFT ZONE 
- HIDDEN HILLS TARIFF ZONE 
- SERVICE AREA BOUNDARY 
- NEW SERVICE TERRITORY 
- DELETION FROM SERVICE AREA 
- G.O. 103 LOW PRESSURE AREAS 



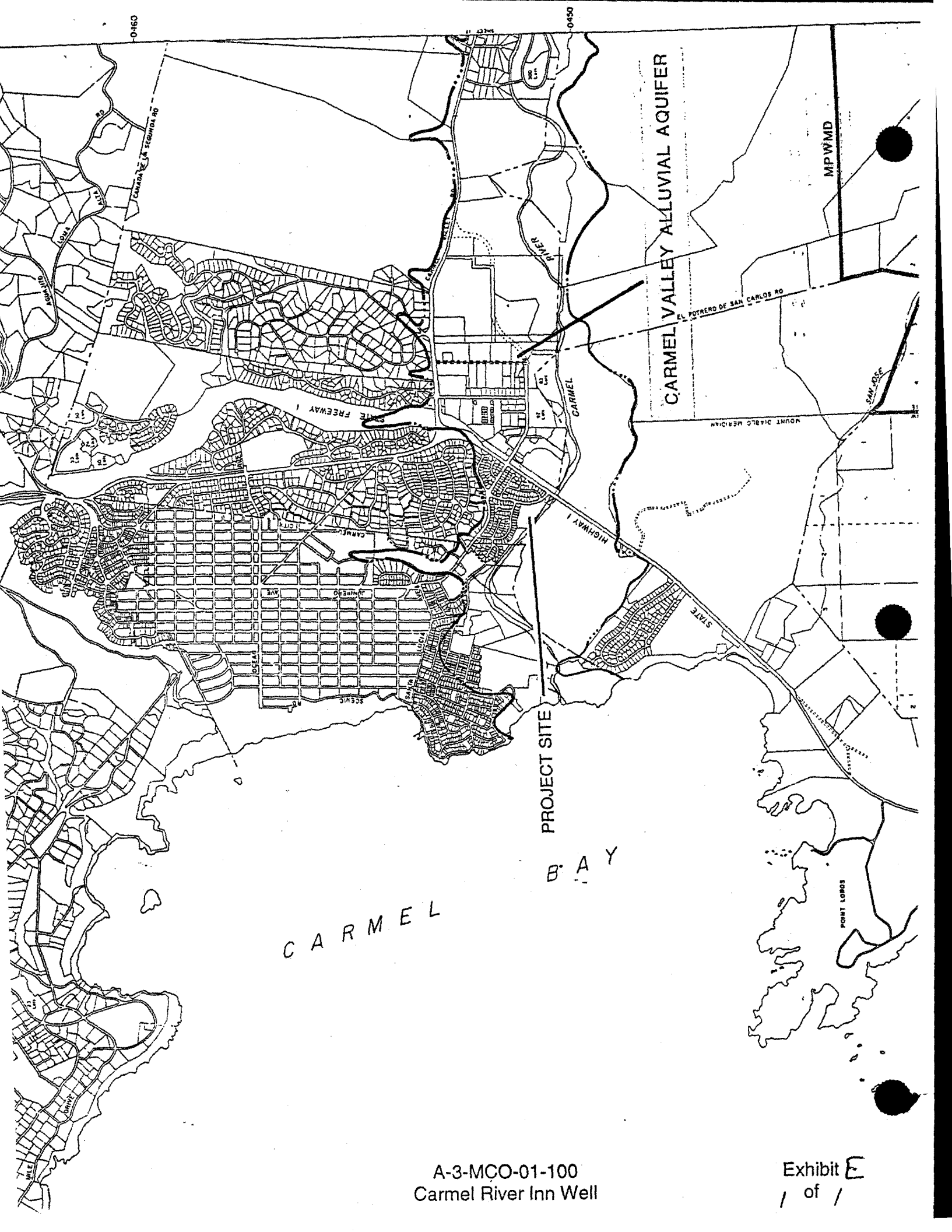
0 .25 .5 1
Original Plot Scale 1"=1/2 M.

Revised: 4-30-98



A-3-MCO-01-100
Carmel River Inn Well

Exhibit D
2 of 2



0-160

0-150

CARMEL VALLEY ALLUVIAL AQUIFER

MPWMD

EL POTRERO DE SAN CARLOS RD

MOUNT DIABLO MICHIGAN

SAN JOSE

PROJECT SITE

C A R M E L
B A Y

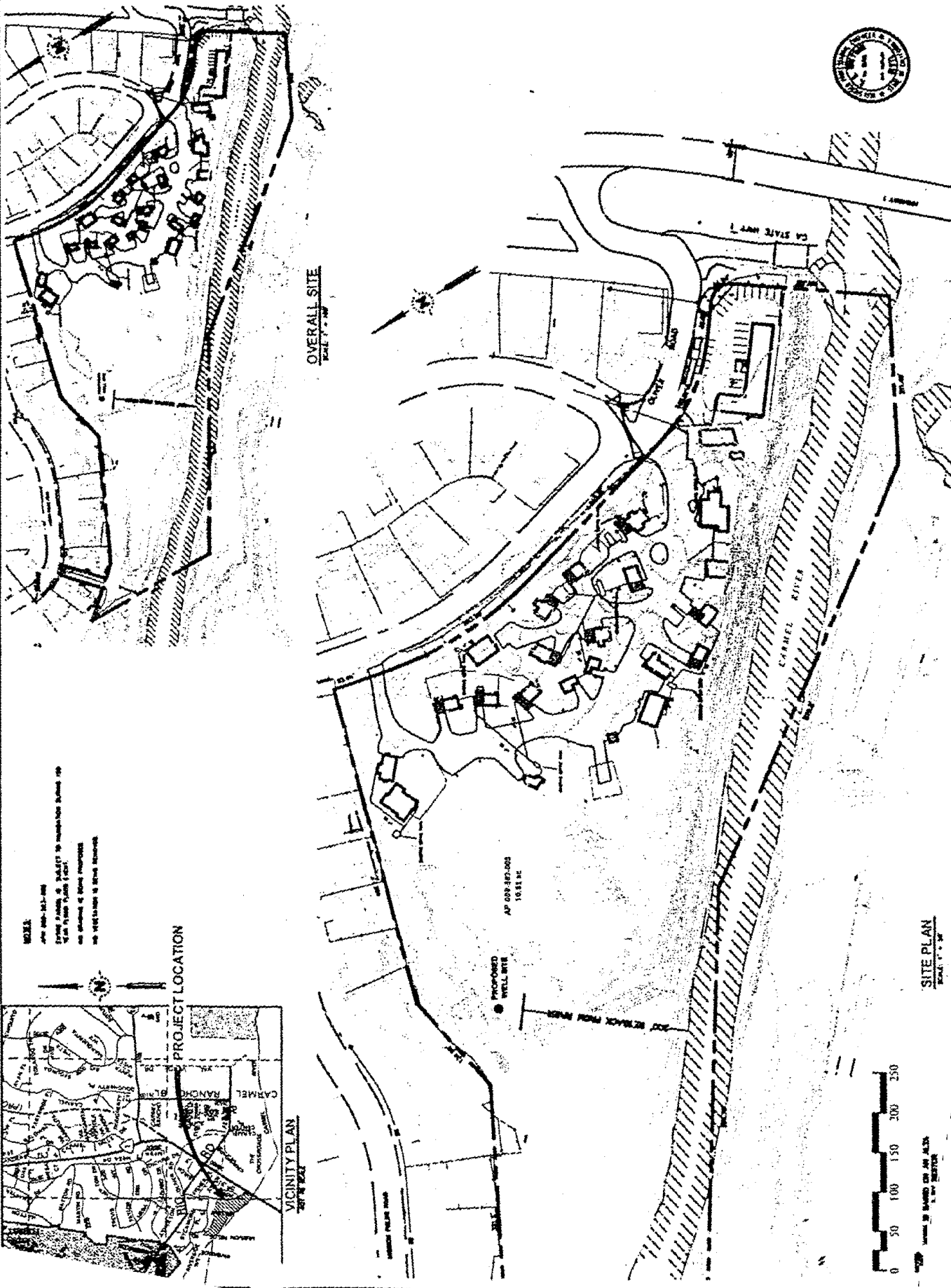
C A R M E L

POINT LOBOS

WHITSON ENGINEERS
 1511 SAN CARLOS AVE., SUITE 100, CARMEL, CALIFORNIA 95008
 (408) 925-1111 FAX (408) 925-1112



DATE	DESCRIPTION



OVERALL SITE
 SCALE 1" = 200'

NOTES
 1. SEE APN 009-363-095
 2. THIS PLAN IS SUBJECT TO THE MONTEREY COUNTY AND STATE PLANNING ACTS.
 3. THE LOCATION OF THE PROPOSED WELL SITE IS SHOWN IN RED.
 4. THE SETBACK FROM THE RIVER IS 200 FEET.

