

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

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Hearing Date: 9/11/2002
Commission Action:

APPEAL STAFF REPORT: DE NOVO COASTAL PERMIT

APPEAL NUMBER: A-3-MCO-99-092

LOCAL GOVERNMENT: MONTEREY COUNTY

DECISION: Approved with conditions, 11/09/99

APPLICANT: Rancho Chiquita Associates, Attn: Ted Richter

APPELLANTS: Big Sur Land Trust, Attn: Zad Leavy;
Department of Parks and Rec., Attn: Kenneth L. Gray; and
Responsible Consumers of Monterey Peninsula, Attn: David Dilworth

PROJECT LOCATION: Highway One and Riley Ranch Road, across from Point Lobos
State Reserve; Carmel Highlands (Monterey County) APN
243-112-015 (see Exhibit A).

PROJECT DESCRIPTION: Convert an existing single-family dwelling, barn and cottage to
a 10-unit bed and breakfast; install parking lot and improve
access to site. (see Exhibit B)

FILE DOCUMENTS: Monterey County Certified Local Coastal Program, consisting
of *Carmel Area Land Use Plan* and relevant sections of
Monterey County Coastal Implementation Plan;
Administrative Record for County Permit PLN970284;
information on Point Lobos Ranch plans for development and
subsequent acquisition by Big Sur Land Trust; Rancho
Chiquita vs. Big Sur Land Trust settlement agreement of
March 5, 2002; file A-3-MCO-99-057 and County permit SB
94001 for Whisler Family Trust subdivision.

EXECUTIVE SUMMARY

Staff recommends that the Commission **approve a coastal permit** for the proposed bed and breakfast with conditions, including one to prepare a management plan to address coexistence with the adjacent future State Park.

The proposed project is the conversion of an existing single family dwelling, barn and cottage to

a 10-unit bed and breakfast facility. The project is located on the east side of Highway One, on Riley Ranch Road in the Carmel area of Monterey County's Coastal Zone (see Exhibit A). The project is to be located on a 5.42-acre parcel (APN 243-112-015-000), across from the Point Lobos State Reserve (see inset map; Exhibit B). The property is designated as "Resource Conservation" with a Special Treatment overlay (see Exhibit E). The site is within what is called the Riley holdings of Point Lobos Ranch.

Three parties appealed this project. The Commission found Substantial Issue on June 16, 2000 with regard to insufficient comprehensive planning, especially concerning density and management, and authority to convert the barn to bed and breakfast use. Subsequently, the applicants and the appellant Big Sur Land Trust engaged in discussions and then litigation, terminating in a settlement agreement, in an attempt to reach common understanding of the density issue. Now, the matter is ripe to return to the Commission for resolution.

The context for land use planning has changed at Point Lobos Ranch since the preparation of the LCP some two decades ago. The LCP identifies this area as suitable for visitor-serving use. The entire approximately 1,600 acre Ranch is designated for up to two hotels containing up to 276 overnight rooms. The LCP contains some specific siting parameters to primarily preserve the scenic viewshed and contains density allocations for optional residential use. However, the mention of 276 rooms is only an allocation of 138 rooms to each of the two families who then owned the Ranch: the Hudsons and the Rileys. The decision of where the hotel(s) would go on the Ranch was left to a coordinated planning process. Since then, the Big Sur Land Trust has purchased 1,312 acres for on-going transfer to the State Department of Parks and Recreation (see Exhibit G). Thus, the hotel(s) will never be built. The challenge is how to interpret the local coastal program policies to apply to the remaining private ownership of Point Lobos Ranch, such as the subject 5.4 acre parcel.

The County has previously adopted findings for another project on a 24.25 acre part of the Riley portion of Point Lobos Ranch. These County findings set forth a maximum of 10 overnight units in a bed and breakfast (on the subject site) and nine homes (four already exist) that will occur on the remaining private portions of the Riley holdings. This was based on agreements made among the owners of this land. In essence, this density allocation and the resultant site plans become the equivalent of a comprehensive plan for the private portions of the Riley holdings. The remaining Riley holdings become a 114.6 acre State Park. If the total development density potentially allowed for the Riley holdings under the LCP were proportionally divided between private and public lands on the basis of each's acreage, there would be more than enough to accommodate the development scenario outlined here and in the County's findings. Thus, since the proposed bed and breakfast fits within this scenario, which is consistent with the LCP, staff recommends that the permit be approved. A condition is recommended to memorialize this allocation through recordation of the pertinent density agreement. The final allocation plan for the Riley portion of Point Lobos Ranch is shown on the lower right map in Exhibit F.

The proposed bed and breakfast is generally consistent with other relevant local coastal program policies. There is no archaeological site in the area to be disturbed for parking; there is an existing water system whose use will not be increased as a result of this project; there is minimal

if any traffic increase associated with the project; and the bed and breakfast will help preserve the visual character of the area by its adaptive reuse of scenic, historic ranch buildings. Nevertheless, staff further recommends that conditions be imposed to address various potential impacts that the proposed bed and breakfast may have on archaeological resources, water resources, traffic, scenic resources, and, foremost, on the adjacent State Park. Embodied in the LCP's requirement for comprehensive planning for the Ranch is the necessity to have a management component. The appellant State Parks has identified concerns relative to the operation of a bed and breakfast in a park inholding. Thus, a condition is recommended for management measures to be prepared whereby the bed and breakfast developer coordinates with State Parks to ensure that resource and public access concerns are addressed.

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I. STAFF RECOMMENDATION ON DE NOVO COASTAL PERMIT

A. MOTION:

I move that the Commission approve Coastal Development Permit No. A-3-MCO-99-092 pursuant to the staff recommendation.

B. STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the 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.

C. RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with Monterey County's Local Coastal Program. Approval of the 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. RECOMMENDED CONDITIONS

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 this permit is reported to the Commission. 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

The following special conditions of this coastal permit replace all conditions of Monterey County Coastal and Design Permit #PLN970284, except for conditions 2, 6 - 16, 27, 32, 38, 39, and 40, which the County imposed under an authority other than the Coastal Act (see Exhibit D). This action has no effect on these conditions imposed by a local government pursuant to an authority other than the Coastal Act.

1. **Final Project Approval and Plans:** The Coastal Development Permit is for the conversion of an existing single-family dwelling, barn, and cottage to a 10-unit bed and breakfast facility, plus owners/managers quarters with a 12-space parking lot. The project site is located at Highway One and Riley Ranch Road, (Assessor's Parcel Number 243-112-015-000) in the Carmel area of the Coastal Zone. The project must be constructed in conformance with the plans in the County permit file, as modified by these conditions. **Prior to issuance of the coastal development permit,** the applicant shall submit two full-size sets of final plans for Executive Director review and approval that comply with all relevant conditions of this permit. A site plan covering the entire parcel and Riley Ranch Road shall be included. No use or construction other than that specified by this permit is allowed unless additional permits or amendments are approved. Once the conversions occur, any future change of use (even back to the current uses) shall constitute an amendment to this permit.
2. *County condition (see Exhibit D)*
3. **Deed Restriction:** **Prior to issuance of the coastal development permit,** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject

property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. **Design Changes Subject to Review:** Because of the visual sensitivity of Point Lobos, all exterior design changes, including color changes associated with repainting and reroofing, shall be submitted to the Executive Director with evidence of Monterey County Planning Commission approval for approval or determination as to whether a coastal permit amendment is necessary.
5. **Exterior Lighting Plan:** Prior to issuance of the coastal development permit, the applicant shall submit an exterior lighting plan for any new lights proposed on the structures, subject to review and approval by the Executive Director of the Coastal Commission. The applicant shall submit two copies of an exterior lighting plan to the County and two copies to the Coastal Commission that shall indicate the location, type, and wattage of all exterior light fixtures and include catalog sheets for each fixture. All exterior lighting shall be unobtrusive, harmonious with the local area, fully shielded, and constructed or located so that only the area intended for illumination is illuminated, off-site glare is fully controlled, and no uplighting is allowed.
6. -16. *County conditions (see Exhibit D)*
17. **Entrance Turn Lane:** The applicant shall widen Highway One to provide a southbound left turn lane at Riley Ranch Road, including a NO U-TURN SIGN subject to the approval of Caltrans and the Monterey County Department of Public Works. **Prior to issuance of the coastal development permit,** the applicant shall include plans for such work within required final plan submittal pursuant to Condition # 1 for Executive Director review and approval, along with evidence of Caltrans approval.
18. **Access Road:** The applicant shall improve Riley Ranch Road to a width no greater than 18 feet for fire protection purposes. **Prior to issuance of the coastal development permit,** the applicant shall include plans for such work within required final plan submittal pursuant to Condition # 1 for Executive Director review and approval.
19. **Traffic Impact Mitigation Fee:** The applicant shall contribute 0.16% of the cost of the Highway One Operational Improvements to Monterey County or Caltrans, as specified in the County's formula.
20. **Mandatory Water Conservation:** To address mandatory water conservation, the applicant shall comply with Monterey County Water Resources Agency Ordinance No. 3539 and any subsequent amendments thereto. The regulations for new construction require, but are not limited to:
 - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of

2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.

- b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices.

- 21. **Proof Of Water:** Prior to issuance of the coastal development permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), and submit to the Executive Director of Coastal Commission for review and approval, proof of water availability on the property, in the form of an approved Water Release Form.
- 22. **Adequate Septic:** Prior to obtaining a County building permit to commence work on the bed and breakfast buildings, the applicant shall obtain a septic repair permit from the Monterey County Division of Environmental Health and shall expand the septic disposal system which shall meet the standards of Chapter 15.20 of the *Monterey County Code*.
- 23. **Water Permit:** Prior to issuance of the coastal development permit, the applicant shall obtain, and submit to the Executive Director of the Coastal Commission for review and approval, a new water system permit from the Monterey County Division of Environmental Health.
- 24. *County condition (see Exhibit D)*
- 25. **Water System:** The applicant shall install the water system improvements to and within the project prior to obtaining a building permit to commence other work on the bed and breakfast buildings, but only after issuance of the coastal permit.
- 26 –27 *County conditions (see Exhibit D)*
- 28. **Landscape Plan:** Prior to issuance of the coastal development permit, the applicant shall submit a landscaping plan for Coastal Commission Executive Director's review and approval. The applicant shall provide evidence that Monterey County Director of Planning and Building Inspection has reviewed the landscape plan. (Three copies of the landscape plan shall be provided to the Planning and Building Inspection Department, which requires a landscape plan review fee.) The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. The landscape plan shall include landscaping to screen portions of the project without blocking views from State Highway One. The landscape plan shall be consistent with and demonstrate how fire safety conditions are followed (i.e., the vegetation within 30 feet of the structures shall be of a non-flammable nature). The plan shall incorporate a berm, the minimum necessary, to shield the parking lot from public view and shall show

the dimensions of the berm and the parking lot. Before commencement of the use, landscaping shall be installed pursuant to the landscape plan.

29. **Landscape Maintenance:** All landscaped areas and fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.
30. **Water Information:** The applicant shall provide to the Monterey County Water Resources Agency and to the Coastal Commission Executive Director information on the water system to serve the project, including the location of all water wells on the property, any available well logs, and the number of current hookups.
31. **Water Monitoring:** Prior to commencement of the use of the bed and breakfast, the applicant shall install a water meter on the system providing water to the bed and breakfast facility. The water use of the bed and breakfast facility shall not exceed 9.45 AF/yr. The property owner shall provide the Monterey Peninsula Water Management District and Monterey County Water Resource Agency documentation annually of water use, including verification on the reporting of metered water deliveries. This limitation on water use shall not be utilized in any manner that would establish an on-site or off-site water credit for the purposes of intensification or expansion of other existing uses or for new uses.
32. *County condition (see Exhibit D)*
33. **Bed and Breakfast Regulations:** The property owners shall occupy and manage the bed and breakfast facility. The facility shall not be affiliated with hotels or motels operating anywhere in the County of Monterey.
34. **Maximum Site Density:** No more than ten guest rooms shall be allowed at this site.
35. **Maximum Visitor Stay:** No long-term rental of rooms shall be permitted. The maximum stay for guests shall not exceed 29 consecutive days in a 30 day period and no more than 60 days in a one year period.
36. **Parking:** The facility shall provide parking on site at the rate of 1 space per guest room plus two spaces for the owners, for a total of 12 spaces, if all 10 rooms are established.
37. **Signs:** The bed and breakfast facility may have a maximum of one sign not exceeding 4 square feet in area. Such sign shall be attached to the residence and shall not be internally illuminated.
- 38 -40. *County conditions (see Exhibit D)*

40. **Lower Cost Component:** The bed and breakfast facility shall have two guest rooms available for low-cost visitor-serving uses.
41. **Information Brochure:** Prior to the use of the bed and breakfast facility, the applicant shall develop an information brochure on the rules and regulations of the Point Lobos State Reserve. The information brochure shall be distributed to all guests staying at the facility, and shall be approved by the Executive Director after consultation with State Department of Parks and Recreation.
42. **Management Plan:** Prior to issuance of the coastal development permit, the applicant shall submit a management plan for operation of the bed and breakfast, consistent with its natural setting and the existing and future State Park operation, to the Executive Director for review and approval. The plan shall address concerns such as lighting, outdoor activities, pets, access, traffic, and parking in order to avoid and manage any potential conflicts with habitat protection and recreational programs on the adjacent State Parks land. The plan submittal and updates shall include evidence of coordination with the Department of Parks and Recreation. Failure to comply with the plan shall be considered a breach of coastal permit condition compliance. The plan shall be periodically updated, in coordination with the Department of Parks and Recreation, at least once every five years and the updates shall be submitted for Executive Director review and approval. The plan shall also be updated within six months of the Department of Parks and Recreation taking title to land adjacent to the site east of Highway One and within six months of State Parks and Recreation Commission adoption of a General Plan (or equivalent management document) for this area.
43. **Archaeological Discovery:** If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Coastal Commission and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. The mitigation plan shall be prepared pursuant to standards of the State Historic Preservation Office. This mitigation plan shall then be approved by the State Historic Preservation Office and the Executive Director of the Coastal Commission and fully implemented by the property owner.
44. **Water Study:** The property owners shall participate in any future public agency study of water use in the San Jose Creek watershed at least to the extent of providing information on their water use and water system operation.
45. **Scenic Easement:** Prior to issuance of the coastal development permit, the applicants shall provide evidence that the State Parks Commission agrees that the existing scenic

easement allows for the conversion of the barn to a bed and breakfast or that the Commission approves the use. If there is a determination that the barn can not be used for the bed and breakfast, then the applicant has the option to reconfigure one or both of the residences into up to a total of ten units and submit such revised plans pursuant to Special Condition #1.

46. **Visitor Credit Transfer Agreement Recordation:** Prior to issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director that the portions of "Real Property Exchange Agreement July 24, 1984, Parties: Ted Richter and Paul Davis, Mary Riley Whisler, and Francis Whisler" pertaining to transfer of visitor-serving credits off of what are now APNs 243-113-001 through -007 have been recorded.

VII. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION AND DESCRIPTION

1. Setting

The project is the conversion of an existing single family dwelling, barn and cottage to a 10-unit bed and breakfast facility. Parking will be provided for 12 cars. The project is located on the east side of Highway One, near Riley Ranch Road and Highway One in the Carmel area of the Coastal Zone in the County of Monterey (see Exhibit A). The project is located on a 5.42-acre parcel (APN 243-112-015-000), located east of Highway One and across from the Point Lobos State Reserve (see inset map; Exhibit B). The property is designated "Resource Conservation" with a Special Treatment overlay in the Monterey County Local Coastal Program. (see Exhibit E)

The parcel is part of what was Point Lobos Ranch. At the time of LCP preparation two families owned the Ranch: the Hudsons and the Rileys/Whislars (see Special Treatment Area map in Exhibit E). More recently most of the Ranch was sold to the Big Sur Land Trust for eventual transfer to State Parks and Recreation (see Exhibit G). Some land remained in private ownership including the subject parcel which contains an existing single family dwelling (see Figure 1), a barn and a cottage, all of which are visible from Highway One and from within Point Lobos State Reserve. Access is from Riley Ranch Road, a County road that intersects Highway One across from the Reserve.



Figure 1: Existing Stone House



Figure 2: Proposed Parking Area

2. Project Description

The proposed project involves conversion of the barn into four bedrooms, the refurbishing of the cottage into two guest rooms, and the refurbishing of the house for four upstairs bedrooms (see Exhibit B). The manager's quarters will be on the first floor of the house along with a lounge, reception area, and exercise room. There will be little change to the exterior appearance of the buildings. A landscaping plan is required as a condition of County approval. The flat area between the barn and the cottage will be used for parking (12 spaces; see Figure 2). Also, pursuant to County conditions for fire protection purposes, Riley Ranch Road to the site will be widened and improved to 18 feet. The road's intersection with Highway One also will be improved (see Exhibit B-3).

B. POINT LOBOS RANCH COMPREHENSIVE DEVELOPMENT PLAN AND RESULTANT ALLOCATION OF DENSITY

1. Relevant Local Coastal Program Provisions

The following provisions from the *Carmel Area Land Use Plan* are relevant. The subject site is located in the "Flatlands" area of Point Lobos Ranch on what were called the "Riley" holdings.

4.4.3.E.8. Rural residential development is appropriate for the "Flatlands" area, the lower area of Point Lobos Ranch presently characterized by rural residential use. New land divisions within this area shall result in a maximum of 28 additional units permissible if conversion of visitor serving commercial to residential units is carried out pursuant to the provisions of policy 4.4.3.F.4.C. Preference should also be given to transferring 8 units of residential development for the Riley holdings to the Flatlands pursuant to policies 2.2.4.10.b and 4.4.3.G.3. New development in this area shall be located within the forest cover and shall not be allowed on the open, scenic pasturelands.

4.4.3.E.9. Residential development of Point Lobos Ranch shall only be considered within the context of an overall development and management plan(s) for the entire ranch that

provide for recreation and visitor-serving uses provided, however, that no individual owner shall be prevented from making and proceeding with a separate application for residential development, if full notice is given to other owners of such proceeding so that overall development and management may be discussed during the consideration of any such application.

Also required is residential (if any) clustering and substantial open space available for on-site recreational use by hotel patrons and the public and to require protection of adjacent State Parks land.

LCP policies related to the Point Lobos Ranch Special Treatment Area state:

4.4.3.F. The "Special Treatment" overlay is intended to be used in conjunction with the underlying land use designation. Its purpose is to facilitate a comprehensive planned approach for specifically designated properties where a mix of uses are permitted and/or where there are unique natural and scenic resources or significant recreational/visitor-serving opportunities. Particular attention is to be given towards siting and planning development to be compatible with existing resources and adjacent land uses. ...The Point Lobos Ranch [covers] roughly 1,600 acres. Policies governing the type and intensity of uses and the location of development for [this Special Treatment Area] are contained in preceding sections of this chapter, [and] are provided in greater detail as follows:

4.4.3.F.4. POINT LOBOS RANCH

The entire Point Lobos Ranch, consisting of the Hudson and Riley properties, shall be designated for "Special Treatment" in order to facilitate a comprehensive planned development as described in policy 4.4.3.E.9, capitalize upon the significant recreational and visitor-serving opportunities offered by the ranch, and protect its unique scenic and natural resource values. The following policies, in addition to applicable policies in Section 4.4.3, D. Commercial, and E. Residential, shall govern the types and intensities of allowable uses on the ranch:

- a. Visitor-serving facilities shall be allowed on both the Hudson and Riley properties. Each property may be permitted up to 120 visitor-serving units, for a total of 240 units.*
- b. The existing residential density on the Flatlands portion of the Ranch is permitted to remain (10 units on 143 Riley acres; 4 units on 200 Hudson acres).*
- c. An overall density of 1 unit per 10 acres (i.e., 16 additional residences) may be permitted on the portion of the Hudson property within the Flatlands area and one unit per 5 acres (i.e. 12 additional residences) may be permitted on the portion of the Riley property as an alternative to the permitted visitor-serving facilities.*
- d. The density credit for new residential development for the upper portions of the ranch ("Intermediate Terrain" and "Uplands") shall be as specified per policy 4.4.3.E.10 (i.e. 1*

unit per 40 or 80 acres, which equates to 8 units for the Riley holdings and 20 units for the Hudson holdings). Preference should be given to clustering this development and/or transferring it to the Flatlands pursuant to policies 2.2.4.10.b and 4.4.3.G.3.

If clustering of this development and/or a transfer of density from either the Riley or Hudson Intermediate Terrain or Uplands is provided and the completion of overall development and management plans for both properties is coordinated to the greatest extent possible, residential development and visitor-serving facilities shall both be permitted on the Flatlands areas of the Riley holdings and the Hudson holdings, however not to exceed a total visitor-serving units of 276 and a total new residential units as herein permitted for the entire Point Lobos Ranch.

e. The maximum residential density for the Riley property if developed exclusively as residential units shall be a total of 30 units (i.e. 8 units on the Uplands, 10 existing residential units, and 12-units on the Flatlands). The maximum residential density for the Hudson property if developed exclusively as residential units shall be 40 (i.e. 20 units from the intermediate and Uplands areas, 16 units on the Flatlands, and 4 existing family residential units).

f. Employee housing shall be required as an addition to the permitted number of residential units and shall conform to policy 4.4.3.H.2.b, but not to exceed a maximum of 36 employees.

g. Shared access to serve new development on both properties shall be required and located and designed so as to have least impact on Point Lobos Reserve and on through traffic on Highway one.

h. Trails for public access shall be required to connect the Gowen Cypress annex, Huckleberry Hill and Point Lobos Ridge areas.

i. If both lodge facilities are developed in the flatlands area of the ranch, a joint-use conference center for functions associated with the hotel(s) may be constructed. Ancillary facilities shall be in scale with the lodge facility.

j. Completion of overall development and management plans for both properties shall be required and shall be coordinated to the greatest extent possible.

k. Lower cost visitor serving facilities shall be provided in the ratio of at least one unit (e.g. hostel bed, campground space) for every five average or high-cost hotel units pursuant to policies 4.4.3.D.3, 4.4.3.D.5 and 4.4.3.D.7, however, not to exceed a total of 276 visitor-serving units.

Carmel Area Land Use Plan policies relevant to development of large properties and ranches, and which also apply to Special Treatment areas include the following:

4.4.3.G.1. The development of large properties (over 50 acres) and ranches should be guided by an overall management plan. The plan should reflect the long-range open

space values, and low-intensity recreation, and how development of the property will be phased over time.

4.4.3.G.2. The County will assist large property owners in securing agricultural, conservation and scenic easements on their properties to reflect the low-intensity development appropriate in such rural areas.

4.4.3.G.3. The County will assist large property owners in determining and planning for appropriate land uses, which will sustain the property in an undivided state over the long term. On large parcels, clustering is encouraged to preserve open space and recreational use opportunities, especially adjacent to existing parkland.

4.4.3.G.4. Owners of large properties should carefully consider tax benefits available through working with non-profit conservation agencies or trusts, such as the California Coastal Conservancy, the Big Sur Land Trust, the Trust for Public Lands, and the Nature Conservancy.

2. De Novo Findings for Conditional Coastal Permit Approval

In order to approve a coastal permit for this bed and breakfast project, the Commission must first find consistency with the cited policies for overall planning and density allocation for Point Lobos Ranch. This is because any specific project on the Ranch must fit into the overall plan for the Ranch. The Commission finds (1) that a sufficient level of comprehensive planning has occurred and (2) the result is consistent with the direction given in the *Land Use Plan*, but conditions are required to memorialize aspects of this planning exercise.

(1) Comprehensive Planning Process: The above-cited policies mandate that development at Point Lobos Ranch be guided by an overall plan. A comprehensive plan covering the entire Point Lobos Ranch was prepared by both property owners (Hudsons and Rileys) and submitted to the County in 1984. The plan illustrated how the private residential and visitor-serving development potentially allowed under the LCP would be sited on Point Lobos Ranch. The expansive development envisioned in this plan did not materialize and was never approved by the County. Instead, the private property owners sold large portions of their holdings to the Big Sur Land Trust for eventual transfer to the State Parks system (see Exhibit G).

However, on what was the Riley portion of Point Lobos Ranch four private inholdings remain, including the subject 5.4 acres and a 24 acre parcel both on the Flatlands. The County approved a seven lot residential subdivision of this latter parcel in 1996, amended in 2000 (County coastal permit SB94001). In order to approve the subdivision the County addressed the issue of comprehensive planning as follows:

Evidence: The property owners have participated in and prepared an overall planning effort for the entire Whisler property, including a comprehensive planned approach for both the Riley Ranch property and the Point Lobos Ranch property. The proposed seven parcels are clustered, and the 317 acre Upland portion of the property will be voluntarily placed in a permanent Conservation and Scenic Easement, limiting development to one unit...

Evidence The certified Carmel Area Coastal Implementation Plan (Part 4), Chapter 20.146 "Regulations for Development in the Carmel Area Land Use Plan", Development in the Riley Ranch portion of the Point Lobos Special Treatment. The Carmel Area Land Use Plan placed a special treatment overlay for the Point Lobos Ranch. The original overlay dealt with the comprehensive development plan for the Riley and Hudson portions of the Point Lobos Ranch. That plan called for the development of 240 visitor serving units (120 for Riley and 120 for Hudson). At this time, the Rancho Chiquita Associates (PLN 970284) Bed and Breakfast facility (10 unit bed facility) and the Hudson residence with guest house (PLN 980631) are the only other developments approved on what is mapped in the Land Use Plan as the Riley Ranch portion of the property. Subsequently, the majority of the Point Lobos Ranch was purchased by the Big Sur Land Trust, and is proposed for addition to Point Lobos Reserve (California State Parks). The remainder of the parcels are privately owned. The Whisler Combined Development Permit, the Hudson house, and the Rancho Chiquita Associates project as proposed will not exceed the development densities for the Riley portion of the ranch as defined in the Carmel Area Land Use Plan. At maximum buildout (including this Combined Development Permit, Rancho Chiquita Associates, and potential conversion of dwelling units to Visitor Serving Uses as summarized in the chart below), the maximum potential number of units for the area is as follows:

Riley flatland parcel (24.25 acres)	7 ¹
Rancho Chiquita Associated (PLN 970284) 5 acre parcel bed and breakfast	10
Riley upland parcel (317 acres) under Voluntary conservation easement	1
Riley / Hudson flatland parcels (1 existing, 1 new)	2 ²
Hudson (Regan) parcel (8 acres) (potential for bed and breakfast) ³	2 10

This private development totals much less than the maximum allowed in the Carmel Area Land Use Plan. No development will occur on the state Parks and Recreation property until the Department prepares a General Plan, pursuant to State law. The maximum

¹ Three of the newly created lots already contain residences, thus there will be four new residences.

² The new house, on what was part of the Riley portion of Point Lobos Ranch, but was transferred to Hudson ownership, was approved by the County for a coastal permit in 1999. Given this permit, there will be six vacant Riley Flatlands residential parcels and one vacant Riley Uplands parcel, for a total of seven more homes (nine total, as two already exist) on what was the Riley portion of Point Lobos Ranch.

³ This entry refers to a portion of the Hudson holdings of Point Lobos Ranch and, hence, is not germane to the calculations for allowable density on the Riley portion of Point Lobos Ranch, where the subject project is located.

amount of development will be what is allowed by the Carmel Area Land Use Plan, minus that enumerated above for the inholdings. Although, since the land has been publicly acquired primarily for habitat preservation purposes, it is anticipated that the overall intensity of development will be much less.

Evidence: *A Point Lobos Ranch master plan was privately prepared, as detailed in correspondence from Mark Blum, applicant's representative, dated September 29, 1999 ... This plan demonstrates how density allowed by the Carmel Area Land Use Plan could be located on the Ranch. Subsequently, the majority of the Ranch was sold to the Big Sur Land Trust for eventual transfer to S[t]ate Parks and Recreation. Thus, the Master Plan for the site comprises what is planned to occur on the remaining private inholdings plus what may occur on the property proposed for eventual transfer to State Parks and Recreation.*

These County findings detail the evolution of comprehensive planning for Point Lobos Ranch from the initial private effort. Now, with the various ownership changes that have occurred and permits that have been granted (for specific site plans), there is the equivalent of an updated comprehensive plan, at least to the extent that it is clear what the ultimate land uses of the entire Point Lobos Ranch will be (i.e., small private residential or bed and breakfast inholdings within a State Park). There is clear evidence that consultation among the original property owners occurred. There is also clear evidence that consultation among the new property owners occurred, at least to the extent that property transfers occurred. The fact that there is not a detailed plan for the now and future public portion of Point Lobos Ranch should not deter the remaining private property from being developed. Such a plan is a minimum three years away, according to State Parks.

(2) Results of Comprehensive Planning: The results of the evolution of the planning efforts are consistent with the *Carmel Area Land Use Plan*. However, they have to be properly memorialized, which can be accomplished by conditioning this permit.

The *Land Use Plan* suggests that the result of the comprehensive Ranch planning process be a combination of private and public use, but it does not mandate public ownership. There is no coastal regulatory authority over ownership change. Thus, the Commission is in the position of taking a retroactive look as to whether the results of the ownership changes and their implications for development on Point Lobos Ranch meet the *Plan* objectives. Certainly, the result that much of the land will become a State Park is consistent with the *Plan* objectives to provide for some level of public recreational use while protecting the scenic, open space, and other resources of the Ranch. In order to approve this permit, the Commission must determine whether the remaining proposed private development, especially the subject project, also is consistent with the intent of the *Land Use Plan* policies.

As noted, County findings approving a seven lot residential subdivision on a portion of the Riley holdings at Point Lobos Ranch also endorsed an allocation of ten visitor-serving units for the proposed bed and breakfast at the subject site. The Commission concurs in this endorsement based on the following analysis.

Basically, the *Land Use Plan* allowed for three scenarios: 1. residential development of the Ranch (both Uplands and Flatlands), 2. visitor-serving development on the Flatlands and residential on the Uplands, or 3. both residential and visitor-serving development on the Flatlands with (residential density transferred from the uplands pursuant to cited *Carmel Area Land Use Plan* policy 4.4.3.F.4.d). The latter allowed for the most total buildout as an incentive to cluster development in the Flatlands and leave the Uplands in open space. Exhibit F maps the three scenarios.

The total Riley holdings were approximately 460 acres, separated into an Uplands area a lower Flatlands area.⁴ The Rileys and subsequent owners transferred seven of their eight Upland potential residential credits to the Flatlands. This action would imply that the Flatlands could be developed with residences and visitor-serving facilities, pursuant to the *Land Use Plan's* transfer incentive policy (scenario 3 described above). Thus, the maximum development that could occur on the Riley Flatlands could be interpreted to be 29 residential uses (since one potential residential credit was not transferred), 23 lower-cost and 115 other visitor-serving units.⁵ Another interpretation (of the transfer policy 4.4.3.F.4.d) would be that since only seven out of the eight potential residential credits were transferred to the Flatlands, then only 7/8 of the potential visitor-serving units would also be authorized. In this case, the maximum development that could occur on the Riley Flatlands would be 29 residential units and 121 visitor units.

The Riley/Whisler family sold some of its holdings on the lower portion of the Ranch to the current applicant (Rancho Chiquita Associates). As part of the sale, the Riley/Whisler family interests transferred their potential visitor-serving credits to Rancho Chiquita Associates. Thus, Rancho Chiquita possessed up to at least 121 visitor-serving credits. In turn Rancho Chiquita sold about 114.6 acres to BSLT, retaining the subject 5.4 acres. According to the land transfer agreements, Rancho Chiquita retained all of the potential visitor credits that would be attributable to the private land. Thus, the question is: How many potential visitor-serving credits did Rancho Chiquita retain?

The appellants had contended that there should be no residual visitor-serving credit left which could occur in existing buildings remaining on the private inholdings. This contention was based on the fact that portions of the Ranch shown for intensive visitor-serving uses in the private parties' comprehensive plan have since been acquired for public use. There is not a definitive discussion of visitor-serving credits in the documents concerning the land transaction between Rancho Chiquita and the BSLT. After the Commission found substantial issue, discussion, then litigation, ensued among the current Ranch owners to try to sort out this question of density allocation. The result was a settlement agreement of March 6, 2002 that states (see pages 27 &

⁴ There was also some "Intermediate Terrain" between the Flatlands and Uplands that does not materially affect this discussion and hence will not be mentioned for simplicity sake. While *Land Use Plan* policy 4.4.3.E.4.b indicates that the Riley Flatlands parcel was 143 acres, the combined Riley "Flatlands and Intermediate Terrain" is approximately 149 acres according to a review of current assessor map parcel acreages.

⁵ In several policies the LCP refers to a maximum of 120 visitor units. However it also provides that if a high-cost visitor facility were built, it was to have a low-cost visitor component in the ratio of at least one low cost unit for every five high cost units. In that case, the maximum number of visitor units allowed was 138. Therefore, the maximum development could have been 115 high cost and 23 low cost units.

28 of Exhibit H):

Under the 1993 purchase agreement of the parties, the Big Sur Land Trust did not purchase or otherwise acquire the development rights, to the extent that they exist, under the LCP and LUP for the Stone House [site for the subject bed and breakfast] or the Whisler upland parcel. Rancho Chiquita agrees that the project pending before the Coastal Commission [the subject bed and breakfast] does not rely in any part upon any development rights, to the extent they exist, associated with the acreage conveyed to the Big Sur Land Trust.

This settlement agreement did not include an allocation of density credits. Therefore, the Commission must determine the appropriate allocation to the subject site in order to act on this appeal.

The County has already determined that the aforementioned 24.25 acre parcel is suitable for and allocated seven residential units under coastal permit SB94001. The "Real Property Exchange Agreement July 24, 1984, Parties: Ted Richter and Paul Davis, Mary Riley Whisler, and Francis Whisler" indicated that the 24.25 acre site was not to be used for visitor-serving purposes and allocated their potential visitor unit credits to the owners of the subject site. As part of the findings of coastal permit SB94001 and as reiterated in the subsequent permit that is now being appealed, the County determined that the subject 5.4 acre parcel is suitable for up to 10 bed and breakfast units. This is the appropriate maximum number of units for the subject site for the following additional reasons:

- bed and breakfast facilities are limited to a maximum of ten units under the local coastal program;
- no additional commercial structures can be built on the site pursuant to a scenic easement over the property;
- application of local coastal program policies addressing septic systems, water use, parking requirements and scenic resource protection (see following findings) in conjunction with site constraints would most likely preclude further units.

The Commission finds that at least ten visitor credits are available to the subject site. In the absence of an explicit formula in the LCP, the Commission relies on utilizing a proportional allocation of potential credits to be most equitable and, hence, justifiable. As noted, there is the potential for up to at least 121 visitor units to be placed on the Riley Flatlands. Currently, the remaining private land is about 30 out of 137 acres or 22% of the total acreage. 22% of 121 is 27.⁶ Thus, there is a potential of up to at least 27 units available to the remaining private lands at Point Lobos Ranch. According to The "Real Property Exchange Agreement July 24, 1984,

⁶ As noted, an alternative interpretation would be that 138 visitor credits accrue. In that case, 22% of 138 is 30 for the private parties. When finding substantial issue, the Commission, in embracing the proportionality concept, used a formula that would have resulted in the applicant having 5 units, plus one lower-cost unit. However, that finding did not account for the transfers discussed here.

Parties: Ted Richter and Paul Davis, Mary Riley Whisler, and Francis Whisler" all potential private visitor credits accrue to the subject site. Therefore, the subject bed and breakfast can be ten units because that is within the parameters of the maximum allocation of visitor units to the site.

As noted, this analysis is predicated on the private transfers of potential density credits that have occurred as part of the land ownership transactions and the equitable distribution of those credits. In a sense, they are a component of the comprehensive planning that has occurred for the Ranch. Therefore, these private transfers need to be memorialized to ensure on-going consistency with the local coastal program. The transfer of development credits from the Uplands to the Flatlands has already been memorialized through a grant of Conservation and Scenic Easement Deed and Relinquishment of Density Credit to Monterey County. The transfer of visitor credits off of APNs 243-113-001 through -007 can be memorialized by recording the portion of "Real Property Exchange Agreement July 24, 1984, Parties: Ted Richter and Paul Davis, Mary Riley Whisler, and Francis Whisler" which mentions that transfer (see Condition #46). By requiring this condition to be recorded on a deed restriction (see condition #3), future owners are bound to its terms and, hence, could not unrecord or modify the transfer agreement, absent a coastal permit amendment. In conclusion, through the noted actions and conditions, no other private part of what was the Riley Ranch could claim an entitlement to the subject project's ten visitor credits.

(3) Conclusion: As conditioned to memorialize the potential density transfer credits that have occurred (conditions #3 and #46), the permit is consistent with the above cited comprehensive plan policies of the *Carmel Area Land Use Plan*.

C. BED AND BREAKFAST LAND USE AND MANAGEMENT

1. Relevant Local Coastal Program Provisions

In addition to the policies cited in the above Finding B, the *Carmel Area Land Use Plan* designates the subject site as "Resource Conservation: Forest and Upland Habitat" with a Special Treatment Overlay. This underlying designation is defined under Section 4.5.A as follows:

Protection of sensitive resources, plant communities, and animal habitats is emphasized. Only very low intensity uses and supporting facilities compatible with protection of the resource are allowed. Appropriate uses can include carefully controlled low-intensity day-use recreation, education and research and beach sand replenishment. Two types of Resources Conservation areas are shown on the plan map....

Forest and Upland Habitats - This designation applies to environmentally sensitive forest habitat, grassland, scrub, or chaparral habitat and to upland riparian habitats. It also applies to public or private reserves or open space areas set aside for resource preservation or research. The resource maps supplement provides specific information regarding the various resources. This designation is applied to Point Lobos Reserve and the DeAmaral Preserve.

Policy 4.4.3.A.1 provides:

Only the minimum level of facilities essential to the support of recreational, educational, or scientific use of Resource Conservation areas shall be permitted. Facilities shall be sited so as to avoid adverse impacts to environmentally sensitive habitats and wildlife.

The site is zoned, "Resource Conservation" with a "Special Treatment" overlay. The purpose of this base district is found in *County Code* Section 20.36.010:

The purpose of this Chapter is to provide a district to protect, preserve, enhance, and restore sensitive resource areas in the County of Monterey. Of specific concern are the highly sensitive resources inherent in such areas such as viewshed, watershed, plant and wildlife habitat, streams, beaches, dunes, tidal areas, estuaries, sloughs, forests, public open space areas and riparian corridors. The purpose of this Chapter is to be carried out by allowing only such development that can be achieved without adverse effect and which will be subordinate to the resources of the particular site and area.

Neither new bed and breakfast nor other structural overnight facilities are allowed in the "Resource Conservation" district. Neither are residences. One of the conditionally allowed uses is found under Section 20.36.050:

D. Legal nonconforming use changed to a use of a similar or more restricted nature;

In addition to the policies cited in the above finding, Section 4.4.3 of the *Carmel Area Land Use Plan* contains specific development policies for residential and recreation and visitor serving commercial uses. Almost verbatim provisions are found in the *Coastal Implementation Plan*. Relevant policies include:

4.4.3.D.1. Visitor-serving facilities are presently located in existing developed areas. Expansion of existing facilities or the location of new facilities within existing developed areas is preferred over development elsewhere. ...

4.4.3.D.4. Proposals for development of new or expansion of existing recreation and visitor-serving facilities should be evaluated on an individual basis. All proposals must demonstrate consistency with the land use plan, maximum site and parcel densities, and environmental, visual, design and traffic safety constraints. The expansion and development of recreation and visitor-serving facilities should be of a scale and nature that is compatible with the natural and scenic character of the area.

The maximum intensity [specified] in the plan for visitor-serving sites shall not be required to be reduced because of a finding of inadequate traffic capacity on Highway 1, unless maximum permitted intensity in this plan of residential use is correspondingly reduced.

4.4.3.D.6. Development of intensive recreation and visitor-serving facilities except for recreational vehicle campgrounds, gas stations and grocery stores, may be permissible on the Point Lobos Ranch in the "Flatlands" areas. The development of lodge or inn

facilities must be of a scale and nature that is compatible with the natural scenic character of the area. Development shall provide for low-intensity public recreation and/or low-cost visitor-serving facilities. More specific requirements and provisions are set forth in Section F. Special Treatment.

4.4.3.D.7. In the Flatlands area of Point Lobos Ranch, conversion of existing ranch buildings not essential to ranch operations to visitor-serving units may be appropriate. Conversion to a hostel for hikers and cyclists is encouraged. The hostel units if low cost should be considered as an additional increment to the maximum number of lodge units allowed by the plan. However, if higher cost facilities are proposed, the number of units converted to visitor-serving uses shall be considered as part of the allowable maximum number of visitor-serving units for Point Lobos Ranch.

Another relevant policy states:

2.2.3.9. Landowners will be encouraged to donate scenic easements to an appropriate agency or nonprofit organization over portions of their land in the viewshed, or, where easements already exist, to continue this protection. Viewshed land protected by scenic easements required pursuant to Coastal Permits shall be permanently free of structural development unless specifically permitted at the time of granting the easement.

Monterey County Coastal Implementation Plan Section 20.64.100 contains the following "Regulations for Bed and Breakfast Facilities":

C. Regulations: A bed and breakfast facility may be allowed in all districts which allow residential use and where found to be consistent with the Monterey County Local Coastal Program on any lot in any zoning district that allows residential uses subject to a Coastal Development Permit in each case and subject to the following regulations:

- 1. The property owners shall occupy and manage the bed and breakfast facility. The facility shall not be affiliated with hotels or motels operating anywhere in the County of Monterey.*
- 2. No more than 10 guest rooms may be allowed in 1 facility.*
- 3. No long-term rental of rooms shall be permitted. The maximum stay for guests shall not exceed 29 consecutive days in a 30 day period and no more than 60 days in a one year period.*
- 4. The facility shall provide parking on site at the rate of 1 space per guestroom plus two spaces for the owners.*
- 5. Each bed and breakfast facility may have a maximum of one sign not exceeding 4 square feet in area. Such sign shall be attached to the residence, and shall not be internally illuminated.*
- 6. Such facilities shall be subject to the transient occupancy tax. (Chapter 5.40,*

Monterey County Code)

7. *Any cooking facility must comply with State and County codes.*

D. In order to grant the Coastal Development Permit the Appropriate Authority shall make the following findings:

1. *That the establishment of the bed and breakfast facility will not under the circumstances of the particular application be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.*

2. *That the proposed bed and breakfast facility complies with all applicable requirements of Section 20.64.100(C) of this Title.*

3. *That the proposed bed and breakfast facility will not adversely impact traffic conditions in the area.*

4. *That adequate sewage disposal and water supply facilities exist or are readily available to the lot.*

5. *That the proposed bed and breakfast facility is consistent with the Monterey County Local Coastal Program.*

6. *That the subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of this Title and that all zoning violation abatement costs, if any, have been paid.*

2. De Novo Findings for Conditional Coastal Permit Approval

Having found that the property owners have acquired potential visitor-serving credits for Point Lobos Ranch, the Commission must next find that a ten-unit bed and breakfast use is specifically appropriate for the subject parcel and that it is in keeping with management planning for the site. The Commission finds (1) that the proposal is appropriate for the site; (2) that it meets most specific requirements for bed and breakfasts but needs to be conditioned to be fully consistent with all cited policies; and (3) that it needs to be conditioned for additional management measures within the context of the overall use of Point Lobos Ranch.

(1) Bed and Breakfast Use of the Site. The Commission finds that the proposed bed and breakfast is an allowed and appropriate use on the subject site. The Commission finds that the transfer of the credits for visitor-serving units, described in the previous finding, to allow them to be used on this site (as opposed to elsewhere on the Riley portion of Point Lobos Ranch) complies with the policy direction of the *Carmel Area Land Use Plan*. The Commission endorses and incorporates Monterey County coastal permit PLN970284 Finding #1 which notes that the *Monterey County Coastal Implementation Plan*,

Title 20 allows bed and breakfast facilities in all districts that allow residential use. The bed and breakfast facility proposed with this project would be located within an existing residential dwelling. The regulations for the bed and breakfast facility were incorporated as conditions of approval.

Monterey County coastal permit PLN970284 Finding #1 also contains as evidence:

The Resource Conservation zoning district, as well as the existing Scenic Easement on the property would restrict all future development on the property. No new development would be allowed on the property and the bed and breakfast facility would only be allowed in existing structures.

The three structures that would house the subject bed and breakfast proposal are legal non-conforming uses. Two are residential structures. Under the cited provisions, the County treats bed and breakfasts as residential uses. Thus, the conversion of these two structures is permitted.

The third structure is a barn. The applicant has indicated that the barn is ancillary to (and, hence, can be considered) a residential use. (Dyer to Hyman June 19, 2002, page 13 of Exhibit H) Since the County does not consider barns as separate uses, the interpretation that it is an ancillary residential use would mean it would qualify to be a bed and breakfast. The applicant has also indicated that the barn is actually already a commercial use because people board horses there and come to ride them. (Davis to Board of Supervisors November 4, 1999) Therefore, a case can be made on this basis as well that the bed and breakfast is at least similar to the current barn use. Under either of these interpretations, the non-conforming provisions would be satisfied.

Additionally, policy 4.4.3.D.7 encourages ranch buildings to be converted to visitor-serving facilities. The policy does not distinguish between converting ranch residences and ranch barns. The proposal to readapt the use of these scenic buildings is a positive feature of this proposal.

There remains a question as to whether the barn conversion is in keeping with the terms of a scenic easement on the property. The easement in question is between the State and the landowners, agreed to prior to the Coastal Act (in 1933). It has two basic provisions. One is that on the portion of the site within 230 feet of the west edge of Highway One the only new structures that are allowed are non-commercial farm buildings. The State Parks Commission must approve any other buildings. The other provision allows only farm buildings or other non-commercial buildings on the remaining portion of the site. The barn is within 230 feet of the west edge of the highway. It was constructed after the easement was in effect. As a farm building it meets the terms of the easement. The easement does not explicitly address future conversions of new farm buildings, but there is an implication that they would violate the spirit of the easement. As appellants, State Parks officials have maintained that the barn conversion is inconsistent with the intent of the scenic easement (See page 33 of Exhibit H). The applicants' representative has disagreed because "the deed says nothing about the manner in which existing buildings are to be used." Also, although stable doors will be replaced with French doors, he notes in part, "Because the project at hand contemplates preserving the exterior appearance of the present structures, the 1933 document has no bearing on this application." (Dyer to Chance,

11/3/99) Given these different interpretations, it would appear necessary for the applicants to either convince the State Parks Commission itself that the proposed use is consistent with the easement terms or receive the Commission's specific approval for proceeding with the barn portion of the project (see Condition # 45). If the Parks Commission decides in the negative, then the applicant could either have a six-guestroom bed and breakfast or reconfigure the two existing residences into up to ten rooms, instead of the six currently proposed. These proposed rooms in the two houses are of an ample size (average approximately 500 square feet) to be split into smaller bedrooms.

Viewing this proposal in a larger context also lends support to the proposed bed and breakfast use. Full implementation of the *Carmel Area Land Use Plan* was calculated to yield a maximum of 604 visitor-serving units, including 276 on Point Lobos Ranch, or almost half of the 604 units. The Commission has previously approved a reduction in 107 existing units, through allowing part of the Highlands Inn to convert to timeshares (Appeal A-3-MCO-98-083). The *Carmel Area Land Use Plan* indicates that Point Lobos Ranch is "considered the most suitable of any area in the Carmel area for a development of a major visitor-serving facility." With the acquisition of most of the Ranch by Big Sur Land Trust, this is unlikely to ever happen. There are no other properties in the Carmel Area designated for new visitor-serving accommodations (only the Carmel River Inn could theoretically expand). Thus, the provision of ten additional rooms in a bed and breakfast setting, is a very modest way of increasing the amount of overnight accommodations in the area, as envisioned in the local coastal program.

(2) Specific Bed and Breakfast Regulations: The plans for the proposed bed and breakfast demonstrate compliance with some of the specific requirements, such as maximum rooms and parking spaces. The County conditioned its permit to ensure compliance with these and other requirements in the following ways: Condition #33 requires on-site management by the owner. Condition #34 reiterates the 10 room limit. Condition #35 prohibits long-term room rentals. Condition #35 can be modified to include the annual 60 day maximum as well as the monthly maximum. (See also specific Traffic and Septic System Findings F and I, below for compliance with other cited Bed and Breakfast requirements.)

(3) Management Planning: Embodied in the requirements for comprehensive planning for Point Lobos Ranch discussed above is on-going management. With the *Land Use Plan* policies written at a time when the entire Ranch was privately owned, a major objective for on-going management was to ensure opportunities for public recreation. Given that the private parties have sold the majority of the Ranch for a State Park, there will not be that same level of obligation on the private landowners to provide public recreation. Rather, their responsibility should shift to ensuring that their permitted uses do not interfere with and are not in conflict with the uses made of the public portion of the Ranch.

There appears to be some compatibility between the proposed private bed and breakfast use and the public park use. Access across the Ranch is preserved on road easements. The bed and breakfast will not be an impediment to future hikers going from the northern portion to the southern portion of this part of Point Lobos Ranch when it becomes a park. Access to the bed and breakfast is on a short stretch of road that the landowners retained an easement over to use

and that serves other private inholdings as well. Thus, bed and breakfast patrons will only have to travel about 350 feet off of Highway One to reach the bed and breakfast parking lot over a road that other private residences use as well. There is a similar situation with a bed and breakfast inholding near the entrance to Nisene Marks State Park, with no reported problems of incompatibility.

Nevertheless, conflicts between uses may still arise. For example, bed and breakfast visitors could go onto portions of the State Park that are off-limits, bring pets that would harm the fauna or flora on the Park, or drive and park in places or at times that conflict with Park rules. To the extent that such problems could occur as a result of approving the bed and breakfast, a required management plan could provide the authority for resolving them. The County conditioned its coastal permit PLN970284 (Condition #41) to require an information brochure on the rules and regulations of Point Lobos State Reserve for the bed and breakfast patrons. This condition needs to be retained but by itself is insufficient to ensure against all potential conflicts. Additionally, the bed and breakfast owner should prepare a management plan that addresses issues such as lighting, outdoor activities, pets, access, traffic, and parking (see Condition #42).

It will be several years before the management parameters for the public portions of the Ranch are developed. It is not necessary to delay approval of this project on a private portion of the Ranch until these parameters are known. Rather, the required bed and breakfast management plan needs to evolve, as the management parameters for the State Park become known.

(4) Conclusion The proposed project is generally consistent with the local coastal program's bed and breakfast requirements. As conditioned to follow all of these requirements by incorporating and modifying the cited County conditions and as further conditioned for a management plan, the permit is consistent with the pertinent cited and referenced local coastal program policies.

D. ARCHAEOLOGICAL RESOURCE PROTECTION

1. Relevant Local Coastal Program Provisions

Section 2.8. of the *Carmel Area Land Use Plan* includes the following key policy with regard to archaeology and the following operative policy:

2.8.2. Carmel's archaeological resources, including those areas considered to be archaeologically sensitive but not yet surveyed and mapped, shall be maintained and protected for their scientific and cultural heritage values. New land uses, both public and private, should be considered compatible with this objective only where they incorporate all site planning and design features necessary to minimize or avoid impacts to archaeological resources.

2.8.3.2 Whenever development is to occur in the coastal zone, the Archaeological Site Survey Office or other appropriate authority shall be contacted to determine whether the property has received an archaeological survey. If not and the parcel are in an area of high archaeological sensitivity, such a survey shall be conducted to determine if an

archaeological site exists. The Archaeological Survey should describe the sensitivity of the site and recommend appropriate levels of development and mitigation consistent with the site's need for protection.

Section 20.146.090 of the *Monterey County Coastal Implementation Plan* contains additional procedural detail on preparing archaeological reports.

2. De Novo Coastal Permit Approval

In order to approve a coastal permit for the proposed project, the Commission must find that archaeological resources will not be harmed, which they will not, if the permit is properly conditioned.

The subject site is in an area of high archaeological sensitivity. There are various recorded archaeological sites in the vicinity of the proposed parking lot, but not at the precise location of the lot. The Commission endorses the following conclusion from the County staff report for its permit PLN970284:

[County] Staff made a site visit prior to the submittal of the application for the proposed project. Staff determined that no grading was proposed for the parking areas. The area proposed for the parking area has historically been used as a parking area for the existing agricultural uses. The project would not have the potential of impacting cultural resources. In addition, the applicant has recently submitted material from a previous archaeological report prepared for the property which indicated that potential cultural resources in the area are located northerly of the project site.

There is a remote chance that, since the nearby area is sensitive and since some land disturbance will occur, archaeological resources could be found. This can be addressed by imposing a standard discovery condition: if any resources are discovered, then work stops until they can be assessed (see Condition #43). As so conditioned, the coastal permit is consistent with the local coastal program's archaeology policies.

E. CONVERSION AND MODIFICATION OF EXISTING WATER SYSTEM

1. Relevant Local Coastal Program Provisions

Section 2.3.4 of the *Carmel Area Land Use Plan* includes the following policies with regard to riparian corridors:

2.3.4.2. Riparian Corridor and Other Terrestrial Wildlife Habitats. The State Water Quality Control Board and the California Department of Fish and Game, in coordination with the County of Monterey, should establish and reserve instream flows sufficient to protect and maintain riparian vegetation, fishery resources and adequate recharge levels for Protection of groundwater supplies.

Section 2.4.4.A. of the *Carmel Area Land Use Plan* includes the following policies with regard to water availability:

2.4.4.A.1. New development shall be approved only where it can be demonstrated by the applicant that adequate water is available from a water utility or community system or an acceptable surface water diversion, spring, or well. At the County's discretion, applicants may be required to submit a hydrologic report certifying sustained yield of the water source to serve new development outside of existing water utility service areas.

2.4.4.A.2. As part of the permit process, the applicant must also demonstrate that the proposed new water use or use intensification will not adversely affect both the natural supply necessary to maintain the environment, including wildlife, fish, and plant communities, and the supply available to meet the minimum needs of existing users during the driest year. At the County's discretion, the applicant may be required to support his application through certification by a consultant deemed qualified by the County to make such determinations. The County will request that the Department of Fish and Game provide a written recommendation on each application.

2.4.4.A.5. Any diversion of surface sources of water shall be required to submit an approved water appropriation permit from the State Water Resources Control Board prior to approval of any coastal development permit except where such water appropriation permit is not required by applicable State law.

Section 3.2.3.1 of the *Carmel Area Land Use Plan* contains the following policy related to water supply:

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 other than infilling of existing vacant lots. In addition, 0.056 acre-feet/year of water is reserved for each visitor-serving unit permissible under this Plan.

Chapter 18.50 of the County Code, which is part of the local coastal program, requires utilization of water conservation devices in new development.

2. De Novo Coastal Permit Approval

In order to approve this project the Commission must find that adequate water is available, without harming the resources. With the imposition of various conditions, the Commission can make such a finding.

A functional, legal water system is in place to serve the proposed bed and breakfast. The Point Lobos Water Distribution System will supply water. Evidence in the file shows that the water system is considered a pre-existing Water Distribution System in terms of Monterey Peninsula Water Management District's purview. The system is served by a well located on the polo field

on Point Lobos Ranch near San Jose Creek. The system is not metered; with overall production estimated to be 23.72 acre-feet per year. The system has eight approved connections, including one to the subject parcel. Historically, the system has been limited to supplying irrigation water, with domestic water being supplied by CalAm. The County conditioned the permit (Conditions # 21, 23, and 30) to require the applicant to verify water system information, including the location of all water wells on the property, available well logs and current hookups, and proper permits. The Commission notes that the County permit includes additional conditions (# 24 and 26) regarding the water system through an authority other than the Coastal Act. The *County Code* requires their implementation by the County Planning Department through the County coastal permit. However, when there is no County coastal permit, *Code* Section 20.145.080.C.2 provides for their implementation through the building or grading permit. Since the Coastal Commission is issuing this coastal permit, these conditions are best implemented by County Building Inspectors as part of the Building Permit. They are, therefore, not part of this coastal permit (see Exhibit D).

At present there is no evidence that suggests that use of the subject well has an adverse impact on San Jose Creek. However, there is a lack of data. What is known is that the well may be drawing from the underflow of the creek, that the creek does sometimes dry up in the summer, and that the creek supports a steelhead run. Monterey Peninsula Water Management Agency has only recently begun monitoring creek flows (Oliver to Hyman 3/28/00). In the future it is possible that further studies will be performed on the creek in relation to improving the steelhead run or the riparian habitat. Such studies could address whether existing diversions and nearby groundwater extractions are having adverse impacts and whether mitigations are necessary. Thus, since this approval implicitly commits a long-term use of this source of water, the applicant should at least be obliged to participate in any future studies involving San Jose Creek flows (see Condition #44).

The proposed bed and breakfast will not exacerbate the water situation because is not anticipated to cause intensification of water use and can be so conditioned to ensure that outcome. This is described in the County staff report for its permit PLN970284:

[County] Staff review of the file determined that the water use from the Point Lobos Ranch Water Distribution System, which is located in the San Jose Creek watershed, for the proposed bed and breakfast would be the same as the historic use of that water system. The file identifies that water use for the bed and breakfast facility would be limited to 9.45 acre feet per year. The Point Lobos Ranch Water Distribution System is a system that serves several properties in the general area. The historic water use on the property is 9.45 AF/yr⁷. As a condition of approval [Condition #31], the applicant would be required to place a water meter on the well. In addition, an annual report will be required to be submitted to the Monterey Peninsula Water Management District and Water Resources Agency, showing that the bed and breakfast facility will not exceed the historic water use for the property. With the water use remaining the same, the bed and

⁷ This refers to water from the Point Lobos Ranch Water System; domestic consumption using Cal-Am water is additional, as discussed below.

breakfast facility would not impact the riparian area any more than has historically taken place.

CalAm now supplies some of the water serving the project site. This water source will be terminated. CalAm water comes primarily from Carmel River, which is being overdrafted. Therefore, terminating reliance on CalAm water is a positive outcome of this project, if the water used is not transferred to a new development elsewhere. A sentence can be added to County condition #31 to help ensure this, using language similar to that found on another recent County permit. Additionally, the County conditioned the permit (Condition #25) to ensure that the new water system is in place prior to doing other work on the bed and breakfast. This condition needs a slight modification to ensure that an issued coastal permit covers the water system work.

It is estimated that the bed and breakfast will require 1.1 AF/yr of water to serve its patrons. The balance of water goes to irrigate pasture land and turf on the property. In order to use the Point Lobos System water for domestic consumption as well, the applicants propose to reduce the amount of turf area irrigation. They have illustrated and provided calculations to show how this will be accomplished. Therefore, there will be no increase in water use emanating from the well and an overall decrease in water use on the property under the County conditions of approval. And, even with this finding and to help ensure it, Monterey County requires water conservation pursuant to County Code Chapter 18.50, which is incorporated into the local coastal program (see condition #20).

In conclusion, the proposed project will obtain water from a legal source without known adverse resource impacts, reduce reliance on CalAm water, and not result in an intensification of water use. As conditioned to incorporate the essence of the cited County conditions and as further conditioned for participation in a water study, the coastal permit is consistent with the cited water resource policies of the *Carmel Area Land Use Plan* and the *Coastal Implementation Plan*.

F. TRAFFIC AND PUBLIC ACCESS

1. Relevant Local Coastal Program Provisions

In addition to policy 4.4.3.D.4 giving priority to visitor generated traffic cited in Finding C above, Section 3.1.3 of the *Carmel Area Land Use Plan* contains the following transportation policies:

3.1.3.1. To conform to the Coastal Act, most remaining highway capacity should be reserved for coastal priority uses: recreation and visitor-serving facilities, agriculture, and coastal-dependent industry. Commitment to further residential development through subdivision should be extremely limited. Traffic shall be monitored in order to provide a basis for decision-making..1.3.3. Studies of Highway 1 capacity and means to improve the highway's level of service along the Big Sur Coast should be expanded to include the section of Highway 1 in the Carmel area. Caltrans should conduct origin and Destination Studies of traffic on Highway 1 in the Carmel area on a regular basis in order to provide up to date information on trends in recreational and residential use of

the highway.

3.1.3.5. All highway improvements shall be consistent with the retention of Highway 1 as a scenic two-lane road south of the Carmel River. This policy is not intended to preclude widening of the Carmel River bridge, if necessary, or providing adequate access to properties in the vicinity of Point Lobos. The overall objective for Highway 1 should be to maintain the highest possible standard of scenic quality in management and maintenance activities carried on within the State right-of-way. Bike lanes and left turn lanes are permitted.

3.1.3.9 Major development projects – both residential and recreation and visitor-serving, including significant expansion of existing facilities – should be required to contribute their “fair-share” towards improvements of Highway 1 required as a result of traffic generated by the particular project.

County Code Section 20.146.100.A.4 amplifies as to how to determine “fair-share.”

Section 4.4.3.I. of the *Carmel Area Land Use Plan* includes the following policies with regard to commercial visitor-serving facilities:

4.4.3.I.2. Expansion of existing commercial visitor-serving facilities or development of new facilities shall be approved only where requirements for adequate parking and wastewater disposal and for protection of natural resources can be fully satisfied. Adequate parking shall include all uses on the subject site (e.g. hotel units, restaurant, employees, day use facilities).

4.4.3.I.4. Similarly, new commercial uses or expansion of existing uses will be evaluated for their impact on traffic safety and highway capacity in the area. Parking should be screened from public views from Highway 1 as far as possible and should in no event create traffic hazards or danger for pedestrians. However, commercial uses of a recreational or visitor-serving nature shall not have their maximum permitted intensity required to be reduced because of a finding of inadequate traffic capacity on Highway 1, unless maximum permitted intensity in this plan of residential use is correspondingly reduced.

Section 5.3. of the *Carmel Area Land Use Plan* includes the following policies with regard to parking and public access:

5.3.3.8.a. A site is considered potentially suitable for parking if all of the following criteria are met:...

7. Safe ingress to and egress from Highway 1 should be possible.

8. The proposed parking area should entail minimum conflicts with surrounding land uses.

2. De Novo Coastal Permit Approval

In order to approve this project the Commission must find that there are no significant adverse traffic and parking impacts. In making such a finding, the Commission endorses and incorporates the following County finding for its permit PLN970284 with the noted correction:

The proposed project, which includes the traffic study has been reviewed by the Monterey County Department of Public Works and with incorporation of the condition 18, 19, and 20,[sic, really 17, 18, & 19] there is no indication from that Department that the site is not suitable."

As required, a traffic study was prepared which concluded that the proposed project would create little traffic impact. It found that an additional six or seven peak hour trips would be generated. The traffic generated by this project is about one percent of existing traffic, which is not significant. In fact some of the users of this facility might be drivers who would already be traveling on Highway One. The traffic study noted that Highway One operates at Level of Service C in the vicinity of the subject site. By way of background, Highway One's capacity is more limited further south at certain times. Both the *Carmel Area* and *Big Sur Coast Land Use Plans* thus strictly limit the amount of new residential and commercial development, while recognizing that any additional development would have some additional adverse impact on the highway. Thus, consistent with the Coastal Act, both Plans give priority to visitor-serving uses, such as the subject project.

This allowance of some additional visitor-serving development does not obviate the need to ensure that the traffic and parking situation will not appreciably worsen in the project's vicinity. In this case, the traffic report recommends a turn lane on Highway One and improvements to Riley Ranch Road. Policy 3.1.3.5 quoted above allows for such a turn lane. The County conditioned its permit (conditions #17 and 18) to require the applicant to widen Highway 1 to provide a southbound left turn lane at Riley Ranch Road to the approval of Caltrans and the Department of Public Works and to improve Riley Road to the approval of the local fire jurisdiction, respectively. Condition #19 requires a contribution for the cost of Highway 1 Operational Improvements, based on cited *Land Use Plan* policy 3.1.3.9. The County has applied this policy to area development outside of the coastal zone as well and has utilized the proceeds to help finance these Operational Improvements. The project's traffic report lists the twelve projects that comprised the Operational Improvements at that time. Some have since been completed, modified, or dropped; several are still being reviewed. Thus, the County may have to recalculate the current costs on which to apply the required 0.16% contribution. This percentage (0.16%) was determined based on the percentage of traffic attributable to this project compared to the total volume at the key bottleneck of Highway One and Carmel Valley Road.

The proposed parking lot is well situated right off of Riley Ranch Road between two buildings. Condition #36 requires parking at the rate of one space per guest room plus two spaces for the owners, pursuant to County Code *Coastal Implementation Plan* provisions.

In conclusion, as conditioned to incorporate the essence of the cited County conditions, this coastal permit is consistent with the cited access policies of the *Carmel Area Land Use Plan* and

the *Coastal Implementation Plan*.

G. VISUAL ISSUES

1. Relevant Local Coastal Program Provisions

Carmel Area Land Use Plan policies regarding visual resources in the Carmel Area include the following:

The term "viewshed" or "public viewshed" refers to the composite area visible from major public use areas including 17-Mile Drive views of Pescadero Canyon, Scenic Road, Highway 1 and Point Lobos Reserve as shown on Map A in the LUP.

Map A shows that the proposed Rancho Chiquita project area is within the public viewshed.

Section 2.2.2 of the *Carmel Area Land Use Plan* contains the following key policy for visual resource protection in the Carmel area:

To protect the scenic resources of the Carmel area [in] perpetuity, all future development within the viewshed must harmonize and be clearly subordinate to the natural scenic character of the area. All categories of public and private land use and development including all structures, the construction of public and private roads, utilities, and, lighting must conform to the basic viewshed policy of minimum visibility except where otherwise stated in the plan.

Additional relevant policies include:

2.2.4.3. Residential, recreational and visitor-serving, and agricultural access shall be provided by existing roads and trails, where possible, to minimize further scarring of the landscape, particularly of the visible slopes.

2.2.4.10.b. Where clustering of new residential or visitor-serving development will preserve desirable scenic and open space areas or enable structures to be sited out of the viewshed, it shall be preferred to more dispersed building site plans.

4.4.3.1.4. ... Parking should be screened from public views from Highway 1 as far as possible ...

5.3.3.3.e. ... Parking, restrooms and other facilities should be sited, designed and, where appropriate, screened so as not to be visible from major public viewpoints and viewing corridors. Exceptions may be made for facilities provided for in this Plan.

5.3.3.8.a. A site is considered potentially suitable for parking if all of the following criteria are met:

- 2. Improvement for parking would entail minimum land disturbance and would have*

minimal impact upon environmentally sensitive habitats and other sensitive resources.

3. Parking improvements would not degrade the public viewshed or obstruct public views to the shoreline.

2. De Novo Coastal Permit Approval

In order to approve this project, the Commission must find that it does not detract from the area's visual resources. Although in the scenic viewshed, the proposed project includes the adaptive re-use of historic buildings and thus maintains the scenic character. The buildings exist and are part of the historic and visual character of the area. Rendering them an extended life will help further visual protection policies of the area. The proposed plans show minimal exterior appearance alterations. The main one will be changing stall doors to windows and French doors on the barn.

The greatest potential visual impact from this project is from the vehicles that will be in the new parking lot. A berm is planned to shield the vehicles from the view of Highway One. Thus, there should be no adverse impact on the public viewshed from the parking lot. Care must be taken to ensure that the berm itself does not become a dominant or intrusive feature of the landscape. The applicant has indicated that it would be only about three feet tall and would be landscaped. Conditions for final plans for the berm and landscaping can ensure that the berm is appropriately scaled and planted. (see Conditions # 1 and 28)

Other potential visual impacts could occur from unspecified or future changes to the subject buildings and grounds. The County conditioned its permit to ensure against such adverse impacts in the following ways. Condition #1 requires construction in accordance with approved plans and requires approval of any changes. Condition # 4 requires future Planning Commission review of all exterior design changes. This condition is intended to "... make the present owners of the property aware of the Planning Commission concerns related to design changes on this critically visually sensitive lot and serves as a notice to any subsequent owners of the property of the aforesaid concerns." Condition #5 requires an exterior lighting plan. Condition # 28 requires a landscape plan and condition #29 requires on-going maintenance of the landscaping. Condition # 37 limits the size and placement of signs. . Conditions #1 and #28 can be slightly modified to explicitly require review and approval of final plans, including the parking lot berm.

In conclusion, as conditioned to incorporate the essence of the cited County conditions, with the noted modifications, this coastal permit is consistent with the visual resource policies of the *Carmel Area Land Use Plan* and the *Coastal Implementation Plan* cited above.

H. FIRE SAFETY

1. Relevant Local Coastal Program Provisions

Carmel Area Land Use Plan policies 2.7.4.Fire Hazards 1 through 7 address fire safety. *County Coastal Implementation Plan* Section 20.145.080.C.1.a requires adherence to Fire District

standards.

2. De Novo Coastal Permit Approval

In order to approve this project, the Commission must find that it meets fire safety requirements. The Commission notes that the County permit includes several fire-related conditions (# 6 -16). The *County Code* requires their implementation by the County Planning Department through the County coastal permit. However, when there is no County coastal permit, *Code* Section 20.145.080.C.2 provides for their implementation through the building or grading permit. Since the Coastal Commission is issuing this coastal permit, these conditions are best implemented by County Building Inspectors as part of the Building Permit. They are, therefore, not part of this coastal permit (see Exhibit D).

I. SEPTIC SYSTEMS

1. Relevant Local Coastal Program Provisions

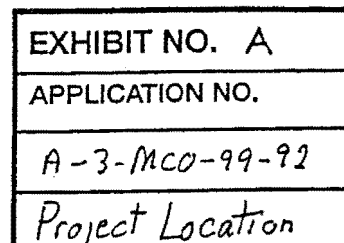
Chapter 15.20 of the *County Coastal Implementation Plan* governs sewage disposal through the authority granted to the County Environmental Health Officer.

2. De Novo Coastal Permit Approval

The subject site is served by an existing septic tank. This Coastal Commission approval incorporates County conditions #22 regarding assurance that the septic system is functional. This will ensure compliance with the cited *Coastal Implementation Plan* provisions.

J. 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 effects 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 for Resources as being the functional equivalent of environmental review under CEQA. The County adopted a negative declaration for this project. Mitigation measures identified in the negative declaration are included as conditions of approval of the coastal permit. Without these conditions, the project would not be the least environmentally damaging feasible project that could occur on the site. Accordingly, the Commission finds that the proposed project will not have significant adverse effects on the environment within the meaning of CEQA; that there are no feasible alternatives which would significantly reduce any potential adverse effects; and, accordingly, the proposal, as conditioned, is in conformance with CEQA requirements.



EXIST. MAIN SIDE HOUSE
1ST LEVEL GUEST SUITE / RECEPTION HOUSE
2nd LEVEL 4 GUEST RMS

EAST ELEVATION

EXIST. COTTAGE
2 GUEST RMS

EAST ELEVATION

EAST ELEVATION

EXIST. BARN 4 GUEST RMS

NORTH ELEVATION

EAST ELEVATION

EXIST. BARN 4 GUEST RMS
NORTH ELEVATION

EAST ELEVATION

PROPOSED
EXTENSION ELEVATIONS
FLOORS PLAN
BED & BREAKFAST
PACIFIC COUNCIL ASSOC
RUE E. RMS
ASIA ARCHITECT
7/6/96

EXHIBIT NO. B-2
APPLICATION NO.
A-3-MCO-99-92
Elevations

EXIST.
DEAD
PINE

RILEY RD

REMOVE SECTION
OF FENCE FOR
INCREASED WIDTH

15' 15' 15'

WIDEN TO
18'

W/ 2' SHOULDERS

NEW
STOP
SIGN

EXIST
FENCE

EXIST. 12/18" PWS
PROTECT

HWY 1

WIDEN EXIST.
HWY 1 FOR SOUTH BOUND
LEFT TURN LANE

EXIST
POWER POLE
MOVE AS REQD
FOR WIDENING
HWY 1

8'
SHOULDER

5'
SHOULDER

15'
PAVED
EXIST

NO WIDENED
FOR LEFT
TURN LANE

SITE PLAN
1"=80'

HWY 1 / RILEY RD

IMPROVEMENTS FOR

RANCHO CHUQUITA / POINT LOBOS
RED & BREAKFAST

THE PAUL DAVIS PARTNERSHIP

8/18/99

EXHIBIT NO. 8-3
APPLICATION NO.
A-3-MCD-99-92
Hwy 1 Intersection

NOV 22 1999

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

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Resolution No. 99-410 --)
Resolution to adopt the Negative Declaration)
and approve the Coastal Development Permit)
and Design Approval for Rancho Chiquita)
Associates/Ted Richter for the conversion of)
an existing single family dwelling, a barn, and)
cottage to a 10 unit bed and breakfast facility,)
located at Highway One and Riley Ranch Road)
in the Carmel area of the Coastal Zone.)

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-MCO-99-168 (C)
APPEAL PERIOD 11/23-12/8/99

WHEREAS, this matter was heard by the Board of Supervisors (Board) of the County of Monterey on November 9, 1999, pursuant to the appeals by Big Sur Land Trust, California State Parks and Recreation, and Responsible Consumers of the Monterey Peninsula (RCMP).

WHEREAS, the property which is the subject for this appeal is located at Highway One and Riley Ranch Road in the Carmel area of the Coastal Zone, in the County of Monterey (the property).

WHEREAS, the applicant filed with the County of Monterey, an application for a Coastal Development Permit and Design Approval for Rancho Chiquita Associates/Ted Richter (PLN970284) for the conversion of an existing single family dwelling, a barn, and cottage to a 10 unit bed and breakfast facility.

WHEREAS, An Initial Study was prepared for the Rancho Chiquita Associates/Ted Richter's application for the Coastal Development Permit and Design Approval (PLN970284) and a Negative Declaration was filed on May 26, 1999.

WHEREAS, Rancho Chiquita Associates/Ted Richter's application for the Coastal Development Permit and Design Approval (PLN970284) came for consideration before the Planning Commission at a public hearing on September 8, 1999.

WHEREAS, at the conclusion of the public hearing on September 8, 1999, the Planning Commission adopted the Negative Declaration and approved the Coastal Development Permit and Design Approval; on the basis of the finding, evidence and conditions contained in the Planning Commission Resolution No. 99053.

WHEREAS, the appellants, Big Sur Land Trust, California State Parks and Recreation, and Responsible Consumers of the Monterey Peninsula (RCMP) timely filed the appeals from the Planning Commission's decision alleging that the findings are not supported by the evidence and the decision was contrary to law.

EXHIBIT NO. C
APPLICATION NO.
A-3-MCO-99-92
County Approval

WHEREAS, pursuant to the provisions of the Monterey County Zoning Ordinance (Title 20) and other applicable laws and regulations, the Board, on November 9, 1999, heard and considered the appeal at a hearing de novo.

WHEREAS, at the conclusion of the hearing, the matter was submitted to the Board for a decision. Having considered all the written and documentary information submitted, the staff reports, oral testimony, and other evidence presented before the Board of Supervisors, the Board now renders its decision to adopt findings, evidence and conditions in support of the Coastal Development Permit and Design Approval as follows:

FINDINGS

1. FINDING: The project as proposed consists of a Coastal Development Permit and Design Approval for the conversion of an existing single family dwelling, barn, and cottage to a 10 unit bed and breakfast facility. The project site is located at Highway One and Riley Ranch Road, (Assessor's Parcel Number 243-112-015-000) in the Carmel area of the Coastal Zone. The property is zoned "RC/SpTr(CZ)", Resource Conservation/Special Treatment for development in the Point Lobos Ranch. The proposed development, as described in the application and accompanying materials and as conditioned, is consistent with the plans, policies, standards and requirements of the Monterey County Local Coastal Program.

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

- 1) The certified Carmel Area Land Use Plan
- 2) The certified Monterey County Coastal Implementation Plan (Title 20-Part 1), zoning regulations for the "RC(CZ)" district in the Coastal Zone. Title 20 allows bed and breakfast facilities in all districts that allow residential use. The bed and breakfast facility proposed with this project would be located within an existing residential dwelling. The regulations for the bed and breakfast facility have been reviewed and incorporated as conditions of approval.
- 3) The certified Carmel Area Coastal Implementation Plan (Part 4), Chapter 20.146 "Regulations for Development in the Carmel Area Land Use Plan." Development in the Riley Ranch portion of the Point Lobos Special Treatment. The Carmel Area Land Use Plan placed a special treatment overlay for the Point Lobos Ranch. The original overlay dealt with the comprehensive development plan for the Riley and Hudson portions of the Point Lobos Ranch. That plan called for the development of 240 visitor serving units (120 for Riley and 120 for Hudson) and/or a total of 70 residential units (30 for Riley and 40 for Hudson). At this time, the Whistler Subdivision (7 residential units, consisting of 3 existing lots and 4 new lots) is the only other development approved on the Riley portion. Subsequently, the majority of the Point Lobos Ranch was purchased by the Big Sur Land

Trust, and is proposed for addition to Point Lobos Reserve (California State Parks). The remainder of the parcels are privately owned. The proposed bed and breakfast facility and the Whistler Subdivision are on the Riley portion of the Point Lobos Ranch. The two projects as proposed would not exceed the development densities for the Riley portion, as defined in the Carmel Area Land Use Plan. Even if all the residential units were converted to bed and breakfast facilities, with development restrictions of existing structures, the density development would not exceed the visitor serving densities as defined for the Riley portion of the Point Lobos Ranch. Review of the 10 existing dwelling units, including the transfer of development rights associated with the Whisler Subdivision which allows visitor serving uses, finds the bed and breakfast facility is consistent with the development policies for the Point Lobos Ranch in the Carmel Area Land Use Plan and Coastal Implementation Plan, and where applicable, have been addressed with conditions of approval.

- 4) The Resource Conservation zoning district, as well as the existing Scenic Easement on the property would restrict all future development on the property. No new development would be allowed on the property and the bed and breakfast facility would only be allowed in existing structures.

EVIDENCE: The project site is physically suitable for the proposed conversion to a bed and breakfast.

EVIDENCE: The parcel is located in a high archaeological sensitivity area of the Carmel area. However, no new development is proposed with this project, and no potential for disturbance of cultural resources.

EVIDENCE: Design Approval request form with recommendation for approval (vote: 4-0-2) by the Carmel Unincorporated/Highlands Land Use Advisory Committee on July 6, 1997.

EVIDENCE: The on-site inspections of the site by the project planner to verify that the proposed project complies with the Carmel Area Implementation Plan (Part 4).

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in File No. 970284.

2. FINDING: The proposed project including all permits and approvals will not have significant adverse impacts on the environment and a Negative Declaration has been adopted by the Board of Supervisors. An initial study was prepared for the project and it was determined that the project, with the addition or mitigation measures, would not have significant impacts. A Negative Declaration was filed May 26, 1999, noticed for public review, and circulated to the State Clearinghouse. The Board of Supervisors considered public testimony and the initial study with mitigation measures. The Negative Declaration reflects the independent judgment of the County based upon consideration of testimony and information received and scientific and

factual data presented. All comments received on the Negative Declaration have been considered as well as all evidence in the record which includes studies, data, and reports considered in the Initial Study; information presented or discussed during public hearings; staff reports which include the County's independent judgment regarding the above referenced studies, data, and reports; application materials, and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following:

1. Higgins Associates, Inc. Rancho Chiquita Point Lobos Bed and Breakfast Traffic Study. November 25, 1997.

The location and custodian of the documents and materials which constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts have been submitted which refute the conclusions reached by these studies, data, and reports or which alter the environmental determinations based on investigation and the independent assessment of those studies, data, and reports by staff from various County departments, including Planning and Building Inspection, Public Works, Environmental Health, and the Water Resources Agency. Potential environmental effects have been studied and there is no substantial evidence in the record as a whole which supports a fair argument that the project, as designed and mitigated, may cause a significant effect on the environment.

EVIDENCE: File and application materials, Initial Study with mitigation measures, and Negative Declaration contained in File No. 970284.

3. FINDING: For purposes of the Fish and Game Code, the project will not have a potential for adverse impact on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the administrative record as a whole indicate the project will not result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations.

EVIDENCE: Initial Study and Negative Declaration contained in Project File No. 970284.

4. FINDING: That the proposed bed and breakfast facility will not adversely impact traffic conditions in the area.

EVIDENCE: A Traffic Study was prepared for the bed and breakfast facility by Higgins Associates, Inc. on November 25, 1997. The proposed project, which includes the traffic study has been reviewed by the Monterey County Department of Public Works and with incorporation of the condition 18, 19, and 20, there is no indication from that Department that the site is not suitable.

5. FINDING: Condition 4 achieves the purpose-applicability of Section 20.146.030 (Visual Resources Development Standards) of the Carmel Area Land Use Plan and Coastal Implementation Plan, which states: "That the County of Monterey contains many areas of unusual scenic beauty which are unique in the United States and which, if preserved, will constitute physical, social, spiritual, cultural, recreational, aesthetic, and economic resources of great value to the people of the county and to the public generally".

EVIDENCE: Condition 4 requires the owners of the parcel to record a deed restriction indicating that "all exterior design changes, including color changes associated with repainting and reroofing, be approved by the Planning Commission. This condition serves to make the present owners of the property aware of the Planning Commission concerns related to design changes on this critically visually sensitive lot and serves as a notice to any subsequent owners of the property of the aforesaid concerns."

EVIDENCE: This existing structures are highly visible from State Highway, a state designated Scenic Highway and Point Lobos State Preserve. The project would be conversion of an existing single family dwelling, cottage and barn to a bed and breakfast facility. No significant changes are proposed to the exterior of the structures. Condition 4 will ensure that the present development and any subsequent exterior changes that may affect the visual character of the structure(s) located in a critically visually sensitive area will be given full consideration by the Planning Commission.

6. FINDING: In approving this Coastal Development Permit and adopting the Negative Declaration the Board of Supervisors find that the establishment, maintenance, or operation of bed and breakfast facility will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Health Department, Public Works Department, the California Department of Forestry, Water Resources Agency, the Historic Resources Review Board and the Big Sur Land Use Advisory Committee. The respective departments, agency, board and committee have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the county in general.

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

EVIDENCE: Section 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan (Part 1).

DECISION

THEREFORE, It is the decision of the Board of Supervisors that said Coastal Development

Permit and Design approval be approved as shown on the attached sketches, subject to the following conditions:

1. The Coastal Development Permit and Design Approval for the conversion of an existing single family dwelling, barn, and cottage to a 10 unit bed and breakfast facility. The project site is located at Highway One and Riley Ranch Road, (Assessor's Parcel Number 243-112-015-000) in the Carmel area of the Coastal Zone. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning and Building Inspection Department)

Prior to Commencement of Construction

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. Proof of recordation of this indemnification agreement shall be furnished to the Director of Planning and Building Inspection prior to commencement of construction or commencement of the use. (Planning and Building Inspection Department)
3. The applicant shall record a notice which states: "A permit (Resolution #) was approved by the Monterey County Board of Supervisors for Assessor's Parcel Number 243-112-015-000 on November 9, 1999. The permit was granted subject to 41 conditions of approval which run with the land. A copy of the permit is on file with the Monterey

County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to commencement of construction or commencement of the use. (Planning and Building Inspection Department)

4. Prior to commencement of construction, the applicant shall record a deed restriction stating that "because of the visual sensitivity of Point Lobos, all exterior design changes, including color changes associated with repainting and reroofing, shall be approved by the Planning Commission. This condition serves to make the present owners of the property aware of the Planning Commission concerns related to design changes on this critically visually sensitive lot and serves as a notice to any subsequent owners of the property of the aforesaid concerns." The deed restriction shall be subject to approval of the Director of Planning and Building Inspection prior to recordation. (Planning and Building Inspection Department)
5. Prior to the commencement of construction, the applicant shall submit an exterior lighting plan for any new lights proposed on the structures, subject to approval by the Director of Planning and Building Inspection Department. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all exterior light fixtures and include catalog sheets for each fixture. All exterior lighting shall be unobtrusive, harmonious with the local area, fully shielded, and constructed or located so that only the intended area, is illuminated and off-site glare is fully controlled and no uplighting allowed. (Planning and Building Inspection Department)
6. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400 foot intervals. (Carmel Highlands Fire District)
7. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. (Carmel Highlands Fire District)
8. Size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign. (Carmel Highlands Fire District)
9. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. (Carmel Highlands Fire District)
10. Where multiple addresses are required at a single driveway, they shall be mounted on a single post, or in any fashion approved by the Reviewing Authority that provides for the same practical effect. (Carmel Highlands Fire District)

11. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. (Carmel Highlands Fire District)
12. Minimum hydrant standards shall include a brass head and valve with at least one 2 ½ inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. (Carmel Highlands Fire District)
13. Each hydrant/fire valve or access to water shall be identified as follows:
 1. If located along a driveway, a reflectorized blue marker, with a minimum dimension of 3 inches, shall be located on the driveway address sign and mounted on a fire retardant post, or
 2. If located along a street or road, a reflectorized blue marker, with a minimum of 3 inches, shall be mounted on a fire retardant post. The sign post shall be within 3 feet of said hydrant/fire valve, with a sign no less than 3 feet nor greater than 5 feet above ground, in a horizontal position and visible from the driveway. (Carmel Highlands Fire District)
14. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. (Carmel Highlands Fire District)
15. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:
"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation." (Carmel Highlands Fire District)
16. In high and very high fire hazard areas, as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be a Class or Class B, with fire resistive materials, or as approved by the Reviewing Authority. This requirement shall apply to all new construction and existing roofs that are repaired or modified so as to affect 50 percent or more of the roof. Vegetation removal will not be allowed as a means of removing high or very high fire hazard area designation from an entire parcel. (Carmel Highlands Fire District)
17. Widen Highway One to provide a southbound left turn lane at Riley Ranch Road, including a NO U-TURN SIGN subject to the approval of Caltrans and the Department of Public Works. (Public Works)
18. Improve Riley Road subject to the approval of the local fire jurisdiction. (Public Works)

19. Contribute 0.16% of the cost of the Highway One Operational Improvements. (Public Works)
20. The applicant shall comply with Ordinance No. 3539, or as subsequently amended, of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a. All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources Agency)
21. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property, in the form of an approved Water Release Form. (Water Resources Agency)
22. Prior to the issuance of a building permit, the applicant shall obtain a septic repair permit from the Division of Environmental Health and expand the septic disposal system which shall meet the standards per Chapter 15.20 Monterey County Code. (Environmental Health)
23. Prior to issuance of a building permit, obtain a new water system permit from the Division of Environmental Health. (Environmental Health)
24. Design the water system improvements to meet the standards as found in Chapter 22 of the California Code of Regulations. Submit engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing the improvements. (Environmental Health)
25. The developer shall install the water system improvements to and within the project prior to issuance of a building permit. (Environmental Health)
26. The Point Lobos Ranch WDS shall operate in conformance with all permit conditions imposed by the Monterey Peninsula Water Management District. (Environmental Health)
27. All improvements shall comply with the California Uniform Food Facilities Law as approved by the Director of Environmental Health. As necessary, submit plans and necessary review fees for review and approval prior to final inspection/occupancy. Please contact the Division of Environmental Health for clearance. (Environmental Health)

Prior to Commencement of the Use:

28. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. The landscape plan shall include landscaping to screen portions of the project without blocking views from State Highway One. Before commencement of the use, landscaping shall be installed. (Planning and Building Inspection Department)
29. All landscaped areas and/or fences shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection Department)
30. The applicant shall provide to the Water Resources Agency information on the water system to serve the project, including the location of all water wells on the property, any well logs available, and the number of current hookups. (Water Resources Agency)
31. Prior to commencement of the use of the bed and breakfast, the applicant shall install a water meter on the system providing water to the bed and breakfast facility. The water use of the bed and breakfast facility shall not exceed 9.45 AF/yr. The applicant shall provide the Monterey Peninsula Water Management District and Monterey County Water Resource Agency documentation annually of water use, including verification on the reporting of metered water deliveries. (Water Resources Agency and Monterey Peninsula Water Management District)
32. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection Department)

Continuous Permit Conditions:

33. The property owners shall occupy and manage the bed and breakfast facility. The facility shall not be affiliated with hotels or motels operating anywhere in the County of Monterey. (Planning and Building Inspection Department)
34. No more than ten guest rooms may be allowed in one facility. (Planning and Building Inspection Department)

35. No long-term rental of room shall be permitted. The maximum stay for guests shall not exceed 29 consecutive days in a 30 day period. (Planning and Building Inspection Department)
36. The facility shall provide parking on site at the rate of 1 space per guest room plus two spaces for the owners. (Planning and Building Inspection Department)
37. Each bed and breakfast facility may have a maximum of one sign not exceeding 4 square feet in area. Such sign shall be attached to the residence and shall not be internally illuminated. (Planning and Building Inspection Department)
38. Such facilities shall be subject to the transient occupancy tax (Chapter 5.40, Monterey County Code) (Planning and Building Inspection Department)
39. Any cooking facility must comply with State and County Codes. (Planning and Building Inspection Department)
40. The facility shall have two guest rooms available for low cost visitor serving uses. (Planning and Building Inspection Department)
41. Prior to the use of the bed and breakfast facility, The applicant shall develop an information brochure on the rules and regulations of the Point Lobos State Reserve. The information brochure shall be distributed to all guests staying at the facility, and shall be approved by the Director of Planning and Building Inspection. (Planning and Building Inspection Department)

Upon motion of Supervisor Calcagno, seconded by Supervisor Johnsen, and carried by those members present, the Board of Supervisors approves the Coastal Development Permit and Design Approval, by the following vote, to wit:

AYES: Supervisors Salinas, Calcagno and Johnsen.

NOES: Supervisors Pennycook and Potter.

ABSENT: None.

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board Supervisors duly made and entered in the minutes thereof at page 70 of Minute Book 70, on November 9, 1999

Dated: November 9, 1999
State of California.

SALLY R. REED, Clerk of the Board of Supervisors, County of Monterey,

By Nancy Luperbell
Deputy

County Conditions That Remain Unchanged & Are Imposed Under an Authority Other than the Coastal Act

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

6. Driveways shall not be less than 12 feet wide unobstructed. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at not greater than 400 foot intervals. (Carmel Highlands Fire District)

7. Unobstructed vertical clearance shall not be less than 15 feet for all access roads. (Carmel Highlands Fire District)

8. Size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign. (Carmel Highlands Fire District)

9. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. (Carmel Highlands Fire District)

10. Where multiple addresses are required at a single driveway, they shall be mounted on a single post, or in any fashion approved by the Monterey County that provides for the same practical effect. (Carmel Highlands Fire District)

11. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. (Carmel Highlands Fire District)



CALIFORNIA COASTAL COMMISSION

**COUNTY CONDITIONS
THAT REMAIN**

**EXHIBIT
D**

**Rancho Chiquita B & B
A-3-MCO-99-092**

12. Minimum hydrant standards shall include a brass head and valve with at least one 2 ½ inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. (Carmel Highlands Fire District)

13. Each hydrant/fire valve or access to water shall be identified as follows:

1. If located along a driveway, a reflectorized blue marker, with a minimum dimension of 3 inches, shall be located on the driveway address sign and mounted on a fire retardant post, or

2. If located along a street or road, a reflectorized blue marker, with a minimum of 3 inches, shall be mounted on a fire retardant post. The sign post shall be within 3 feet of said hydrant/fire valve, with a sign no less than 3 feet nor greater than 5 feet above ground, in a horizontal position and visible from the driveway. (Carmel Highlands Fire District)

14. Remove flammable vegetation from within 30 feet of structures. Limb trees 6 feet up from the ground. Remove limbs within 10 feet of chimneys. (Carmel Highlands Fire District)

15. The building(s) shall be fully protected with automatic fire sprinkler system(s). The following notation is required on the plans when a building permit is applied for:

"The building shall be fully protected with an automatic fire sprinkler system. Installation, approval and maintenance shall be in compliance with applicable National Fire Protection Association and/or Uniform Building Code Standards, the editions of which shall be determined by the enforcing jurisdiction. Four (4) sets of plans for fire sprinkler systems must be submitted and approved prior to installation." (Carmel Highlands Fire District)

16. In high and very high fire hazard areas, as defined by the California Department of Forestry and Fire Protection (CDF), roof construction shall be Class A or Class B with fire resistive materials, or as approved by the Monterey County Department of Planning and Building Inspection. This requirement shall apply to all new construction and existing roofs that are repaired or modified so as to affect 50 percent or more of the roof. Vegetation removal will not be allowed as a means of removing high or very high fire hazard area designation from an entire parcel. (Carmel Highlands Fire District)

24. Design the water system improvements to meet the standards as found in Chapter 22 of the California Code of Regulations. Submit engineered plans for the water system improvements and any associated fees to the Director of Environmental Health for review and approval prior to installing the improvements. (Environmental Health)

26. The Point Lobos Ranch WDS shall operate in conformance with all permit conditions imposed by the Monterey Peninsula Water Management District. (Environmental Health)

27. All improvements shall comply with the California Uniform Food Facilities Law as approved by the Director of Environmental Health. As necessary, submit plans and necessary review fees for review and approval prior to final inspection/occupancy. Please contact the Division of Environmental Health for clearance. (Environmental Health)



CALIFORNIA COASTAL COMMISSION

COUNTY CONDITIONS THAT REMAIN

EXHIBIT
D continued

Rancho Chiquita B & B
A-3-MCO-99-092

32. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection Department)

38. Such facilities shall be subject to the transient occupancy tax (Chapter 5.40, Monterey County Code). (Planning and Building Inspection Department)

39. Any cooking facility must comply with State and County Codes. (Planning and Building Inspection Department)

40. The facility shall have two guest rooms available for low cost visitor serving uses. (Planning and Building Inspection Department)

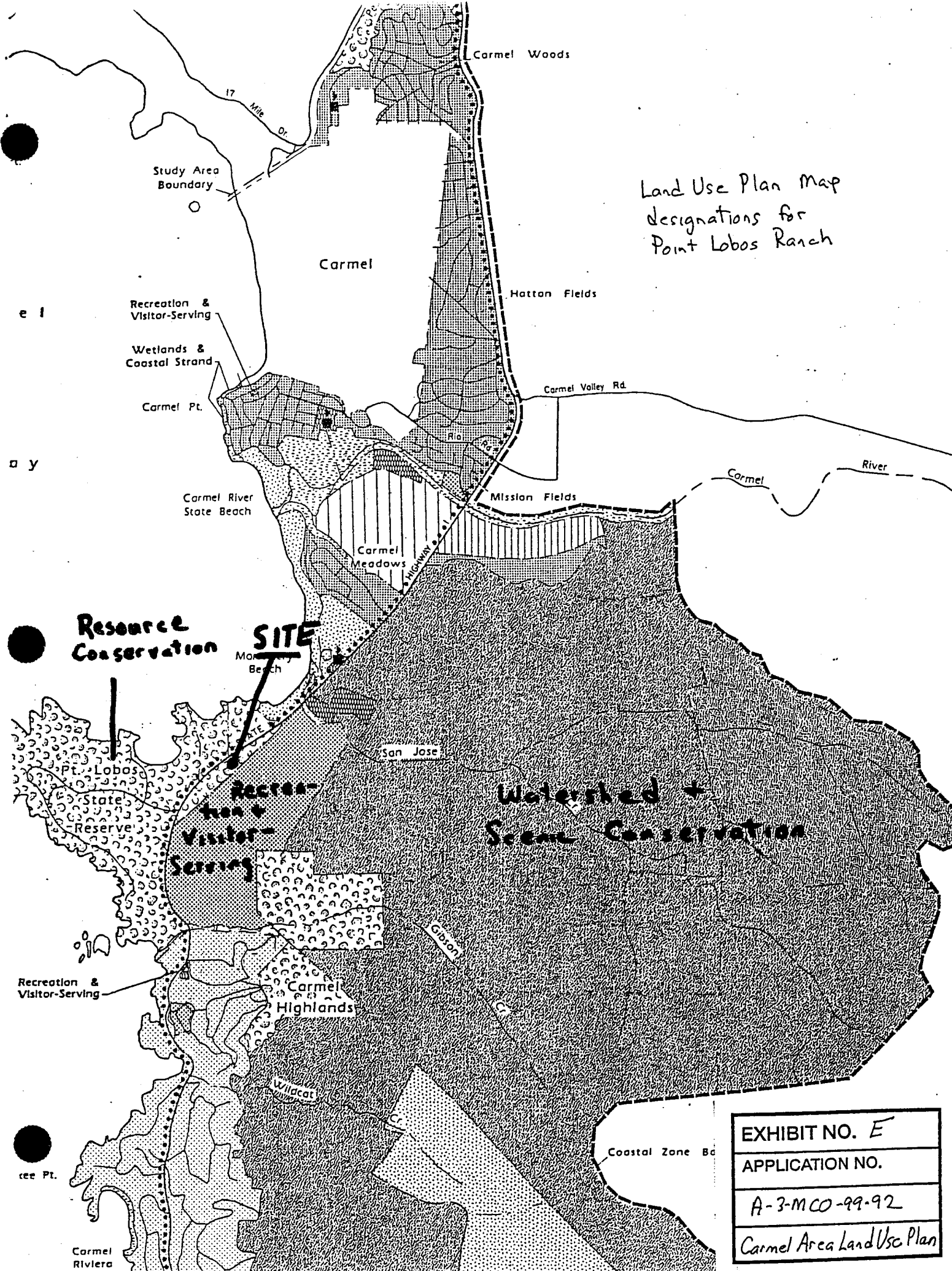


CALIFORNIA COASTAL COMMISSION

COUNTY CONDITIONS THAT REMAIN

EXHIBIT
D continued

Rancho Chiquita B & B
A-3-MCO-99-092



Land Use Plan Map
Designations for
Point Lobos Ranch

**Resource
Conservation**

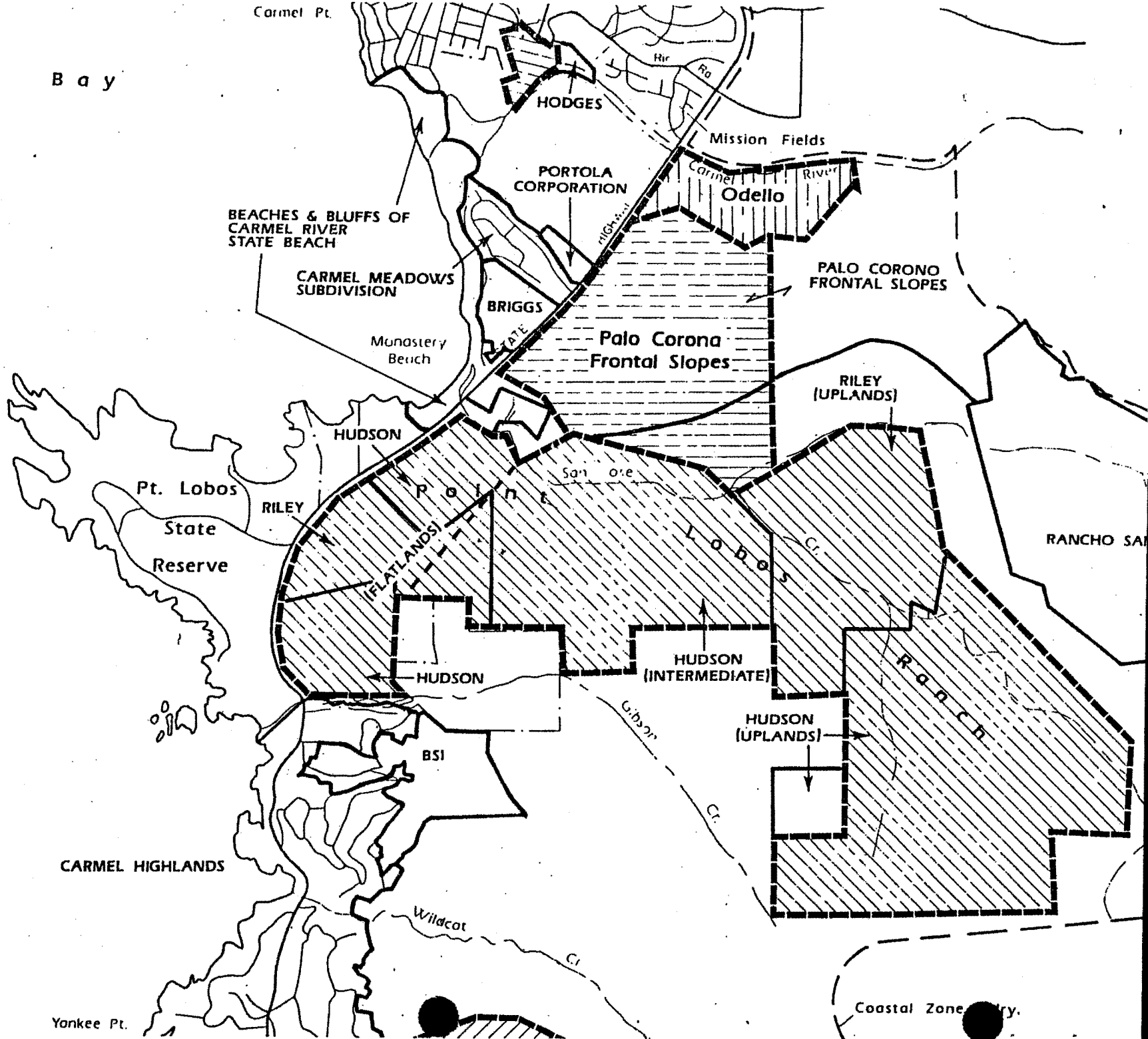
SITE

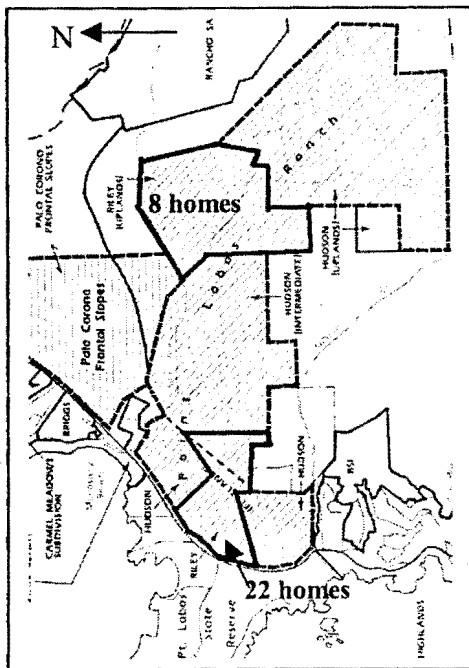
**Waterfowl &
Scenic Conservation**

EXHIBIT NO. <i>E</i>
APPLICATION NO.
A-3-MCO-99-92
Carmel Area Land Use Plan

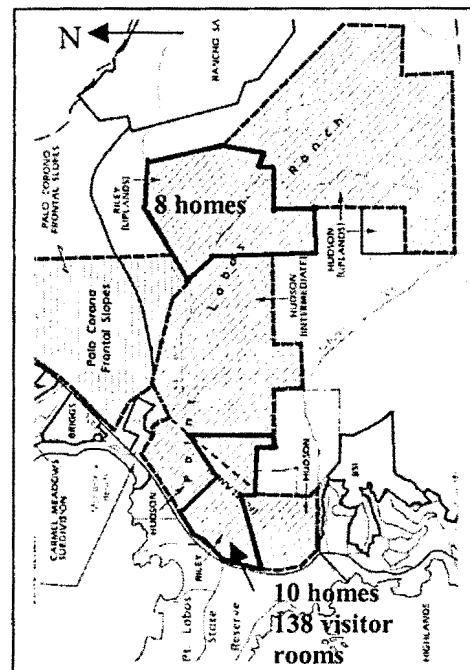
Special Treatment Areas in LCP
 Showing Hudson and Riley (Whisler)
 Family Holdings of Point Lobos
 Ranch in early 1980's

EXHIBIT NO. E cont
APPLICATION NO.
A-3-MCO-99-92
Special Treatment Area
Carmel Land Use Plan

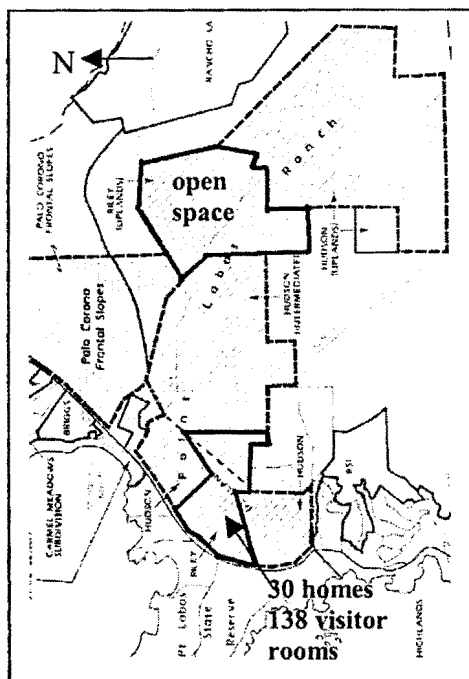




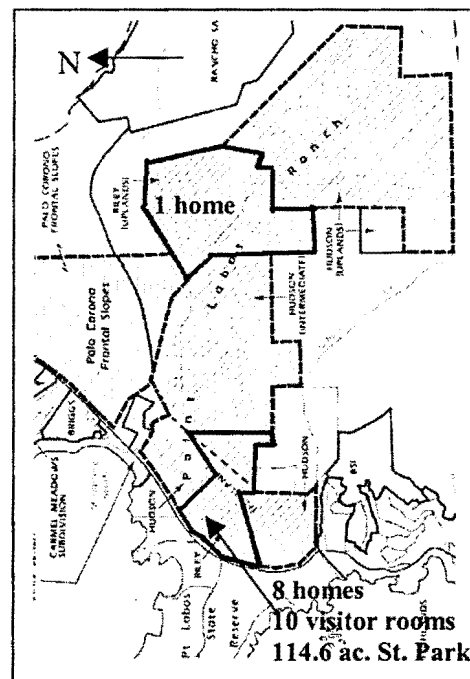
**LCP Scenario 1 Residential Only:
up to 30 homes**



**LCP Scenario 2 Visitor-Serving: up
to 18 homes & 138 visitor rooms**



**LCP Scenario 3 Residential & Visitor-
Serving: up to 30 homes & 138 visitor rooms**



**Final Plan: State Park; up to
9 homes & 10 visitor rooms**



CALIFORNIA COASTAL COMMISSION

RILEY DEVELOPMENT ALTERNATIVES

EXHIBIT
F

Rancho Chiquita B & B
A-3-MCO-99-092

B a y

HODGES

Mission Fields

**PORTOLA
CORPORATION**

Odello

**PALO CORONO
FRONTAL SLOPES**

BEACHES & BLUFFS OF
CARMEL RIVER
STATE BEACH

**CARMEL MEADOWS
SUBDIVISION**

BRIGGS

Palo Corona Frontal Slopes

**RILEY
(UPLANDS)**

HUDSON

REGAN

**RANCHO
CHIVITA
(SITE)**

WHISLER TRUST
T-2000

BSLT → OPR (03)

Pt. Lobos
State
Reserve

RILEY

BSLT →
KPR1

DPR

WHISLER

RANCHO SAN

HUDSON.

DPR

—HUDSON

HUDSON
(INTERMEDIATE)

HUDSON
(UPLANDS)-

BSLT →
DPR (11/1/2000)

BSI

CARMEL HIGHLANDS

Wildcat

Yankee Pt.

Coastal Zone

EXHIBIT NO. 6

APPLICATION NO.

A-3-MCO-99-92

Current Ownerships

Current Ownerships of
Area Designated "Point
Lobos Ranch" Special
Treatment Area in Carmel
Area Land Use Plan
BSLT=Big Sur Land Trust
DPR=State Parks + Recreation

LAW OFFICES OF
HORAN, LLOYD, KARACHALE, DYER, SCHWARTZ,
LAW & COOK
INCORPORATED

P.O. BOX 3350, MONTEREY, CALIFORNIA 93942-3350

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GARY D. SCHWARTZ
MARK A. BLUM
MARK A. O'CONNOR
ROBERT E. ARNOLD III
ELIZABETH C. GIANOLA
AENGUS L. JEFFERS
MOLLY STEELE

JAMES J. COOK
DENNIS M. LAW

June 19, 2002

TELEPHONE: (831) 373-4131
FROM SALINAS: (831) 757-4131
FACSIMILE: (831) 373-8302

sdyer@horanlegal.com

OUR FILE NO. 0181.02

VIA FACSIMILE AND REGULAR MAIL

Mr. Rick Hyman, Deputy Chief Planner
California Coastal Commission
Central Coast District
725 Front Street
Suite 300
Santa Cruz, CA 95060

RECEIVED

JUN 20 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Rancho Chiquita Associates
Conversion of Single Family Residence
to Bed & Breakfast Facility
Appeal No. A-3-99-92

Dear Mr. Hyman:

As you know, our firm represents Rancho Chiquita Associates ("Rancho Chiquita"). Our client owns a 5.4 acre parcel ("the Stone House Parcel") near the Point Lobos State Reserve. A primary residence, a guest cottage and a former horse barn are located on this parcel. Rancho Chiquita is the applicant under the above-numbered project for restoration of the improvements on the Stone House Parcel and construction of a bed and breakfast.

In November, 1999, the County of Monterey approved a ten-unit bed and breakfast on the property. The California Department of Parks and Recreation, the Big Sur Land Trust (the "BSLT") and David Dilworth (on behalf of the Responsible Consumers of the Monterey Peninsula [("RCMP")]) have appealed from the County's decision to the Coastal Commission.

499 VAN BUREN STREET
MONTEREY, CALIFORNIA 93940

EXHIBIT NO. H
APPLICATION NO. A-3-MCO-99-92
Rancho Chiquita B&B
Correspondence
California Coastal Commission

Mr. Rick Hyman, Coastal Planner
June 19, 2002
Page 2

During the Commission's review of the project, Staff had some questions about the number of development credits that existed in order to support a bed and breakfast use on the site. We understood that Staff was interested in this subject because the BSLT claimed that it had purchased all credits to develop visitor-serving accommodations on the Stone House Parcel when the BSLT purchased adjoining land from Rancho Chiquita.

When this question surfaced, Staff suggested that Rancho Chiquita attempt to work through the issue about entitlement to visitor serving accommodations with the BSLT. Our client asked Staff to defer placing the application on the Commission's agenda for hearing. Staff then prepared a report for the project dated May 24, 2000. On page 2 of that Report, Staff recommended that there is a "substantial issue" with regard to the visitor-serving density for the bed and breakfast use. We are taking this opportunity to address certain aspects of this Staff Report.

To put the matter in context, it is helpful to review the historical setting of the Point Lobos Ranch and the Riley holdings in particular.

Historic Background

At the time the LCP (Carmel Area) was certified by the Coastal Commission in 1983, the Point Lobos Ranch was jointly owned by the Hudson and Riley families. The Rileys' portion of the Ranch consisted of two segments. The upper portion (the "Uplands property") consisted of approximately 317 acres. The lower segment ("the Flatlands property") consisted of 143 acres which was adjacent to State Highway 1. Staff Report, Part V.A. The Riley heirs

(two sisters, Mary Riley Whisler¹ and Elizabeth Riley Wilson²) held title to the Uplands property and the Flatlands property as tenants in common. In 1984, the Wilsons sold their fifty percent (50%) interest in the 143 acre Riley Flatlands property to Rancho Chiquita, retaining a fifty percent (50%) interest in the Riley 317 acre Uplands property. In July, 1984, the Whislers entered into an agreement³ to sell their fifty percent (50%) interest in a portion of the 143 acre Flatlands property to Rancho Chiquita, retaining the 24.25 Whisler acres, as well as their fifty percent (50%) interest in the 317 acre Uplands property. The Whisler/Rancho Chiquita agreement contained an allocation of development credits between the parties, which is discussed below.

In the meantime, the Hudsons had formed a partnership⁴ with Messrs. Richter and Davis ("Richter/Davis") for the mixed use development of their joint property holdings. The Whislers and their children were required by Monterey County to apply jointly with Richter/Davis/Hudson for their

1

Mrs. Whisler and her husband are referred to as "the Whislers".

2

Mrs. Wilson and her husband are referred to as "the Wilsons".

3

The named buyers in this agreement were Theodore Richter and Paul Davis. Messrs. Richter and Davis then assigned their interest on the purchase contract to Rancho Chiquita.

4

The name of that partnership is Jose Gibson.

Mr. Rick Hyman, Coastal Planner
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seven (7) lot subdivision of the 24.25 acre parcel⁵ they retained.

In May, 1993, Rancho Chiquita and the Jose Gibson partnership entered into an agreement⁶ to sell approximately 113 acres of the former Riley holdings and the former Hudson holding to the BSLT. Rancho Chiquita retained title to the Stone House parcel.

Dialogue between the Applicant and the BSLT

Although Rancho Chiquita believed there was no ambiguity about entitlement to credits for developing visitor-serving accommodation units, our client attempted to negotiate the point with the BSLT. However, efforts to work through this issue with the BSLT were not successful. Consequently, in January, 2001, our client was forced to initiate an action for declaratory relief against the BSLT in the Monterey County Superior Court (Case No. M 52312). This litigation has now been resolved, and Rancho Chiquita and the BSLT have entered into a settlement agreement which contains a stipulation that deals directly with development credits. We will discuss that stipulation below.

Designation of Development Credits Under the Carmel Area Land Use Plan ("L.U.P.")

The Point Lobos Ranch was designated as a special treatment area under the Carmel Area Land Use Plan.

5

This 24.25 acre parcel will be referred to below as "the Whisler property".

6

We understand that Staff has reviewed the May, 1993 agreement. Staff Report, page 14.

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Section 4.4.3.F.2. The L.U.P. states that the owners of the Riley Ranch were entitled to thirty residential uses, whether existing or new. Section 4.4.4.3.F.5.e.

The L.U.P. recognized that the ten existing residential uses on the Flatlands property could remain. Section 4.4.3.F.4.b. Two of those structures were a primary residence ("the Stone House") and the guesthouse which is located next to the Stone House. Staff Report, Part V.A.

Under the L.U.P., eight new homesite rights were assigned to the so-called Riley Uplands property. Section 4.4.3.F.4.d. Twelve new homesite rights were also assigned to the Riley Flatlands property. Section 4.4.3.F.4.c.

Conversion of Density Credits Under the L.U.P.

The L.U.P. acknowledges that in the Flatlands area of Point Lobos Ranch it may be appropriate to convert "existing ranch buildings not essential to ranch operations to visitor-serving accommodations". Section 4.4.3.D.7.

The L.U.P. policies establish a conversion ratio of ten units of visitor-serving accommodations for each of the existing or new residential development credits within the Riley Flatlands. Section 4.4.3.F.4.c. However, no more than one hundred twenty visitor-serving units are allowed on the Flatlands parcel. Section 4.4.3.F.4.a.

Thus, converting the five L.U.P. density credits (consisting of two existing residential units and three additional residential credits discussed below) on the Stone House parcel would entitle Rancho Chiquita to fifty hotel units. Of course, our client has not submitted an application for a project of that scope and simply wishes

to have ten units for the bed and breakfast at the Stone House parcel.

The July 1984 Agreement with Mr. and Mrs. Whisler

We have enclosed a copy of the July, 1984 agreement between Messrs. Richter and Davis and Mr. and Mrs. Francis L. Whisler, including Exhibit A to that agreement. As a result of that agreement, Mr. and Mrs. Whisler obtained full title to a portion of the Riley Ranch, consisting of approximately 24.25 acres, and Messrs. Richter and Davis acquired the right to purchase the balance of the Riley holding. Pursuant to paragraph 2.3 of the agreement, seven of the eight development credits allocable to the Riley Uplands property were transferred down to the Riley Flatlands property.⁷ That transfer was consistent with Section 4.4.3.F.4.d of the L.U.P. which sets forth a preference for transferring development to the Flatlands.

Paragraphs 2.1 through 2.6 of the July, 1984 agreement contain an allocation of potential residential development sites and visitor-serving accommodation rights between the buyer (Rancho Chiquita) and seller (the Whislars). Paragraph 2.3 of the agreement provides that all the visitor-serving development rights were transferred to the buyer.

Those rights for new potential residential units that had been transferred down from the Uplands property were allocated as follows: Four of the credits were retained by the Whislars for use in connection with their 24.25 acre parcel. (Those four density credits, plus three existing residences on the 24 acre Whisler portion of the

7

The Wilsons consented to the transfer of these development credits to Rancho Chiquita.

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Flatlands property form the basis of the approved subdivision (No. SB 94001) of the 24 acre Whisler property into seven lots. The Coastal Commission reviewed and ultimately approved the density credit allocation reflected in the Whisler subdivision.)⁸

Paragraph 2.3 of the agreement also states that Rancho Chiquita received a number of development credits, including the three residential development credits that had been transferred down from the Uplands. It is useful to note that the BSLT does not own the Uplands property, nor has the BSLT entered into any agreement with Mr. and Mrs. Whisler about rights attendant to that parcel.

From the outset, our client took the position that those three additional development credits belong to the Stone House parcel and were not conveyed to the BSLT when it purchased 113 acres of the former Riley holding from Rancho Chiquita. The settlement agreement in the BSLT litigation (which is discussed on pages 9 and 10 of this letter) clears up any doubt that may have existed.

Analysis Contained in the Staff Report

As previously set forth, the BSLT claimed that it had purchased all the credits to develop visitor-serving accommodations on the Point Lobos Ranch. Based on these claims, the Staff Report made a commendable effort to work

8

Approval of the application submitted by Francis and Mary Whisler for seven residential lots on the Whisler property, establishes a precedent for transferring units down from the Uplands property to the Flatlands property.

an equitable solution between Rancho Chiquita and the BSLT. The Staff Report correctly notes that the visitor serving units were not assigned to any particular location. Page 13. The Staff Report also acknowledges that the Riley/Whisler family transferred their interest in any visitor-serving units to Rancho Chiquita. Page 13.

In an attempt to bridge the gap between the applicant and the BSLT, the Staff Report then concludes that the "apparent best test of the County's allocation finding is proportionality according to the standards of the L.C.P. Since Rancho Chiquita Associates retained only 4.5% of their land, the equitable argument is that they retained 4.5% of their visitor-serving density credits or 5 credits." Staff Report, page 14.⁹

9

Apparently, Staff came up with this percentage by dividing the acreage (5.422) within the Stone House Parcel by a number (120) which is the sum of the acres conveyed by Rancho Chiquita to the BSLT and the acreage in the Stone House Parcel.

This approach properly acknowledges that any visitor-serving units have been transferred to the Flatlands property. However, Staff's approach assumes that any visitor-serving units allocable to the Riley Flatlands were spread ratably as between Rancho Chiquita and the BSLT. This is not correct, as set forth on pages 10 and 11 below.

The applicant does not believe that an acreage approach should be followed here. However, assuming that such an approach were appropriate, the correct application would be to give credit to the applicant for all visitor-serving accommodation units that are allocable to acreage within the Whisler property and the Stone House Parcel. Under this formulation, the visitor serving accommodation

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Of course, when the Staff Report was prepared, the positions taken by the applicant and the BSLT put Staff in the position of interpreting the agreement by which the BSLT acquired a large portion of the Riley Ranch. The Settlement Agreement in the BSLT litigation has now resolved any questions about visitor-serving accommodations in a manner different from that which Staff believes it was required to assume in the absence of such resolution.

The Settlement Agreement in the Big Sur Land Trust Litigation

As previously noted, the applicant and the BSLT settled the declaratory relief action concerning development credits on the Stone House parcel.

The stipulation in Case No. M 52312 states as follows:

"Under the 1993 purchase agreement of the parties, the Big Sur Land Trust did not purchase or otherwise acquire the development rights, to the extent they exist, under the LCP and LUP for the Stone House Parcel or the Whisler Upland parcel. Rancho Chiquita agrees that the project pending before the Coastal Commission does not rely upon any development rights, to the extent

units should be spread as follows:

29.5 [acreage within the Whisler property and the Stone House parcel]
144.5 [acreage within the entire Riley Flatlands holdings] x 120
[visitor serving accommodations allocable to the Riley
Flatlands holdings] = 24

they exist, associated with the acreage conveyed to the Big Sur Land Trust." (emphasis added)

The Whisler/Rancho Chiquita agreement transferred the three additional credits to Rancho Chiquita, and they were not acquired by the BSLT. Consequently, the land retained by Rancho Chiquita (viz, Stone House parcel) has a total of five development credits consisting of the three residential density credits which came from the Uplands property (via Mr. and Mrs. Whisler) and the two existing residences.

Critique of Staff's Analysis re Allocation of Development Credits

We appreciate Staff's efforts - in the face of claims by the BSLT - to work an equitable allocation of development credits as between our client and the BSLT. Staff Report, page 14. However, we believe there are a number of rationale that are more consistent with the history of the Point Lobos Ranch property and the policies underlying the L.U.P. than allocation of the visitor-serving accommodation units on a per acre basis.

They are as follows:

1. The L.U.P. provides that any existing residential units may be converted to visitor-serving accommodations. Section 4.4.3.D.7. Indeed, it would be far less intrusive to convert structures that already exist, than to develop new sites.

2. The Whisler/Rancho Chiquita agreement transfers three residential development credits¹⁰ that are allocable

¹⁰

The Whisler family also transferred all rights to

Mr. Rick Hyman, Coastal Planner
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Page 11

to the Uplands property down to the Stone House Parcel. This is consistent with L.U.P. Policy No. 4.4.3.F.4.d, which encourages the transfer to the Riley Flatlands property.

3. Two existing residential uses are present on the Stone House Parcel and each is convertible to hotel units.

Moreover, Staff's analysis relies on an incorrect premise - that the density of visitor-serving units is tied to a minimum lot size for new residential development. First, the L.C.P. recognizes an entitlement to single-family residential uses. Section 4.4.3.F.4.e. The L.U.P. states that the ten existing residential units on the Flatlands property could remain. Sections 4.4.3.F.4.b and 4.4.3.F.4.e. Two of those residential uses are on the Stone House Parcel. Although the L.U.P. does refer to a "one-unit per 5 acres formula", it characterizes that as an "overall density". Clustering is clearly preferred. Section 4.4.3.F.4.d.

The settlement agreement in Case No. M 52312, resolves any question which might exist concerning the number of units which could be placed at the Stone House and the guest house located on the site.¹¹ As a result of that agreement, neither the BSLT (or its successor grantee, the Department of Parks and Recreation) has any claim to the three new residential development credits

visitor-serving accommodation units to the applicant. Paragraph 2.3 of the Whisler/Rancho Chiquita agreement.

¹¹

Having said that, we realize the stipulation does not reach other grounds which the BSLT has asserted as a basis for its appeal from approval of the project by the Monterey County Board of Supervisors.

Mr. Rick Hyman, Coastal Planner
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transferred down from the Uplands (or the right to convert those credits to visitor-serving accommodations).

Finally, even if there were no Stipulation in the Rancho Chiquita/BSLT litigation which confirmed that new residential rights (and thus rights to convert to visitor-serving accommodations [including bed and breakfast uses] under the L.U.P.) remained with the Stone House Parcel, Rancho Chiquita still has a right to convert the existing residence and the guest cottage to up to twenty units - which is double what the project contemplates.

In view of the foregoing, there is no substantial issue with regard to the visitor-serving density for the project.

Precedential Effect of the Project

Although it goes beyond the Staff Report, we should also note that approving this project will not set an adverse precedent. The Point Lobos Ranch is designated as a Special Treatment Area under the L.U.P., which affords Point Lobos Ranch specific densities and opportunities for conversion to Visitor-Serving Accommodations. No precedent for density or entitlements on other properties could be established here because there are no comparable special treatment areas in the Carmel Area which establish a ten for one formula on conversion of residential uses to visitor-serving accommodations.

Bed and Breakfast Land Use

The Staff Report assumes that the existing structures constitute legal, non-conforming uses. Page 20. Assuming, *arguendo*, that this is true (Monterey County did not so find), the question whether County Code section

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20.36.050.E allows the use of the barn to be converted to a bed and breakfast depends upon the interpretation of whether the bed and breakfast is similar to or more restrictive than the existing use of the barn.

The Report concludes that a substantial issue is raised because there is some doubt as to whether the bed and breakfast can be found similar to or more restrictive than "barn uses". Staff's conclusion is based, at least in part, on an interpretation that the County made no such finding of consistency. However, Finding No. 1 in Resolution No. 99-410 contains a finding of consistency under the LCP.

Moreover, Staff's question whether Section 20.36.050.D. of the Monterey County Code can be applied to the horse barn rests on an overly narrow construction of the existing uses as nonresidential. The Stone House Parcel has historically been used for residential purposes. The barn is an accessory structure to the primary residential use. It is not a separate "barn use", which is not even a defined term in the LCP. As an accessory structure to a residential use, it is axiomatic under established planning law that the barn has the same primary residential use as the balance of the parcel. Accordingly, conversion of the residential accessory use to a similarly residential bed and breakfast use is expressly permitted by Monterey County Coastal Implementation Plan, sections 20.64.100.C and D.

Under Section 20.64.100.D.5, "the proposed bed and breakfast facility is consistent with the Monterey County Local Coastal Program" [LCP], because Section 4.4.3.D.7 thereof specifically provides that "in the Flatlands area of Point Lobos Ranch, conversion of existing ranch buildings not essential to ranch operations to visitor-serving units may be appropriate". Following the rationale in the Staff Report that the more specific

Mr. Rick Hyman, Coastal Planner
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Page 14

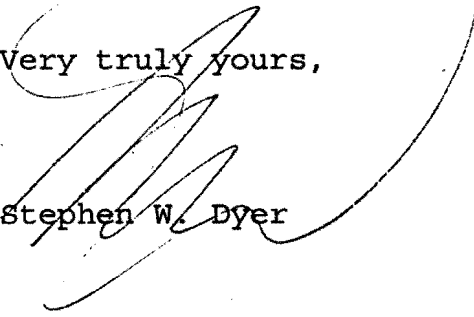
policies of the L.U.P. control (which correctly reflects the hierarchy of the County General Plan), consistency with the LCP is established.

Moreover, as noted above, the lack of a specific County finding with respect to consistency on this issue is not a ground for appeal or for substantial issue determination under Public Resources Code, section 30604(b) or Title 14, section 13119.

Additionally, the relevant Local Coastal Program provisions for "Resource Conservation" zones evidence that the purpose of the designation is the protection of sensitive resources. It cannot reasonably be argued that the conversion of use of a residential accessory structure to another residential use so that it matches the new use to which the main structure will be put can conceivably threaten sensitive resources.

Our client welcomes the opportunity to meet with Staff and discuss how we proceed from here. Of course, if you have any questions concerning the foregoing, we would be happy to respond. We look forward to hearing from you.

Very truly yours,


Stephen W. Dyer

SWD/cbl
Enclosure
cc: Rancho Chiquita Associates
Attn: Theodore Richter
Paul E. Davis, Sr.

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MAR 18 2002

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OUR FILE NO. 0181.02

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March 14, 2002

Mr. Rick Hyman, Coastal Planner
California Coastal Commission
Central Coast District
725 Front Street
Suite 300
Santa Cruz, CA 95060

Re: Rancho Chiquita Associates
Conversion of Single Family Residence
to Bed & Breakfast Facility
Appeal No. A-3-99-92

Dear Rick:

This is in furtherance of our telephone conversation
on Monday.

As you know, our firm represents Rancho Chiquita
Associates, which is the applicant under the above-numbered
project for restoration of the improvements on the Stone
House property and construction of a bed and breakfast.
You will recall that Ted Richter, Paul Davis and I met with
Tami Grove, Charles Lester, Diane Landry and you on
April 6, 2000 concerning the project. We appreciated the
opportunity to address questions which staff had about the
number of development credits that existed in order to
support the use on the site.

Although we felt that there was no ambiguity about
entitlement to development credits, our client attempted to
resolve the issue with the Big Sur Land Trust.
Accordingly, we requested that you defer placing the

Rick Hyman
March 14, 2002
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application on the Commission's agenda for hearing. However, efforts to work through this issue with the Big Sur Land Trust were not successful. Consequently, in January, 2001, our client was forced to initiate an action for declaratory relief against the Big Sur Land Trust in the Monterey County Superior Court (Case No. M 52312). I understand this litigation has now been resolved and the parties (viz, Rancho Chiquita Associates and the Big Sur Land Trust) have entered into a settlement agreement which contains a stipulation that deals directly with density credits. More specifically, that stipulation states as follows:

"Under the 1993 purchase agreement of the parties, the Big Sur Land Trust did not purchase or otherwise acquire the development rights, to the extent they exist, under the LCP and LUP for the Stone House Parcel or the Whisler Upland parcel. Rancho Chiquita agrees that the project pending before the Coastal Commission does not rely upon any development rights, to the extent they exist, associated with the acreage conveyed to the Big Sur Land Trust." (emphasis added)

Thus, the settlement agreement resolves any question which might exist concerning the number of units which could be placed at the Stone House and the guest house located on the site. (Having said that, we realize the stipulation does not reach other grounds which the Big Sur Land Trust may have asserted as a basis for its appeal from approval of the project by the Monterey County Board of Supervisors.)

The analysis is as follows: Under the Carmel Area Land Use Plan (herein the "L.U.P."), eight new homesite rights were assigned to the so-called Uplands Parcel (which was owned by Francis and Mary Whisler and Robert and Elizabeth Wilson). Section 4.4.3.F.4.d. A number of homesite rights

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were also assigned to the Flatlands parcel, including for ten existing residential structures. Section 4.4.3.F.4.b. Two of those structures were the Stone House and the guesthouse which is located next to the Stone House.

Pursuant to the terms of the purchase agreement¹ between Rancho Chiquita Associates and Mr. and Mrs. Whisler, seven of the eight density credits allocable to the Uplands parcel were transferred down to the Flatlands. That transfer was consistent with Section 4.4.3.F.4.d of the L.U.P. which sets forth a preference for transferring development to the Flatlands. Those transferred rights were allocated as follows. Four of the density credits were retained by the Whislens for use in connection with their property. (Those four density credits, plus three existing residences on the Flatlands parcel form the basis of the approved subdivision of the 25-acre Whisler parcel into seven lots.) Under the terms of the purchase agreement with Mr. and Mrs. Whisler, Rancho Chiquita Associates received a number of density credits, including the three density credits that had been transferred down from the Uplands.

From the outset, our client took the position that those three additional density credits belong to the Stone House parcel. The settlement agreement in the Big Sur Land Trust litigation clears up any doubt that may have existed. Consequently, the Stone House parcel has a total of five density credits consisting of the three density credits which came from the Uplands property (via Mr. and Mrs. Whisler) and the two existing residences.

1

We forwarded that purchase agreement to you under cover dated April 13, 2000. I identified the pertinent portions of the purchase agreement in my letter.

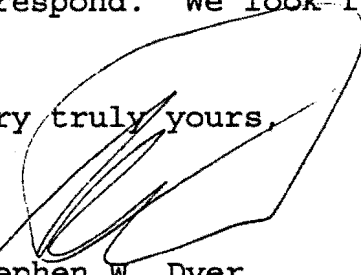
CCC Exhibit H
(page 17 of 41 pages)

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Page 4

The L.U.P. provides that each existing or new density credit is convertible into ten units of hotel under the plan. Section 4.4.3.F.4. Thus, converting the five density credits (consisting of two existing residential use and three new rights) on the Stone House parcel would entitle Rancho Chiquita Associates to fifty hotel units. Of course, our client has not submitted an application for a project of that scope and simply wishes to have ten units for the bed and breakfast at the Stone House parcel.

As I mentioned, we would like to have the opportunity to meet with staff and discuss how we proceed from here. Of course, if you have any questions concerning the foregoing, we would be happy to respond. We look forward to hearing from you.

Very truly yours,



Stephen W. Dyer

SWD/cbl
cc: Rancho Chiquita Associates
Attn: Theodore Richter
Paul E. Davis, Sr.

I:\SWD\Rancho Chiquita\Hyman-ltr-2.wpd

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June 12, 2000

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Our File No. 181.02

VIA FACSIMILE & MAIL

Rick Hyman
California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, California 95060

RE: Appeal No. A-3-MCO-99-092

Dear Mr. Hyman:

This law firm represents Rancho Chiquita Associates. We have received and reviewed the Appeal Staff Report: Substantial Determination. On behalf of our client, we agree that there are no substantial issues raised with respect to archaeology, traffic, visual and scenic resources, or historic resources. We respectfully disagree with staff's determination that substantial issues are raised with respect to visitor-serving density, a management plan, or the "Resource Conservation zoning of the site" for all of the reasons set forth below:

We further object to the setting of this substantial issue determination for a hearing date on June 16, 2000. This matter was originally opened and continued on January 12, 2000, in order to allow the applicant and the appellants an opportunity to seek a negotiated resolution. The applicant and the appellants are still engaged in the resolution process, and the applicant has no desire that the substantial issue determination should be addressed by the Commission until discussions with the appellants have come to a definitive conclusion.

Nor does the applicant perceive any procedural reason why it should be necessary to bring this determination to a hearing now. The Commission staff has already satisfied the requirements of Title 14, Section 13115(a) by making a recommendation to the Commission.

Inasmuch as the Commission has yet to make a determination that the appeal raises no significant question pursuant to Title 14, Section 13115(b), there is no compelling reason why

Rick Hyman
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June 12, 2000
Page 2

the Commission must consider the application in accordance with the procedures set forth in Sections 13057 through 13096 at this time. Moreover, Commission staff has satisfied the scheduling requirements of Section 13062 by setting the substantial issue determination for its initial hearing on January 12, 2000, within forty-nine (49) days of the date the appeal was filed. Accordingly, the applicant again requests that this matter not proceed to hearing on June 16, 2000. Nor, does the applicant waive this objection by submitting this opposition or appearing at the June 16th hearing.

Point Lobos Ranch Comprehensive Development Plan

The applicant challenges the validity of the appellants' contention that the project is proceeding absent, or in conflict with such management plan requirements as are contained in the LCP.

The first point which must be recognized is that comprehensive overall development and management plans for both the Hudson and Riley properties were completed and coordinated to the greatest extent possible in satisfaction of LUP Policies 4.4.3.J.4.d and j at the time Rancho Chiquita Associates submitted its planned development application for the entirety of the ranch, which application was accepted as complete by the County of Monterey. As noted in the staff report, this application did not proceed to hearing because the property owners sold large portions of their holdings to the Big Sur Land Trust for the eventual transfer to the State Parks system.

There is no policy in the LUP which requires this extensive private planning effort, once consummated, to be reinitiated because of a sale of the property, particularly a sale for eventual transfer to the State parks system as encouraged by LUP Policy 4.4.3.G.4. Not only does the LUP not require any specific management plan components concerning: "1) agreement on visitor-serving density and private visitor-serving use; 2) specificity as to management; and 3) future park uses", but these issues could never have been contemplated at the time the LUP was adopted, because the precept of the special treatment provisions was that each of the two holdings would be privately developed to maximum density, not sold to the State of California and integrated with State park uses. Therefore, the statement in the staff report that "some of the expected results from mandating comprehensive planning have occurred" is unsupported. The purportedly missing benefits could never have been and were never contemplated when the LUP was adopted and certified.

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Page 3

The LUP contemplated that substantial development would occur immediately adjacent to the Point Lobos State Reserve, but included only minimal requirements related thereto. The limited extent of these requirements is indicative of the degree to which the LUP requires coordination of private development vis-a-vis state park uses. It is obvious by omission that the LUP did not contemplate and does not require overall development and management plan coordination between private residential development and visitor-serving facilities on the one hand and adjacent State park uses on the other.

Also note that LUP Policy 4.4.3.G.1 contemplates that the development of large properties (over 50 acres) and ranches should be guided by an overall management plan. Neither the subject property, nor all of the private holdings on the Riley portion of the former Point Lobos Ranch combined, total 50 acres. Inasmuch as the special treatment provisions of the LUP which were designed to guide the large scale development of 276 visitor-serving units and/or up to 70 residential units have effectively been rendered moot by the sale to BSLT/State Parks, the application of Policy 4.4.3.G.1 is particularly appropriate at this time. And as noted in the staff report, this policy also applies to the special treatment areas.

If this matter proceeds to a substantial issue determination, we urge that the Commission find that the level of comprehensive planning which has occurred for Point Lobos Ranch is entirely satisfactory in view of the LCP requirements and the context in which they were established. It is not necessary to have a detailed comprehensive plan covering the entire ranch before any development can be allowed, especially since it may be many years before State park planning occurs. And a bed and breakfast use on a private inholding is potentially acceptable and compatible with other planned uses for the ranch.

Visitor-Serving Use and Density

The staff report states that there is disagreement over visitor-serving densities, and that this is an indication that the County's findings in this regard are lacking.

The first point to be made is that even if the findings regarding visitor-serving densities were somehow inadequate, which assumption applicant strongly disagrees with, such inconsistency is not grounds for appeal and does not create a substantial issue.

As noted, the grounds for an appeal are limited to an allegation that the development does not conform to the certified Local Coastal Program or the public access policies set forth in the

Rick Hyman
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Page 4

Coastal Act. PRC §30603(b)(1) Since the appeal does not asserts inconsistency with public access policies, only conformance to the certified Local Coastal Program is at issue.

"The standard for review for any appealable development shall be whether or not the development meets the requirements of Public Resources Code sections 30604(b) and (c)." Title 14 section 13119.

Section 30604 provides in pertinent part as follows:

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200.)

Note that with the sole exception of a finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (not applicable here), the standard of review does not encompass whether the local government action contains adequate findings to support its decision. The specific inclusion of the public access and recreation finding requirement in Section 30604, to the exclusion of any other local finding requirements, evidences a clear legislative intent not to include other LCP consistency findings within the standard of review.

The substantial issue determination under Section 30625(b)(2), refers back to Public Resources Code section 30604, discussed above, and thus contains the same standard of review, whether "the proposed development is in conformity with the certified local coastal program." Section 30604(b).

In summary, the standard for review for this appeal is not whether there are express findings in the local approval for each element of LCP consistency. The only question is whether the development conforms to the LCP. That question can be readily determined by reference to

Rick Hyman
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Page 5

the record of the local approval, including the CEQA documentation. Issues with respect to the adequacy of the County permit findings (other than public access and recreation findings) are outside the grounds of appeal and substantial issue determinations contained in the Coastal Act and the Commission's regulations.

On a more substantive basis, the "disagreement over visitor-serving densities" is a civil matter between the applicant and the appellants concerning the application of real property law issues outside the jurisdiction of the Coastal Commission. Accordingly, a substantial issue determination should be deferred until such time as: 1) applicant requests it; or 2) applicant and appellants resolve their disagreement.

The applicant specifically disagrees with the suggestion at page 14 of the staff report that it is appropriate for the Commission to determine the allocation of density as between private owners, and that the appropriate means of calculation should be the percentage of land privately retained. The latter proposition is particularly inappropriate in light of the fact that different areas of the former Point Lobos Ranch are designated for different densities in the LUP itself.

The applicant concurs with the recommendations of the staff report at page 15 concerning specificity of uses, i.e., there is no need to know more precisely what will occur on the State park holdings in order to act on this bed and breakfast project, since it is to occur on private lands. The policy language (4.4.3.E.9) supports this finding.

Bed and Breakfast Land Use

The staff report assumes that the existing structures constitute legal, non-conforming uses. Assuming, *arguendo*, that this is true (Monterey County did not so find), the question whether County Code section 20.36.050.E allows the barn to be converted depends upon the interpretation of whether the bed and breakfast is similar to or more restrictive than the existing use of the barn.

The report concludes that a substantial issue is raised because there is some doubt as to whether the bed and breakfast can be found similar to or more restrictive than barn uses. This premise rests on an overly narrow construction of the existing uses. The property in question has historically been used for residential purposes. The barn is accessory structure to the primary residential use. It is not a separate "barn use", which is not even a defined term in the LCP. As an accessory structure to a residential use, the barn has the same primary residential use

Rick Hyman
California Coastal Commission
June 12, 2000
Page 6

designation as the balance of the parcel. Accordingly, conversion to a bed and breakfast use is expressly permitted by Monterey County Coastal Implementation Plan Section 20.64.100.C and D.

Under Section 20.64.100.D.5, "the proposed bed and breakfast facility is consistent with the Monterey County local coastal program", because Section 4.4.3.D.7 thereof specifically provides that "in the Flatlands area of Point Lobos Ranch, conversion of existing ranch buildings not essential to ranch operations to visitor-serving units may be appropriate. Following the rational in the staff report that the more specific policies of the LUP control, consistency with the LCP is established.

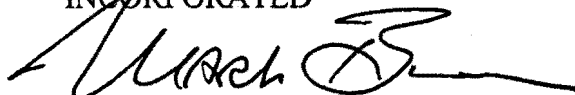
Moreover, as noted above, the lack of a specific County finding with respect to consistency on this issue is not a grounds for appeal or substantial issue determination under Public Resources Code section 30604(b) and Title 14, Section 13119.

Additionally, the relevant local coastal program provisions for "Resource Conservation" zones evidence that the purpose of the designation is the protection of sensitive resources. It cannot reasonably be argued that the conversion of use of an accessory structure to a residential use so that it matches the new use to which the main structure will be put can conceivably threaten sensitive resources. Specifically, it should be noted that the scenic conservation easement over the parcel does not encompass any of the structures, including the barn.

For all the foregoing reasons, on behalf of the applicant I strongly urge that the appeals do not raise any substantial issues of LCP consistency.

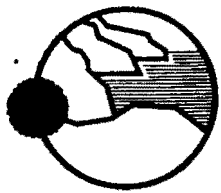
Respectfully submitted,

HORAN, LLOYD, KARACHALE, DYER,
SCHWARTZ, LAW & COOK,
INCORPORATED



Mark A. Blum
Attorneys for Rancho Chiquita Associates

MAB:mh



THE BIG SUR
LAND TRUST

RECEIVED

MAR 11 2002

March 7, 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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Leslie Snorf

California Coastal Commission
Attn: Tami Grove
725 Front Street, Ste. 300
Santa Cruz, CA 95060

RE: **Rancho Chiquita B & B Permit**
Application No. 970284;
Rancho Chiquita vs. The Big Sur Land Trust (BSLT)
Monterey Superior Court No. M52312

Dear Tami:

Enclosed please find a copy of the recently filed Stipulated Judgment in *Rancho Chiquita vs. BSLT*, which we believe does not affect in any way the above permit application now pending before the Commission.

If Mr. Richter reschedules the permit application for a hearing before the Commission, BSLT will continue to support State Parks in prosecuting the appeal and in opposing this development in the middle of a future state park created for wildlife protection.

Please call if you have any questions or need further information.

Sincerely,

ZAD LEAVY
General Counsel

cc: Corey Brown, Executive Director and
BSLT Board of Trustees (w/enc.)
Lynn Rhodes, Monterey Superintendent, State Parks (w/enc.)

ZL:gs
g1..workbslt@stonehouse-grove.ltr

P.O. Box 221864
Carmel, CA 93922
Tel 831 625 5523
Fax 831 625 0716
@bigsurlandtrust.org
www.bigsurlandtrust.org

CCC Exhibit H
(page 25 of 41 pages)

Protecting America's most beautiful coast

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LAW OFFICES OF MICHAEL W. STAMP
2 479 Pacific Street, Suite One
Monterey, California 93940
3 Telephone: (831) 373-1214
Facsimile: (831) 373-0242
4

5 Attorneys for Defendant
Big Sur Land Trust
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF MONTEREY

10 RANCHO CHIQUITA ASSOCIATES, a
California Limited Partnership,

CASE NO. M 52312
Date Action Filed: January 24, 2001

11 Plaintiff,

NOTICE OF ENTRY OF JUDGMENT

12 v.
13

14 THE BIG SUR LAND TRUST, a
California non-profit corporation,

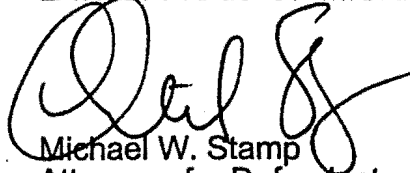
15 Defendant.
16

17 To plaintiffs and to their attorneys of record:

18 PLEASE TAKE NOTICE that a Judgment was entered in this action on March 5,
19 2002. A copy of the Judgment is Exhibit "A" to this notice.
20

21 Dated: March 6, 2002

LAW OFFICES OF MICHAEL W. STAMP

22 
23 Michael W. Stamp
24 Attorneys for Defendant
25 Big Sur Land Trust
26
27
28

1 Michael W. Stamp, State Bar #72785
2 LAW OFFICES OF MICHAEL W. STAMP
3 479 Pacific Street, Suite One
4 Monterey, California 93940
5 Telephone: (831) 373-1214
6 Facsimile: (831) 373-0242

7
8 Attorneys for Defendant
9 Big Sur Land Trust

FILED

MAR 05 2002

SHERILL PEDERSEN
CLERK OF THE SUPERIOR COURT
DEPUTY

10
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28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MONTEREY

10 RANCHO CHIQUITA ASSOCIATES, a
11 California Limited Partnership,

12 Plaintiff,

13 v.

14 THE BIG SUR LAND TRUST, a
15 California non-profit corporation,

16 Defendant.

CASE NO. M 52312

Date Action Filed: January 24, 2001

STIPULATION FOR JUDGMENT;
JUDGMENT

Trial Date: March 25, 2002

18 Plaintiff RANCHO CHIQUITA ASSOCIATES, a California Limited Partnership,
19 and Defendant BIG SUR LAND TRUST, acting by and through their respective counsel,
20 hereby stipulate that the Court may enter judgment as follows:

21 1. Plaintiff's declaratory relief claim is settled, with the parties agreeing to the
22 following declaration of rights and responsibilities in regard to the Complaint filed in this
23 action:

24 Under the 1993 purchase agreement of the parties, the Big Sur
25 Land Trust did not purchase or otherwise acquire the development
26 rights, to the extent they exist, under the LCP and LUP for the Stone House
27 parcel or the Whisler upland parcel.

28 Rancho Chiquita v. Big Sur Land Trust, M 52312
Stipulation for Judgment; Judgment

CCC Exhibit H
(page 27 of 41 pages)

EXHIBIT A, p. 1 of 2

1 Rancho Chiquita agrees that the project pending before the Coastal Commission
2 does not rely in any part upon any development rights, to the extent they exist,
3 associated with the acreage conveyed to the Big Sur Land Trust.

4 2. All other claims of Plaintiff are dismissed.

5 3. Each side shall bear its own costs, including attorney's fees, incurred in this
6 action.

7 4. This Court may enter judgment in accordance with this Stipulation.

8
9 Dated: February 26, 2002

RANCHO CHIQUITA ASSOCIATES, a
California Limited Partnership

11 By: Frederik A. Jacobsen
Frederik A. Jacobsen
Attorney for Plaintiff

13 March 1
14 Dated: February 1, 2002

BIG SUR LAND TRUST

16 By: Michael W. Stamp
Michael W. Stamp
Attorney for Plaintiff

18
19 ORDER AND JUDGMENT

20 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment shall be
21 entered upon the terms stipulated to by the parties.

22 RICHARD M. SILVER

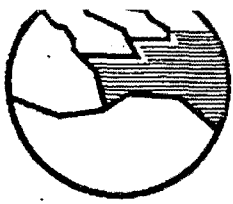
23 DATED: MAR 05 2002

The Honorable Richard M. Silver,
Judge of the Superior Court

26
27
28 Rancho Chiquita v. Big Sur Land Trust, M 52312
Stipulation for Judgment; Judgment

CCC Exhibit H
(page 28 of 41 pages)

EXHIBIT A, p. 242



THE BIG SUR LAND TRUST

MAR 28 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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MAR 27 2000

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COASTAL COMMISSION

March 23, 2000

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Bill Doolittle
Investment Advisor

Ann Hasselbach
Financial Consultant

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www.bigsurlandtrust.org

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Sara Wan, Chairperson & Commissioners
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz CA 95060

Re: Appeal No. A-3-MCO-99-92 (Rancho Chiquita Associates)
Conversion of Home/Cottage/Barn to Bed & Breakfast
April 2000 Agenda, Long Beach

Dear Chairperson Wan and Commissioners:

This is to provide a brief summary of the reasons The Big Sur Land Trust (BSLT) filed the above referenced appeal in support of the California Department of Parks and Recreation's (State Parks') position.

Development of Point Lobos Ranch. In 1993 when BSLT purchased the property surrounding the subject B&B conversion, the development rights for the property were purchased too. The appraisals which formed the basis of the purchase price included analyses of the development potential of the property and the purchase price reflected same. The assumption then was that the remaining development in the area was and would remain residential. BSLT purchased the land and the development rights for the benefit of the public and the creation of a new State Park. The development rights were not extinguished, are still owned by BSLT and the State and are not available to be used by other property owners in the area to support new or intensified developments. The very same developer, Ted Richter (Rancho Chiquita Associates & Jose Gibson Partnership), who received full development value for the land he sold to BSLT, now seeks to use BSLT's and the State's lack of development to support the acceptability of his conversion of a residence, a cottage an agricultural structure to what is essentially a hotel.

Precedential Effect. This conversion to a commercial bed & breakfast facility, if allowed, will set an adverse precedent which may lead to many more residential and non-residential structures in the area being converted to B&B use. The adjacent land owner, Sharon Regan, has already applied to Monterey County to convert her residence and adjacent non-residential structure(s) to another 10-unit bed and breakfast facility. Yet another adjacent land owner recently declined to relinquish his ability to convert to a bed and breakfast facility. It is only a matter of time before additional property owners seek to convert residential and non-residential structures to commercial bed and breakfast facilities. The logical result is the potential of 200-250 hotel units right in the middle of a State Park — a result which is inconsistent and in serious conflict with wildlife habitat preservation and a new State Park.

EXHIBIT NO. H p29
APPLICATION NO.
A-3-MCO-99-92
Correspondence

Chairperson Wan & Commissioners
ZAD LEAVY
March 23, 2000

Page 2

Public Resources Code §30515 Application. Point Lobos Ranch is identified in the Carmel Area Land Use Plan (a certified LCP 17 years old) as a Special Treatment Area; said plan states that the entire Point Lobos Ranch shall be designated for special treatment in order to facilitate a comprehensive planned development. No comprehensive planned development was ever created for the Point Lobos Ranch and in the 17 years since certification circumstances have changed substantially, as most of the surrounding land has been and is being purchased for open space and wildlife habitat utilizing millions of dollars of Mountain Lion Initiative funding (Proposition 117). Allowing a B&B in this location is inconsistent with the substantial expenditure of public funds to preserve wildlife habitat and create a State Park. The State Park project is of greater than local interest as millions of visitors and residents alike visit this area annually and State Parks has expressed its intent to file a Public Resources Code §30515 application to update the LCP. Further, Monterey County itself recognizes that many local plans are outdated and is embarking upon a review and revision of local land use plans. Allowing this B&B conversion at this time prejudices future planning.

Water Issues. The subject bed and breakfast development proposes to draw water from the San Jose Creek underflow, a source which historically has been used for low intensity agricultural purposes on the property. The Rancho San Carlos development currently under construction (350 homes, golf courses, etc.) also draws on San Jose Creek. The potential for adverse impact on fish and wildlife resources of San Jose Creek cannot be ignored.

Conclusion: Denial. The B&B conversion in its present form should be denied based on the above.

Sincerely,

/s/Zad Leavy =

ZAD LEAVY
Executive Director

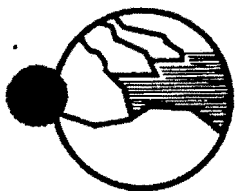
ZL/RKJ:gs

cc: Peter Douglas, Executive Director
Rick Hyman, Senior Planner
Supervisor Dave Potter, Vice-Chair
All Commissioners
Mary Wright, Chief Deputy Director,

Exhibit H Department of Parks and Recreation MCO-99-92

Rancho Chiquita B&B

CCC Exhibit H
(page 30 of 41 pages)



THE BIG SUR LAND TRUST

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JUN 14 2000

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COASTAL COMMISSION
CENTRAL COAST AREA

June 12, 2000

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Special Projects Coordinator
David Zweifel
Mitteldorf Preserve Caretaker

Via fax to 427-4877 & 1st class mail

Sara Wan, Chairperson & Commissioners
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz CA 95060

Re: June 2000 Agenda, Santa Barbara
Appeal No. A-3-MCO--99-92 (Rancho Chiquita Associates)
Conversion of Home/Cottage/Barn to Bed & Breakfast

Dear Chairperson Wan and Commissioners:

In support of the California Department of Parks and Recreation (State Parks), The Big Sur Land Trust (BSLT) appeals the local government decision to approve the above referenced project.

BSLT/STATE OWN THE DEVELOPMENT RIGHTS; NO TRANSFER OF DEVELOPMENT RIGHTS MADE TO APPLICANT.

- In 1993 BSLT purchased property around B&B conversion site with public funding for wildlife habitat and a new State Park under assumption that the remaining development in the area was and would remain residential.
- Property was purchased with development rights intact and no transfer or extinguishment has occurred.
- BSLT/State own development rights -- development rights are not available to be used by applicant or others to support new or intensified development in the area.

PRECEDENTIAL EFFECT COULD RESULT IN 200-250 HOTEL UNITS WITHIN STATE PARK.

- Conversion to a commercial B&B will set an adverse precedent leading to many more conversions -- an adjacent land owner already has applied for conversion approval and another has expressed intent to keep conversion option open; others may follow.
- Precedent could result in 200-250 hotel units in the middle of a State Park -- in serious conflict with expenditure of public funds for wildlife habitat preservation and a new State Park.

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Carmel, CA 93922
Tel 831 625 5523
Fax 831 625 0716
mail@bigsurlandtrust.org
www.bigsurlandtrust.org

CCC Exhibit H

(page 31 of 41 pages)

Preserving the natural beauty of California's Central Coast

CONVERSION WILL PREJUDICE PLANNING; PUBLIC RESOURCES CODE §30515 APPLICATION.

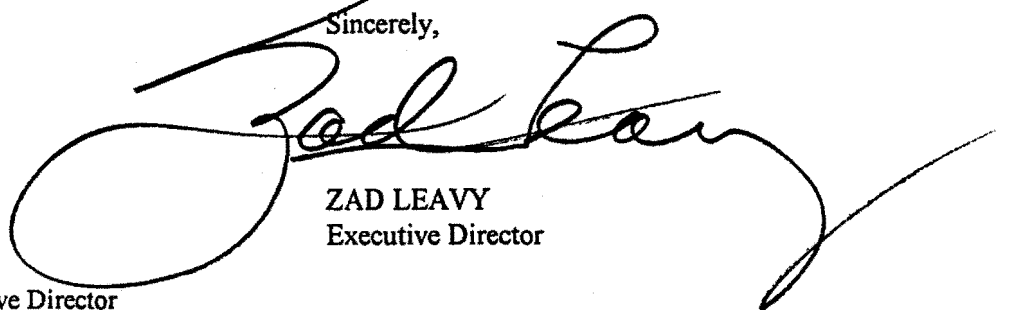
- 17 year old LCP (Carmel Area Land Use Plan) identifies the Point Lobos Ranch as a Special Treatment Area and contemplates a comprehensive planned development for the property -- no comprehensive planned development was ever created.
- Circumstances have changed substantially since certification of LCP -- among other things, most of the surrounding land has been purchased for open space, wildlife habitat and a State Park.
- State Park project is of greater than local interest.
- State Parks intends to file a Public Resources Code §30515 application to update the 17 year old certified LCP as it applies to the Point Lobos Ranch area.
- Monterey County is also embarking upon review and update of local land use plans.
- B&B in this location is inconsistent with the substantial expenditure of public funds to preserve wildlife habitat and create a State Park, and will prejudice future planning.

WATER ISSUES; ADVERSE IMPACT ON LIFE IN SAN JOSE CREEK

- B&B development proposes to draw water from the San Jose Creek underflow.
- San Jose Creek water has historically has been used on this property only for low intensity agricultural purposes.
- The Rancho San Carlos development currently under construction (350 homes, golf courses, etc.) also draws on San Jose Creek.
- Potential for adverse impact on fish and wildlife resources of San Jose Creek cannot be ignored.

CONCLUSION: DENIAL. The B&B conversion in its present form should be denied. We support your staff's recommendation to find a substantial issue and to continue this matter for a hearing de novo.

Sincerely,



ZAD LEAVY
Executive Director

ZL/RKJ:gs

cc: Peter Douglas, Executive Director
Rick Hyman, Senior Planner
Supervisor Dave Potter, Vice-Chair
Mary Wright, Chief Deputy Director,
Department of Parks & Recreation
Lynn Rhodes & Ken Gray, Monterey District
Department of Parks & Recreation

CCC Exhibit 4
(page 32 of 41 pages)



Monterey District
2211 Garden Road
Monterey, CA 93940

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July 29, 2002

JUL 31 2002

California Coastal Commission
Attn: Rick Hyman
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Rancho Chiquita Associates; Stone House B&B Conversion at Pt. Lobos;
Permit No. A-3-MCO-99-092

Dear Mr. Hyman,

We understand this matter may be set for hearing on the Commission's next September agenda.

State Parks is still pursuing its appeal, along with the Big Sur Land Trust (BSLT), of the bed and breakfast conversion approved by Monterey County, for all the reasons stated in appellants' papers previously filed with you.

In particular, pursuant to your recent inquiry, State Parks does not approve of the proposed conversion of the barn to commercial visitor serving use, as it clearly would be inconsistent with the intent of the scenic easement placed on the property adjacent to State Highway One by Alexander Allen in 1933 (when he conveyed the Pt. Lobos State Reserve area to the State). The barn was later constructed in the scenic easement area for agricultural use, and should not be converted to commercial visitor serving use in violation of the scenic easement.

We would urge the Commission to uphold both the spirit and the intent of the scenic easement, to preserve the landscape of the State Reserve and the Pt. Lobos Ranch, which is being acquired by State Parks from the BSLT.

Thank you for your consideration of this matter.

Sincerely,

Lynn Rhodes
Monterey District Superintendent

Cc: Zad Leavy, BSLT, General Counsel
Corey Brown, BSLT, Executive Director

CCC Exhibit H
(page 33 of 41 pages)



DEPARTMENT OF PARKS AND RECREATION

Rusty Areias, Director

MONTEREY DISTRICT

2211 GARDEN ROAD

MONTEREY, CALIFORNIA 95060

(831) 236-2336

(831) 236-2336 FAX

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FEB 04 2000

February 3, 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Rick Hyman

California Coastal Commission

725 Front Street, Suite 300

Santa Cruz, CA 95060

Dear Mr. Hyman:

As you know California State Parks has appealed Monterey County's approval of the Rancho Chiquita Associates (970284) project to the Coastal Commission. This project involves conversion of an existing single family dwelling, barn and cottage to a 10-unit bed and breakfast facility. The purpose of this letter is to expand upon the information provide in our application to support our assertion that the appeal raises substantive issues regarding this project that should be heard by the Coastal Commission. This letter is the final version of the draft I sent you on January 27th.

The standard of review the county used in reviewing this project, the Carmel Area Local Coastal Program, is outdated and not relevant to current circumstances and, therefore, the County's analysis based on this standard is flawed and defective. When the Carmel Area Land Use Plan was developed in the early 1980s, provisions were included that designated the Ranch as a special treatment area to facilitate construction of up to 240 visitor serving resort units. The plan authorizes development of intensive recreation and visitor serving facilities on the flatlands. Since these provisions were written into the plan very significant changed circumstances have occurred. California State Parks and the Big Sur Land Trust have or will invest over \$20 million dollars to acquire, restore and protect the scenic, plant and wildlife resources of Point Lobos Ranch. The major commitment of public money expended on this acquisition was provided to prevent the impacts of just the kind of development that is authorized by the LCP. The public money is from the voter approved Proposition 117, the Mountain Lion Initiative, which established the Habitat Conservation Fund to acquire and restore wildlife habitat.

In order to protect the resources of the Reserve, State Parks has established a carrying capacity for the reserve, prohibits pets, limits public use of the Reserve to daylight hours and provides no overnight visitor serving accommodations. State Parks feels strongly that these restrictions are necessary to protect the high quality habitats in the Reserve. Point Lobos provides excellent wildlife viewing opportunities, highly accessible to the public. If it were not for the visitor use restrictions it is unlikely that the Reserve would be as heavily used by wildlife or that the public would have such high quality wildlife viewing opportunities.

Ex h H cont A-3-MCO-92-92
p 34 of 41 pages

It is State Parks contention that visitor serving overnight accommodations must be limited and carefully controlled to protect Point Lobos Ranch and State Reserve. To enable the accomplishment of the goals of the Habitat Conservation Fund the proposed bed and breakfast project is an incompatible use on the Ranch and should be denied by the Commission.

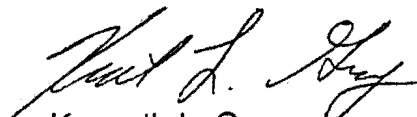
In light of the outdated nature of the Carmel Area LCP, California State Parks intends to prepare a proposed LCP amendment and submit it to Monterey County and the Coastal Commission for approval. At a minimum it is our intent to address the following issues in the LCP amendment:

1. A change in the specific land use designations, densities and permitted uses included in the program for Point Lobos Ranch. Our current thinking is that the use of the remaining private inholdings should be limited one single family residence per parcel with no subdivisions permitted.
2. A change in the zoning for the ranch to prohibit conversion of existing or new residences from being converted to bed and breakfast facilities.
3. Provisions to address the concern about the impacts of very large single family residences. It is our intention to develop appropriate standards for the height and footprint for new residences on Point Lobos Ranch to minimize the impact to environmentally sensitive habitat and visual resources.
4. A strengthening of the visual protections in the plan to require that new construction on Point Lobos Ranch not be visible from Point Lobos State Reserve or Highway One.
5. A strengthening of the habitat protection policies to prohibit projects within Point Lobos Ranch which have significant adverse impacts on environmentally sensitive habitats.

To provide for the appropriate protection of Point Lobos Ranch we believe that the standard of review for the current Rancho Chiquita project should be an amended LCP that incorporates the provisions outlined above. To that end we are recommending that the Commission's review beyond making a finding that substantive issues are involved be delayed until the LCP has been amended.

If you have any comments or questions about these issues please contact me.

Sincerely,



Kenneth L. Gray
Interim District Superintendent

Memorandum

RECEIVED

Date : MAR 28 2000

MAR 31 2000

To : Peter Douglas, Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105

From : Department of Parks and Recreation
Chief Deputy Director

Subject : Appeal No. A-3-99-92, Rancho Chiquita

As you are aware, California State Parks, the Big Sur Land Trust, and Responsible Consumers of Monterey Peninsula have appealed the decision of Monterey County granting a coastal development permit to Rancho Chiquita Associates to convert a single-family home, barn and cottage to a 10-unit bed and breakfast facility in the area known as Point Lobos Ranch adjoining Point Lobos State Reserve. We believe that this project, if approved, will set an adverse precedent which cumulatively may have significant impacts to the viability of the natural resources in this area and which should be carefully considered by the Coastal Commission in their deliberations.

The ongoing acquisition of the Point Lobos Ranch by California State Parks through the Big Sur Land Trust changes the circumstances from those which the current LCP addressed. When the Carmel Area Land Use Plan was developed in the early 1980s, provision was made for up to 240 visitor serving resort units. Since then, over \$20,000,000 of private and public monies has been or will be invested in acquiring the majority of the Point Lobos Ranch property in order to protect and restore its scenic, natural and cultural resources. In so doing, over 140 potential visitor serving resort units which otherwise would have been allowed under the Monterey County Local Coastal Plan, and which would have had significant impacts to the area's transportation, water and waste discharge capacities and regional wildlife movement, have been prevented. However, inholdings (such as the subject property) remain which, if developed to their full capacity, could result in as many as 100 new visitor serving units which would essentially nullify the positive impact of the public acquisition.

It is the intent of California State Parks to manage Point Lobos Ranch in a manner similar to that of Point Lobos State Reserve. We foresee protecting the site's resources by establishing visitor carrying capacities, prohibition of pets, and limiting public use and time of visitation in order to protect its high quality habitat. Intensive uses such as the proposed visitor serving facilities of Rancho Chiquita and the other inholdings, if allowed to develop to equal intensity, will result in incompatible land uses. For this reason California State Parks has recently submitted an LCP amendment to Monterey County to reduce development impacts and to strengthen habitat protection policies.

Peter Douglas
Page Two

It is our understanding that Monterey County is just initiating an update of their general plan. We believe it is important that the Coastal Commission, through this appeal, indicate their concerns regarding the cumulative results of the intensity of land use impact on Point Lobos Ranch. At build-out, turning movements from already congested State Highway 1 and subsurface water withdrawals from a recognized steelhead stream will unnecessarily impact the scenic and natural resources of the property. We are equally concerned that the cumulative effects of development may negatively impact regional wildlife movement and genetic viability of Point Lobos State Reserve from inland areas. Without such linkages, both the floral and faunal values of the State Reserve can be vastly diminished.

In order to review the subject appeal, the Coastal Commission's attention should be drawn to more than the land-use and zoning designations in the current Local Coastal Plan. In carrying out the LCP, equal or greater emphasis should be placed upon the policies of the plan designed to implement the sections of the Coastal Act which require the protection and perpetuation of all of the resources of California's Coastal Zone. In such an analysis conflicts may occur between policy and the designated use of a given parcel of property. If this occurs, we believe the direction of the Coastal Act suggests that the Commission resolve such conflicts in a manner which on balance is the most protective of significant coastal resources.

It appears the Monterey County LCP recognizes that development in areas in and adjacent to important environmentally sensitive habitat areas, such as State Parks, must prevent impacts which would significantly degrade those areas, and must be compatible with the continuance of those habitat and recreation areas. The local land use planning process should not be prejudiced by a premature decision which establishes a negative precedent preempting proper decision-making.

It is our hope that the Coastal Commission will make a finding of significant issue and will subsequently deny the proposed project pending the completion of Monterey County's planning update. It is our intent to have a representative available at the Coastal Commission hearing on April 10 in Long Beach, to answer questions on these and related issues.

Rich Wright
for
Mark Wright
Chief Deputy Director

cc: Richard Hyman
California Coastal Commission
Central Coast Area Office
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508



State of California • The Resources Agency

Gray Davis, Governor

DEPARTMENT OF PARKS AND RECREATION

Rusty Arellas, Director

MONTEREY DISTRICT
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(831) 649-2836
(831) 649-2847 FAX

March 28, 2000

Annette Chaplin, Director of Land Use Programs
Planning and Building Inspection Department
Monterey County
240 Church Street
Salinas, CA 939401

Dear Ms. Chaplin:

As you know, California State Parks recently appealed the Planning Commission's approval of the Bliss and Rancho Chiquita projects to the Board of Supervisor's. Subsequently we appealed the Board's approval of the Rancho Chiquita Project to the Coastal Commission and intend to appeal the Bliss project to the Commission if it is determined to be appealable. Our concern about these two projects reflects a larger concern about the Carmel Area Implementation Plan. The language in the plan regarding the Point Lobos Ranch special treatment area was written in the 1980's to facilitate and regulate the development of a major visitor serving resort on the ranch. Since then California State Parks and the Big Sur Land Trust have been acquiring property within the ranch as an addition to the State Park System. This land acquisition program was undertaken and is continuing to protect the scenic, natural and cultural resources on the site. The Point Lobos Ranch special treatment area regulations are no longer appropriated due to the changed circumstances.

In light of the ongoing acquisition program most of the Ranch has or will become State Park land. State Parks requests that Monterey County amend the Carmel Area Local Coastal Program provisions specific to Point Lobos Ranch to provide for the appropriate protection of the Ranch as a unit of the State Park System. Public Resources Code Section 30515 provides the authority for state agencies to request any local government to amend its certified local coastal program. We are making this request pursuant to PRC 30515.

State Parks is requesting that Part 4 of the Monterey County Coastal Implementation Plan titled Regulations for Development in the Carmel Area Land Use Plan Area (Chapter 20.146) as adopted by the Monterey County Board of Supervisors January 5, 1988 be amended. We requesting that the existing section 20.146.120.A.4

be replaced in its entirety as follows:

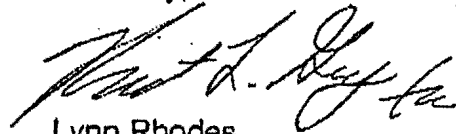
4. Point Lobos Ranch

- a. The entire Point Lobos Ranch, consisting of the present and former Hudson and Riley properties, shall be designated for Special Treatment in order to facilitate protection and management of most of the area as a unit of the State Park System. Priority shall be given to protecting the ranch's scenic, natural and cultural resource values. The following development standards, in addition to other applicable development standards shall govern the types and intensities of allowable use on the ranch:
 - 1) New development on State Park System lands shall be limited to development of trails and facilities to accommodate visitor use, park support facilities and appropriate resource management.
 - 2) Accommodations to support visitor use on the State Park System lands shall involve adaptive reuse of existing structures wherever feasible and appropriate.
 - 3) New development on private property within the ranch shall be limited to one single-family residence per legal parcel.
 - 4) No further division of land within the ranch shall be permitted.
 - 5) All overnight visitor-serving accommodations authorized on public or private property within the Ranch shall be limited to low or lower cost accommodations.
 - 6) Conversion of existing or new residences to bed and breakfast facilities within the ranch shall be prohibited.
 - 7) Development of new residences and expansion of existing residence(s) shall be limited in size to a maximum of 5000 square feet of lot coverage including the residence, garages, guests quarters and all other structures.
 - 8) The maximum height of new residences shall be 20 feet to the highest point of the structure as measured from the original grade of the site.
 - 9) New construction shall be sited and designed so as to not be visible from public viewing areas including but not limited to State Highway One and Point Lobos State Reserve.
 - 10) No development within the ranch shall be permitted which has significant adverse impacts on environmentally sensitive habitats.

A copy of the existing language in the implementation plan we are recommending for change is attached for your information. Also attached is a copy of PRC 30515. In addition, California code of Regulations, Title 14, Section 13666 is attached as it identifies procedures for amending a LCP pursuant to PRC 30515.

Please contact Ken Gray at (831) 649-2862 if you have any questions about this matter.

Sincerely,



Lynn Rhodes
District Superintendent

Cc: Rick Hyman
CA Coastal Commission

FSa

RCMP - Responsible Consumers of the Monterey Peninsula

Box 1495, Carmel, CA 93921 - 831/624-6500

California Coastal Commission

June 12, 2000

Re: Rancho Chiquita A-3-MCO-99-092 - Agree on Substantial Issue

Dear Commissioners:

We are appellants on this project and we agree with staff that a substantial issue exists.

We appreciate the well researched and reasoned staff report. There was only one area where we thought staff had made an error - but it turned out to be our omission - we had not described it in our appeal.

That topic is whether the project's added traffic is significant.

The facts are: This project admittedly will add more than one (1) peak hour trips to the nearby intersections of Highway One at Rio Road and Highway One at Carmel Valley Road.

Both of these intersections have for some time been, and are, at gridlock (LOS "F") according to the Transportation Agency of Monterey County TAMC) and Cal-Trans.

Cal-Trans' standard for a significant impact when an existing intersection is at gridlock, or LOS "F", is the addition of a single vehicle trip.

"It is the Department's position that the addition of even one peak hour trip in a LOS environment represents a significant impact." (Cal-Trans letter dated Nov 18, 1997 to the Monterey County Planning Dept on the now Court rejected September Ranch project.)

Thus this project would have a potentially significant environmental impact on traffic.

Thank you for your consideration of these matters,

David Dilworth, Co-Chair

